

inside information from his wife by disclosing it to his close friend, defendant Ronald A. Manzo, who in turn disclosed it to, among others, his friend and business associate, defendant Gary B. Taffet. After receiving the inside information, Manzo and Taffet purchased and tipped others who purchased the subject securities. The defendants' actions resulted in illegal trading profits of at least \$3 million when the prices of the securities rose in response to the public announcements of the mergers or acquisitions. This action has now been resolved with respect to each of the Defendants.

The Court's Final Judgment against Defendant Fiore Gallucci, entered on September 3, 2004, enjoined him from violating Sections 10(b) and 14(e) of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 10b-5 and 14e-3 thereunder. The Court's Final Judgment against Defendant Ronald Manzo, entered on September 3, 2004, enjoined him from violating Sections 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder, and required him to pay disgorgement of \$995,971 plus prejudgment interest in the amount of \$399,713. The Court's Final Judgment against Defendant Gary B. Taffet, entered on May 4, 2005, enjoined him from violating Sections 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder, and required him to pay disgorgement of \$402,739 plus prejudgment interest in the amount of \$119,520, and a civil penalty of \$202,741.

The Court has ordered the Clerk of the Court to hold the funds received in this case in the Court Registry Investment System ("CRIS") account established by the Court. In the course of this action, the CRIS account received deposits totaling \$2,120,684, of which (i) \$1,395,684 came from Manzo and (ii) \$725,000 came from Taffet. These funds await the Court's approval of a distribution plan to be submitted by the SEC.

B. Definitions

As used herein, the following definitions shall apply:

1. "Disgorgement Fund" shall refer to the combined payments of cash by Manzo and Taffet into the CRIS account established for this case, including accumulated interest and earnings thereon.

2. "Escrow Fund" shall mean the funds to be held in escrow by the Distribution Agent after such monies from the Disgorgement Fund have been transferred in accordance with the provisions of this Plan. The Escrow Fund shall also mean any accumulated interest and earnings thereon, less costs, fees, and other expenses paid or reimbursed pursuant to orders of the Court.

3. "Available Distribution" shall mean the money in the Escrow Fund, plus accumulated interest and earnings thereon, less the costs of administering the fund and implementing the Distribution Plan, and paying any taxes that may be assessed against the fund.

4. "Trading Period" shall mean the period during which one or more of the defendants or their tippees purchased the Eligible Security prior to the close of trading on the date before undisclosed information relating to an actual, proposed or contemplated acquisition of the issuer of the Eligible Security became widely disseminated to the public. The Trading Period for Digital Equipment Corp. ("Digital") shall be January 16, 1998; the Trading Period for DSC Communication Corp. ("DSC") shall be March 4, 1998, March 30, 1998, June 2, 1998, and June 3, 1998; the Trading Period for Sundstrand Corp. ("Sundstrand") shall be between February 12, 1999, February 16, 1999, February 18, 1999, and February 19, 1999; the Trading Period for Chock Full O' Nuts Corp. ("Chock Full O' Nuts") shall be June 24, 1999, July 17, 1998, August 25, 1998, October 29, 1998, and October 30, 1998; the Trading Period for Orion Capital Corp. ("Orion") shall be June 24, 1999, June 25, 1999, July 2, 1999, and July 6 through July 9 1999; the trading period for Nielsen Media Research, Inc. ("Nielsen") shall be June 18,

1999, July 23, 1999, July 27, 1999, July 28, 1999, and between August 4, 1999, and August 13, 1999.

5. "Determination Notice" shall mean the notice sent by the Distribution Agent to a Potentially Eligible Claimant stating the Distribution Agent's determination of the validity and amount of the claim of the Potentially Eligible Claimant.

6. "Proof of Claim Form" shall mean the form prepared by the Distribution Agent in accordance with the terms of this Distribution Plan for the filing of a proof of a Potentially Eligible Claimant's claim, which form shall require, at a minimum, the Potentially Eligible Claimant's social security number or tax identification number and sufficient documentation reflecting the Potentially Eligible Claimant's purchases and dispositions of the Eligible Security during the Trading Period.

7. "Public Disclosure Date" shall mean the date on which the previously undisclosed information relating to an actual, proposed or contemplated acquisition of the issuer of the Eligible Security became widely disseminated to the public. When such dissemination was made before the commencement of trading on a particular day, or during trading on a particular day, the Public Disclosure Date shall be the date of such dissemination. When such dissemination was made after the close of trading on a particular day and before the open of trading on the following trading day, the Public Disclosure Date shall mean the first trading day following such dissemination. The Public Disclosure Date for Digital is January 26, 1998, for DSC is June 4, 1998, for Sundstrand is February 22, 1999, for Chock Full O' Nuts is April 23, 1999, for Orion is July 12, 1999, and for Nielsen is August 16, 1999.

8. "Eligible Security" shall mean the August 25, August 30, August 35, September 30, and November 30 Call Options of Nielsen; the July 35 and 40, August 35, and August 40 Call Options of Orion; and March 60 Call Options of Sundstrand which were listed options, and the common stock of Digital, which traded under the symbol DEC; the common stock of DSC, which traded under the symbol DIGI; the common stock of Chock Full O' Nuts, which traded

under the symbol CHF; the common stock of Orion, which traded under the symbol OC; and the common stock of Nielsen, which traded under the symbol NMR.

9. "Potentially Eligible Claimants" shall mean those persons identified by the Distribution Agent as having possible claims to a recovery from the Disgorgement Fund/Escrow Fund under this Distribution Plan, or persons asserting that they have possible claims to a recovery from the Disgorgement Fund/Escrow Fund under this Distribution Plan.

10. "Eligible Claimants" shall mean persons who sold the Eligible Security (Options) to the defendants and their tippees on one or more of the dates that the defendants and their tippees purchased the Eligible Security. Eligible Claimants shall also mean persons who sold the Eligible Security (common stock) during the trading period, which includes dates when the defendants and their tippees purchased the Eligible Security. Eligible Claimants in no event shall include:

a. Any director or officer, or former director or officer, of Digital, DSC, Sundstrand, Chock Full O' Nuts, Orion, and Nielsen, any of their respective past or present Affiliates (or any of their Affiliates, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities) who served in such capacity on or after the commencement of the Trading Period;

b. Any defendant in any action brought by the Commission or any class action lawsuit related to the conduct described in the Commission's complaint in this action (or any of such defendant's Affiliates, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities), unless such defendant was found not liable on all claims in all such civil suit, and proof of the finding(s) is included in such defendant's timely filed Proof of Claim Form; or

c. Any Person whose combined transactions in the Eligible Security during the Trading Period resulted in a net profit, as determined upon application of the fraud loss methodology described in this Distribution Plan.

C. Rights and Responsibilities of the Distribution Agent

11. The Court hereby appoints Gilardi & Co. as Distribution Agent to oversee all aspects of the Disgorgement Fund distribution, in accordance with the terms of this Distribution Plan. The Distribution Agent shall be excused from any requirement to post a bond.

12. It is the Distribution Agent's responsibility, after consultation with the Court and the Commission, to distribute the Disgorgement Fund in accordance with this Distribution Plan.

The Distribution Agent shall have the following rights and responsibilities:

a. The Distribution Agent is entitled to reimbursement and compensation from the Escrow Fund for the reasonable costs, fees, and other expenses (including such fees as are incurred by any attorney, agent, consultant or third party retained by the Distribution Agent in furtherance of its duties), provided however that all such reimbursement and compensation requests must be approved by the Court before payment from the Escrow Fund may be made.

The Court will review the reasonableness of the costs, fees and expenses in determining whether, in its discretion, such payment will be approved.

b. At the conclusion of each calendar quarter, the Distribution Agent may apply for reimbursement and compensation for the fees and expenses it incurred during the quarter. Before the Distribution Agent applies to the Court for reimbursement or compensation, it shall provide the Commission staff with a copy of the reimbursement and compensation request, which shall include supporting documentation to justify the expense or services rendered. Charges for services shall include (a) the date of service; (b) the name or initials of the individual rendering the service; (c) a description of the service; (d) the hourly rate; (e) the time charged; and (f) the amount (rate x time). The description of the service or activity should be brief and informative. Expenses shall be supported by invoices. If not apparent from the face of the invoice, the application shall include a description of the expense and the date it was

incurred. The Distribution Agent shall provide the reimbursement and compensation request to the Commission staff at least 14 days before it is filed with the Court. The Commission staff shall be permitted to submit to the Court for consideration its position as to the reasonableness of the request.

c. Within twenty days after the end of each calendar quarter, or as directed by the Commission, the Distribution Agent shall file with the Court and serve on the Commission an accounting of all assets in the Escrow Fund, in a format to be approved or provided by the Commission. Such an accounting shall inform the Court and the Commission of the activities and status of the Escrow Fund during the requested reporting period, and shall specify, at a minimum, the location of the various accounts comprising the Escrow Fund, the value of those accounts, all monies earned or received into these accounts, any monies transferred between Disgorgement Fund or Escrow Fund accounts, funds distributed to Eligible Claimants under this Distribution Plan, and any monies expended from the Disgorgement Fund or Escrow Fund to satisfy any fees, costs, taxes and other expenses incurred in the implementation of this Distribution Plan.

d. The Distribution Agent shall cooperate with Damasco & Associates, LLP, the Tax Administrator appointed in this matter, in providing any information necessary to ensure income tax compliance.

e. The Distribution Agent will make a final accounting in accordance with the provisions contained in Paragraph 16.

f. The Distribution Agent is entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for any action taken or omitted by them in connection with this Distribution Plan except upon a finding by this Court that it, in bad faith or

in reckless disregard of its duties under this Distribution Plan, acted or failed to act. The Distribution Agent is authorized to enter into agreements with financial institutions (“Institutions”) as may be appropriate or necessary in the administration of the Disgorgement Fund and Escrow Fund, provided such institutions are not settling parties or otherwise excluded pursuant to this Distribution Plan. In connection with such agreements, the Institutions shall be deemed to be “Agents” of the Distribution Agent under this Distribution Plan, and shall be indemnified as provided in this Distribution Plan; provided, however, that such indemnification is limited to claims made by Eligible Claimants asserting a claim to a distribution under this Distribution Plan, and shall not be construed to extend to claims by governmental agencies or offices made in a capacity other than as an Eligible Claimant. This Court retains exclusive jurisdiction over all claims arising in connection with this Distribution Plan, including, but not limited to, claims against the Distribution Agent and his Agents asserting liability for violation of any duty imposed by this Distribution Plan or other Court Order.

g. Following the distribution of the Escrow Fund in accordance with this Distribution Plan, the Court may, upon the filing of a request by the Distribution Agent and service of a copy of such request on the Commission, and after an opportunity for comment, enter an Order discharging the Distribution Agent and his Agents from any claims or liability in connection with the Distribution Plan and the administration of the Disgorgement Fund, and enjoining all Eligible Claimants and other parties from prosecuting or asserting any such discharged claim or liability against the Distribution Agent.

h. The Distribution Agent may be removed at any time by the Court, and replaced with a successor. In the event the Distribution Agent decides to resign, it shall first give written notice to the Commission and the Court of such intention, and such resignation shall not

be effective until the Court has appointed a successor. The Distribution Agent shall then follow such instructions as such successor or the Court gives him in turning over management of the Escrow Fund. In the event of the incapacity of the Distribution Agent, the Court, after consultation with the Commission, shall appoint a successor as soon as practicable.

D. Allocation of the Escrow Fund Among Eligible Claimants

13. The Available Distribution shall be distributed to pay Eligible Claimants as provided under the terms of this Plan.

14. If the total dollar amount of valid claims received from Eligible Claimants exceeds the Available Distribution, the Available Distribution shall be distributed on a pro rata basis.

15. If, after making all such distributions, and all fees and expenses of the Disgorgement Fund and Escrow Fund have been paid and all tax obligations of the Disgorgement Fund and the Escrow Fund have been satisfied, there are remaining funds, those funds shall be distributed to the United States Treasury or in accordance with a final plan of residual distribution to be proposed by the Commission and approved by the Court.

16. Upon final distribution of the funds, the Distribution Agent shall make arrangement for the final payment of taxes and tax-related fees and shall submit a final accounting to the Court. The Disgorgement Fund and Escrow Fund shall be eligible for termination, and the Distribution Agent eligible for discharge, after all of the following have occurred: (a) the final accounting has been submitted and approved by the Court; (b) all taxes and fees have been paid; and (c) all remaining funds or any residual have been transferred to the United States Treasury or distributed to Eligible Claimants.

E. Determination of Amount of Eligible Investor Claims

17. Only Eligible Claimants who were sellers of the Options of Eligible Securities to the defendants or their tippees or who were "net common stock sellers" of the Eligible Securities

will be eligible to participate. To determine whether an Eligible Claimant is a net common stock seller, the number of shares of common stock of the Eligible Security sold by such person, starting with the first trade during the Trading Period, shall be reduced by the number of shares of common stock of such Eligible Security purchased by such person after that person's first trade during the Trading Period through the end of the Trading Period. At no time shall a person's claim, as determined under this Plan, be based on a number of shares greater than the number of shares of common stock of the Eligible Security sold by such person during the Trading Period.

18. If an Eligible Claimant can demonstrate sales for any series of the option of Eligible Securities to the defendants or their tippees during the Trading Period, the amount to be distributed to the Eligible Claimant will be determined by deducting the Potentially Eligible Claimant's selling price from the defendants or their tippees' Selling Price multiplied by 100 times the number of contracts (because each contract represents the right to purchase 100 shares) and rounded to the nearest dollar. The defendant or defendants' tippees' Selling Price is the Volume Weighted Average Price (the total monies received divided by the total number of contracts sold for each options series) at which the defendants or their tippees sold that particular series or exercised the option and sold the resulting stock position that was the result of purchases from the Eligible Claimant, after the public announcement of a merger or acquisition. The Potentially Eligible Claimant's selling Price is the Volume Weighted Average Price at which the Potentially Eligible Claimant sold that particular series to the defendant or the defendant's tippees. The amounts computed above for each series for each Potentially Eligible Claimant will be aggregated and divided by the total amounts of all Potentially Eligible Claimants to determine the percentage of the available distribution to be distributed to each Eligible Claimant. At no time shall the number of options contracts in a series claimed be greater than the number of contracts purchased by the defendants or defendants' tippees during the Trading Period, for each option series.

19. If a Claimant can demonstrate net common stock sales of the Eligible Securities during the Trading Period, the amount of that person's Trading Period Loss will equal the number of shares of the Eligible Security sold during the Trading Period, multiplied by the difference between the price of the stock at the close of trading on the Public Disclosure Date and the price at which the Claimant sold the stock. The amount of the claim will equal the Claimant's Trading Period Loss, subject to the following restrictions and limitations. Any profit realized upon a sale made at any time during the Trading Period at a unit price higher than the closing market price on the Public Disclosure Date, shall be applied to reduce the calculated Trading Period Loss. In those instances in which both sales and purchases of the Eligible Security were made during the relevant Trading Period, the amount of that Claimant's Trading Period Loss shall be offset pro tanto by any profits realized by either (i) the sale during the Trading Period at a unit price higher than the closing market price on the Public Disclosure Date, or (ii) the purchase during the Trading Period at a unit price lower than the closing market price on the Public Disclosure Date. To identify the purchase price and selling price in a series of transactions, the first-in first-out "FIFO" rule will apply.

20. Relevant prices for the Public Disclosure Date are to be based on the closing price for the Eligible Security as reported on the New York Stock Exchange for NMR, OC, DEC, CHF and on the Nasdaq National Market System for DIGI. The closing price on the Public Disclosure Date (8/16/99) for NMR was \$37.3125 per share. The closing price on the Public Disclosure Date (7/12/99) for OC was \$47.3125 per share. The closing price on the Public Disclosure Date (1/26/98) for DEC was \$55.4375 per share. The closing price on the Public Disclosure Date (4/23/99) for CHF was \$9.4844 per share. The closing price on the Public Disclosure Date (6/4/98) for DIGI was \$27.50 per share.

F. Administration of the Claims Procedure and Notice to Claimants

General Administrative Provisions

21. Approval of this Plan by the Court provides authority for, and the Clerk is hereby ordered to:

- a. retrieve from the Disgorgement Fund those monies and other assets deposited, together with interest and earnings thereon; and
- b. deposit those monies and other assets in the Escrow Fund, which the Distribution Agent will establish and maintain as a separate account.

22. Upon receipt of the monies from the Court's registry in this matter, the Distribution Agent shall sign a receipt acknowledging the receipt of the funds and deposit these monies in a bank account as described below.

(a) The bank account will be maintained at a major United States commercial bank (the "Bank"), to be proposed by the Distribution Agent subject to approval by the staff of the Commission. The Distribution Agent shall then file the signed receipt with the Court and supply a copy of the receipt to counsel for the Commission in this matter within ten (10) days of receipt of the monies.

(b) Pursuant to an escrow agreement (the "Escrow Agreement") to be provided by the staff of the Commission, the Distribution Agent and the Bank shall establish both an escrow account and a controlled distribution account in the name of and bearing the Employer Identification Number ("EIN") of the Qualified Settlement Fund ("QSF"), as custodian for the distributees of the Distribution Plan. The name of each account shall be in the following form: QSF, SEC v. Gallucci, Distribution Fund, bearing its EIN Number, as custodian for the benefit of investors allocated a distribution from the Gallucci Distribution Plan (the "Fair Fund Escrow Account").

(c) During the term of the Escrow Agreement, the Fair Fund Escrow Account shall be invested and reinvested in short-term United States Treasury securities backed by the full faith and credit of the United States Government of a type and term necessary to meet the cash liquidity requirements for payments to Eligible Claimants, tax obligations, and fees and expenses, or invested or reinvested in AAA-rated Money Market Mutual Funds registered under the Investment Company Act of 1940 that directly invest in short-term United States Treasury securities and obligations; provided however, that investments in the United States Treasury securities will not be made through repurchase agreements or other derivative products. The Distribution Agent shall provide duplicate original bank and/or investment statements on any accounts established by the Distribution Agent to the Tax Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-cycle statements, as necessary.

23. The Distribution Agent shall oversee the administration of the claims, procedures, and distribution as provided in this Plan. The Distribution Agent shall review the claims of potential claimants and make determinations under the criteria established herein as to the eligibility of claimants to recover monies and the amount of money to be distributed from the Escrow Fund to each Eligible Claimant.

24. Any claim asserted by a claimant shall be in writing and shall provide adequate documentary evidence to substantiate the claim, including all documentary evidence which the Distribution Agent deems necessary or appropriate including but not limited to, if available, account statements and trade confirmations.

25. All claims must be verified on the basis of a signed certification executed by the claimant.

26. No individual claim of less than \$100 based on any single Eligible Security will be paid.

27. To carry out the purposes of this Plan, the Distribution Agent is authorized to make minor modifications consistent with the purposes of the Plan as may be agreed upon between the Distribution Agent and the Commission.

Identification of and Notice to Eligible Claimants

28. The Distribution Agent shall, insofar as is practicable, identify individual Eligible Claimants from a review of trading records, account information provided by registered broker-dealers and investment advisors, and any other source available to it.

29. In addition, the Distribution Agent may, after consultation with the Commission, take such additional steps to provide notice to Eligible Claimants, as it deems appropriate, including giving notice by publication in a form to be prepared by the Distribution Agent and published once in the national edition of an appropriate newspaper and posted to an Internet-based newswire service for thirty days.

30. The Distribution Agent shall provide all Eligible Claimants who have been individually identified with written notice by first-class mail of their right to submit a claim. This notice shall include, at a minimum, the name of all Eligible Securities, the relevant dates on which defendants traded each security, a Proof of Claim Form and instructions and deadlines for submitting the Proof of Claim Form.

31. Unless extended by the Court, the claims period shall be no less than 60 days and no more than 90 days from the earliest of: (a) the day when the Distribution Agent notifies the particular claimant of his or her right to submit a claim, or (b) if notice is given by publication, from the date of first publication of notice.

32. The Distribution Agent shall review each Proof of Claim Form to determine the validity and amount of such Potentially Eligible Claimant's claim, together with any additional conclusions of the Distribution Agent on other issues relevant to the claim. Each Potentially Eligible Claimant shall have the burden of proof to establish the validity and amount of its claim, and that it qualifies as an Eligible Claimant; and the Distribution Agent shall have the right to request, and the Potentially Eligible Claimant shall have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent. On or before the claims determination date, the Distribution Agent shall mail by United States first class mail a Determination Notice to each Potentially Eligible Claimant who has filed a Proof of Claim Form with the Distribution Agent, setting forth the Distribution Agent's conclusions concerning such claim.

Notification to Claimants of Denied Claims

33. In rejecting any claims, the Distribution Agent shall advise each claimant in writing of the basis for the rejection of the claim. Any claimant who objects to the Distribution Agent's determination of eligibility and/or requests reconsideration of its denial of the claim must so advise the Distribution Agent in writing within 20 calendar days after the date of the Distribution Agent's initial denial of the claim. The Distribution Agent shall promptly consider any such objection or request for reconsideration and shall notify the claimant in writing of its decision.

34. Any Potentially Eligible Claimant who is dissatisfied with a final Determination Notice concerning his or her claim may appeal such decision to the Court by filing a written notice of appeal with the Clerk of the Court, with a copy to the Distribution Agent. Such written notice of appeal must be received by no later than 30 days after the date on which the final Determination Notice was mailed to the Potentially Eligible Claimant by the Distribution Agent; the burden of ensuring such timely receipt shall be upon the Potentially Eligible Claimant. The

notice of appeal shall be no longer than five double-spaced pages plus exhibits, shall clearly explain the Potentially Eligible Claimant's disagreement with the final Determination Notice and shall include copies of all relevant documentation, which shall also be provided to the Distribution Agent. A failure to properly and timely request reconsideration of a final Determination Notice shall permanently waive the Potentially Eligible Claimant's right to object to or contest that final Determination Notice. The Distribution Agent shall have the right, in its discretion, to file with the Court Clerk a written response to any such appeal. The Potentially Eligible Claimant shall have the burden of proof in any appeal of the final Determination Notice.

35. In the event that a Potentially Eligible Claimant properly and timely appeals a final Determination Notice, such matter may, at the Court's discretion, be referred to a Magistrate Judge. The Magistrate Judge shall review the documentation provided by the Potentially Eligible Claimant and the Distribution Agent. At that time, the Magistrate Judge may make a final determination or may set the matter for hearing and at the conclusion of the hearing make a final determination. A final determination by the Magistrate Judge shall be final for all purposes under this Distribution Plan and there shall be no further proceedings or appeals related to the same. The Court may, *sua sponte*, modify the foregoing procedure with regard to proceedings before the Magistrate Judge if the Court, in its sole discretion, deems such a modification to be appropriate under the circumstances.

36. In the event that the Court determines not to refer an appeal of a final Determination Notice to a Magistrate Judge, or in the event that the Court decides to review the Magistrate Judge's final determination of the appeal pursuant to the terms of the Court's prior reference of the appeal to the Magistrate Judge, the Court will review the documentation provided by the Potentially Eligible Claimant and the Distribution Agent. At that time, the Court may make a final determination or may set the matter for hearing and at the conclusion of the hearing make a final determination. A final determination by the Court shall be final for all purposes under this Distribution Plan and there shall be no further proceedings or appeal related to the same.

37. No Potentially Eligible Claimant who has failed timely to file an appropriate Proof of Claim Form, or to request reconsideration of the Determination Notice, or to appeal a Final Determination Notice, shall be permitted to object to the barring or treatment of his or her claim on the basis that the Distribution Agent failed to mail, or properly to mail, or that such Potentially Eligible Claimant failed to receive, a copy of the Distribution Plan Notice, or the relevant Determination Notice or final Determination Notice, or that a Proof of Claim Form, request for reconsideration, or appeal made by the Potentially Eligible Claimant was improperly reflected as not having been received by, or properly recorded as received by, the Distribution Agent or Court Clerk, or that a Potentially Eligible Claimant's name and/or proper contact information was not properly reflected on the Distribution Agent's records. The burden of notifying the Distribution Agent of a Potentially Eligible Claimant's current address and other contact information, and of ensuring that such information is properly reflected on the Distribution Agent's records, shall be on the Potentially Eligible Claimant.

Payment of Approved Claims

38. Within 30 days following completion of processing of all Potentially Eligible Claimant claims, including the resolution of any appeals arising therefrom, the Distribution Agent shall prepare a list of all Eligible Claimants and the approved claim for each Eligible Claimant. The Distribution Agent shall petition the Court for the authority to distribute a specified distributable amount from the Available Distribution to the Eligible Claimants as provided for in this Distribution Plan (the "Final Distribution"). In recommending such distributable amount to the Court, the Distribution Agent shall retain a prudent reserve to take into account final fees and expenses incurred in the administration of the performance of its duties under this Distribution Plan, as well as any federal, state or local taxes payable in connection with the Distribution Plan. The Distribution Agent may, in its discretion, petition the

Court for the authority to make one or more interim distributions to Eligible Claimants, with the consent of the Commission, prior to the Final Distribution. Under no circumstances shall the Distribution Agent or its Agents incur any liability to any person if it makes a distribution in accordance with the schedules previously submitted and approved by the Court.

39. After the close of the claims period and the notification to claimants of denied claims, as provided for above, the Distribution Agent shall apply to the Court for an order approving the payment to it of all reasonable fees and expenses incurred in the performance of its duties under the Plan.

40. Upon the approval by the Court of the payment to the Distribution Agent of its fees and other expenses as provided for above, the Distribution Agent shall distribute the Available Distribution to Eligible Claimants as provided for in this Plan.

41. All payments to eligible claimants shall be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that checks will be void after 90 days; and (c) the name of a person to contact, to be used in the event of any questions regarding the distribution. Any such information letter or other mailing to recipients characterizing their distributions shall be submitted to the Commission for prior review and approval. Distribution checks, on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from a Disgorgement Fund established by the Commission. All checks shall bear a stale date of 90 days. Checks that are not negotiated within the stale date shall be voided, and the issuing financial institution shall be instructed to stop payment on those checks. Electronic credits will be made only to cash equivalent accounts (e.g., money market accounts).

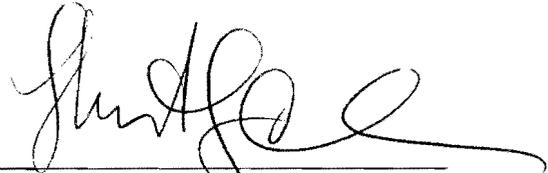
42. Upon receipt by an Eligible Claimant of a final distribution from the Escrow Fund, such Eligible Claimant shall be deemed to have released all claims that such Eligible Claimant may have against the Distribution Agent and its Agents in connection with the Distribution Plan and the administration of the Disgorgement Fund and Escrow Fund, and shall be deemed enjoined from prosecuting or asserting any such claims.

43. If it is deemed necessary or appropriate, the Court will hold a hearing on the Commission's Plan at a date and time to be scheduled by the Court.

44. The Court reserves the right to amend this Distribution Plan *sua sponte* or on motion by the Commission.

SO ORDERED:

Date: Feb. 4, 2011



UNITED STATES DISTRICT JUDGE

The clerk of the court is directed to close the SEC's motion for approval of a distribution plan and appointment of a distribution agent (Docket No. 50).