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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
APR -9 2014  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

HOWARD BRETT BERGER,

Defendant,

MICHELLE BERGER,

Relief Defendant.

12-CV-4728  
(LDW-ARL)

ECF CASE

**ORDER TO APPOINT A DISTRIBUTION AGENT**

The Court, having reviewed Plaintiff Securities and Exchange Commission's ("Commission") Unopposed Motion to appoint a Distribution Agent, and for good cause shown,

**IT IS HEREBY ORDERED:**

1. Simon Consulting, LLP is appointed to serve as the Distribution Agent for the Distribution Fund to assist in overseeing the administration and distribution of the Distribution Fund in coordination with Commission staff, pursuant to the terms of the distribution plan to be approved by this Court.
2. The Distribution Agent shall coordinate with the Court-appointed Tax Administrator, Damasco & Associates, LLP, to ensure that the Distribution Fund, a Qualified Settlement Fund ("QSF") under Section 468B(g) of the Internal Revenue Code, and related regulations, 26 C.F.R. §§1.468B-1 through 5, complies with all related legal

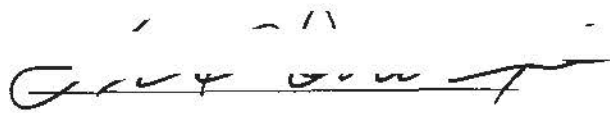
and regulatory requirements, including but not limited to, satisfying any reporting or withholding requirements imposed on distributions from the QSF.

3. The Distribution Agent shall be paid reasonable fees and expenses for its services and such fees and expenses shall be paid from the Distribution Fund upon further orders of the Court. The Distribution Agent shall, on a quarterly basis, submit an invoice to the Commission's counsel for submission to the Court for approval and for payment from the Distribution Fund. No fees or expenses may be paid absent the Court's prior approval.

4. Once the distribution plan is approved, the Distribution Agent will submit quarterly progress reports to the Commission staff and a final accounting report in a format to be provided by the Commission staff, when the Distribution Agent's duties are completed. Commission staff shall file the final accounting with the Court once it has been reviewed by Commission staff, and the Commission staff has determined it has no objections.

5. The Distribution Agent may be removed *sua sponte* at any time by the Court or upon motion of the Commission and replaced with a successor. In the event the Distribution Agent decides to resign, it will first give written notice to the Court and to Commission staff of such intention, and the resignation, if permitted, will not be effective until the Court appoints a successor.

Dated: 4/9/14  
Cristal Felp. NY

  
UNITED STATES DISTRICT JUDGE