

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

09 CV 10047 (PGG)

Plaintiff,

- against -

ROCKFORD FUNDING GROUP, LLC,

Defendant,

- and -

GENADI YAGODAYEV, BOOKMANN AGENCY, LLP,
HOUSEBERG IMPEX INC., INFINITA PLUS TRADING, LTD.
INTERCITY TRANSIT, LTD., MADISA LTD,
MILTON BENEFITS, LLP, PACIFIC GAIN TECHNOLOGIES LTD.,
ROCKFORD INDUSTRY, LTD., STAR TRADING, INC.,
SUNRISE IMPORT & EXPORT INC., and TRASEKS, LTD.,

Relief Defendants.

**PLAINTIFF'S MOTION TO TRANSFER FUNDS TO THE DISTRIBUTION AGENT
FOR DISBURSEMENT TO AUTHORIZED CLAIMANTS**

Introduction

1. The plaintiff Securities and Exchange Commission (“SEC” or the “Commission”) respectfully moves the Court to enter an Order (1) directing the Clerk of the Court to transfer the funds being held by the Court under the case name designation “*U.S. Securities and Exchange Commission v. Rockford Funding Group LLC, et al.*, 09 CV 10047 (PGG) (SDNY)” to the Court-appointed Distribution Agent, Analytics Consulting, LLC (“Analytics”) for distribution to Authorized Claimants¹ pursuant to the Plan of Distribution; and (2) directing Analytics to deposit these funds pursuant to Paragraph 37 of the Plan of Distribution and to distribute these

¹ Capitalized terms are as defined in the Plan of Distribution.

funds in accordance with the terms of the Plan of Distribution. The Commission's motion, if granted, will result in the disbursement of approximately \$955,618.65, minus Court fees, from the Court's account in this matter to Analytics for distribution to Authorized Claimants.

2. The Commission filed a complaint against the defendant Rockford Funding Group, LLC ("Rockford") and various relief defendants on December 8, 2009. In its complaint (Dkt. No. 1), the Commission alleges that Rockford fraudulently used cold-calling and a Web site to raise at least \$11 million from more than 200 investors in 41 different states and Canada since March 2009. Rockford falsely touted itself as a leading private equity firm with an \$800 million pipeline of investments and many Fortune 500 companies as clients, and told investors their money would be safely invested in structured settlements in private lawsuits. Rockford, however, did not engage in any investment activity that would generate any returns for investors, let alone its claimed returns of at least 15 percent annually. Instead, dividend payments it made to investors were funded by other Rockford investors' contributions, and Rockford transferred most of the money collected from investors to banks in Latvia and Hong Kong. In short, Rockford operated as a Ponzi scheme.

3. Based on these allegations, the Commission charged Rockford with violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77e(a), 77e(c), and 77q(a), and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5. The Commission alleged that the relief defendants had received the proceeds of Rockford's violations of the federal securities laws.

4. The Court has entered judgments against Rockford and most of the relief defendants, which hold Rockford and the relief defendants jointly and severally liable for a total

of \$11,237,250.70 in disgorgement and prejudgment interest. (The judgment against Rockford also directs it to pay a civil money penalty of \$500,000.) Pursuant to these judgments, approximately \$955,618.65 is currently being held in the Court Registry Investment Service (“CRIS”) fund. This amount consists of payments pursuant to the Court’s judgment against the relief defendant Pacific Gain Technologies Ltd. and funds transferred by various banks holding frozen accounts of Rockford and certain relief defendants. The amounts held in the CRIS account constitute the “Distribution Fund.”

5. The Distribution Fund constitutes a Qualified Settlement Fund (QSF) under section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. On June 28, 2011, the Court entered an order appointing Damasco & Associates, LLP, as Tax Administrator with respect to the Distribution Fund.

6. On August 21, 2014, per the Order to Appoint a Distribution Agent, the Court appointed Analytics as the Distribution Agent for the Distribution Fund.

7. On September 30, 2014, the Commission filed a motion requesting that the Court approve a Plan of Distribution for the Distribution Fund (“Plan of Distribution”). On March 16, 2015, the Court granted the motion and approved the Plan of Distribution.

Funds should be Transferred to Analytics for Distribution to Authorized Claimants

8. Pursuant to Paragraph 35 of the Plan of Distribution, Analytics has provided a final payee list to the Commission staff² listing the names of Authorized Claimants, and the Recognized Claim of each Authorized Claimant. There are 141 Authorized Claimants on the

² The final payee list contains non-public information. As such, a “blind” redacted payee list is attached as part of this filing. The final payee list containing the non-public information will be provided separately to the Court.

final payee list. The aggregate total Eligible Loss Amount of all approved Claims is \$9,440,948.62, the Net Available Settlement Fund³ is \$919,528.17 and the *pro rata* is calculated to 9.7397%. The total amount of the payments to all Authorized Claimants on the final payee list is \$919,528.17. Analytics has also submitted the Affidavit of Christopher Amon in support of this Motion, which provides a detailed explanation of the procedures that Analytics used to develop the list of Authorized Claimants (the “Affidavit”), filed herewith. Pursuant to Paragraph 35 of the Plan of Distribution, the staff of the Commission has reviewed the Affidavit and the final payee list, has no objections, and thus now moves the Court to transfer funds to Analytics for distribution pursuant to the Plan of Distribution.

9. Analytics is now in a position to distribute checks to the Authorized Claimants as defined in the Plan of Distribution. In order to do so, subject to the Court’s approval of this motion, and pursuant to Paragraph 37 of the Plan of Distribution, Analytics will establish an escrow account in the name of and bearing the Employer Identification Number of the Qualified Settlement Fund, as custodian for the distributees of the Plan of Distribution. The name of each account shall be “QSF, SEC v Rockford Funding Group LLC, et al., with EIN No.xx-xxxxx07,” as custodian for the benefit of investors allocated a distribution from the Plan of Distribution in “*U.S. Securities and Exchange Commission v. Rockford Funding Group LLC, et al.*, 09 CV 10047 (PGG) (SDNY)” (the “Distribution Fund Escrow Account”). Analytics will also establish a separate deposit account (e.g. controlled distribution account, managed distribution account, linking checking and investment account) titled as set forth above for the purpose of funding checks to be distributed to Authorized Claimants by Analytics pursuant to the Plan of

³ The “Net Available Settlement Fund” means the Distribution Fund, plus accumulated interest and earnings thereon, less fees and costs of administering the Distribution Fund and implementing the Distribution Plan, and less any taxes that may be assessed against the Distribution Fund

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Relief Defendants.

**[PROPOSED] ORDER TO TRANSFER FUNDS TO THE DISTRIBUTION AGENT FOR
DISBURSEMENT TO AUTHORIZED CLAIMANTS**

The Court having reviewed Plaintiff Securities and Exchange Commission (“SEC” or the “Commission”)’s Motion to Transfer Funds to the Distribution Agent for Disbursement to Authorized Claimants dated July 1, 2016, and the supporting Affidavit of Christopher Amon in support of the Motion dated June 30, 2016, (the “Affidavit”), and for good cause shown,

IT IS HEREBY ORDERED:

1. The Clerk of the Court shall issue a check to the Distribution Agent, Analytics Consulting, LLC from the account currently being held by the Court Registry Investment Service (“CRIS”) fund under the case name designation “*SEC v. Rockford Funding Group LLC, et al.*,” 09 CV 10047 (PGG) (SDNY)” for the entire amount of approximately \$ 955,618.65 on deposit with the

Court minus Court fees. The Clerk shall make the check payable to “*SEC v Rockford Funding Group LLC*” and shall send the check by overnight mail to:

Analytics Consulting, LLC
ATTN: Christopher Amon
18675 Lake Drive East
Chanhassen, MN 55317.

2. The Distribution Agent shall:
 - a. Deposit all funds received by the Court and the Commission in connection with this matter pursuant to Paragraph 37 of the Plan of Distribution; and
 - b. Distribute these funds to Authorized Claimants in accordance with the terms of the Plan of Distribution; and
 - c. Provide interim progress reports and a final report to the Court regarding the activities and status of the Distribution fund pursuant to Paragraphs 50, 52, 53, and 54 of the Plan of Distribution.

Dated: _____

UNITED STATES DISTRICT JUDGE