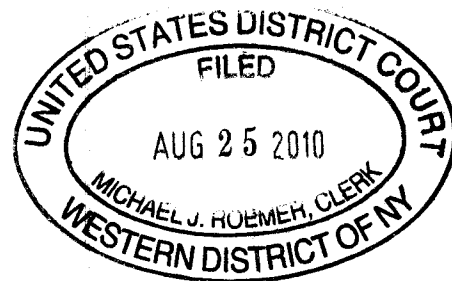


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

09-CV-14S

GEN-SEE CAPITAL CORPORATION a/k/a
GEN UNLIMITED and RICHARD S. PICCOLI,

Defendants.

**ORDER APPOINTING A DISTRIBUTION AGENT;
APPOINTING A TAX ADMINISTRATOR; AND
DETERMINING AMOUNT OF
DISGORGEMENT AND PREJUDGMENT INTEREST**

WHEREAS, on June 10, 2009, the Court entered the Final Judgment as to Defendants Gen-See Capital Corporation a/k/a Gen Unlimited and Richard S. Piccoli (the "Final Judgment"), which provides for the transfer of Defendants' assets to the Court's Registry Fund, and further provides that the Commission may by motion propose a plan to distribute the funds in the Registry Fund subject to the Court's approval;

WHEREAS, pursuant to the Court's Orders entered June 26, 2009, and November 16, 2009, a total of \$6,249,496.06 has been paid into the Registry Fund, plus the accumulated interest thereon; and

WHEREAS, the Court, having reviewed the brief in support of plaintiff's unopposed motion for an order appointing a distribution agent, appointing a tax administrator, and determining the amount of disgorgement and prejudgment interest,

the Declaration of David Stoelting dated March 25, 2010, and upon all prior proceedings and submissions, and for good cause shown,

IT IS ORDERED THAT:

I.

A. Pursuant to Paragraph IV of the Final Judgment entered June 9, 2009, defendants Gen-See Capital Corporation a/k/a Gen Unlimited and Richard S. Piccoli are jointly and severally liable for disgorgement of \$26,631,778.48, representing profits gained as a result of the conduct alleged in the Complaint, plus prejudgment interest thereon in the amount of \$138,654,807.47, for a total of \$165,286,585.95. The total amount of funds previously deposited in the Registry Fund pursuant to the Orders of the Court, \$6,249,496.06, as well as any subsequent payments into the Registry Fund, shall be applied in partial satisfaction of Defendants' disgorgement obligation. Accordingly, the remaining balance now owed by Defendants as disgorgement plus prejudgment interest is \$159,037,089.89.

B. Defendants shall satisfy this obligation by paying \$159,037,089.89 within 14 days after entry of this Order to the Clerk of this Court, together with a cover letter identifying Defendants as defendants in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Order. Defendants shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendants relinquish all legal and equitable right, title, and interest in such funds, and

no part of the funds shall be returned to Defendant. The Clerk shall deposit the funds into the Court's Registry Fund.

II.

A. A.B. Data, Ltd. is appointed Distribution Agent to perform such functions as are necessary to design and implement a plan of distribution to accomplish the distribution of the Registry Fund to the victims of the violations alleged in the Complaint in this case. The plan of distribution, which must be approved by the Court, will provide for the distribution to the victims of monies in the Court's Registry Fund in this case, minus any appropriate expenses incurred in establishing, maintaining, and distributing the Registry Fund, including but not limited to, administrative fees, taxes, or other costs, shall be distributed. **The proposed plan shall include the Clerk of this Court preparing the checks to each victim based on information provided by A.B. Data, Ltd., which shall then be sent to A.B. Data, Ltd. by the Clerk of the Court for any further processing and distribution to the victims.** The proposed plan of distribution should also incorporate the suggestions of the Commission. The Commission shall file an application seeking an order approving the proposed Plan of Distribution, and the Distribution Agent may join in such an application.

B. The Court hereby directs the Clerk of the Court, without further order of the Court, to pay fees and expenses from the Registry Fund to A.B. Data in accordance with the schedules attached as Exhibit 1 hereto, upon filing of a notice with the Court by the Commission requesting such payment, provided that the total of all such payments shall not exceed \$35,000. Any amount above \$35,000 shall require Court approval

upon a motion by A.B. Data, and the Commission shall have the right to object to any such motion.

C. 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 shall first give written notice to the Court and the Commission of its intention, and its resignation, if permitted by the Court, shall not be effective until the Court appoints a successor.

D. The Distribution Agent shall coordinate with the Court appointed Tax Administrator, Damasco & Associates LLP, to insure that the Registry 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.

E. The Distribution Agent and the Distribution Agent's designees, agents and assistants are excused from any requirement to post a bond, and shall not be liable to any person for their actions hereunder, except on a finding of misfeasance, gross negligence or reckless disregard of duty.

F. The Distribution Agent shall file a report with the Court, substantially in the form of the Standardized Fund Accounting Report ("SFAR") attached hereto, within ninety (90) days of its appointment and shall file additional such reports every ninety (90) days thereafter. The Distribution Agent shall file a final report and accounting on

the SFAR when its duties are completed. The Distribution Agent shall serve all its filings on counsel for the Commission and the Defendant.

III.

A. Damasco & Associates LLP is appointed as Tax Administrator to execute all income tax reporting requirements, including the preparation and filing of tax returns, with respect to the Registry Fund.

B. Damasco & Associates shall be designated the Tax Administrator of the Fund, pursuant to section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. § 468B(g), and related regulations, and shall satisfy the administrative requirements imposed by those regulations, including but not limited to (a) obtaining a federal taxpayer identification number, (b) preparing and filing applicable federal, state, and local tax returns and paying taxes reported thereon out of the Fund, and (c) satisfying any information, reporting, or withholding requirements imposed on distributions from the Fund. The Tax Administrator shall contemporaneously provide copies of all such filings to the Commission's counsel of record.

C. The Tax Administrator shall, at such times as the Tax Administrator deems necessary to fulfill the tax obligations of the Fund, request that the Commission's counsel of record file with the Court a motion, supported by the Tax Administrator's declaration of the amount of taxes due, to transfer funds from the Fund on deposit with the Court to pay any required tax obligations of the Fund. The Commission may also submit a motion to direct the Clerk of the Court to disburse funds to pay tax obligations.

D. The Tax Administrator shall be entitled to charge reasonable fees for tax compliance services and related expenses in accordance with its agreement with the Commission. The Tax Administrator shall, at such times as the Tax Administrator deems appropriate, submit a declaration of fees and expenses to the Commission's counsel of record for submission to the Court for approval and for payment from the Fund. No fees or expenses may be paid absent the Court's prior approval.

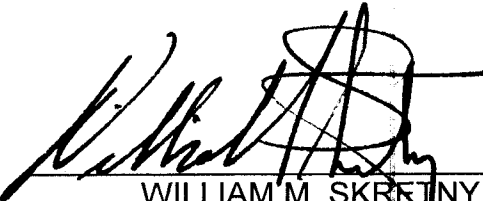
E. At least ten business (10) days before any motion to pay fees and expenses is filed with the Court, the Tax Administrator shall provide the Commission counsel of record with a draft of the supporting declaration for review. If the Commission has any corrections or objections to the declaration, the Tax Administrator and the Commission's counsel shall attempt to resolve them on a consensual basis. If a consensual resolution is not reached, the Commission may submit with the motion any objections along with the Tax Administrator's response thereto.

IV.

The Final Judgment remains fully binding and effective, and this Court shall retain jurisdiction of this matter for all purposes.

SO ORDERED.

Dated: August ²⁵__, 2010
Buffalo, New York


WILLIAM M. SKRETNY
Chief Judge
United States District Court

COST ESTIMATES

As set forth in the table below, and based on the assumptions therein, A.B. Data estimates a total administration cost of \$34,627, including fees and expenses. Based on the assumptions in the table below (including but not limited to the estimate of 350 claims), A.B. Data is willing to cap its fees at \$25,000, and anticipates that expenses will range from \$10,000 to \$15,000. These totals do not include the OPTIONAL SERVICES set forth in the table below.

FEES	QUANTITY (estimates)	PER ITEM	TOTAL
NOTICE ADMINISTRATION Design and implementation of notice program, programming and systems support, project management, quality assurance, affidavits, and reporting (per hour, capped at 52 hours).	52 (cap)	\$125/hour	\$6,500
TELEPHONY Set-up and maintenance of interactive voice response system, toll-free telephone and fax lines, phone scripts, and live operators; calls picked up within 20 seconds.			\$2,500
WEBSITE Domain name registration, design, hosting, maintenance fee, strategic search engine placement and ranking, monitoring, case status updates, and posting of case-related documents.			\$2,500
RETURNED MAIL Processing mail returned as undeliverable.	TBD	\$0.89	Waived
Remailing to forwarding addresses provided by the USPS (not including print and postage).	TBD	\$1.29	Waived
DRAFT DISTRIBUTION PLAN (per hour)	5	\$310	\$1,550
CLAIMS PROCESSING A.B. Data will process claim forms returned by investors who object to their payment calculations as set forth in the notice, and claims by investors identified through publication notice, Catholic church outreach, and other means. Includes database, data entry, claims processing, PO box, correction of deficient claims (minimum fee 350 claims).	350	\$9.85	\$3,448
WRITTEN CORRESPONDENCE	70	\$2.15	\$151
FUND ADMINISTRATION Account maintenance, reconciliation, quality assurance, affidavits, and reporting (per calendar year).	2	\$3,800	\$7,600
SUBTOTAL FEES			\$24,248



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EXPENSES	QUANTITY (estimates)	PER ITEM	TOTAL
PRINT AND MAIL NOTICE/CLAIM FORM Up to 4-page formatted, personalized, self-mailing notice/claim form, under 1 oz., to approximately 600-700 investors with known addresses, and fulfillment requests. Includes data processing, creation of master mailing list, and lettershop.	2,000	\$0.79	\$1,580
DIRECT MAIL OUTREACH TO CATHOLIC CHURCHES AND DIOCESE OF BUFFALO Up to 4-page formatted, self-mailing notice, under 1 oz., to up to 100 Catholic churches in and near Buffalo, NY, including the Diocese of Buffalo. Includes data processing, creation of master mailing list, and lettershop.			Waived
PUBLICATION NOTICE - UPSTATE NY Estimates assume one insertion of 1/8-page ad in each of the top 3 newspapers in Upstate NY by circulation. <i>Buffalo News</i> (circulation 165,511) <i>Rochester Democrat and Chronicle</i> (circulation 124,987) <i>Syracuse Post-Standard</i> (circulation 93,688)			\$4,202 \$826 \$729
FULFILLMENT REQUESTS BY PREVIOUSLY UNIDENTIFIED INVESTORS Processing requests for Notices received via toll-free line or website, as a result of publication notice and/or Catholic outreach, on a weekly basis (per week).	12	\$150/week	\$1,800
QUALIFIED SETTLEMENT FUND SETUP Account setup.	1	\$2,800	Waived
CHECKS One check inserted into each envelope, layout, data processing, stock, and lettershop; amount of each check to be provided by SEC (\$750 minimum per check run, waived in this case). Reissues.	TBD TBD	\$2.99 \$12.00	Waived Waived
POSTAGE At cost with maximum available discounts, estimates assume under 1 oz., presort. Notice/Claim Form mailing. Check mailing.	2,000 1,000	\$0.414 \$0.414	\$828 \$414
SUBTOTAL EXPENSES			\$10,379
GRAND TOTAL FEES AND EXPENSES			\$34,627



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OPTIONAL SERVICES	QUANTITY (estimates)	PER ITEM	TOTAL
DRAFT CLAIM FORM (per hour)	2	\$310	\$620
CATHOLIC PUBLICATION OPTIONS <i>Catholic Digest</i> (monthly publication; circulation 200,000; one insertion of full-page ad) <i>OR</i> <i>Catholic New York</i> (publishes 2x/month; circulation 132,722; one insertion of 1/4-page ad) <i>OR</i> <i>National Catholic Register</i> (publishes 2 every weeks; circulation 30,000; one insertion of 1/8-page ad) <i>OR</i> <i>America</i> (publishes weekly; circulation 36,000; one insertion of 1/2-page ad).			\$9,047 <i>OR</i> \$1,360 <i>OR</i> \$1,051 <i>OR</i> \$1,087
ADDRESS UPDATES Duplicate identification and elimination and National Change of Address updating prior to initial mailing (prerequisite to qualify for presort discount on postage). If requested, A.B. Data will run the list of known investors (approximately 600-700) through the Social Security Death Index and inform the SEC as to the results. Location of next of kin addresses of deceased investors.			\$850 \$950 \$750
SKIP TRACING SERVICES Advanced address search to locate updated addresses for pieces returned as undeliverable without a forwarding address.	TBD	\$5.00	TBD
BANK, BROKER AND NOMINEE MAILING AND FULFILLMENT Up to 4-page formatted, self-mailing notice, under 1 oz., to approximately 6,700 banks, brokers, and nominees on A.B. Data's proprietary list. Includes data processing, creation of master mailing list, and lettershop. Processing fulfillment requests from banks, brokers, and other nominees; reimbursement of expenses (A.B. Data negotiates these fees with the banks, brokers, and other nominees to ensure the class receives the lowest rates possible).	6,700 TBD	\$0.79 TBD	\$5,293 TBD
CALCULATION OF PAYMENT AMOUNTS/PRO RATA SHARE Upon completion of the claims administration process, A.B. Data will calculate the <i>pro rata</i> share of each known investor and authorized claimant (per hour).	4	\$135.00	\$540
TAX SERVICES Filing annual tax returns and quarterly estimates in connection with settlement fund account (per calendar year).	2	\$2,700	\$5,400
SECONDARY DISTRIBUTION, IF ANY One check inserted into each envelope, layout, data processing, stock, and lettershop; amount of each check to be provided by SEC (\$750 minimum per check run, waived in this case). Reissues.	TBD TBD	\$2.99 \$12.00	Waived Waived



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STANDARDIZED FUND ACCOUNTING REPORT for {Name of Fund} - Cash Basis

Civil Court Docket No.

Reporting Period MM/DD/YYYY to MM/DD/YYYY or Final Report Dated MM/DD/YYYY

FUND ACCOUNTING (See Instructions):				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of MM/DD/YYYY):			
	Increases in Fund Balance:			
Line 2	Contributions/Deposits:			
Line 2a	Contributions			
Line 2b	Deposits			
	Total Contributions/Deposits			
Line 3	Investment/Interest Earnings			
Line 4	Gain on Investment Disposition			
	Total Funds Available (Lines 1 - 4):			
	Decreases in Fund Balance:			
Line 5	Disbursements to Investors			
Line 6	Disbursements for Plan Administration Expenses Paid by the Fund:			
Line 6a	Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....			
	Independent Distribution Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 6b	Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
Line 6c	Tax Administrator Fees & Bonds			
	Total Disbursements for Plan Administration Expenses Paid by the Fund			
Line 7	Disbursements to Court/Other:			
Line 7a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 7b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
Line 8	District of Columbia (DC) & State Tax Payments			
Line 9	Loss on Investment Disposition			
	Total Funds Disbursed (Lines 5 - 9):			
Line 10:	Ending Balance (As of MM/DD/YYYY):			
Line 11	Ending Balance of Fund - Net Assets :			
Line 11a	Cash & Cash Equivalents			
Line 11b	Investments			
Line 11c	Uncleared Funds Disbursed			

STANDARDIZED FUND ACCOUNTING REPORT for {Name of Fund} - Cash Basis

Civil Court Docket No.

Reporting Period MM/DD/YYYY to MM/DD/YYYY or Final Report Dated MM/DD/YYYY

Total Ending Balance of Fund – Net Assets				
OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
Line 12	Report of Items NOT Paid by Distribution Fund:			
	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 12a	Plan Development Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund			
Line 12b	Plan Implementation Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	Total Plan Implementation Expenses Not Paid by the Fund			
Line 12c	Tax Administrator Fees & Bonds Not Paid by the Fund			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			
Line 13	Disbursements to Court/Other:			
Line 13a	Investment Expenses/CRIS Fees			
Line 13b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
Line 14	DC & State Tax Payments			
Line 15	No. of Claims:			
Line 15a	# of Claims Received This Reporting Period.....			
Line 15b	# of Claims Received Since Inception of Fund.....			
Line 16	No. of Claimants/Investors:			
Line 16a	# of Claimants/Investors Paid This Reporting Period.....			
Line 16b	# of Claimants/Investors Paid Since Inception of Fund.....			

Fund Administrator:

By: _____
(signature)

(printed name)

(title)

Date: _____