

EXHIBIT 9

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Via Facsimile (212.805.7986) and Overnight Mail

Honorable Paul G. Gardephe
United States District Judge
United States District Court for the
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: SEC v. Reserve Management Company, Inc., et al.;
No. 09 Civ. 4346 (PGG)

Dear Judge Gardephe:

We submit this letter on behalf of David Lerner Associates, Inc. ("DLA") pursuant to your June 8, 2009 Order requesting comment on the Securities and Exchange Commission's (the "Commission") proposed plan for distribution of the remaining assets (the "Res") of The Reserve Primary Fund (the "Primary Fund").

DLA is an SEC registered broker-dealer headquartered in Syosset, New York. For over twenty years, the Primary Fund, which provided stable, conservative returns for investors, was a money market vehicle for DLA clients' excess cash. Approximately 30,000 DLA customer accounts are current shareholders of the Primary Fund, many of which did not submit redemption requests to the Primary Fund to redeem their shares due, in part, to the Reserve Management Company, Inc.'s ("RMCI") and the Resrv Partners, Inc.'s ("Resrv") alleged dissemination of false and misleading statements concerning the status of the Primary Fund and the suspension of Primary Fund redemptions.

We understand that the Commission's goal is to bring about a distribution of the Primary Fund that results in fair and equitable treatment of all of the Fund's shareholders and requests that the Court enter an order that, among other things, compels "the Primary Fund to distribute all Primary Fund assets pro rata for all shares for which shareholders have not been fully paid." (Memorandum of Law in Support of its Proposed Order to Show Cause and Application for Injunctive and other Relief and Approval of the Commission's Proposed Plan of Distribution Memorandum ("Memorandum of Law") at 1.) Pursuant to this goal, the Commission has submitted to the Court a proposed Plan of Distribution, titled Term Sheet of the Commission's Proposed Plan of Distribution. (June 8, 2009 Order, Appendix ("Term Sheet")). The Term Sheet states that the Res is to be distributed to Primary Fund Shareholders whose *shares have not*

been fully redeemed since September 15, 2008 ("Unpaid Shareholders") on a pro rata basis."¹ (Term Sheet ¶. 2, italics added)

We believe that Unpaid Shareholders as defined by the Commission in the proposed Term Sheet should include all current shareholders of the Primary Fund, including those like many of DLA's clients who have not submitted redemption requests to the Primary Fund. The Primary Fund is in the process of liquidating its assets (rather than redeeming shares), and therefore the status of shareholders based on whether such shareholders have submitted redemption requests should be irrelevant. Moreover, RMCI's and Resrv's dissemination of false and misleading statements concerning the status of the Primary Fund and the suspension of redemptions commencing at 10:10 a.m. on September 15, 2008, caused many shareholders not to submit redemption requests. Thus, any distinction between shareholders in distributing the Res would be unfair and inequitable in light of the undeniable impact RMCI's and Resrv's alleged misconduct had on investors' perceptions of the stability of the Fund and their resulting redemption decisions. As such, we object to the Commission's Term Sheet to the extent that it does not state with sufficient clarity that the Res will be distributed to all investors currently holding shares of the Primary Fund (whether or not an individual investor submitted a redemption request to redeem its shares) on a pro rata basis.

Additionally, we respectfully request that the Court preserve, and therefore not enjoin, any claims against any investor who allegedly benefitted improperly from insider information by receiving payment of \$1.00 per share on September 15, 2008 prior to redemptions being halted as well as those responsible for such alleged improper redemptions.

- 1. Investors who have not submitted requests for redemption should receive a pro rata share of the liquidation proceeds of the Primary Fund under the Commission's Plan of Distribution.**

We understand that the Primary Fund is in the process of liquidation. In liquidation, a company sells all of its assets, pays outstanding debts, and distributes the remainder to shareholders. It is not material whether a shareholder has submitted a request for redemption when the company is liquidating its assets, as all shareholders (of the same class) participate in the receipt of liquidated funds equally.

We also note that the Commission's Complaint provides a chronology of events through September 16, 2008, alleging that RMCI and Resrv disseminated false and misleading statements to deceive and misinform the Primary Fund board of directors, credit rating agencies, and shareholders. For example, as stated in the Commission's Complaint,

- On September 15, over \$10 billion of the Primary Fund was redeemed by institutional investors prior to the halt of redemptions at approximately 10:10 a.m. (Complaint, ¶ 61)

¹ Similarly, the Commission's Complaint filed on May 5, 2009 seeks an order "compelling the Primary Fund to distribute Primary Fund assets pro rata for *all redeemed shares* for which shareholders have not been fully paid for...." (Complaint, Prayer for Relief, VI., italics added).

- “Despite knowing [of] the Fund’s inability to generate liquidity on September 15 to pay billions of dollars of unfunded redemptions ... RMCI and Resrv Partners sales personnel falsely assured investors via telephone communications and email that the Primary Fund was not experiencing any liquidity problems and that any delay in transmitting money was caused by operational or technical delays” (Complaint, ¶ 102)
- “RMCI also falsely informed Moody’s ... on September 15 that redemptions appeared to have ‘stopped’ and that the Reserve had been able to generate sufficient liquidity by ‘selling product on the street’ to fund all outstanding redemption requests.” (Complaint, ¶ 103)
- Resrv publicly distributed “The Reserve *Insights*” which, among other things, falsely stated that the Lehman holdings would not have a material impact on the Primary Fund and that RMCI intended to enter into support agreements with the Primary Fund to support the value of Lehman credit. Resrv and RMCI distributed the materially false and misleading document to numerous shareholders and RMCI posted this materially false publication to its website to further disseminate word of the false plans to support the \$1.00 NAV of the Primary Fund. (Complaint, ¶¶ 92 – 93)
- During the evening of September 15, RMCI disseminated false statements to reassure investors that RMCI would – without reservation – support the \$1.00 NAV of the Primary Fund, (Complaint, ¶ 108) and RMCI marketing personnel communicated to the Wall Street Journal that “if needed, The Reserve intends to protect the NAV on the funds to whatever degree is required, however this protection has not been needed.” (Complaint, ¶ 109)
- RMCI’s misrepresentations continued on September 16 when RMCI’s Director of Marketing emailed a copy of the “The Reserve *Insights*” to a contact at Crane Data, a web site covering developments in the money market industry. (Complaint, ¶ 113)

These allegedly false communications were successful in convincing investors that the Primary Fund’s NAV was safe. Moreover, after mid-morning September 15, redemptions were halted. (Complaint, ¶ 61.) As a result, many shareholders did not submit redemption requests. We submit that it would be unfair and inequitable, in light of the undeniable impact RMCI’s and Resrv’s alleged misconduct had on investors’ perceptions of the stability of the Fund, to distinguish between investors who submitted redemption requests and investors who did not submit redemption requests. Investors, like many of DLA’s clients, who have not submitted requests for redemption should receive a pro rata share of the liquidation proceeds of the Primary Fund under the Commission’s Plan of Distribution.

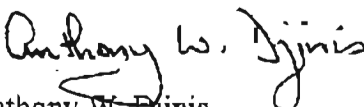
Accordingly, although we commend the Commission on its efforts to resolve this matter quickly and efficiently, we object to the final relief the Commission seeks to the extent that it does not state with sufficient clarity that the Res will be distributed to all current shareholders of the Primary Fund (whether or not these holders sought to redeem their shares at any time) on a pro rata basis.

2. The Court should preserve, and therefore not enjoin, any claims against any investor who allegedly benefitted improperly from insider information by receiving payment of \$1.00 per share on September 15, 2008 prior to redemptions being halted and should preserve any claims against those responsible for any such alleged improper redemptions.

According to the Commission, on September 15, 2008, prior to the halting of redemptions, approximately 10 billion shares were redeemed at \$1 per share. (Complaint, ¶ 61; Memorandum of Law at 7 n. 3) We understand that at least one civil action has alleged that a number of selective disclosures of non-public material facts were made to certain institutional investors regarding the value and liquidity of the Primary Fund, and that these disclosures had the effect of causing certain institutional investors to submit redemption requests and receive payment for their shares in advance of other investors at the then-prevailing net asset value of \$1.00 per share. (Ameriprise Financial Services, Inc. and Securities America, Inc. v. Reserve Fund, et. al., U.S. District Court, District of Minnesota, 08-cv-05219 (PAM))

We believe that claims against such investors and those responsible for the alleged improper redemptions should not be enjoined. Such claims may result in the recovery of funds that should be redistributed to investors on an equitable basis.

Respectfully submitted,


Anthony W. Djinis

cc: (via facsimile, 212-336-1319, and U.S. mail)

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