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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

RALPH T. IANNELLI and ESSEX
CAPITAL CORP.,

Defendants.

Case No. 2:18-cv-05008-FMO-AFM

ORDER GRANTING
STIPULATION FOR ORDER:
(1) ESTABLISHING CLAIMS
PROCEDURES; AND (2) SETTING
CLAIMS BAR DATE [168]

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Judge Hon. Fernando M. Olguin

Before the Court is the Stipulation for Order: (1) Establishing Claims Procedures; and (2) Setting Claims Bar Date (the "Stipulation") by and between Geoff Winkler (the "Receiver"), the Court-appointed permanent receiver for Defendant Essex Capital Corporation and its subsidiaries and affiliates (collectively, the "Receivership Entities" or "Entities"), and the Plaintiff Securities and Exchange Commission.

The Stipulation having been considered, and good cause appearing therefor, this Court orders as follows:

- A. The Stipulation is granted, in its entirety;
- B. The proposed procedures set forth in the Stipulation are approved as follows:

1 **I. INVESTOR CLAIMS.**

2 1. The Receiver will send a letter (the "Claim Letter") to all known
3 investor and non-investor creditors of the Entities who appear to have suffered net
4 losses from their investments in, or contributions to, the Entities (collectively,
5 sometimes referred to herein as the "Net Losers") reflecting the Receiver's
6 calculation of the Net Loser's claim for reimbursement (the "Claim") against the
7 Receivership Entities, as reflected in the Receiver's records. This amount (the
8 "Claim Amount") will be the result of the Receiver's money-in/money-out
9 ("MIMO") calculations, and shall not include accrued interest, late fees, contract or
10 other damages, attorneys' fees, or similar contingent, consequential, or unliquidated
11 claims. The Claim Letter will further inform the Net Loser that, if he/she/it disputes
12 the Receiver's calculated Claim Amount, the Net Loser must submit a completed
13 Claim Form (as defined, below) to the Receiver, along with any documentation in
14 support of the Net Loser's position and calculation of his/her/its Claim, by the
15 Claims Bar Date (as defined below). **Any prospective claimant, including a Net**
16 **Loser, who does not return a completed Claim Form to the Receiver on or**
17 **before the Claims Bar Date will be deemed to have accepted and agreed to the**
18 **Receiver's valuation of his/her/its Claim, in the amount of the Claim Amount**
19 **associated with that Claim.**

20 **II. CLAIM FORM.**

21 2. The Receiver's Claim Letters will also include, as an attachment, a
22 form (the "Claim Form") by which any prospective claimant, including any Net
23 Loser, who disputes the Receiver's calculation of his/her/its Claim Amount may
24 provide information to the Receiver regarding that dispute, including his/her/its
25 valuation of his/her/its Claim, and any associated supporting documentation, as
26 addressed further, below. A copy of the Claim Form will also be available on the
27 Receiver's website for this matter, www.essex-receivership.com.

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1 3. Prospective claimants who do not receive a Claim Letter, either
2 because the Receiver does not believe them to be Net Losers or otherwise, or who
3 receive the Claim Letter but dispute the Receiver's calculation of their Claim
4 Amount, shall be required to complete the Claim Form by providing specific
5 information about the nature and amount of their prospective Claim. Further, such
6 claimants will be required to submit adequate supporting documentation at the time
7 their Claim Forms are returned to the Receiver, in order to evidence the validity and
8 extent of each purported Claim.

9 **III. SUBMISSION OF CLAIM FORM.**

10 4. All prospective claimants, including Net Losers, shall be permitted to
11 submit their Claim Forms to the Receiver by mail or email, on or before the Claims
12 Bar Date. Prospective claimants submitting a Claim Form by email will receive an
13 acknowledgement of receipt by email, and claimants submitting a Claim Form by
14 mail can request a date-stamped copy acknowledging receipt.

15 **IV. CLAIMS BAR DATE.**

16 5. The Receiver shall notify all prospective claimants, by posting on his
17 website, www.essex-receiversip.com, a notice of the deadline (the "Claims Bar
18 Date") by which all prospective claimants, including Net Losers, who dispute the
19 Receiver's valuation of their prospective Claims, including his calculation of their
20 Claim Amounts, must return their completed Claim Forms, along with all available
21 documentation supporting their valuation of their prospective Claims, to the
22 Receiver. **Any prospective claimant, including a Net Loser, who does not
23 return a completed Claim Form to the Receiver on or before the Claims Bar
24 Date will be deemed to have accepted and agreed to the Receiver's valuation of
25 his/her/its Claim, in the amount of the Claim Amount associated with that
26 Claim.**

27 6. The Claims Bar Date shall be established as the date sixty (60) calendar
28 days from the date of the Receiver's first publication of notice of the Claims Bar

1 Date on his website, www.essex-receivership.com, following receipt of an order
2 from this Court approving the Stipulation.

3 **V. ADDITIONAL NOTICE BY PUBLICATION.**

4 7. The Receiver will provide notice to all prospective claimants of the
5 above-described claims process and the Claims Bar Date, by email (for all known
6 investor and other Entity creditor email addresses) and by publishing a one-time
7 notice in a publication of wide circulation in the geographic area of the Entities'
8 principal place of business, Santa Barbara, California. Such notice shall include a
9 referral to the Receiver's website, www.essex-receivership.com, where claims-
10 related materials may be viewed and downloaded. The combination of email and
11 published notice, in addition to posting on the Receiver's website, will result in
12 adequate notice, without undue expenditure of limited Receivership Estate
13 resources.

14 **VI. DISPUTED CLAIMS REVIEW PROCEDURE.**

15 8. **Any prospective claimant, including a Net Loser, who does not**
16 **return a completed Claim Form to the Receiver on or before the Claims Bar**
17 **Date will be deemed to have accepted and agreed to the Receiver's valuation of**
18 **his/her/its Claim, in the amount of the Claim Amount associated with that**
19 **Claim.**

20 9. For all other Claims, the Receiver will evaluate all Claim Forms and
21 supporting documents received by the Claims Bar Date, and compare them against
22 the records of the Receivership Entities, the results of his investigation and
23 accounting, and other relevant materials, and make a determination regarding the
24 recommended treatment of each Claim.

25 10. Claims will be evaluated on a strict MIMO basis, across the
26 Receivership Entities as a whole. Accordingly, Claims will be determined based on
27 each investor's (or creditor's) net investment in (or net monetary contribution to) the
28 Receivership Entities, in the aggregate. The process will thus ensure that no

1 investor or creditor receives an inequitable benefit as a consequence of the
2 combinations of Entities in which their money was invested, or to which they made
3 a monetary contribution.

4 11. In the event that the Receiver does not accept a particular claimant's
5 asserted Claim or Claim Amount, the Receiver will provide written notice to the
6 claimant of the objection and the Receiver's revised, proposed Claim Amount, if
7 any. The Receiver will attempt to confer with the claimant in an effort to resolve
8 the dispute. Differences that cannot be resolved directly between the Receiver and
9 the claimant will be submitted to this Court for determination by motion, at such
10 time as the Receiver makes his recommendations to this Court regarding the
11 equitable treatment of Claims.

12 Effective immediately upon the entry of this Order, the Receiver is authorized
13 to commence his claims procedures, as set forth in the Stipulation.

14
15 **SO ORDERED.**

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17 Dated: July 31, 2020

/s/

18 Hon. Fernando M. Olguin
19 Judge, United States District Court
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