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8 GEOFF WINKLER

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 v.

15 RALPH T. IANNELLI and ESSEX
16 CAPITAL CORP.,

17 Defendants.

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

DECLARATION OF RECEIVER,
GEOFF WINKLER, IN SUPPORT OF
MOTION FOR ORDER:
(1) APPROVING PROPOSED
DISTRIBUTION PLAN;
(2) APPROVING RECOMMENDED
TREATMENT OF CLAIMS; AND
(3) AUTHORIZING DISTRIBUTIONS
ON ALLOWED CLAIMS

[Notice of Motion and Motion and
[Proposed] Order submitted concurrently
herewith]

Date: January 20, 2022
Time: 10:00 a.m.
Ctrm: 6D
Judge Hon. Fernando M. Olguin

DECLARATION OF GEOFF WINKLER

I, Geoff Winkler, declare as follows:

1. I am the Court-appointed permanent receiver in the above-entitled action for Defendant Essex Capital Corporation ("Essex") and its subsidiaries and affiliates (collectively, with Essex, the "Receivership Entities"). I make this Declaration in support of my concurrently filed Motion for Order: (1) Approving Proposed Distribution Plan; (2) Approving Recommended Treatment of Claims; and (3) Authorizing Distributions on Allowed Claims (the "Motion"). I have personal knowledge of the facts stated herein and, if called to testify, could and would testify competently thereto.

2. As reflected in my Motion, on April 20, 2020, my accounting of the Receivership Entities' business and financial activities was nearing completion, I entered into a stipulation with the Plaintiff Securities and Exchange Commission to establish the claims procedures by which claims against the Receivership Entities could be submitted to my office, and to set an associated bar date by which all such claims were due. This Court entered the stipulation and approved my claims processing proposals on July 31, 2020, as reflected in the Court's Order Granting Stipulation for Order: (1) Establishing Claims Procedures; and (2) Setting Claims Bar Date (the "Procedures Order") [ECF No. 179]. The Procedures Order provided, in pertinent part, that, after completing a Money-In/Money-Out ("MIMO"), or netting analysis, my office was to contact each creditor whom we identified as having suffered a net loss, identify our calculation of that loss, and permit the creditors to either (a) accept the calculation, which would then become the creditor's claim amount; or (b) dispute the calculation, and timely provide documents in support of the disputed amount, which would then be reviewed prior to a final calculation being made. Prospective claimants who did not respond to my communications by the Court-established November 30, 2020 bar date would be deemed to have accepted my calculation of their claims.

1 3. Thereafter, my office promptly and timely submitted the requisite claim
2 calculations and claim forms to the Receivership Entities' creditors.

3 4. A total of seventy-two (72) investor and non-investor claims were
4 timely submitted to my office, in the aggregate amount of \$49,728,517.83.

5 5. Of these seventy-two (72) claims, and as reflected in my Motion, fifty-
6 seven (57) are recommended for allowance, in whole or in part. Of these claimants,
7 a total of fifty-four (54) ultimately agreed to and accepted my valuation of their
8 respective claims, reflecting an acceptance rate of over 94%. Only three (3)
9 claimants challenged my valuation of their respective claims.

10 6. My office completed processing of all claims-related materials on or
11 around July 31, 2021, and thereafter commenced developing the Distribution Plan
12 nor proposed to approval, as reflected in the Motion.

13 7. Based on my forensic accounting, I have concluded that, in the
14 aggregate, the investor creditors of the receivership estate invested in or contributed
15 a total of \$100,977,530.13 to the Receivership Entities. In the pre-receivership
16 period, a total of \$61,530,774.82 was returned to these investors and creditors,
17 reflecting a return of approximately 60.9% of principal investments/contributions,
18 meaning that collective net losses totaled \$39,336,755.31.

19 8. The Receivership Entities did not treat all investors equally, however.
20 Individual claimants invested or contributed amounts ranging from \$50,000 to over
21 \$23 million, with an average investment or contribution of \$1.7 million. Investors
22 experienced returns ranging from 0% (meaning that no portion of their investments
23 were returned during the pre-receivership period) to over 95%. Because the Ponzi
24 scheme perpetrated though the entities depended, in part on deferring payments to
25 investors as they came due – often in the form of "rolling over" the investment into a
26 new one – investors experienced significantly differing outcomes as a result of the
27 timing of their investments, the amounts invested, and the amounts due. As a result,
28 investor outcomes were vastly disparate, both with respect to individual returns in

1 proportion to individual investments or contributions, and in strict dollar terms – a
2 difference compounded by the fact that a handful of investors constituted a
3 significant portion of total investments in the Receivership Entities. By way of
4 simple example, the top half of claimants (in dollar terms) saw an average of
5 approximately 67% of their principal returned, while the bottom half received only
6 approximately 22%.

7 9. As a consequence of the above, I have determined, in my reasonable
8 business judgment, that a strict *pro rata* distribution would be inequitable here,
9 given that it would favor high-dollar claimants who already fared relatively better as
10 compared to their lower-dollar contemporaries. In order to ensure that some
11 minimal level of returns can be guaranteed across all investor claimants, and as
12 reflected in the Motion, I therefore recommend applying a modified Rising Tide
13 distribution methodology to all allowed claims. The Rising Tide method aims to
14 ensure equitable distributions across claimants with vastly different pre-receivership
15 recovery rates. In my reasonable business judgment, I believe that an application of
16 the Rising Tide method will permit me to bring all investor claimants with allowed
17 claims to a roughly equivalent rate of loss, thereby ensuring that no investor
18 claimant is, proportionally, significantly better or worse off than any other.

19 10. Here, I propose employing a hybrid Rising Tide approach, whereby the
20 first 50% of funds to be distributed are distributed among the least "whole" investor
21 group, in order to restore them to a more equitable loss "floor", the second 50% of
22 available funds are subsequently distributed on a strict *pro rata* basis, after
23 accounting for the first round of distributions. I believe the distribution plan (the
24 "Distribution Plan") proposed in my Motion, which adopts this Rising Tide hybrid
25 approach, will most equitably compensate those investors who, proportionally,
26 suffered the largest losses as a result of their investments in, or contributions to, the
27 Receivership Entities, while ensuring that the largest claimants, as determined by
28 MIMO, are affirmatively able to participate in, and receive, distributions of

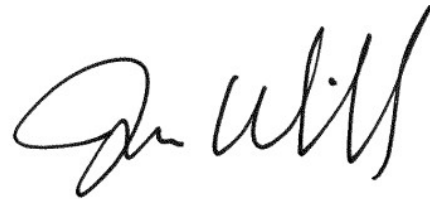
1 available funds. My analysis suggests that the Distribution Plan will yield a return
2 approximately 6% better on average, compared to the standard net-investment
3 (MIMO) approach to distributions.

4 11. A true and correct, anonymized version of recommended treatment of
5 all timely claims is attached hereto as **Exhibit 1**. In order to preserve claimant
6 anonymity in accordance with the Court's prior orders, claims are identified by
7 numbers only. My office will timely advise all claimants of their claim numbers in
8 order to permit any claimant who wishes to object to the recommended treatment of
9 his, her, or its claim an opportunity to do so.

10 I declare under penalty of perjury that the foregoing is true and correct.

11 Executed on December 15, 2021, at Salem, Oregon.

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Geoff Winkler

EXHIBIT 1

Claim No.	Filed	Allowed Amount	Objection Note
001	280,875.00	280,875.00	N/A
004	78,068.60	75,000.00	Claims for interest and/or fees
005	223,437.50	223,437.50	N/A
006	597,848.78	597,848.78	N/A
007	71,801.65	71,801.65	N/A
008	314,519.67	314,519.67	N/A
009	47,918.48	47,918.48	N/A
010	376,050.00	376,050.00	N/A
011	957,759.00	957,759.00	N/A
012	283,687.50	283,687.50	N/A
013	1,013,409.36	1,013,409.36	N/A
014	1,751,729.19	1,751,729.19	N/A
015	125,750.00	125,750.00	N/A
016	216,354.23	216,354.23	N/A
017	163,000.00	163,000.00	N/A
018	900,000.00	-	Principal fully recovered
019	1,491,755.01	1,491,755.01	N/A
020	15,029.02	15,029.02	N/A
021	216,246.74	216,246.74	N/A
022	50,000.00	50,000.00	N/A
023	818,567.00	-	Principal fully recovered
024	158,750.00	158,750.00	N/A
025	400,000.00	212,787.28	Claims for interest and/or fees
026	1,913,631.03	852,094.62	Objection to unsubstantiated claims
027	619,035.57	619,035.57	N/A
029	131,430.81	131,430.81	N/A
030	1,046,316.44	1,046,316.44	N/A
031	317,762.24	-	Principal fully recovered
032	73,491.61	73,491.61	N/A
035	465,892.20	465,892.20	N/A
036	114,603.92	114,603.92	Non-Investor Creditor Claim
037	2,120,165.27	2,120,165.27	N/A
038	745,000.00	-	Principal fully recovered
039	218,125.00	218,125.00	N/A
040	84,654.00	84,654.00	N/A
041	1,249,333.33	1,249,333.33	N/A
043	598,434.56	598,434.56	N/A
044	257,714.54	257,714.54	N/A
045	121,078.01	121,078.01	N/A
046	222,770.83	222,770.83	N/A
047	141,625.00	141,625.00	N/A
048	1,089,381.00	1,089,381.00	N/A
049	189,749.33	189,749.33	N/A
050	71,801.65	71,801.65	N/A
051	2,024,525.64	2,024,525.64	N/A

052	249,809.86	-	Claimant has no claim on a net cash basis
054	308,740.00	308,740.00	N/A
055	580,937.50	580,937.50	N/A
056	92,208.37	92,208.37	N/A
057	1,886,208.59	1,886,208.59	N/A
058	923,207.02	923,207.02	N/A
059	1,308,200.02	1,308,200.02	N/A
060	48,003.00	48,003.00	N/A
061	143,962.50	143,962.50	N/A
062	294,812.50	294,812.50	N/A
063	202,187.50	202,187.50	N/A
064	885,907.48	-	Principal fully recovered
065	376,964.48	376,964.48	N/A
066	8,071,907.90	8,071,907.90	N/A
067	468,125.00	468,125.00	N/A
068	1,308,565.94	1,308,565.94	N/A
069	1,299,546.98	1,299,546.98	N/A
070	325,959.99	325,959.99	N/A
072	1,658,798.48	-	Principal fully recovered
073	100,000.00	-	Principal fully recovered
074	816,732.28	816,732.28	N/A
075	791,123.10	791,123.10	N/A
076	769,667.39	-	Principal fully recovered
077	311,445.00	311,445.00	N/A
			N/A

PROOF OF SERVICE

Securities and Exchange Commission v. Ralph T. Iannelli and Essex Capital Corporation
USDC, Central District of California – Case No. 2:18-cv-05008-FMO-AFM

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

On **December 21, 2021**, I caused to be served on all the parties to this action addressed as stated on the attached service list the document entitled: **DECLARATION OF RECEIVER, GEOFF WINKLER, IN SUPPORT OF MOTION FOR ORDER: (1) APPROVING PROPOSED DISTRIBUTION PLAN; (2) APPROVING RECOMMENDED TREATMENT OF CLAIMS; AND (3) AUTHORIZING DISTRIBUTIONS ON ALLOWED CLAIMS**

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with the firm's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

OVERNIGHT DELIVERY: I deposited in a box or other facility regularly maintained by express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelope(s) or package(s) designed by the express service carrier, addressed as indicated on the attached service list, with fees for overnight delivery paid or provided for.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

E-FILING: By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **December 21, 2021** at Los Angeles, California.

/s/ Martha Diaz

Martha Diaz