



2. The Receiver was authorized to have complete and exclusive control, possession, and custody of all Receivership Assets and Receivership Records of Defendants. Receivership Assets and Receivership Records were defined in the Order as “assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the [Receivership Entities] and all entities they own or control . . . and the books and records, client lists, account statements, financial and accounting documents, computers, computer hard drives, computer disks, internet exchange servers telephones, personal digital devices, and other informational resources of or in possession of the [Receivership Entities] or issued by [Receivership Entities] and in possession of any agent or employee of the [Receivership Entities].”<sup>1</sup>

3. The Receiver has fulfilled his duties as Receiver since his appointment and has conducted various investigations of the Receivership Entities with the intent to marshal the Receivership assets for the benefit of the Receivership Entities’ investors and creditors. These efforts have included interactions with existing and former employees, reviews of corporate records, and discussions with involved third parties.

## **II. FACTS**

4. On September 16, 2011, the Receiver filed his Unopposed Motion to Establish Claims Procedure Plan and Approve Claim Form [Dkt. 23]. On September 24, 2011, the Court entered the Agreed Order to Establish Claims Procedure and Approve Claim Form [Dkt. 24]. The procedure approved by the Court calls for all interested parties to complete a claim form

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<sup>1</sup> Order Appointing Receiver, ¶1.

available on the Receiver's website ([www.selectassetreceiver.com](http://www.selectassetreceiver.com)) and to submit it to the Receiver with supporting documentation.

5. Since September 2011, the Receiver and his staff have received 318 claims, comprised of 293 investor claim forms and an additional 25 class "B" claim forms (i.e., from governmental agencies, unsecured creditors, vendors, etc.) (collectively, the "Interested Party Claims"). Most of the claim forms submitted to the Receiver were accompanied by supporting information, data, and detail concerning the damages suffered as a result of the Defendants' fraudulent actions.

6. As the Court is aware, the Receiver has undertaken substantial efforts to establish an accurate understanding of Interested Party Claims and related financial records. The Receiver and his team have also invested a substantial amount of time, energy, and resources cross-checking the Interested Party Claims as submitted against Defendants' contemporaneous records that were seized by the Receiver.

7. A large majority of the Interested Party Claims match Defendants' contemporaneous financial records. As such, the Receiver has been able to diligently and efficiently submit claims to the Court for approval. As of the date of this Motion, the Receiver has submitted, and this Court has approved, 269 total claims. At present, the Receiver has only 3 claims remaining that need further evaluation and consideration. The Receiver's claims team is working diligently to resolve these claims and hope to do so without Court intervention.

8. Based on the foregoing, the Receiver is now prepared to establish a date certain for the submission of all Interested Party Claims as contemplated in the Receiver's Plan of Distribution previously filed with and approved by this Court [Dkt. 154]. The establishment of a date certain will allow the Receiver to bring closure to the claims process so that when final assets are sold and final distribution made, this matter can be closed.

9. The Receiver seeks to establish a specific bar date for the assertion of Interested Party Claims. Specifically, the Receiver requests May 1, 2014 (the "Interested Party Claims Bar Date") be established as the deadline by which all investors, governmental agencies, secured creditors, unsecured creditors, vendors, and all others with a potential claim against the Receivership Estate must file their Interested Party Claims. Upon approval, the Receiver intends to post notice of this bar date on his web site so that all persons who have been affected will have notice of the bar date. Adoption of the Interested Party Claims Bar Date as posed will provide at least 90 days to any potential claimants of the impending bar date.

### **III. ARGUMENTS & AUTHORITIES**

10. In receiverships, federal courts have broad equitable powers enabling them to fashion appropriate ancillary remedies necessary to grant full relief. *SEC v. Blatt*, 583 F.2d 1325 (5th Cir. 1978); *Manor Nursing Centers*, 458 F.2d 1082, 1103-04 (2d Cir. 1972).

11. The Interested Party Claims Bar Date will help facilitate completion of the Receiver's pending duties and obligations. Specifically, adoption of a bar date will allow the Receiver to (i) adequately address all Interested Party Claims; and (ii) determine a final total claims value. With this information, the Receiver will be able to work toward winding up the Receivership Estate and ultimately determine the exact amount of pro-rata distribution of assets that will be made to each aggrieved investor. Accordingly, it is in the best interest of the Receivership Estate that this Court should approve and fix the Interested Party Claims Bar Date.

12. With this Motion, the Receiver requests that the Court set an Interested Party Claims Bar Date of May 1, 2014. The Receiver will post the Interested Claims Bar Date on the Receiver's website located at [www.selectassetreceiver.com](http://www.selectassetreceiver.com).

13. Pursuant to Local Rule CV-7, the Receiver advises the Court that the Plaintiff Securities and Exchange Commission consents to the relief requested in this Motion. The Defendant entities are all controlled by the Receiver.

**IV.**  
**CONCLUSION**

The Receiver respectfully prays the Court enter an Order in the form submitted with this Motion, or for substantially the same relief in such form as the Court may find just and proper.

DATED: January 16, 2014

Respectfully submitted,

By: /s/ Steven A. Harr

**Steven A. Harr**

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**CERTIFICATE OF CONFERENCE**

On January 16, 2014, I conferred with Tim McCole and he stated that the Securities and Exchange Commission is not opposed to the relief sought in this motion.

/s/ Sameer S. Karim

Sameer S. Karim

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically with the Clerk via the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Houston, Texas, this 16th day of January, 2014.

*/s/ Sameer S. Karim*

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Sameer S. Karim

