

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

v. :

COADUM ADVISORS, INC., :
MANSELL CAPITAL PARTNERS III, LLC, :
JAMES A. JEFFERY, :
THOMAS E. REPKE, :
COADUM CAPITAL FUND 1, LLC, :
COADUM CAPITAL FUND II, LP, :
COADUM CAPITAL FUND III, LP, and :
MANSELL ACQUISITION COMPANY, LP, :

Defendants. :

CIVIL ACTION FILE
NO.

1:08-CV-00011-ODE

RECEIVER’S MOTION TO APPROVE
PLAN OF DISTRIBUTION AND BRIEF IN SUPPORT

Pat Huddleston II, Receiver in this action, asks the Court for permission to distribute up to \$6 million to defrauded investors pursuant to the below-described Plan of Distribution (“Plan”). He files this motion to ask the Court to approve that Plan, to set a date for a hearing to consider the Plan and any objections, and to set a date by which all objections must be filed and served.

The Coadum Scheme

Defendants Thomas E. Repke (“Repke”) and James A. Jeffery (“Jeffery”) raised money through the sale of unregistered securities in four separate companies, including Coadum Capital Fund 1, LLC (“CCF1”), Coadum Capital Fund II, LP (“CCF2”), Coadum Capital Fund III, LP (“CCF3”), and Mansell Capital Partners III, LLC (“MCP3”), by promising high ‘guaranteed’ returns. Jeffery and Repke (together with the other defendants in this case, “Coadum”) invested most of that money (\$18.8 million)¹ in companies located in Malta and Switzerland. They used the balance of the money to pay supposed distributions to investors, to pay operating expenses, to pay themselves, and to invest in a variety of domestic and Canadian ventures, ranging from the purchase of land to the commissioning of a gigantic sculpture honoring the fallen firefighters of 9/11.

To convince their investors that Coadum and related companies were profitable, Jeffery and Repke sent investors account statements showing profits when, in fact, the companies never earned a profit. Jeffery and Repke also used money deposited by later investors to pay supposed profit distributions to earlier investors, in classic Ponzi fashion.

¹ Jeffery and Repke actually wired \$21.8 million in investor funds to Europe, but received a withdrawal of \$3 million which they used to pay supposed distribution payments to investors. The net transferred overseas, therefore, is \$18.8 million.

The Receiver's Work

As detailed in the Receiver's Interim Reports, the Receiver and his team have collected \$3,355,007 since the commencement of this receivership and have negotiated for additional payments to the receivership of \$686,637. By amending Coadum's tax returns, the Receiver made possible tax relief to investors of between \$719,299 and \$1,678,364. Most recently, this Court granted the Receiver's Motion to Require Wells Fargo to Transfer \$750,000 to the receivership. In addition, the Receiver is in negotiations for the repatriation of the vast majority of the \$4.5 million in assets frozen in accounts at Credit Suisse in Geneva.²

The Receiver is pursuing four litigation actions that he believes will bring substantial additional money into the receivership. He is also pursuing several of the other 'investments' made by Jeffery and Repke in domestic and Canadian companies. Those efforts will fund a subsequent distribution to verified claimants.

Assets Available for Distribution

The bulk of the assets in the Receiver's possession are in bank accounts in the name of Pat Huddleston II, as Receiver for Coadum Advisors, et al. The total cash on hand is currently \$2,772,975.91. An additional \$686,637 is scheduled to be deposited into the receivership accounts in the next 45 days.

² The Receiver has learned that \$500,000 of the \$4.5 million is in Bear Stearns securities, which - in light of that firm's collapse - will likely result in a recovery of less than \$500,000 when liquidated.

In light of the uncertain future of any commercial bank, the Receiver has taken steps to protect investors from the possibility (however remote) of the closure of the bank in which the Receiver is holding receivership cash. The receivership accounts are located at the Bank of North Georgia, which is a part of the Synovus family of banks. Because Synovus owns more than 30 other banks, it allows customers to spread large deposits among its other banks in an FDIC-approved “shared money market program.” All of the receivership cash is, therefore, FDIC insured.

As has been the case thus far, the Receiver will recover more through the above-referenced pursuit of assets than he will spend pursuing them. The Receiver must, however, leave enough in receivership accounts to fund that pursuit. The Receiver will reserve a balance in the accounts, after the proposed distribution, to fund the pursuit of additional receivership assets and to cover the cost of the pending litigation and other administrative costs. The Receiver expects this reserve to be adequate to fund the Receiver’s recovery efforts and any tax liabilities that may accrue, while yielding recovery amounts for the receivership estate totaling more than the amount of the reserve. The Receiver will distribute to claimants any amounts left in reserve at the conclusion of the case.

The Receiver asks permission to pay out up to \$6 million pursuant to the terms of the proposed Plan set forth below. If negotiations for repatriation of the

Swiss funds succeed before distribution checks are mailed, the Receiver proposes to distribute up to \$6 million. If not, the Receiver proposes to distribute \$2 million now and up to \$4 million upon repatriation of the Swiss money. The Receiver seeks approval of this Plan now - before recovery of the Swiss money - to minimize any delay in distributing those funds when the Receiver takes possession of them. If approved, this initial distribution will represent a minimum recovery percentage among included claimants of between 8.25% and 22.7%, depending on the amount available for distribution.

Claims Data

The Receiver's staff sent out claim forms to all known prospective claimants and received 201 claims by the claims bar date – 199 from investors and 2 from vendors. The Receiver's staff verified each claim by examining the supporting documents forwarded by each claimant, comparing that data to bank records and resolving any discrepancies by interviewing the claimant and/or seeking additional information. Of the \$39,387,187 in claims made, the Receiver verified \$38,252,110 – 195 claims representing \$37,782,118 in general investor claims, four claims representing \$454,233 from commissioned salesmen, and \$15,759 from two vendors.

The Receiver's staff sent a claim acknowledgement letter to each claimant, stating the amount of each claim's investment and withdrawal amounts, and

inviting each claimant to contact the Receiver's staff if the claimant disagreed with those determinations. Nine claimants responded to those letters with questions. While the Receiver adjusted some claims to reflect more accurate allocations between joint accountholders, none of the claimant responses resulted in a change in the aggregate investment or pre-receivership withdrawal amounts of claimants. The Receiver also assigned a claim number to each claim and posted a list on the Coadum section of the Receiver's website so that claimants can follow their claim through the claims and distribution process.

The Receiver received claims from investors in four of the Coadum offerings. Specifically, the Receiver verified nine claims in CCF1, 135 claims in CCF2, 41 claims in CCF3, and 29 claims in MCP3. There were no verified investments in MAC. Thirteen verified claims represented investments in more than one of the offerings. Before institution of the receivership, Coadum paid \$5,728,585 in withdrawals to 59 claimants.³ One hundred thirty-five verified claims received no pre-receivership payments from Coadum. The investments in Coadum ranged from \$215 to \$5,000,000.

Coadum did not segregate the funds raised through its offerings. It is, therefore, impossible for the Receiver's staff to identify money invested by any

³ The Receiver has demanded return of pre-receivership withdrawals from investors receiving more than a 50% return, and has received offers to resolve some of those demands, in an amount totaling \$686,637 thus far. Those funds will serve to increase the amount of funds available to Coadum claimants. The Receiver is filing suit against those who failed to respond to his demand for repayment and will pursue that litigation aggressively for the benefit of the vast majority of Coadum investors who did not receive the same level of recovery. The Receiver is also pursuing \$1,570,906 in commissions paid by Coadum to those who helped sell the fraudulent offerings.

particular individual, except for the Class 3 claimants identified below. The Receiver believes that the only equitable approach to use in calculating distribution of receivership assets, given this commingling, is to treat the Coadum offerings as a single offering.

The Plan and Consideration of Alternative Distribution Methods

After considering several methods for the treatment of pre-receivership withdrawals, the Receiver has determined that the “Rising Tide” method is the most equitable. Under that method, the Receiver will deduct the amount of a claimant’s pre-receivership withdrawals **after** calculating the investor’s pro rata share of any distribution. If the result is negative – meaning that the claimant has already received pre-receivership withdrawals in excess of his or her calculated pro rata share of a distribution – that claimant will not participate in that distribution, although he or she may participate in later distributions. This method preserves assets for those claimants who have received nothing thus far, and recognizes that some claimants have already recovered a substantial percentage of their investment. The formula for the calculation of a claimant’s pro rata distribution amount under the Rising Tide method is:

$$\begin{aligned} & \text{(amount invested x pro rata multiplier)} \\ & - \text{pre-receivership withdrawals} = \text{distribution amount} \end{aligned}$$

Consider an example with only two investors, each of whom invested \$100,000. Investor A has received no withdrawals, but Investor B has received pre-receivership withdrawals totaling \$20,000. Assuming a distribution fund of \$40,000, the Rising Tide method would distribute those dollars among the two investors using the following steps:

1. Calculate a pro rata multiplier by dividing the distribution fund amount by the total allowed claims of the investors to be involved in this distribution. In this example the pro rata multiplier is determined to be 20% (\$40,000 divided by \$200,000).
2. Multiply each investor's amount invested by the pro rata multiplier. This action results in an initial gross distribution allocation to each investor of \$20,000 (\$100,000 x 20%). Note that the gross distribution amount is the same for each investor in this example, because Investor A and Investor B had each invested equal, \$100,000 amounts.
3. Determine each investor's net distribution amount by subtracting their respective pre-receivership withdrawals from their gross distribution amounts. Investor A has not yet recovered any of his investment, so no deductions will be made to his \$20,000 gross

4. Re-allocate any remaining distribution fund amount. Because the above steps have distributed only \$20,000 of the \$40,000 distribution fund total among the two investors, a second round of distribution is necessary to determine the allocation of the \$20,000 remainder of the distribution fund. Calculating it in the same manner as in the first round, the pro rata multiplier for this second round is determined to be 10% (\$20,000 divided by \$200,000). This second-round multiplier is then applied to each investor's invested amount to allocate a second-round gross distribution amount of \$10,000 to each (\$100,000 x 10%). Because neither investor has any pre-receivership withdrawal balance that has not already been offset by a (first round) gross distribution amount, each investor is allocated a \$10,000 net distribution of this \$20,000 distribution fund remainder in this second round of calculations.

In this simplified example, then, Investor A's total recovery amount (the sum of pre-receivership withdrawals and distributions) is \$30,000 (\$0 + \$20,000 + \$10,000), and Investor B's total recovery amount is also \$30,000 (\$20,000 + \$0 + \$10,000). Even if the invested amounts had been different, one can confirm the equitability of this method by dividing each investor's respective recovery amount by his amount invested. In this example, each investor's recovery percentage is the same at 30% (\$30,000 divided by \$100,000). Table A below summarizes the results of this Rising Tide distribution example.

Table A

Total Recovery Amount (including pre-receivership withdrawals)

| | Investor A | Investor B |
|------------------------------|-------------------|-------------------|
| Pre-receivership withdrawals | \$0 | \$20,000 |
| First round distribution | \$20,000 | \$0 |
| Second round distribution | \$10,000 | \$10,000 |
| Total Recovery Amount | \$30,000 | \$30,000 |
| Total Recovery Percentage | 30% | 30% |

Total Distribution Fund = \$40,000

Each investor invested \$100,000

Investor A received no pre-receivership withdrawals

Investor B received \$20,000 in pre-receivership withdrawals

The Receiver considered other distribution methods. He considered attempting to trace each investor's specific investment(s), but the defendants'

commingling of funds from the various offerings made that approach impossible. “In the original Ponzi scheme case, Cunningham v. Brown, 265 U.S. 1, 44 S. Ct. 424, 68 L. Ed. 873 (1924), the Supreme Court held that ‘tracing’ fictions should not be used to pursue individual recoveries when a fraud ensnares multiple victims whose funds are commingled. . . . Instead, the Court held that all innocent victims should share equally in the recovered funds because equity demands equal treatment.” SEC v. The Infinity Group, 2007 U.S. App. LEXIS 8068 at *3 (3rd Cir. 2007).

The Receiver next considered ignoring withdrawals, but that method would result in a wide disparity of recovery percentages among claimants and an inequitable windfall to those whose pre-receivership withdrawals represent a substantial percentage of their investment. See, CFTC v. Equity Financial. Group, LLC, 2005 U.S. Dist. LEXIS 20001 at *84 (D.N.J. 2005).

The Receiver also considered demanding return of all withdrawals, to be followed by a redistribution of the collected funds. The Receiver rejected that approach as unduly costly, as it would involve litigation and collection efforts against a large number of investors, including all 59 claimants who received pre-receivership withdrawals. See, Equity Financial, 2005 U.S. Dist. LEXIS 20001 at *84. While the Receiver has demanded return of amounts recovered above 50% of

principal invested, this more limited approach requires potential litigation against only 19 investors who received large pre-receivership withdrawals.⁴

Finally, the Receiver considered and rejected the “Net Investment Method” under which investors keep 100% of their withdrawals and still recover their pro rata share of their net investment (investments minus withdrawals). At least two courts have rejected that method, noting the inequitable results it creates. *Id.* at 84-85; CFTC v. Hoffberg, 1993 U.S. Dist. LEXIS 15173 at *5 (N.D. Ill.). As an example of this Net Investment Method, consider the two investors described in the Rising Tide example. Under the Net Investment Method, Investor A – whose net investment is 125% of Investor B (\$100,000 vs. \$80,000) – would receive a 25% greater distribution amount than Investor B (\$22,222 vs. \$17,778). Because Investor B had already received \$20,000 in pre-receivership withdrawals, though, his total recovery amount under this method is still higher than Investor A’s total recovery amount (\$37,778 vs. \$22,222), resulting in a total recovery percentage of 37.8% for Investor B, while Investor A’s total recovery percentage will be only 22.2%. Table B illustrates the recovery results for each investor under each method considered by the Receiver.

⁴ Thus far, six investors have agreed to voluntarily return \$686,637.

Table B**Total Recovery Amount/Percentage (including pre-receivership withdrawals)**

| Method | Investor A | Investor B |
|----------------|-------------------|-------------------|
| Rising Tide | \$30,000 / 30% | \$30,000 / 30% |
| Net Investment | \$22,222 / 22.2% | \$37,778 / 37.8% |

Distribution Fund = \$40,000

Each investor invested \$100,000

Investor A received no pre-receivership withdrawals

Investor B received \$20,000 in pre-receivership withdrawals

As Table B shows, the Rising Tide method produces a more equitable recovery among those included in a distribution, paying distribution amounts first to those who have thus far recovered nothing from their investments.

The initial distribution proposed in the Receiver's Plan will result in distribution payments to 102 of the 151 verified claimants. After this initial distribution, 99.3% of claimants will have either received a pre-receivership withdrawal or a distribution payment. Depending upon the amount collected between now and the time of mailing initial distribution checks, the initial distribution will bring the minimum recovery percentage among Class 3, 4, and 5 claimants to between 8.25% and 22.7%. Depending upon the results of pending litigation, the Receiver anticipates that subsequent distributions will bring the minimum recovery percentage among all investor claims to between 25% and 50%.

The Receiver believes that the Rising Tide method is the most equitable method of calculating distribution amounts in this case. It strikes a good balance between those claimants who invested early and have, therefore, been without their money longer - although they are more likely to have received a pre-receivership withdrawal from Coadum - and those investors who invested near the end of the scheme and may have thus far received no withdrawals from Coadum. The Receiver, therefore, asks the Court to approve his Rising Tide Plan of Distribution, the terms of which are set forth here:

PLAN OF DISTRIBUTION

ARTICLE I – DEFINITIONS

All capitalized terms shall have the meanings stated below:

“ALLOWED” refers to the amount of a Claim from which Distributions will be calculated.

“ALLOWED CLAIM” means all or a portion of a Claim designated as Verified by the Receiver or a Claim which has been Allowed by separate Order of the Court.

“BAR DATE FOR CLAIMS” or **“CLAIMS BAR DATE”** means July 11, 2008.

“CLAIM” refers to any written demand that is received by the Receiver from any Claimant that demands payment from the Receivership Estate. Claims

that do not conform to the Proof of Claim Form instructions may be considered by the Receiver in his sole discretion, or as otherwise permitted by this Plan of Distribution. The Receiver is not obligated to consider such Claims unless he specifically agreed with the Claimant - in writing and prior to July 11, 2008 - to depart from the Proof of Claim Form instructions.

“CLAIM ACKNOWLEDGMENT” refers to a document sent to a Claimant at the address specified on the Claim Form, which provides the Claim Number assigned by the Receiver, the stated Claim amount, and any other Claim information the Receiver deems appropriate. A Claim lacking a complete return address shall be deemed to be a Defective Claim and may be wholly disregarded by the Receiver.

“CLAIM FORM” means the Proof of Claim Form used to assert a Claim as authorized and approved by this Court in the Claim Form Order.

“CLAIM FORM ORDER” refers to the Order Granting Receiver’s Motion to Approve Claim Form, dated June 3, 2008, which set July 11, 2008 as the Bar Date for Claims.

“CLAIM NUMBER” refers to the number assigned to a Claim by the Receiver. This Claim Number is made known to the Claimant using the procedures provided in this Plan, in the Claim Acknowledgment sent to the Claimant by the Receiver.

“CLAIMANT” refers to any Person who asserts a Claim in this case, including any entity controlled by that Person.

“COADUM” refers to the defendants in this case, including Coadum Advisors, Inc., and any of its affiliated Coadum Offerings.

“COADUM OFFERING” or **“OFFERING”** refers to any one of the securities offerings that are the subject of the United States Securities and Exchange Commission’s action against Coadum, i.e., Coadum Capital Fund 1, LLC (“CCF1”), Coadum Capital Fund II, LP (“CCF2”), Coadum Capital Fund III, LP (“CCF3”), Mansell Capital Partners III, LLC (“MCP3”), or Mansell Acquisition Company, LP (“MAC”). Because the defendants commingled the funds raised in the various Offerings, each investment in any single Coadum Offering will be considered an investment in a common pool, comprised of all investments in any of the Coadum Offerings.

“COMMISSION” refers to any payment(s), designated as commission, referral fee, marketing fee, and/or otherwise, paid by Coadum as consideration for the introduction of an investor to a Coadum Offering or for selling such an investment.

“COMMISSIONED SALESMAN” is a Claimant who has received a Commission from Coadum.

“CONTESTED CLAIM” is a Claim to which an Objection is properly presented by the Claimant to this Court and the Receiver.

“COURT” refers to the United States District Court for the Northern District of Georgia.

“COVERED CLAIM” is defined as an investment made in one of Coadum’s Offerings during the period from January 1, 2006, through January 2, 2008, or the value of goods or services rendered to Coadum by a vendor during that same time period. In the case of an investment in one of the Coadum Offerings, a Covered Claim only includes the money actually deposited with Coadum or in a bank account over which the defendants had control. No interest, penalties, other charges, or any other amount are included in a Covered Claim.

“DEFECTIVE CLAIM” means a Claim not submitted in accordance with the Proof of Claim Form Instructions, but does not include Late Claims. A Claim lacking a complete return address shall be deemed to be a Defective Claim and may be wholly disregarded by the Receiver.

“DENIED CLAIM” or **“DISALLOWED CLAIM”** means (1) any Claim or portion of a Claim that the Receiver has rejected in a writing filed with the Court or sent to the Claimant at the address stated on the Claim Form; or (2) any Claim or portion of a Claim which the Receiver deems to be a Defective Claim under the terms of this Plan.

“DISTRIBUTION” refers to a payment by the Receiver on an Allowed Claim in accordance with the procedures outlined in this Plan of Distribution.

“DISTRIBUTION PLAN” or **“PLAN”** or **“PLAN OF DISTRIBUTION”** refers to this Plan of Distribution.

“DOCUMENTED CLAIM” is a Claim submitted with the supporting documents specified in the Proof of Claim Form Instructions.

“GENERAL INVESTOR” is a Claimant who invested in one or more of Coadum’s Offerings and had no other financial relationship with Coadum.

“LATE CLAIM” means a Claim submitted or posted after the July 11, 2008 Claims Bar Date.

“NET AMOUNT” or **“NET CLAIM”** or **“NET”** refers to a Claimant’s Verified Allowed Claim minus any Withdrawals.

“NON-COMMISSIONED SALESMAN” means any Claimant who was eligible to receive a Commission, but who did not actually receive any such Commission.

“OBJECTION” refers to a written document filed by a Claimant with the Clerk of the Court, disputing the Receiver’s determination of the Claimant’s Allowed Claim and/or objecting to this Plan of Distribution.

“OBJECTOR” refers to a Person who files an Objection and seeks a hearing with respect to that Objection.

“ORDER” refers to an Order of this Court.

“ORDER APPOINTING RECEIVER” refers to those Orders Appointing Receiver, dated January 3, 2008, January 25, 2008, and August 15, 2008.

“PERSON” means any natural person, corporation, limited liability company, partnership, association, trustee, agent, or other entity of any kind.

“PROOF OF CLAIM” refers to the Proof of Claim Form approved by this Court and provided by the Receiver to Claimants to document Claims against Coadum.

“RECEIVER” refers to Pat Huddleston II, Receiver, appointed pursuant to the Court’s Order Appointing Receiver, and those employed to assist in that mandate.

“RECEIVER’S WEBSITE” refers to www.huddlestonfirm.com/cases/coadum.htm.

“RECEIVERSHIP ASSETS” refers to the assets defined as Receivership Assets in the Court’s Order Appointing Receiver.

“RECEIVERSHIP ESTATE” refers to the Receivership Assets that have been or may be collected by the Receiver.

“RECOVERY AMOUNT” is the sum of a Claimant’s Withdrawals and Distributions.

“RECOVERY PERCENTAGE” or **“RP”** is the quotient determined by dividing (a) a Claimant’s Recovery Amount by (b) that Claimant’s Allowed Claim.

“SEC” refers to the United States Securities and Exchange Commission.

“TIMELY CLAIM” means a Claim submitted in accordance with the Proof of Claim instructions on or before the Claims Bar Date.

“VERIFIED” is the amount of a Claimant’s Claim that the Receiver was able to verify via the records available.

“WITHDRAWAL” refers to any Commission, payment of supposed profit, interest, or return of principal, and/or other payments received from Coadum prior to the Order Appointing Receiver.

ARTICLE II – CLAIMS REVIEW AND DETERMINATION

Section 2.01: Discretion of Receiver. The Receiver is authorized, in the exercise of his sole discretion after consideration of all available evidence, to determine whether a Claim should be designated as an Allowed Claim and what information, if any, to require before allowing or disallowing a claim.

Section 2.02: Filing Requirement. Except as otherwise ordered by the Court, on or before the Claims Bar Date, each Claimant should have filed, via fax, through governmental mail, or by overnight delivery to the Receiver’s offices, a properly completed Proof of Claim Form, reflecting the amount of the Claim and including all supporting documentation. All Proof of Claims should have been

filed with the Receiver, and not the Court. Unless waived by the Receiver in writing, in the Receiver's sole discretion and for good cause shown, any Claimant who did not file a properly completed and documented Proof of Claim on the prescribed Proof of Claim Form before the Claims Bar Date is forever barred from asserting a Claim against the Receivership Estate or the Receivership Assets. Any purported filing of a Proof of Claim that is not properly documented or that does not reasonably comply with the Proof of Claim Form instructions, may be rejected by the Receiver and treated as if no Proof of Claim had been timely filed by the Claimant. The burden is on the Claimant to ensure that his or her Proof of Claim has been properly received by the Receiver and that all requested information has been provided.

Section 2.03: Claim Determinations Generally. The Receiver has reviewed each Proof of Claim to determine the apparent validity and amount of such Claim, to classify such Claim, and to make any additional recommendations to the Court on issues relevant to the Claim. Each Claimant has the burden of proof to establish the validity, amount, and classification of his or her Claim. The Receiver has the right to request, and the Claimant is obligated to provide to the Receiver, any additional information and/or documentation deemed relevant by the Receiver. The Receiver has, in his sole discretion, determined what information, if any, to require before allowing or disallowing a Claim, or determining how a Claim should

be classified. The Receiver may divide a Claim and classify it into more than one Class. The Receiver may also divide a Claim, treating a part of the Claim as an Allowed Claim, and treating the balance as either a Disallowed Claim or reserving a determination with respect to the balance of the Claim. In determining the amount of an Allowed Claim, the Receiver will consolidate the multiple claims of a Claimant, and has the right to set-off against a Claim any claims which the Receiver or the SEC may have against a Claimant, as well as any Withdrawals. Should these set-offs result in a negative Net Amount, the Receiver shall be entitled to recover from the Claimant the amount by which the Net Amount is negative. Failure to provide complete and truthful information may result in the Claim being deemed a Defective Claim.

Section 2.04: Further Determination. The Receiver has computed for each Claim the amount of Allowed Claim, Withdrawals, and the Net Amount.

Section 2.05: Late or Defective Claims. The Receiver has no obligation to consider any Late or Defective Claims until all Timely Claims have been (1) approved by the Receiver, (2) approved by the Court, or (3) denied both by the Receiver and the Court. The Receiver shall, however, be entitled, in his sole discretion, to consider and approve Late or Defective Claims in due course to the extent that processing such Claims does not unreasonably delay the handling of

Timely Claims, and to the extent that, in the Receiver's opinion, good cause existed for the tardiness or defectiveness of the Late or Defective Claim.

Section 2.06: Notice of Claim Determination and Hearing Notice. The Receiver has prepared a schedule showing the Receiver's Claim Determination, including Late or Defective Claims. The Receiver has mailed, to those Claimants known to the Receiver, the Receiver's Claim determination, with instructions on retrieving detailed Claim information from the Receiver's Website. The Receiver has posted on his website a list of Claims, including on the list for each Claim: (i) the Claim Number assigned, (ii) the Class to which the Claim has been assigned; (iii) the amount of any Allowed Claim; and (iv) the total of any Withdrawals associated with the Claim. The Receiver will provide notice, to those Claimants known to the Receiver, by separate mailing and by posting on the Receiver's Website, of the hearing date upon which the Court will rule on the Receiver's Claim determinations and Plan of Distribution and hear any Objections.

Section 2.07: Objection by Claimants. Any Claimant who is dissatisfied with the Receiver's Claim Determination and/or Plan of Distribution may file an Objection with the Court. Objections must be filed in writing by the Claimant with the Clerk of the District Court, United States District Court for the Northern District of Georgia, Atlanta Division, Richard B. Russell Federal Building and Courthouse, 75 Spring Street SW, Room 2211, Atlanta, GA 30303-3361.

Claimant must also send a copy of the Objection to the Receiver's office at 707 Whitlock Avenue, Suite B21, Marietta, Georgia 30064-4656. Objections must be received by the Court and the Receiver no later than ten (10) business days prior to the hearing date set by the Court. At a minimum, any Objection must contain the following:

- (1) A caption setting forth the name of the Court, the names of the plaintiff, and defendants, and the case number as noted above;
- (2) The name of Claimant, Claim Number, and a description of the basis for the amount of the Claim;
- (3) A concise statement setting forth the reasons why the Claim should not be disallowed or modified as set forth in the Plan of Distribution and/or why another distribution method would be more equitable for all Claimants;
- (4) All documentation or other evidence of the claim upon which Claimant will rely in opposing the Claim determination and Plan of Distribution;
and
- (5) The address(es) to which the Receiver may send Claimant any reply to the Objection.

Claimant may, but is not required to, retain the services of an attorney to file any such Objection. If no Objection is received, the Court may enter an Order

allowing or disallowing the Claims as set forth in the Plan of Distribution. Should a Claimant make an Objection to the Distribution Plan, Claimant must be present to defend the Claim on the hearing date set by the Court or the Court may enter the relief requested by the Receiver in the Plan of Distribution.

Section 2.08: Opportunity to be Heard. The Court shall hold a hearing, and at the conclusion of such hearing, shall make the final determination - for each Claim and Objection - as to the amount approved for payment and classification(s). An Objector shall have the burden of proof in such hearing. Those Claims approved by the Court shall thereafter be deemed Allowed Claims.

ARTICLE III – PAYMENT OF CLAIMS

Section 3.01: Priority of Distributions. The Receiver is hereby expressly authorized to pay Claims of Classes 1 through 3 in full, and to pay Allowed Claims of Classes 4 through 9 using the Rising Tide method - as described in his Brief in Support of Motion to Approve Plan of Distribution - from the Receivership Estate (in the form of a check made payable to the Claimant, and sent by reasonable means to the Claimant using the information listed on the Claim Form), in the following order of priority:

Class 1: Administrative Claims. Class 1 Claims are Claims for expenses of administering the Receivership, including fees and expenses paid in connection with marshaling and preserving Receivership Assets, fees and

expenses paid in accordance with the Receivership Orders or other Orders, and fees and expenses of the Receiver and his financial consultants and attorneys. The Receiver will not know the full amount of Class 1 Claims until the conclusion of this case. The Receiver will, in the exercise of his discretion, retain a sum as a reserve to fund the cost of pursuing and securing additional Receivership Assets and to meet all future Administrative Claims. The Receiver may reserve additional amounts from funds later obtained for the Receivership, but will endeavor to reserve no more for Administrative Claims than he reasonably believes to be necessary to cover such Claims. All current and future Class 1 Claims shall be paid in full from funds held in the Receivership checking accounts. Any amount left in reserve at the conclusion of this case shall be distributed to Claimants pursuant to the terms of this Plan.

Class 2: Tax Claims. Class 2 Claims are Claims for expenses related to liabilities to taxing authorities. All current and future Class 2 Claims will be paid in full from funds held in the Receivership checking accounts.

Class 3: Post-Order Claims. Class 3 Claims are Claims of General Investors whose investments were received on or after the January 3, 2008 Order Appointing Receiver. There is substantial authority for the proposition that such Claimants are entitled to a 100% recovery of that

portion of their investment received after the institution of the asset freeze. SEC v. Enterprise Trust Co., 2008 U.S. Dist. LEXIS 79731 at *20. Class 3 Claims shall therefore be paid in full from Receivership checking accounts.

The Receiver has designated three Allowed Claims – totaling \$142,681 – as Class 3 Claims.

Class 4: General Investor Claims. Class 4 Claims are Claims of General Investors and Non-Commissioned Salesmen. After satisfaction of all Class 3 Allowed Claims, Class 4 Allowed Claims will be paid until either a) the Distribution amount available is exhausted, or b) the minimum Recovery Percentage (“MRP”) among all Class 4 Claimants reaches 100%, whichever comes first. If any Distribution in which Class 4 Claimants are to be paid is insufficient to bring the MRP among all Class 4 Claimants up to 100%, Class 4 Allowed Claims will continue to be paid in subsequent Distributions until the MRP among all Class 4 Claimants reaches 100% . The Receiver has designated 192 Allowed Claims – totaling \$37,639,437 – as Class 4 Claims.

Class 5: Commissioned Salesmen Claims. Class 5 Claims are Claims of Commissioned Salesmen who also invested in one or more Coadum Offerings. Prior to this initial Distribution, the two Claimants designated as Class 5 Claimants had already received a total of \$1,489,853 in Withdrawals

with a resultant RP range for this Class of 35.6% to 776.6%. Because these Commissioned Salesmen were instrumental in significantly increasing the number of victims of this scheme, Class 5 Claims will be subordinate to Class 4 Claims under this Plan of Distribution until the MRP among all Class 4 Claimants reaches 100%.

When the MRP among all Class 4 Claimants reaches 100%, Class 5 Allowed Claims will be paid until either a) the Distribution amount available is exhausted or b) the minimum Recovery Percentage among all Class 5 Claimants reaches 100%, whichever comes first. If any Distribution in which Class 5 Claimants are to be paid is insufficient to bring the MRP among all Class 5 Claimants up to 100%, Class 5 Allowed Claims will continue to be paid in subsequent Distributions until the MRP among all Class 5 Claimants reaches 100%.

Class 6: Verified Late or Defective Claims of General Investors. Class 6

Claims are the same as Class 4 Claims, except that the Claim Form was posted after the Bar Date, was unsupported, or was otherwise defective.

When the MRP among all Class 5 Claimants has reached 100%, Distributions will be paid to Class 6 Allowed Claims until either a) the Distribution amount is exhausted or b) the MRP among all Class 6 Claimants reaches 100%, whichever comes first. If any Distribution in

which Class 6 Claimants are to be paid is insufficient to bring the MRP among all Class 6 Claimants up to 100%, Class 6 Allowed Claims will continue to be paid in subsequent Distributions until the MRP among all Class 6 Claimants reaches 100%.

As of the date of this Plan, no Allowed Claims have been designated as Class 6 Claims.

Class 7: Verified Late or Defective Claims of Commissioned Salesmen.

Class 7 Claims are the same as Class 5 Claims, except that the Claim Form was posted after the Bar Date, was unsupported, or was otherwise defective.

When the MRP among all Class 6 Claimants has reached 100%, Distributions will be paid to Class 7 Allowed Claims until either a) the Distribution amount is exhausted or b) the MRP among all Class 7 Claimants reaches 100%, whichever comes first. If any Distribution in which Class 7 Claimants are to be paid is insufficient to bring the MRP among all Class 7 Claimants up to 100%, Class 7 Allowed Claims will continue to be paid in subsequent Distributions until the MRP among all Class 7 Claimants reaches 100%.

As of the date of this Plan, no Allowed Claims have been designated as Class 7 Claims.

Class 8: Claims of Creditors. Class 8 Claims are Claims submitted by a Claimant which provided goods or services to Coadum. When the MRP among all Class 7 Claimants has reached 100%, Distributions will be paid to Class 8 Allowed Claims until either a) the Distribution amount is exhausted or b) the MRP among all Class 8 Claimants reaches 100%, whichever comes first. If any Distribution in which Class 8 Claimants are to be paid is insufficient to bring the MRP among all Class 8 Claimants up to 100%, Class 8 Allowed Claims will continue to be paid in subsequent Distributions until the MRP among all Class 8 Claimants reaches 100%.

The Receiver has designated two Allowed Claims, totaling \$15,759, as Class 8 Claims.

Class 9: Verified Late or Defective Claims of Creditors. Class 9 Claims are the same as Class 8 Claims except that the Claim Form was posted after the Bar Date, was unsupported, or was otherwise defective. When the MRP among all Class 8 Claimants has reached 100%, Distributions will be paid to Class 9 Allowed Claims until either a) the Distribution amount is exhausted or b) the MRP among all Class 9 Claimants reaches 100%, whichever comes first. If any Distribution in which Class 9 Claimants are to be paid is insufficient to bring the MRP among all Class 9 Claimants up to 100%,

Class 9 Allowed Claims will continue to be paid in subsequent Distributions until the MRP among all Class 9 Claimants reaches 100%.

As of the date of this Plan, no Allowed Claims have been designated as Class 9 Claims.

Section 3.02: Multiple-Entity Claims. In cases where Claimants may have invested through multiple entities or joint accounts, the Receiver has consolidated or divided Claims to aid in the proper allocation of Distribution amounts among Claimants. Where the Receiver has divided a Claim, he may treat a part of the Claim as an Allowed Claim, and treat the balance as either a Disallowed Claim or reserve a determination with respect to the balance of the Claim.

Section 3.03: Distributions to be Made From Receivership Assets. In making a Distribution of Receivership Assets to any of the Classes of Claimants set forth above, the Receiver may utilize any Receivership Assets. Additionally, the Receiver may utilize any other assets transferred to the Receiver by agreement of the Person then in possession, custody, or control of assets so transferred. In the event that funds are transferred by agreement, such funds shall be deemed Receivership Assets. Likewise, whenever assets are transferred to the Receiver pursuant to an order of any court of any jurisdiction, foreign or domestic, such assets shall be deemed Receivership Assets. Whenever the Receiver is in doubt as

to whether property may be Receivership Assets, he may apply to the Court for determination of same.

Section 3.04: Payment of Distributions. The Receiver is hereby expressly authorized to pay Allowed Claims from Receivership Assets (in the form of a check made payable to the Claimant and sent by reasonable means to the Claimant using the information listed on the Claim Form) as set forth in this Plan of Distribution.

Section 3.05: Interim Distributions. The Receiver shall make the first interim Distribution under the Plan of Distribution as soon as practicable, but no later than sixty (60) days after a final Order is entered by the Court approving the Plan of Distribution. Subsequent Distributions may be made, subject to the discretion of the Receiver, when material amounts are available to distribute and/or upon entry of an Order by the Court that resolves any Contested Claims. Such Distributions shall be made in accordance with the terms of this Plan, unless the Court orders otherwise. The Receiver may, at his discretion, make no further Distributions until such time as the Receiver determines that it is appropriate to make a final Distribution and close the case pursuant to an Order of the Court.

Section 3.06: Final Distribution. At such time as all Receivership Assets have been fully administered, all Claims have been resolved by Final Order of the

Court, and after approval of a final report and accounting, the Receiver shall make a final Distribution.

Section 3.07: Rounding. Notwithstanding any other provision to the contrary, no payments of fractions of dollars will be made. Whenever any payment of a fraction of a dollar would otherwise be called for, the actual payment will reflect a rounding of such fraction to the nearest whole dollar (up or down).

Section 3.08: Reserve Permitted But Not Required. The Receiver will make reasonable efforts to notify any and all potential Claimants pursuant to this Plan of Distribution. The Court expressly authorizes the Receiver to pay Claims according to the terms of this Plan without regard for the possibility that Claims may, with good cause, be presented late. The Court will consider any such Late Claims on a case-by-case basis, but will not expect the Receiver to have accrued Receivership Assets to guard against this possibility. The Receiver may reserve funds for such Claimants. To the extent that the Receiver does reserve funds, the Receiver shall so notify the Court and the SEC, and shall periodically report to the Court and the SEC as to the Receiver's plan for ultimate disposition of the reserved funds. In the event that any additional Claimants do come forward, the procedures herein regarding the Claims process shall apply as to those Claimants.

Section 3.09: Payment Effects Release. If a Claim is paid by the Receiver pursuant to this Plan, then any and all claims, demands, rights, and causes of action

of any nature whatsoever, whether arising at law or in equity, known or unknown, asserted or unasserted, for all damages (whether actual or punitive, known or unknown, latent or patent, foreseen or unforeseen, direct or indirect or consequential, matured or unmatured, and accrued or not accrued), debts, and liabilities of whatever nature that are or could be asserted by the Claimant or any other person against the Receiver or his agents, the SEC, or any defendant, or any Receivership Assets are hereby discharged, released, extinguished, and satisfied. By effecting notice of Claim determinations according to the terms of this Plan, the Receiver shall be deemed to have provided reasonable and sufficient notice to all Persons. Neither the Receiver nor any Person accepting Receivership Assets from the Receiver shall have any liability to any Person other than the Receiver to return any Receivership Assets used for payment or satisfaction of an Allowed Claim. Neither the Receiver nor any Person acting at his direction shall have any liability in any respect for having paid or otherwise satisfied an Allowed Claim, nor for any other action taken in good faith under or relating to this Plan or arising out of the processing of any Claim, including, but not limited to, any act or omission in connection with or arising out of the administration of Claims or this Plan or the Receivership Estate to be distributed hereby. In the event of any Claim being made against the Receiver for such matters - whether or not willful misconduct is alleged - the Receiver shall be entitled to a defense by counsel of its choice,

payable as any other professional expenses herein, and the provisions of the Order Appointing the Receiver shall otherwise apply.

Section 3.10: Unclaimed Distributions. Except as otherwise provided herein, any Person who fails to claim any Distribution within ninety (90) days from any payment date shall forfeit all rights thereto; subject, however, to any request or recommendation made by the Receiver for additional time to locate any Person who may be unaware of a Distribution award because such Person has not received notice about this Claims process.

Section 3.11: Disposition of Remaining Receivership Assets. Should the Receiver ultimately determine that there exists a surplus of Receivership Assets, including any reserved funds, in excess of all Claims which can be reasonably identified and Allowed, the Receiver shall so notify the Court and the SEC, and the SEC and the Receiver shall seek the Court's approval for final disposition of the remaining Receivership Assets.

ARTICLE IV – PARALLEL AND RELATED PROCEEDINGS

Section 4.01: Claims of Other Creditors and Actions to Resolve Other Claims or Other Disputes Involving Receivership Property. To the extent that claims of third-parties are raised with respect to Receivership Assets in any other action or proceeding, “no action for equitable relief instituted by the Commission pursuant to the securities laws shall be consolidated or coordinated with other

actions not brought by the Commission, even though such other actions may involve common questions of fact, unless such consolidation is consented to by the Commission.” 15 U.S.C. §78u(g). Furthermore, there shall be no right of intervention by any Claimant in this action, unless consented to by the SEC.

Section 4.02: Interpleader – Receiver as Stakeholder. The Receiver is hereby expressly authorized to receive and to hold separate and apart from other Receivership Assets, any assets tendered voluntarily to the Receiver by any Person in the same fashion as would the Clerk of the Court in a case where assets are interpled or otherwise deposited into the registry of the Court, and to refrain from commingling such assets with Receivership Assets otherwise available for distribution under this Plan. The Receiver is authorized to settle out of such assets any claims thereto. The Receiver is further authorized to apply to this Court for a determination as to the ownership of any such assets, and to join any parties necessary to effect such a determination.

ARTICLE V – RETENTION OF JURISDICTION

Section 5.01: Exclusive Jurisdiction. This Court has had jurisdiction since January 3, 2008, and shall continue to retain exclusive jurisdiction over the Receiver, the Receivership, and all Receivership Assets. Accordingly, in determining whether a Claim or any portion thereof is an Allowed Claim, the Receiver may, but shall not be required to, consider (nor shall the Receiver be

subject to) any judicial determination rendered by any court, tribunal, agency or authority whatsoever (other than this Court) as to any Receivership Assets from and after January 3, 2008, unless this Court directs otherwise. No action taken by or against the Receiver with regard to any pending matter in any other court shall be deemed to have terminated, limited, reduced, waived, or relinquished this Court's exclusive jurisdiction.

Section 5.02: Continuing Jurisdiction. This Plan and the Order approving this Plan are not, and are not intended to be, and therefore shall not be deemed to be, either a final adjudication of this matter or a termination, limitation, reduction waiver or relinquishment of this Court's exclusive jurisdiction with regard to all Receivership Assets and all matters in controversy in this case. This Court shall continue to have and retain exclusive jurisdiction over all matters existing or arising in this Receivership or related in any way thereto, including, but not limited to, all matters relating to approving or denying Claims, making Distributions on Approved Claims, and locating, recovering, settling claims, and liquidating Receivership Assets. Furthermore, this Court, upon the request of the Receiver or the SEC, or upon its own motion, may make further modifications to this Plan or the Order approving this Plan, including, but not limited to, modifications which may affect the Receiver's determination with respect to, or payment of, any particular Claim, or the amount of any particular Distribution.

Conclusion

The Receiver asks the Court to approve the above-described Plan of Distribution and to set a date to consider and hear any Objections to the Plan. The Receiver has attached a proposed Order for the Court's convenience.

This 29th day of July, 2009.

/s/ Pat Huddleston II
Georgia Bar No. 373984
Receiver

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CERTIFICATE OF SERVICE

I certify that the foregoing was prepared with one of the font and point selections approved by the Court in LR 5.1B. I further certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notice of electronic filing to counsel of record.

This 29th day of July, 2009.

/s/ Pat Huddleston, II
Georgia Bar No. 373984
Receiver

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