

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JONATHAN W. MIKULA,
JOHN B. CRADDOCK,
JW&P CONSULTING, LLC, and
NATIONS WARRANTY GROUP, INC.,

Defendants.

CIVIL ACTION NO.
1:08-CV-3097-CAP

**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 receivership assets to approved claimants pursuant to the below-described Plan of Distribution (“Plan”), and for this Plan to govern any subsequent distributions. The Receiver expects the initial distribution to be approximately \$200,000. Ongoing recovery efforts may fund a small final distribution within 120 days of the first distribution. The Receiver asks the Court to set a date for a hearing on this matter and a deadline for filing of objections to this plan.

The Nations Warranty Scheme

Defendants Jonathan W. Mikula (“Mikula”), John B. Craddock (“Craddock”), JW&P Consulting, LLC, (“JW&P”) and Nations Warranty Group, Inc. (“Nations Warranty”), (together the “Defendants”) fraudulently raised approximately \$2.8 million from investors through sales of unregistered securities in the form of promissory notes.

Nations Warranty sold warranties on used automobiles. Through those warranties, consumers could secure coverage on their vehicles after the manufacturer’s warranty expired. In an effort to raise capital, the Defendants hired a securities attorney. That attorney advised the Defendants that they could sell unregistered promissory notes so long as those notes had a maturity of less than nine months.

Relying on that advice, JW&P, as consultant to Nations Warranty, created two types of promissory notes – standard notes and premier notes. Standard notes matured in 100 days and promised interest of between three percent and five percent per month. Premier notes matured in 220 days and promised interest of between three percent and five percent per month.

Nations Warranty’s business was cash flow negative. As a result, it needed to continuously sell new notes to have enough cash flow to sustain its business

operations. Toward this end, the Defendants paid commissions to salespeople when they sold new notes. In addition, salespeople were incentivized to encourage note holders to “roll the notes over” rather than to redeem them. Specifically, when a note holder “rolled the note over” salespeople received another round of commissions at the same rates as the initial commission payment, despite no new money being brought into the company.¹ Overall, the Defendants sold over \$3,000,000 in notes (exclusive of rollovers) to 133 people. Of that amount, approximately \$378,000 went to pay commissions to the people who sold the notes and to JW&P. JW&P itself received at least \$188,871 in commissions. The cash received from this scheme allowed Nations Warranty to continue operating, despite what would otherwise have been a severe cash shortage. In the long run however, the more cash that was received from investors, the greater the overall losses that the scheme would ultimately incur. As a result, commissioned salespeople played an integral role in amplifying the overall losses incurred in the Nations Warranty scheme.

The Receiver’s Work

As detailed in the Receiver’s Interim Reports, the Receiver and his team have collected \$591,076.25 since the commencement of this receivership. The

¹ For example, if a premier note rolled over once, thirty percent (fifteen times two) of the face amount of the note would go to pay commissions.

Receiver successfully recovered a settlement against Hartford Underwriters Insurance Company. That settlement resolved both the lawsuit that the Receiver filed against the attorney who advised Nations Warranty as well as the declaratory judgment action that Hartford, as insurer for that attorney, filed to exclude insurance coverage. Due to the confidentiality of the settlement agreement, the amount of the settlement cannot be disclosed.

Assets Available for Distribution

The receivership assets are in bank accounts in the name of Pat Huddleston II, as Receiver for Nations Warranty, et al. The total cash on hand currently is \$298,762.93. The receivership accounts are located at Bank of North Georgia and Wells Fargo.

The Receiver expects to distribute this entire amount less administrative fees, any tax liabilities that may accrue, and a reserve of \$10,000 to adequately fund the closing out of the Receivership. 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 \$200,000 in the initial distribution pursuant to the terms of the proposed Plan set forth below. If approved, this initial distribution will represent a recovery percentage among included claimants of between 3.5 percent and 27.6 percent of the outstanding

principal for their promissory note(s). After distribution of the \$200,000 pursuant to this Plan, each allowed claimant will have a total recovery (adding what they received from the Defendants before the receivership to what they will receive under this plan) of 27.6 percent.

Claims Data

The Receiver sent out 146 claim forms to investors and 28 claim forms to vendors. 85 Claimants have returned those forms, and 9 vendors have made a claim for money owed to them. Additionally, the Receiver has received claim forms from 38 customers who purchased automobile warranties from Nations Warranty and who subsequently canceled those warranties but did not receive any refunds. The Receiver's staff verified each investor claim by examining the supporting documents forwarded by the Claimants, comparing that data to bank records and resolving any discrepancies by interviewing the Claimant and/or seeking additional information. Of the \$2,267,328 in investor claims made, the Receiver verified 78 claims for \$2,233,428. The Receiver also received 9 claims representing \$507,784.12 from vendors and 38 claims for \$26,922.51 from warranty customers.

Before institution of the receivership, the Defendants over \$630,000 in withdrawals to 83 claimants. Two verified claims received no pre-receivership

payments from the Defendants. The investments in JW&P and Nations Warranty ranged from \$100 to \$150,000.

Summary of the Plan

The Receiver designed this Plan to provide maximum recovery to defrauded investors who did not expand the scheme by selling promissory notes to others. If the Court approves the Plan, those investors will recover almost 28 percent of their principal investment, after taking into account pre-receivership payments. Claims of investors who sold the fraudulent notes to others and earned a commission on those sales are subordinated to claims of investors who did not expand the scheme. Due to the limited funds available for distribution, investors who sold notes to others will receive no distribution. The Receiver's plan also subordinates claims of vendors and purchasers of auto warranties, because the Receiver believes that compensating the victims of fraud should, in equity, come before resolving the claims of those who entered into commercial agreements with the receivership entities.

The Receiver proposes using the "rising tide" method in this Plan. That method produces the most equitable results at the lowest possible cost and, therefore, maximizes the funds available for distribution. The Receiver considered other distribution methods, but they would have required lengthy and expensive

litigation against all investors who received any pre-receivership payments. The cost of that litigation would have consumed any funds that otherwise would have been available for distribution.

The Receiver expects objections to this Plan from claimants who earned commissions by selling the notes to others. Experience teaches that the objections will attack the Receiver and his work. For that reason, the Receiver will address the work required in this difficult case and the good result in what, without the Receiver's work, would have been a no asset case with no distribution whatsoever.

When the Receiver took over Nations Warranty, it was immediately apparent that there were not enough assets to make any distribution to aggrieved investors. The Receiver chose to continue operating Nations Warranty while he explored raising money for a distribution through a sale of the business. None of the prospective purchasers was willing to move forward. After the Receiver took control, Nations Warranty achieved record sales with drastically reduced overhead. But the flood of cancellations, (perhaps sparked by the difficult economic climate in 2008) overwhelmed even the record sales figures. To preserve limited assets and minimize liabilities, the Receiver elected to close the business, which he did on February 9, 2009.

After closing Nations Warranty, the Receiver faced a decision; whether to close the case with no recovery for defrauded investors, or to invest hundreds of hours of work (with the prospect of no compensation for that work) in an attempt to generate a fund for distribution. The Receiver decided to risk nonpayment for his work in an effort to generate a distribution fund. He hired an attorney to seek recovery of the \$160,737.57 in commissions paid to those who sold the notes and negotiated a reduced contingent fee of 22.50 percent so that those efforts would be guaranteed to return more than three times what they cost.

The Receiver filed suit against Paul Spizzirri, the attorney who negligently advised Nations Warranty that it need not register the notes. Almost immediately, Spizzirri's insurance carrier (Hartford Underwriters Insurance Company) filed a declaratory judgment action against the Receiver claiming that Spizzirri's malpractice policy was void because he answered "no" on the application in answer to the question "Do you practice securities law?" Had the Receiver won the malpractice action, but lost the declaratory judgment action, there would have been no recovery, because Spizzirri had insufficient assets to pay any judgment.

The Receiver hired an experienced malpractice attorney, Jason Nohr, to represent the receivership in both the malpractice action and the declaratory judgment action. Mr. Nohr agreed to reduce his hourly rate to match the

Receiver's deeply discounted hourly rate and agreed to aggressively pursue both cases even though it was apparent that he might not be paid for those efforts.

Mr. Nohr successfully defended against summary judgment motions in both cases. Thereafter, the Receiver settled the cases at mediation for a confidential amount, which the Court approved. Still, when he submitted his second fee application, representing 2,255.70 hours of work over the span of 24 months, the Receiver chose to deduct and write off the hours attributable to his attempt to make Nations Warranty profitable, in order to maximize the amount available for distribution. That write off has made possible \$102,846.50 of the amount to be distributed. The Court approved an interim payment of \$240,000 on the \$321,489.44, which the Receiver used to first to satisfy the amount owed to Mr. Nohr and the experts hired in connection with the two lawsuits (\$10,877.37). \$81,489.44 remains due on the second fee application. Since the filing of his second fee application, the Receiver and his team have billed another approximately 155 hours and \$17,382.80 to the case, representing the work necessary to verify claims, and craft the Plan. Depending upon the number of objections, the Receiver estimates that his work from this point forward will cost another \$10,000 to \$20,000.

The current cash on hand is \$298,762.93. Deducting the amount owed to the Receiver for the work completed to date and expected to be earned through the conclusion of the case (\$10,000 to \$20,000) would leave only \$179,127.76 available for distribution. Still, the Receiver seeks to distribute approximately \$200,000 and recover whatever remains of his fee from his pursuit of the commission salespeople who sold the notes. Of course, if those efforts yield more than the Receiver's fees, the Receiver will distribute the difference to investors according to the terms of this plan. If those efforts are insufficient to pay the Receiver, he will forgo payment.

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 this distribution. 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 restitution. The formula for the calculation of a claimant's pro rata distribution amount under the rising tide method is:

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

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 distribution allocation. Investor A's net distribution amount is therefore \$20,000. Investor B, on the other hand, has already received \$20,000 in pre-receivership withdrawals, so this amount is subtracted from Investor B's \$20,000 gross distribution allocation, resulting in Investor B's net distribution amount of zero.
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

rata share of their net investment (investments minus withdrawals). At least two courts have rejected that method, noting the inequitable results it creates. *See Equity Financial*, 2005 U.S. Dist. LEXIS 20001 at *84-85; *CFTC v. Hoffberg*, 1993 U.S. Dist. LEXIS 15173 at *5 (N.D. Ill. 1993). 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). However, as Investor B had already received \$20,000 in pre-receivership withdrawals, his total recovery amount under this method is still higher than Investor A’s total recovery amount (\$22,222 vs. \$37,778), 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.

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 distribution proposed in the Receiver's Plan will result in distribution payments to 50 of the 61 Class 3 verified claimants. After this distribution, 100% of allowed claimants will have either received a pre-receivership withdrawal or a distribution payment. This distribution will bring the minimum recovery percentage among note claimants to 27.6%.

Attached to this Plan as Exhibit A is a table that sets out information pertaining to the claims considered under this Plan. The table includes the Claim Number, Claimant Type, Total Amount Claimed, Allowed Claim, Withdrawals, Net Amount and Authorized Initial Distribution Allocation for the 85 claim forms received from General Investors.

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 - and those investors who invested near the end of the scheme and may have thus far received no withdrawals. The Receiver, therefore, asks the Court to approve his rising tide Plan of Distribution, the terms of which are set forth here:

Subordination of Commissioned Salespeople

There are 16 Claimants who both invested and solicited others to invest and earned a commission on each successful solicitation. Those Claimants received commissions ranging from \$60.00 to \$25,170.00 which represents between 0.42 percent and 274 percent of the principal amount of their investments. While the Receiver is mindful that these Claimants likely did not appreciate the fraudulent nature of the receivership entities (as evidenced by their purchase of the fraudulent notes), their solicitation and sale of the notes expanded the number of defrauded investors and the total size of the fraud. The notes should have been registered, but were not. Under the Securities Act of 1933 the sale of an unregistered security is a strict liability offense requiring no scienter. *See SEC v. Calvo*, 378 F.3d 1211, 1218 (11th Cir. Fla. 2004).

While the representations that these Claimants made during their solicitations were likely only a parroting of what they heard from the Defendants, one who undertakes to sell a security is obliged to investigate to discover the truth about what he or she is selling. None of these Claimants learned the true nature of

what they were selling before soliciting others. The Receiver therefore believes that subordinating their claims to the claims of General Investors is most equitable. If the Receiver included these 16 Claimants in the same class as General Investors the minimum recovery percentage achieved by this plan would drop from 27.6 percent to 26.5 percent.

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 March 30, 2009.

“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 on a case by case basis.

“CLAIM FORM” means the Proof of Claim Form used to assert a Claim as authorized and approved by this Court in its February 12, 2009 ruling.

“CLAIM FORM RULING” refers to the Court’s ruling granting the Receiver’s Motion to Approve Claim Form, on February 12, 2009, which set March 30, 2009 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.

“COMMISSION” refers to any payment(s), designated as commission, referral fee, marketing fee, and/or otherwise, paid by the Defendants as consideration for selling a promissory note.

“COMMISSIONED SALESPERSON” is a Claimant who has received a Commission from the Defendants.

“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 either JW&P’s or Nations Warranty’s notes during the period from January 1, 2008, through October 2, 2008, or the value of goods or services rendered to Nations Warranty or JW&P by a vendor during that same time period. In the case of an investment in one of the Nations Warranty or JW&P Notes, a Covered Claim only includes the money actually deposited with Nations Warranty or JW&P 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 Nations Warranty Notes or JW&P Notes and had no other financial relationship with the Defendants.

“JW&P” refers to JW&P Consulting, LLC a defendant in this case

“JW&P NOTE” refers to notes issued by JW&P.

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

“NATIONS WARRANTY” refers to Nations Warranty Group, Inc. a defendant in this case.

“NATIONS WARRANTY NOTE” refers to notes issued by Nations Warranty.

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

“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 the Order Appointing the Receiver, dated October 2, 2008.

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

“PROMISSORY NOTE” 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 the Defendants.

“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 the Defendants.

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

“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 the Defendants 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 what information, if any, to require before allowing or disallowing a claim and to determine whether a Claim should be designated as an Allowed Claim.

Section 2.02: Filing Requirement. On or before the Claims Bar Date, except as otherwise ordered by the Court, each Claimant should have filed ---via fax, 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 Claim forms should have been filed with the Receiver, and not the Court. A 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, unless for good cause shown and in the Receiver’s sole discretion, he waives that bar in writing. Any purported filing of a Proof of Claim that was not properly documented or that did not reasonably comply with the Proof of Claim Form instructions, may be rejected by the Receiver and treated as if no Proof of Claim was 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, 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. Moreover, 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 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.

ARTICLE III – PAYMENT OF CLAIMS

Section 3.01: Priority of Distributions. The Receiver is hereby expressly authorized to pay Claims of Classes 1 and 2 in full from the Receivership Estate, to pay Allowed Claims of Class 3-9 (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), using the rising tide Method, 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: General Investor Claims. Class 3 Claims are Claims of General Investors. After satisfaction of all Class 2 Allowed Claims, Class 3 Allowed Claims will be paid until either: a) the Distribution amount available is exhausted, or b) the minimum Recovery Percentage among all Class 3 Claimants reaches 100 percent, whichever comes first. The Receiver has

designated 61 of the 86 total claims received as Allowed Class 3 Claims – totaling \$1,684,948.

Class 4: Commissioned Salespeople Claims. Class 4 Claims are Claims of Commissioned Salespeople who also invested in notes offered by either Nations Warranty or JW&P. Prior to this initial Distribution, 17 Claimants designated as Class 4 Claimants had already received a total of \$68,481.20 in Withdrawals paid as Commission with a resultant RP range for this Class of 20% to 296%. Thus, Class 4 Claims will be subordinate to Class 3 Claims due to the salespeople's involvement in amplifying the scheme's losses and their culpable conduct.

When the MRP among all Class 3 Claimants reaches 100%, Class 4 Allowed Claims will be paid until either: a) the Distribution amount available is exhausted or b) the minimum Recovery Percentage 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%. As of the date of this Plan, there are 17 Allowed Claims that have been designated as Class 4 Claims.

Class 5: Verified Late or Defective Claims of General Investors. Class 5

Claims are the same as Class 3 Claims, except that the Claim Form was posted after the Bar Date, was unsupported, or was otherwise defective.

When the MRP among all Class 4 Claimants has reached 100%, Distributions will be paid to Class 5 Allowed Claims until either: a) the Distribution amount is exhausted or b) the MRP 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%. As of the date of this Plan, 8 Allowed Claims have been designated as Class 5 claims.

Class 6: Verified Late or Defective Claims of Commissioned

Salespeople. 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: Claims of Warranty Holders. Class 7 Claims are Claims submitted by a Claimant who purchased an automobile warranty from Nations Warranty. 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. The Receiver has designated 38 Allowed Claims, totaling \$26,922.51, as Class 7 Claims.

Class 8 Claims of Creditors. Class 8 Claims are Claims submitted by a creditor who provided goods or services to the Defendants. 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. The Receiver has designated 9 Allowed Claims, totaling \$507,784.12, 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. 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 Classes 1 and 2 of Claimants set forth above, the Receiver may utilize any Receivership Assets. 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: Distribution. 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. 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 October 2, 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 Asset from and after October 2, 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.

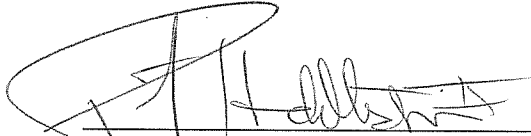
Section 5.02: Continuing Jurisdiction. This Plan and the Order approving this Plan are not, and are not intended to be, and therefore shall not be deemed to be, either a final adjudication of this matter or a termination, limitation, reduction waiver or relinquishment of this Court's exclusive jurisdiction 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, set a date to consider and hear any Objections to the Plan, and set a deadline for filing of objections to this plan. The Receiver has attached a proposed Order for the Court's convenience.

This 4th day of April, 2011.



Pat Huddleston II
Receiver
Georgia Bar No. 373984

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CERTIFICATE OF SERVICE

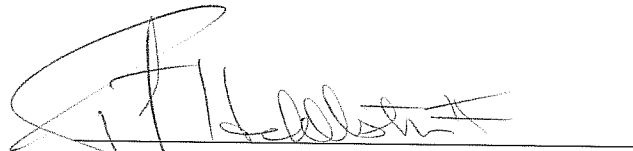
I hereby certify that the foregoing was prepared with one of the font and point selections approved by the Court in LR 5.1B. I further certify that I have electronically filed the preceding **Receiver's Motion to Approve Plan of Distribution and Brief in Support** with the Clerk of Court using the CM/ECF system and upon the following defendants via first class mail with postage fully prepaid:

James T. Elrod, Jr.
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Atlanta, Georgia 30305

Cynthia Barrington
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Colorado Springs, Colorado 80918-1333

Sharon H. Mikula
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Marietta, Georgia 30066

This 4th day of April, 2011.



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