

Troy Greenfield, OSB #892534
Email: tgreenfield@schwabe.com
Lawrence R. Ream (Admitted *Pro Hac Vice*)
Email: lream@schwabe.com
Andrew J. Lee, OSB #023646
Email: ajlee@schwabe.com
SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW Fifth Avenue, Suite 1900
Portland, OR 97204
Telephone: 503-222-9981
Facsimile: 503-796-2900

Attorneys for Receiver for Defendants
AEQUITAS MANAGEMENT, LLC; AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE, LLC; AEQUITAS
CAPITAL MANAGEMENT, INC.; AEQUITAS INVESTMENT
MANAGEMENT, LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

AEQUITAS MANAGEMENT, LLC;
AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE,
LLC; AEQUITAS CAPITAL
MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENIK; BRIAN A. OLIVER;
and N. SCOTT GILLIS,

Defendants.

No. 3:16-cv-00438-JR

**RECEIVER'S MOTION TO CORRECT
TWO CLERICAL ERRORS: ONE THAT
INADVERTENTLY ALLOWED A CLAIM
TO CIT TECHNOLOGY FINANCIAL
SERVICES, INC. AND ONE THAT
FAILED TO AGGREGATE THE TRUST
ACCOUNTS PREVIOUSLY
ASSOCIATED WITH SHIRLEY K.
RIPPEY & JEFFREY L. RIPPEY, CO-
TRUSTEES OF THE JAMES F. RIPPEY
TRUST**

RECEIVER'S MOTION TO CORRECT CLERICAL ER



160043821022200000000001

LOCAL RULE 7-1 CERTIFICATE

On February 4, 2021, counsel for the Receiver circulated to all counsel of record in this action, via e-mail, copies of this motion and the accompanying declaration,¹ both of which were substantially the same as this later filed version. The conferral requested that counsel respond by 12:00 p.m. (Pacific time) on February 18, 2021, as to whether their client(s) object or consent to the motion. As of the time of filing this motion, the undersigned had received three (3) consents and no objections.

Prior to service and as part of the conferral process, the Receiver's professionals discussed the contents of this motion with counsel (and the trust representative) for the Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey *Marital* Trust. As represented in that discussion and as part of conferral, copies of this motion and accompanying declaration were emailed to the trust's counsel and the trust's representative.

Prior to service and as part of the conferral process, the Receiver's professionals mailed copies of this motion and accompanying declaration to CIT Technology Financial Services, Inc. and to CIT Technology Financing Services, Inc., including its registered agent.

MOTION

The Receiver's motion seeks to remedy two clerical errors.² First, because affiliated but separate entities with similar names were conflated, the Receiver inadvertently issued a Notice of Receiver's Initial Determination to CIT Technology Financial Services, Inc., and subsequently

¹ See, Declaration of Larissa Gotguelf (the "Gotguelf Decl.").

² Capitalized terms not otherwise defined in this motion shall have the meanings ascribed to them in the Receiver's Motion to Approve Receiver's Distribution Plan and Determination of a Ponzi Scheme (the "Distribution Plan") [Dkt. 787].

filed a motion that resulted in an order that incorrectly classified and allowed a claim and distribution to CIT Technology Financial Services, Inc.³

Second, based on the death of James F. Rippey, the Receiver's database was updated around April 2017 to re-register accounts that had been registered as the Shirley K. Rippey and Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Trust (SSN XXX-XX-9782). The new re-registered account was named the Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey ***Marital*** Trust with a new tax identification number (EIN XX-XXX3705). Two accounts were correctly re-registered with a new account name and tax identification number ("TIN"), but information for four of the six associated accounts was not fully updated.⁴ In consequence, the Receiver inadvertently sought the Court's approval to separately treat the two differently identified account groups.⁵ If the six accounts are not aggregated consistent with the

³ Receiver's Motion to Approve Classification, Allowance of the Amount of Claims for Certain Claimants (Administrative Claims, Convenience Class Claims, And Former-Employment Claims), and Approving Distributions to Those Claimants ("First Distribution Motion") [Dkt. 835]; Declaration of Ronal Greenspan in Support of Receiver's Motion to Approve Classification, Allowance of the Amount of Claims for Certain Claimants (Administrative Claims, Convenience Class Claims, And Former-Employment Claims), and Approving Distributions to Those Claimants ("Greenspan Decl. ISO First Distribution Motion") at 36 [Dkt. 836] (addressing CIT Technology Financial Services, Inc.); Order Granting Receiver's Motion to Approve Classification, Allowance of the Amount of Claims for Certain Claimants (Administrative, Convenience, and Former-Employment Claims), and Approving Distributions to Those Claimants ("First Distribution Order") [Dkt. 838] (approving distributions sought in motion).

⁴ Gotguelf Decl., ¶ 11.

⁵ See Receiver's (Second) Motion to Approve Classification of Certain Claims (Administrative, Former-Employees, Convenience Class, Defrauded Investors, Creditors, Individual Defendants, and Pass-Through Investors), and Allow and Approve Distributions on Account of Certain Claims ("Second Distribution Motion") [Dkt. 848]; Declaration of Ronald F. Greenspan in Support of Receiver's (Second) Motion to Approve Classification of Certain Claims (Administrative, Former-Employees, Convenience Class, Defrauded Investors, Creditors, Individual Defendants, and Pass-Through Investors), and Allow and Approve Distributions on Account of Certain Claims ("Greenspan Decl. ISO Second Distribution Motion") at 74 [Dkt. 849] (addressing pertinent accounts); Order Granting Receiver's (Second) Motion to Approve Classification of Certain Claims (Administrative, Former Employees, Convenience
(continued on next page)

treatment described in the Court-approved Distribution Plan and the treatment of all similarly situated Defrauded Investors, the account holder will receive a distribution proportionally larger than is being made at this juncture to other Defrauded Investors as the pre-receivership returns attributable to the four accounts are being improperly segregated, thus artificially increasing the calculated distribution for the other two accounts. Correcting the clerical error will reduce the total distribution for this account holder from \$135,019.00 to \$69,239.00.⁶

Pursuant to Federal Rule of Civil Procedure 60 and this Court's inherent authority, the Receiver moves this Court to remedy those clerical errors by entering an order that:

(1) In relation to CIT Technology Financial Services, Inc.:

(a) Supplants the First Distribution Order, such that, in relation to CIT Technology Financial Services, Inc., no claim is yet classified, allowed, or payable by distribution; and

(b) Now that the Receiver disclaims the Notice of Receiver's Initial Determination that was incorrectly issued to CIT Technology Financial Services, Inc., provides CIT Technology Financial Services, Inc. 15 business days from entry of the new order to file a proof of claim, if it believes it has a valid claim.

(2) In relation to claims on the two accounts associated with Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey *Marital* Trust (EIN XX-XXX3705), and the four accounts that were inadvertently associated with that entity's previously recorded name and SSN, Shirley K. Rippey and Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Trust (SSN XXX-XX-9782):

Class, Defrauded Investors, Creditors, Individual Defendants, And Pass-through Investors), and Allow and Approve Distributions on Account of Certain Claims ("Second Distribution Order") [Dkt. 851] (approving distributions identified in motion).

⁶ Gotguelf Decl., ¶ 12.

(a) Supplants the Second Distribution Order in relation to claims on accounts associated with those names and TINs; and

(b) Approves the classification, new allowed claim amount, and new distribution amount, as detailed herein, such that the claim amount and distribution amount is determined based on those six accounts being aggregated.

For the reasons set forth below, the Receiver respectfully requests the entry of a Court order correcting these clerical errors.

PROCEDURAL BACKGROUND

In March 2016, the U.S. Securities and Exchange Commission (“SEC”) filed the above-captioned action, alleging violations of federal securities law by Robert Jesenik, Brian Oliver, and N. Scott Gillis as well as entities that they controlled (the “Entity Defendants”),⁷ which were part of the broader Aequitas Enterprise and included over 57 affiliated and controlled entities.⁸ The Court appointed Ronald F. Greenspan as Receiver for the Entity Defendants and various affiliated entities—initially on an interim basis on March 16, 2016,⁹ and later, on April 14, 2016, on an enduring basis.¹⁰

On April 25, 2019, on the Receiver’s motion, the Court fixed a Claims Bar Date of July 31, 2019; approved the manner of notice of the Claims Bar Date; and approved the Proof of

⁷ Complaint [Dkt. 1]. In addition to the Entity Defendants, Jesenik, Oliver, and Gillis controlled various other Aequitas subsidiaries and/or majority-owned affiliates (or their predecessors in interest). For purposes of this motion and events that pre-date the Receivership, the Receivership Defendants and the entities set forth in Exhibit A and Exhibit B to the Order Appointing the Receiver [Dkt. 156] shall be referred to collectively as the “Aequitas Enterprise.”

⁸ FF&CL [Dkt. 813] at 5-6.

⁹ Stipulated Interim Order Appointing Receiver [Dkt. 30].

¹⁰ Order Appointing Receiver [Dkt. 156]. The Receivership Estate consisted of the Entity Defendants, as well as 43 other related entities. *Id.* at Ex. A (listing related entities). Nine Extended Entities in which Aequitas had a material investment were also required by Court order to cooperate with the Receiver. *Id.* at Ex. B.

Claim Form, the Claims Procedure, and associated exhibits and attachments.¹¹ The Claims Bar Date operated as “the deadline for Claimants and Administrative Claimants to submit a completed and signed Proof of Claim Form under penalty of perjury, together with supporting documentation against one or more of the Aequitas Entities.”¹² Certain Claimants, however, had the option to be treated as having timely asserted claims without actually filing a proof of claim if they agreed with the Receiver as to their claim and the amount thereof. As stated in this Court’s order:

The Receiver has determined in his sole and absolute discretion that certain [Claimants and Administrative Claimants] are entitled to an Allowed Claim and will receive a Notice of Receiver’s Initial Determination, with attachments containing information and amounts, which together constitute the Receiver’s initial determination of the Allowed Claim. [A Claimant or Administrative Claimant] who **AGREES** with the information and amounts in the attachments to the Notice of Receiver’s Initial Determination need **NOT** submit a Proof of Claim. [A Claimant or Administrative Claimant] who **DISAGREES** with the information or amounts in the attachments to the Notice of Receiver’s Initial Determination and wants to assert a Claim that is different, **MUST** timely and properly submit a Proof of Claim, including supporting documents in compliance with the Notice of Claims Bar Date and Procedures for Submitting a Proof of Claim.¹³

Such initial determinations, which the Receiver refers to as “NODs” as a shorthand for “Notice of Determination,” form the basis for many of the Claims asserted by Claimants.

On December 31, 2019, the Receiver moved the Court for a determination that the Aequitas Enterprise operated as a Ponzi scheme and for approval of the Receiver’s proposed distribution plan.¹⁴

¹¹ Order (1) Establishing Claims Bar Date, (2) Approving the Form and Manner of Notice, and (3) Approving the Proof of Claim Form, Procedures and Other Related Relief [Dkt. 683].

¹² *Id.* at ¶ 4.

¹³ *Id.* at ¶ 10 (emphasis in original).

¹⁴ Receiver’s Motion to Approve Receiver’s Distribution Plan and Determination of a Ponzi Scheme [Dkt. 787].

On March 31, 2020, this Court concluded that the Aequitas Enterprise operated as a Ponzi scheme.¹⁵ Relatedly, the Court approved the Receiver's proposed distribution plan, as modified.¹⁶

Below, for the separate parties to which this motion relates, the Receiver addresses the procedural history specific to each.

POINTS AND AUTHORITIES

Pursuant to Rule 60 and this Court's inherent authority,¹⁷ the Receiver moves this Court to enter a new order, supplanting its prior orders in relation to CIT Technology Financial Services, Inc., as well as Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey *Marital* Trust (EIN XX-XXX3705) and its previously recorded name and TIN, Shirley K. Rippey and Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Trust (SSN XXX-XX-9782).

I. CIT Technology Financial Services, Inc.

A. Procedural history

When the Receiver issued NODs, each interested party receiving such a NOD was notified that the claim would be "subject to further review" and its issuance was "without

¹⁵ FF&CL [Dkt. 813] at 14.

¹⁶ *Id.* at 18.

¹⁷ See 12 MOORE'S FEDERAL PRACTICE - CIVIL § 60.02 (2020) ("Rule 60(a) enables a court to ensure that its orders ... are an accurate reflection of the true actions and intent of the court and the parties."); *Patapoff v. Vollstedt's, Inc.*, 267 F.2d 863, 865 (9th Cir. 1959) ("Rule 60(b) is clearly designed to permit a desirable legal objective: that cases may be decided on their merits."); *City of L.A. v. Santa Monica BayKeeper*, 254 F.3d 882, 887 (9th Cir. 2001) ("a district court's authority to rescind an interlocutory order over which it has jurisdiction is an inherent power rooted firmly in the common law and is not abridged by the Federal Rules of Civil Procedure").

prejudice in the future to potential objection” by the Receiver.¹⁸ Among the NODs issued by the Receiver was one to CIT Technology Financial Services, Inc.¹⁹ The NOD further advised the Claimant that it need not file a proof of claim if it agreed with the information in the NOD. The Claims Bar Date then passed without CIT Technology Financial Services, Inc. submitting a Proof of Claim.²⁰

On May 15, 2020, the Receiver filed its First Distribution Motion.²¹ The chart that accompanied that motion for Convenience Class Claims identified the following for CIT Technology Financial Services, Inc.:

<i>Proposed Classification</i>	Convenience Class Claim
<i>NOD Claim Amount</i>	\$5,720.55
<i>Proof of Claim Amount</i>	NA
<i>Proposed Allowed Claim Amount</i>	\$5,720.55
<i>Proposed Distribution</i>	\$1,144.11
<i>Note:</i>	[Proposed Allowed Claim Amount is Based on the NOD.] ²²

Unfortunately, the Receiver’s NOD to and proposed treatment of CIT Technology Financial Services, Inc., resulted from a clerical error—namely, the conflation of CIT Technology Financial Services, Inc., with other CIT entities listed in the Receivership Estate’s

¹⁸ Receiver’s Motion for Order (1) Establishing Claims Bar Date, (2) Approving the Form and Manner of Notice, and (3) Approving the Proof of Claim Form, Procedures and Other Related Relief, Ex. 3 at n.2 of “Instructions for the Notice of Receiver’s Initial Determination and Definition of Terms, Pre-Receivership Creditors” [Dkt. 681-1 at 25 n.2].

¹⁹ Gotguelf Decl., Ex. 1 (NOD sent to CIT Technology Financial Services, Inc.).

²⁰ Gotguelf Decl., ¶ 3.

²¹ [Dkt. 835].

²² Greenspan Decl. ISO First Distribution Motion at 36, 85 [Dkt. 836].

books and records that had similar names.²³ Based on a review of the Receivership Estate's books and records, there is no apparent outstanding pre-receivership indebtedness owed to CIT Technology Financial Services, Inc. or CIT Technology Financing Services, Inc.²⁴ But, because the error conflating the CIT entities was not immediately identified by the Receiver, the Court entered an order adopting the Receiver's proposed (but unwarranted) treatment for CIT Technology Financial Services, Inc.²⁵ The Court's First Distribution Order has not yet led to any distribution to CIT Technology Financial Services, Inc., because the clerical error has now been identified.²⁶ The Aequitas books and records further reveal what appears to be a fully performed lease that previously existed with CIT Technology Financing Services, Inc., which was abbreviated on the Aequitas books as CIT Technology Fin. Serv, Inc., rather than with CIT Technology Financial Services, Inc.²⁷

Although a valid claim did exist in favor of CIT Finance LLC, the clerical error has not prejudiced CIT Finance LLC. It filed two proofs of claim totaling \$19,287.81, and this Court—consistent with the Second Distribution Motion—classified the two claims as Convenience Class Claims, allowed claim amounts totaling \$19,287.81, and approved distributions totaling \$3,857.56.²⁸ Pursuant to this Court's Second Distribution Order, distribution to CIT Finance LLC was made in the ordinary course.

²³ Gotguelf Decl., ¶ 4.

²⁴ Gotguelf Decl., ¶ 5.

²⁵ First Distribution Order [Dkt. 838].

²⁶ Gotguelf Decl., ¶ 6.

²⁷ Gotguelf Decl., ¶ 8.

²⁸ Second Distribution Motion [Dkt. 848]; Greenspan Decl. ISO Second Distribution Motion at 12 [Dkt. 849]; Second Distribution Order [Dkt. 851].

B. Analysis

It was only because of a clerical error that the Receiver issued an NOD to CIT Technology Financial Services, Inc., which was on notice that the Receiver reserved the right to reconsider that NOD.²⁹ The new order that the Receiver requests should unwind the treatment of CIT Technology Financial Services, Inc., as holding a classified and allowed claim on which a distribution is authorized.

Based on the Receiver's review of the Receivership Estate's books and records, there is no apparent outstanding pre-receivership indebtedness owed to CIT Technology Financial Services, Inc. or to CIT Technology Financing Services, Inc.³⁰ By this motion, the Receiver rescinds, in its entirety, the NOD previously sent to CIT Technology Financial Services, Inc. But—in recognition of the possibility that CIT Technology Financial Services, Inc., or CIT Technology Financing Services, Inc. may have relied on the previously issued NOD—the Receiver believes it would be fair to provide each of those entities a new (albeit brief) opportunity to file a proof of claim, if they conclude from evidence available to it that, prior to March 16, 2016, it was owed moneys from the Receivership Estate on account of a pre-Receivership debt.

II. Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Trust (SSN XXX-XX-9782) and Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey *Marital* Trust (EIN XX-XXX3705)

A. Procedural history

When the Receiver was appointed, the Receivership Estate's books and records reflected accounts associated with Shirley K. Rippey and Jeffrey L. Rippey, Co-Trustees of the James F.

²⁹ See, Gotguelf Decl., ¶ 7, Ex. 1 at 2 n.2 (NOD to CIT Technology Financial Services, Inc., notifying same that the NOD would be “subject to further review” and its issuance was “without prejudice in the future to potential objection” by the Receiver).

³⁰ See Gotguelf Decl., ¶ 5.

Ripsey Trust, and SSN XXX-XX-9782 (the deceased James Ripsey's social security number).³¹ In or around April 2017, the Receivership received notice of account re-registration including that Mr. Ripsey's social security number ("SSN") should not be used, and the Receivership staff initiated a re-registration of accounts in the Receivership's database, changing the name for some of the affected accounts to Shirley K. Ripsey & Jeffrey L. Ripsey, Co-Trustees of the James F. Ripsey *Marital* Trust and the TIN to EIN XX-XXX3705 (the EIN of the Marital Trust).³² That re-registration was completed for some accounts but apparently was not completed for all of the six associated accounts.

Unfortunately, the Receiver did not immediately identify this clerical error. As such, when the Receiver filed its Second Distribution Motion, it included in the Defrauded Investors Exhibit (Exhibit 4) one grouping for the four old trust account name/SSN and one for the two new trust account name/EIN.³³

					Total Investment - Allowed Claim		Calculated Rising Tide Interim Threshold Amount (B) = A x 28.0%	Pre-Receivership Return (C)	Pre-Receivership Return % C ÷ A	Receiver's Calculated Interim Distribution [Rising Tide] (D) = greater of B - C or Zero
Investor / Contact Name(s)	Account Name(s)	Receiver's Classification	Account Number(s) or Investor ID	Proof of Claim Amount						
Jeffrey L Rippey	Shirley K. Rippey and Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Trust	Defrauded Investor	x5006 x5134 x5185 x5222	NA	1,412,960.61		395,628.97	260,610.10	18.4%	135,019.00
Jeffrey L Rippey	Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Marital Trust	Defrauded Investor	x5099 x5221	NA	526,062.47		147,297.49	213,077.38	40.5%	0.00
Totals:					0.00	1,939,023.08	542,926.46	473,687.48		135,019.00

In reliance on this submission, this Court then entered its Second Distribution Order, approving the distribution of \$135,019.00 for the accounts associated with the old name/SSN, Shirley K. Ripsey and Jeffrey L. Ripsey, Co-Trustees of the James F. Ripsey Trust (SSN XXX-XX-9782) and approving that no distribution would be made in this set of interim distributions to Shirley K.

³¹ See Gotguelf Decl., ¶ 9.

³² See Gotguelf Decl., ¶ 10.

³³ See Second Distribution Motion [Dkt. 848]; Greenspan Decl. ISO Second Distribution Motion) at 74 [Dkt. 849] (addressing pertinent accounts); Second Distribution Order [Dkt. 851] (approving distributions identified in motion).

Ripsey & Jeffrey L. Ripsey, Co-Trustees of the James F. Ripsey *Marital* Trust (EIN XX-XXX3705).

As described below, this clerical error would result in an inequitable distribution, if not corrected.

B. Analysis

Under the terms of the Court-approved Distribution Plan, all subject accounts should have been aggregated. As the Receiver explained,

A Defrauded Investor in the Aequitas Ponzi scheme is not injured more or less simply by virtue of investing money in multiple Aequitas Entities, multiple accounts, or accounts differently titled. And other Defrauded Investors should not suffer or benefit on account of another Defrauded Investor's method of holding title to multiple accounts. As such, it is equitable to consolidate accounts of a given Defrauded Investor to prevent disparate outcomes between that Defrauded Investor and similarly situated Defrauded Investors.³⁴

Here, inequity would result if the accounts associated with the original and re-registered accounts were not aggregated into a single account grouping. As shown, in the absence of such full consolidation, the Receiver received approval to distribute \$135,019.00 to Shirley K. Ripsey and Jeffrey L. Ripsey, Co-Trustees of the James F. Ripsey Trust (SSN XXX-XX-9782).³⁵ In fact, unless all accounts are appropriately re-registered and their account activity aggregated, that sum substantially overstates the proper interim distribution to Shirley K. Ripsey & Jeffrey L. Ripsey, Co-Trustees of the James F. Ripsey *Marital* Trust (EIN XX-XXX3705).

By this motion, the Receiver asks this Court to correct the Second Distribution Order and delete a separate claim associated with the Shirley K. Ripsey and Jeffrey L. Ripsey, Co-Trustees

³⁴ Receiver's Motion to Approve Receiver's Distribution Plan and Determination of a Ponzi Scheme at 55 [Dkt. 787].

³⁵ See Second Distribution Motion [Dkt. 848]; Greenspan Decl. ISO Second Distribution Motion) at 74 [Dkt. 849] (addressing pertinent accounts); Second Distribution Order [Dkt. 851] (approving distributions identified in motion).

of the James F. Rippey Trust (SSN XXX-XX-9782). The investments previously associated with the Shirley K. Rippey and Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Trust (SSN XXX-XX-9782) should be associated with and aggregated with the Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey **Marital** Trust (EIN XX-XXX3705).

By this motion, the Receiver also asks this Court to supplant the Second Distribution Order with the following information in relation to Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey **Marital** Trust (EIN XX-XXX3705) that appropriately aggregates all the relevant activity:

<i>Investor / Contact Name(s)</i>	Jeffery L. Rippey
<i>Account Name(s)</i>	Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Marital Trust
<i>Receiver's Classification</i>	Defrauded Investor
<i>Account Number(s) or Investor ID</i>	x5006 x5134 x5185 x5222 x5099 x5221
<i>Proof of Claim Amount:</i>	NA
<i>Total Investment-Allowed Claim (A)</i>	\$ 1,939,023.08
<i>Calculated Rising Tide Interim Threshold Amount (B) = A x 28.0%</i>	\$ 542,926.46
<i>Pre-Receivership Return (C)</i>	\$ 473,687.48
<i>Pre-Receivership Return % (C ÷ A)</i>	24.43%
<i>Receiver's Calculated Interim Distribution [Rising Tide] (D) = greater of B – C or Zero</i>	\$ 69,239.00
<i>Notes</i>	[None]

This correction is necessary to ensure that the account holder, Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey *Marital* Trust, receives an interim distribution consistent with the Court approved rising tide calculation and not greater than other similarly situated Defrauded Investors. Distributions are a “zero-sum” situation---an over-distribution to any claimant results in an under-distribution to every other claimant. Therefore, the Receiver asks the Court to approve the corrections requested by the Receiver to ensure that distributions are made consistently and in accordance with the provisions of the Court-approved Distribution Plan.

CONCLUSION

For the reasons set forth above, the Receiver respectfully requests that this Court enter and order that:

(1) In relation to CIT Technology Financial Services, Inc.:

(a) Supplants the First Distribution Order, such that, in relation to CIT Technology Financial Services, Inc., no claim is yet classified, allowed, or payable by distribution; and

(b) Now that the Receiver disclaims the Notice of Receiver’s Initial Determination that was incorrectly issued to CIT Technology Financial Services, Inc., provides CIT Technology Financial Services, Inc. and CIT Technology Financing Services, Inc. 15 business days from entry of the new order to file a proof of claim, if it believes it has a valid claim.

(2) In relation to claims on the two accounts associated with Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey *Marital* Trust (EIN XX-XXX3705), and the four accounts that were inadvertently associated with that entity’s previously recorded name

and TIN, Shirley K. Rippey and Jeffrey L. Rippey, Co-Trustees of the James F. Rippey Trust (SSN XXX-XX-9782):

(a) Supplants the Second Distribution Order in relation to claims on accounts associated with those names and TINs; and

(b) Approves the classification, new allowed claim amount, and new distribution amount, as detailed herein, such that the claim amount and distribution amount is determined based on those six accounts being aggregated.

Dated this 18th day of February, 2021.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

By: /s/ Andrew J. Lee

Troy Greenfield, OSB #892534

Email: tgreenfield@schwabe.com

Lawrence R. Ream (Admitted *Pro Hac Vice*)

Email: lream@schwabe.com

Andrew J. Lee, OSB #023646

Email: ajlee@schwabe.com

Telephone: 503-222-9981

Facsimile: 503-796-2900

Attorneys for Receiver for Defendants Aequitas Management, LLC, Aequitas Holdings, LLC, Aequitas Commercial Finance, LLC, Aequitas Capital Management, Inc., and Aequitas Investment Management, LLC