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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

[PROPOSED] ORDER GRANTING 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

This matter having come before the Court on 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 (the "Motion")[1] [Dkt. 873], and the Court, having given all counsel and all affected parties an opportunity to oppose the Motion, and having considered the Declaration of Larissa Gotguelf [Dkt. 874], and the Court being fully advised in the premises, now, therefore,

THE COURT FINDS as follows:

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

B. 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. In consequence, the

[1] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Motion.

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Receiver inadvertently sought the Court's approval to separately treat the two differently identified account groups. If the six accounts are not aggregated consistent with the 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.

IT IS HEREBY ORDERED AND DECREED as follows.

1. The Motion is granted in its entirety and the Court hereby:

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

(i) 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

(ii) 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 this order to file a proof of claim, if it believes it has a valid claim.

(b) 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

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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):

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

(ii) Approves the classification, new allowed claim amount, and new distribution amount such that the claim amount and distribution amount is determined based on those six accounts being aggregated as follows:

Investor / Contact Name(s)	Jeffery L. Rippey
Account Name(s)	Shirley K. Rippey & Jeffrey L. Rippey, Co-Trustees of the James F. Rippey ***Marital*** Trust
Receiver's Classification	Defrauded Investor
Account Number(s) or Investor ID	x5006 | x5134 | x5185 | x5222 | x5099 | x5221
Proof of Claim Amount:	NA
Total Investment-Allowed Claim (A)	$ 1,939,023.08
Calculated Rising Tide Interim Threshold Amount (B) = A x 28.0%	$ 542,926.46
Pre-Receivership Return (C)	$ 473,687.48
Pre-Receivership Return % (C ÷ A)	24.43%
Receiver's Calculated Interim Distribution [Rising Tide]	$ 69,239.00

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(D) = greater of B – C or Zero

Notes [None]

2. All objections to the Motion that have not been withdrawn, waived, settled, or expressly reserved pursuant to the terms of this Order are overruled.

3. This Court shall retain jurisdiction over any issues relating to the interpretation or enforcement of this Order.

4. This Order shall be binding in all respects on all creditors and interest holders of the Receivership Entity, and their successors and assigns.

Dated this _____ day of _____, 2021.

_____
United States Magistrate Judge Jolie A. Russo

SUBMITTED BY:

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