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*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. JESENİK, BRIAN A. OLIVER;  
and N. SCOTT GILLIS,

Defendants.

No. 3:16-cv-00438-JR

**NOTICE OF FILING RECEIVER'S  
REPORT DATED DECEMBER 30, 2022**

Ronald F. Greenspan, the duly appointed Receiver of the entity defendants and 43 related entities, hereby files the attached Report of Ronald F. Greenspan, Receiver, dated December 30, 2022.

Dated this 10th day of February, 2022.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

By:     *s/ Troy D. Greenfield*      
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RONALD GREENSPAN  
COURT-APPOINTED RECEIVER FOR  
AEQUITAS MANAGEMENT, LLC, AEQUITAS HOLDINGS, LLC, AEQUITAS COMMERCIAL  
FINANCE, LLC, AEQUITAS CAPITAL MANAGEMENT, INC., AEQUITAS INVESTMENT MANAGEMENT, LLC AND  
CERTAIN RELATED ENTITIES  
(the "Receivership Entity")

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In re AEQUITAS MANAGEMENT, LLC, et al.

Case No. 3:16-cv-00438-JR

United States District Court

District of Oregon

Portland Division

Report

of

Ronald F. Greenspan, Receiver

December 31, 2022

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# Aequitas Receiver Report

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## I. Introduction

During the course of an investigation into the business practices of Aequitas Management, LLC (“AM”); Aequitas Holdings, LLC (“AH”); Aequitas Commercial Finance, LLC (“ACF”); Aequitas Capital Management, Inc. (“ACM”); and Aequitas Investment Management, LLC (“AIM”) (collectively “Entity Defendants”), as well as 43 subsidiaries and/or majority-owned affiliates (collectively “Receivership” or “Receivership Entity” or “Aequitas”), the Securities and Exchange Commission (“Commission” or “SEC”) concluded that the appointment of a receiver was necessary and appropriate for the purposes of marshaling and preserving all assets of the Receivership Entity (the “Receivership Property”). Accordingly, on March 10, 2016, the Commission and the Entity Defendants filed a Proposed Stipulated Order Appointing Receiver (the “Proposed Receivership Order”) [Dkt. 2-2].<sup>1</sup>

On March 16, 2016, pursuant to the Stipulated Interim Order Appointing Receiver (the “Interim Receivership Order”), Ronald Greenspan was appointed as Receiver for the Entity Defendants and 43 related entities on an interim basis. On April 14, 2016, pursuant to the Order Appointing Receiver, Mr. Greenspan was appointed as Receiver for the Receivership Entity on a final basis (the “Final Receivership Order”) [Dkt. 156].

In accordance with the Final Receivership Order, the Receiver is required to file a report (the “Receiver’s Report”) with the Court within thirty (30) days after the end of each calendar quarter. This report (the “Report”) represents the report and

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<sup>1</sup> All Dkt (or Docket) references are available at the Receiver’s website - <http://www.kccllc.net/aequitasreceivership>

recommendations to the Court for the quarter ending December 31, 2022. A voluntary report and recommendations to the Court (the “Initial Report”) for the first “stub quarter” ending June 30, 2016 [Dkt. 246], the first mandated quarterly report covering the period through September 30, 2016 [Dkt. 298] and subsequent reports covering the period through December 31, 2016 [Dkt. 365], through March 31, 2017 [Dkt. 444], through June 30, 2017 [Dkt. 491], through September 30, 2017 [Dkt. 559], through December 31, 2017 [Dkt. 587], through March 31, 2018 [Dkt. 610] through June 30, 2018 [Dkt. 644], through September 30, 2018 [Dkt. 662], through December 31, 2018 [Dkt. 674], through March 31, 2019 [Dkt. 700], through June 30, 2019 [Dkt. 749], through September 30, 2019 [Dkt. 776], through December 31, 2019 [Dkt. 793], through March 31, 2020 [Dkt. 826], through June 30, 2020 [Dkt. 843], through September 30, 2020 [Dkt. 860], through December 31, 2020 [Dkt. 872], through March 31, 2021 [Dkt. 885], through June 30, 2021 [Dkt. 903], through September 30, 2021 [Dkt. 915], through December 31, 2021 [Dkt. 922], through March 31, 2022 [Dkt. 979], through June 30, 2022 [Dkt. 997] and through September 30, 2022 [Dkt. 1006] are collectively referred to herein as the “Receiver’s Reports”. In the accompanying discussion of Receivership matters, the Report provides an update regarding some matters previously reported and does not include all details contained in prior Receiver’s Reports. For a complete and fulsome discussion and for such additional details please refer to prior Receiver’s Reports.

As is the case for the prior Receiver’s Reports, the findings and recommendations of the Receiver contained in this Report are subject to change, as necessitated by the discovery of additional information, as well as subsequent analysis and verification.

## **II. Limitations of Report**

The information contained herein has been prepared based upon financial and other data obtained from the Receivership Entity's books and records and provided to the Receiver and FTI Consulting, Inc. from the staff employed by the Receivership Entity as well as its contract staff and advisers, or from public sources.

The Receiver has not subjected the information contained herein to an audit in accordance with generally accepted auditing or attestation standards or the Statement on Standards for Prospective Financial Information issued by the American Institute of Certified Public Accountants (the "AICPA"). Also, most of the Receivership Entity's assets discussed herein are not readily tradable, have no public value indication, are illiquid, are often minority and/or other partial interests, and might be detrimentally affected by affiliation with Aequitas and uncertain consequences of past and future events involving Aequitas. Accordingly, the Receiver cannot express an opinion or any other form of assurance on, and assumes no responsibility for, the accuracy or correctness of the historical information or the completeness and achievability of the projected financial data, valuations, information, and assessments upon which the following Report is rendered.

## **III. Case Background**

### **A. Introduction**

The focus of this Report is to provide an update on various aspects of the Receivership. Additionally, the Final Receivership Order requires that certain items be addressed with the filing of this Report. Pursuant to Section IV Stay of Litigation, paragraph 24 states the following:



*The Receiver shall also investigate the probable impact of discovery directed to the Receiver and the Receivership Entity in Ancillary Proceedings and those actions authorized in Paragraph 23. The Receiver shall include in the report and petition it must file pursuant to Paragraph 39 below, a recommendation to the Court as to a plan to govern all discovery directed to the Receiver and the Receivership Entity in Ancillary Proceedings and those actions authorized in Paragraph 23.*

Each of the required topics will be addressed individually in the Report.

**B. Focus of the Activities to Date**

The Receiver has successfully stabilized the Receivership Entity, preserved value when possible, facilitated the monetization of a majority of the Receivership assets, obtained approval of the Distribution Plan and completed three court-approved interim distributions of a majority of the Receivership assets. Through the quarter ended December 31, 2022, the Receiver has sold Receivership Entity gross assets and collected receivables totaling approximately \$325.3 million, plus an additional \$32 million of gross assets owned by CPFIT (an affiliate of the Receivership Entity but excluded from the Receivership itself), has collected proceeds from litigation and settlements totaling \$20.7 million, and has negotiated claims reductions exceeding at least \$130 million as part of approved settlement agreements.<sup>2</sup>

The Receiver has also entered into and substantially completed the implementation of a settlement with the Consumer Financial Protection Bureau (“CFPB”) and fourteen state Attorneys General in connection with the Corinthian Colleges student

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<sup>2</sup> On April 28, 2022, on behalf of the Receivership Entity, the Receiver entered a Settlement Agreement with the Liquidating Trust of the Bankruptcy Estate of Tango Delta Financial, Inc., (fka American Student Financial Group, Inc. “ASFG”). ASFG and TRD Consulting, LLC (“Joint Claimant”) had filed a proof of claim in the receivership in the amount of \$27,381,251. The Liquidating Trust has agreed to release all claims against the Receivership Entity. This settlement was approved by order of the Court during this reporting period.

loan portfolio held by CSF - including modification or cancellation of each of the approximately 47 thousand loans, and appropriate notification to each of the borrowers.

As previously discussed, on March 10, 2016, the SEC filed a complaint in this Court alleging that certain Aequitas executives and five entities had violated various federal securities laws. On June 6, 2016, the SEC and the Receiver, acting on behalf of the Aequitas Entity Defendants, filed a consent judgment with the Court, which resolved the claims set forth in the SEC Complaint against the Entity Defendants only, without admitting or denying the numerous allegations. A final judgment in this case as to Aequitas Management, LLC; Aequitas Holdings, LLC; Aequitas Commercial Finance, LLC; Aequitas Capital Management, Inc.; and Aequitas Investment Management, LLC was entered by the Court on April 13, 2020 [Dkt. 822]. Summary information related to this judgment and final judgments on consent against the three top executives can be found at <https://www.sec.gov/litigation/litreleases/2020/lr24805.htm>.

As mandated by the Order, the Receiver conducted his forensic investigation, and the resulting report (the “Forensic Report”) was filed with the Court and posted to the Receiver’s website<sup>3</sup> on November 21, 2018 [Dkt. 663].

On April 25, 2019, the Court entered the 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 (the “Claims Procedures Order”).

The Receiver then proceeded expeditiously to implement the claims process as mandated in the Claims Procedures Order. 343 claims were received, and 4,830 initial Notices of Receiver’s Initial Determination were issued.<sup>4</sup> The Receiver has adjudicated

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<sup>3</sup> <http://www.kccllc.net/aequitasreceivership/document/1600438181121000000000001>

<sup>4</sup> Certain claims agree with the Notice of Receiver’s Initial Determination, and a number of filed claims are duplicative. Therefore, the number of actual claims is less than the sum of the filed claims and NODs issued.

the vast majority of the claims that were filed against the Receivership Estate and is actively pursuing resolution of a handful of remaining claims.

On December 23, 2019, with the goal of mitigating certain potential tax consequences and maximizing the future distributions on the Allowed Claims, the Receiver filed his Motion and the Court entered the Order To Authorize, Approve, And Take Continuing Jurisdiction Over A Qualified Settlement Fund (“QSF”), And For Related Relief [Dkt 781]. Subsequently, on December 31, 2019, the Receiver filed his Motion For Order (1) Approving Form And Manner Of Notice Regarding Approval Of Proposed Distribution Plan And Ponzi Determination, (2) Approving Procedures And Deadlines, (3) Setting A Hearing, And For Related Relief [Dkt 785] which was approved by the Court on January 14, 2020 [Dkt 790].

Also, on December 31, 2019, the Receiver filed the Motion To Approve The Receiver’s Distribution Plan And Determination Of A Ponzi Scheme [Dkt 787]. Following a hearing on this Motion on March 31, 2020, the Court entered the Findings of Fact and Conclusions of Law, approving the Receiver’s Distribution/Ponzi Determination Motion, as expressly modified by the Receiver [Dkt. 813].

In the first half of 2020, the Receivership staff and the retained professionals expeditiously managed a Distribution Plan noticing campaign, based on the form and manner of notice approved by the Court, and also prepared to seek Court approval of the proposed first round of distributions. At least 4,796 notices were sent to the parties that were required to be noticed by the Court and relevant information was posted on the Receivership website.

On May 15, 2020, the 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 [Dkt. 835] and the related pleadings were filed with the Court. The Motion was unopposed and was approved by the Court on June 1, 2020 [Dkt. 838]. Following Court approval in June of 2020, the Receivership staff and retained professionals completed the first distribution in the amount of \$973,797<sup>5</sup>.

On October 21, 2020, the 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 (the "Second Distribution Motion") and related pleadings were filed with the Court. [Dkt. Nos. 848-850]. This Motion addressed 2,056 claims across seven different claim classes. The Second Distribution Motion was approved by the Court on November 10, 2020 [Dkt. 861], following which the Receivership staff and retained professionals focused their efforts on the implementation of the Second Distribution. The Second Distribution was substantially completed by the end of 2020, with approximately \$73.5 million going to Defrauded Investors<sup>6</sup>.

In the first quarter of 2021, the Receivership staff and the retained professionals focused on the various tasks of completing the Second Distribution, including but not limited to extensive communication with the Investors and their representatives, addressing Investor inquiries, re-issuing distributions on a case-by-case basis under special circumstances, and preparing for and implementing required tax reporting related to the Second Distribution.

During the second quarter of 2021, the Receivership staff and the retained professionals prepared for the next (third) interim distribution and resolution of the

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<sup>5</sup> Additional detail related to the First Distribution is discussed in section XI.E. of this Report.

<sup>6</sup> Additional detail related to the Second Distribution is discussed in section XI.F. of this Report.

remaining claims. On July 16, 2021, distribution motion notices were mailed to 1,674 parties and relevant information, including answers to an exhaustive set of FAQs, was posted on the Receivership website. On July 19, 2021, the Receiver filed a Third Motion to Approve Classification of Certain Claims (Administrative, Convenience Class, Creditors, and Defrauded Investors), Allow and Approve Distributions on Account of Certain Claims, and Approving Distributions to Claimants Who Elect Reclassification To Convenience Class Status (the “Third Distribution Motion”), by which the Receiver proposed to distribute approximately \$22 million to several classes of claimants. The Third Distribution Motion was approved by the Court on August 5, 2021. Thereafter, the Receivership staff and professionals proceeded expeditiously to implement the distribution. The third interim distribution was completed in October 2021.

From the outset of the Receivership and through this reporting period, the Receiver and his team have expended considerable time and effort to orchestrate successful resolution of claims of both the Receivership Entity and plaintiff investor groups, including but not limited to claims against the professional firms that served the various Aequitas entities such as Tonkon Torp, Integrity Bank & Trust, Deloitte & Touche, EisnerAmper, Sidley Austin, Duff & Phelps, and TD Ameritrade (“Professional Firm Defendants”).

In particular, development of the Receivership Entity’s consolidated database, preparation of the Forensic Report and facilitation of multiple large-scale, multi-day mediation sessions paved the way for the following:

- Payments from the Professional Firm Defendants to the class totaling \$234,613,000, as well as multiple additional seven- and eight-figure payments to other plaintiff investor groups presently subject to confidentiality agreements;

- Releases of contribution and other claims of the Professional Firm Defendants against the Receivership Entity, including the release of a \$50 million contribution claim presented by Deloitte; and
- Contingent releases of contribution and other claims of the Professional Firm Defendants against the Individual Defendants, Advisory Board members and other former officers and directors. The original releases were contingent upon those parties releasing claims to the proceeds of the insurance policies maintained by entities comprising the Receivership Entity.

The efforts of the Receiver to facilitate resolution of investor claims against the Professional Firm Defendants greatly accelerated distributions to the investors, both direct distributions of the settlement proceeds and ultimately distributions from the Receivership Estate and have meaningfully reduced the cost of administering the Receivership.

On October 22, 2020, the Receiver filed a Motion for Order (1) Approving Compromises of Claims, (2) Approving and Authorizing Performance of Settlement Agreements, (3) Entering Claims Bars, and (4) Removing a Receivership Entity and an Extended Entity (“First Motion to Approve Settlements”) and related pleadings [Dkt. Nos. 852 – 855] encompassing 36 settlements. Amongst other requested relief, the Receiver sought approval of the settlement agreement resolving all claims presented in the consolidated insurance coverage action other than those of the Receivership Entity against Catlin. On December 11, 2020, Judge Hernández issued an Order adopting Judge Russo’s Findings and Recommendations [Dkt. 866] and entered the Amended Limited Judgment As To The Professional Firms And The Terrell Parties, Including Permanent Injunctions [Dkt. 867].

On April 16, 2021, the Receiver filed a Motion for Order Approving Compromises of Claims and Authorizing Performance of Settlement Agreements (“Second Motion to Approve Settlements”) and related pleadings [Dkt. Nos. 881-883], involving 47 additional settlements. On May 6, 2021, the Court entered an order granting the Receiver’s Second Motion to Approve Settlements. [Dkt. No. 886].

On July 7, 2021, the Receiver filed another Motion for Order Approving Compromises of Claims and Authorizing Performance of Settlement Agreements (“Third Motion to Approve Settlements”) and related pleadings [Dkt. Nos. 889-891], that was granted by the Court on July 26, 2021 [Dkt. No. 898].

On October 27, 2021, the Receiver filed another Motion for Order Approving Compromises of Claims and Authorizing Performance of Settlement Agreements (“Fourth Motion to Approve Settlements”) and related pleadings [Dkt. Nos. 912 - 914], seeking the Court’s approval of 25 additional settlement agreements that collectively result in payments to the Receivership Estate totaling \$1,207,892.90. On November 23, 2021, the Court entered an order granting the Receiver’s Fourth Motion to Approve Settlements [Dkt. No. 916].

On March 24, 2022, the Receiver filed another Motion for Order Approving Compromises of Claims and Authorizing Performance of Settlement Agreements (“Fifth Motion to Approve Settlements”) and related pleadings [Dkt. Nos. 961 - 963], seeking the Court’s approval of 16 additional settlement agreements that collectively result in payments to the Receivership Estate totaling \$1,111,798.00. On April 12, 2022, the Court entered an order granting the Receiver’s Fifth Motion to Approve Settlements [Dkt. No. 974].

On May 26, 2022, the Receiver filed a Motion for Order (1) Approving Compromises of Claims, (2) Authorizing Performance of Settlement Agreements, and (3)

Authorizing Disbursement of Funds Held in a Segregated Account (“Sixth Motion to Approve Settlements”) and related pleadings [Dkt. Nos. 980 - 982], seeking the Court’s approval of nine additional settlements, including a settlement with the Liquidating Trust of the Bankruptcy Estate of Tango Delta Financial, Inc., (fka American Student Financial Group, Inc. “ASFG”). TRD Consulting, LLC subsequently filed a limited objection to the subject motion. On June 23, 2022, the Receiver filed a reply and supporting declaration [Dkt. 988-989]. On August 22, Judge Jolie A. Russo granted the Receiver’s Sixth Motion to Approve Settlements by way of Findings, Recommendations and Order [Dkt. 998], that were simultaneously referred to Judge Marco A. Hernández for review [Dkt. 999] and subsequently approved by Judge Hernández during this reporting period, on October 14, 2022 [Dkt. 1004]. This settlement resulted in payments to the Receivership Estate totaling \$128,510.00; release of counterparties’ claims against the Receivership Estate in excess of \$29 million; and release of \$1,683,403.38 plus accrued interest from a segregated account.

On December 12, 2022, the Receiver filed a Motion for Order Approving Compromises of Claims and Authorizing Performance of Settlement Agreements (“Seventh Motion to Approve Settlements”) and related pleadings [Dkt. Nos. 1010-1012], seeking the Court’s approval of six additional settlements that collectively result in payments to the Receivership Estate totaling \$1,096,183.48 and release of counterparties’ claims against the Receivership Estate totaling in excess of \$7,663,129.00. On December 28, 2022, the Court entered an order granting the Receiver’s Seventh Motion to Approve Settlements [Dkt. No. 1017].

The settlements addressed in the Receiver’s First, Second, Third, Fourth, Fifth, Sixth and Seventh Motions to Approve Settlements and in one prior separate settlement motion resulted in over \$23.3 million in direct monetary benefits to the Receivership



Estate. Additionally, these settlements eliminated at least 130 million dollars of claims against the Receivership Estate, materially increasing the recovery on the allowed claims of the Defrauded Investors and others.

The Receiver and his retained professionals continue to actively pursue recoveries on the remaining claims that the Receivership holds against various parties, including a very limited number of non-settling net winners and a party currently residing in France who received transfers of value from Aequitas during the Ponzi period. The Receiver anticipates these remaining recovery efforts will be concluded during the second quarter of 2023, although this timetable will necessarily depend upon the posture of the adverse parties and the Court's calendar.

During the subject reporting period, the Receiver and the remaining retained professionals continued to work on various aspects of the operational wind down, re-assessing the current and future infrastructure needs of the Estate. Following up on significant earlier changes to the IT infrastructure that included transition to an off-site data center and strengthening the infrastructure security by implementing a two-factor authentication process, the Receivership staff and the retained professionals continued working on finalizing the transition of the IT infrastructure to a 100% cloud-based solution by focusing on IT footprint and spend reduction. The Receivership has exited the data center and has disposed of the unneeded hardware assets. The Receiver's focus in this process has remained on ensuring that appropriate infrastructure is in place to efficiently support Receivership ongoing operations through the wind down and to preserve information that may be relevant in ongoing litigation.

The office utilized by the Receivership staff was relocated at the end of the first quarter of 2021, with the footprint and rental cost significantly reduced as discussed further below. The Receiver has obtained flexible termination provisions in the

Receivership's current office and is able to vacate the premises and terminate the lease when the space is no longer needed or the Receivership winds up.

During the reporting period, the Receivership continued to facilitate discovery, with additional parties accessing the database, which contains 17.5 million documents. At this stage, the database is largely used by members of the Receiver's professional team in support of recovery efforts, as well as the U.S. Attorney's Office and counsel for the criminal defendants.

Members of the Receiver's professional team continued to provide financial and tax administration including preparing Receivership Entity tax returns.

Significant effort was expended during this reporting period by Receivership staff and retained professionals on planning and implementation of the various Receivership wind down matters, including but not limited to Motolease Financial portfolio wind down, remnant asset potential monetization exploration, and extensive general organizational and tax wind down planning.

**C. Recommendation regarding Continuance of the Receivership**

It remains the Receiver's recommendation that the Receivership be continued. While we are in the homestretch, several crucial steps remain before the Receiver can reasonably seek an order terminating the Receivership. The Receiver must (i) complete the claims processes, (ii) complete the very limited remaining litigation, (iii) manage remaining material distribution(s), and (iv) complete preparation to wind down the estate.

Although the consumer loan portfolios have been immensely reduced, the remaining loans owned by the Receivership require management until they are monetized or otherwise resolved.

Feedback from SEC Staff and Aequitas investors regarding our progress thus far has been positive. The Receiver is very mindful of the priorities to proceed both expeditiously and economically, to make interim distributions whenever possible, and conclude this Receivership in an equitable fashion as soon as practicable. The Receiver believes he has the constituents' support and encouragement to continue his efforts, and that they also support the continuation of the Receivership.

**D. Criminal Actions and SEC Investigations**

Former officers of Aequitas entities, Brian Oliver, Olaf Janke, and N. Scott Gillis were indicted, pled guilty and await sentencing. On or about August 11, 2020, Robert Jesenik, former CEO of Aequitas Management, LLC and several other of the entities comprising the Receivership Entity, was charged in a 32-count indictment with conspiracy to commit mail and wire fraud, wire fraud, bank fraud, and money laundering. Also charged were Brian K. Rice and Andrew N. MacRitchie. The Court entered a scheduling order, setting an anticipated five-week trial to begin April 3, 2023.

**IV. Overview of the Receiver's Activities**

**A. Summary of Operations of the Receiver**

**1. Day-to-Day Management and the Wind Down**

With the termination of Aequitas management, the Receiver has necessarily supervised the day-to-day operations of the various Receivership Entities. In addition to the daily management duties, the Receiver has focused on several key areas of his mandate, including the marshaling, preserving, and monetizing of assets for the benefit of the investors, as well as managing the claims process and distributions on the Allowed Claims.

As addressed above, the Receiver and his professional team have been working on various aspects of the gradual operational wind down, despite the challenges presented by the COVID-19 pandemic since early 2020. The office utilized by the Receivership staff was relocated at the end of the first quarter of 2021, with the footprint and rent significantly reduced, resulting in annualized rent savings of approximately \$202,000, and the Receiver allowed to terminate the new lease upon notice to the landlord. As part of the relocation, the Receivership has disposed of the remaining surplus office furniture and various equipment. Early in 2021 and in connection with the office relocation, the Receiver made significant changes to the IT infrastructure, including transitioning to an off-site data center and scaling down certain service agreements, achieving significant cost savings. Additionally, the Receiver strengthened the infrastructure security by implementing a two-factor access authentication process. Following completion of the next phase of infrastructure reduction, transitioning to a 100% cloud-based solution and vacating the data center as discussed earlier in this Report, the Receivership staff and retained professionals have continued to work during this reporting period on further reducing and optimizing the IT footprint. The cloud transition is providing additional annual cost savings from reduction in infrastructure management labor costs and more flexibility going forward, while allowing the Receivership to continue its necessary operations during the wind-down period.

## **2. Bank Accounts**

As discussed in the Initial Report, the Receiver has instituted an integrated on-line platform that facilitates banking, processing of future distributions, and cash reporting for receivership cases. As assets are being monetized, the Receiver has been closing bank accounts that are no longer necessary. Following the approval of the QSF

by the Court at the end of 2019, the Receiver has established separate QSF bank accounts and has consolidated the majority of the funds controlled by the Receiver in such account(s). In 2020 and 2021, the Receiver closed 39 of the legacy Receivership bank accounts that were no longer needed for the ongoing operations of the Receivership and the QSF. This helped streamline the Receivership cash management operations and facilitate the wind down. As of December 31, 2022, the Receiver maintained 15 bank accounts, consisting of 12 that belong to the Receivership Entity (including six attributed to the QSF), one account controlled by the Receiver that is owned by a related entity, and two accounts (in the process of closing) for an entity that has been removed from the Receivership. The Receiver will continue to close bank accounts that will no longer be needed for the Receivership operations.

The Receiver intends to continue leveraging the existing banking relationships and systems for the implementation of future distribution(s) to the extent feasible.

Cash basis reports including information for the current reporting period and case to date are attached as Exhibit B.

### **3. Staffing**

#### *a. Headcount*

The Receiver continues to maintain the minimum staff necessary for the Receivership and enterprise to operate efficiently and effectively. As of December 31, 2022, the Receivership Entity had three full-time employees and two part-time employees. The Receiver's employee retention program provides for at least six-weeks' notice to employees whose services are anticipated to no longer be required by the Receivership.

*b. Contractors*

In response to earlier staff attrition in addition to the planned reductions, the Receiver necessarily backfilled certain accounting, administrative, and technology positions with local independent contractors (not affiliated with FTI). As of December 31, 2022, the Receivership employed three on-call IT contractors, one portfolio management contractor, and one administrative / investor relations contractor.

**4. Tax Preparation and Other Tax Matters**

*a. Taxes*

In the ordinary course of business, the Receivership has many reporting and tax preparation responsibilities to investors and taxing authorities. Since the inception of the Receivership, the Receiver has retained a tax specialist to assist legacy Aequitas staff in the preparation of tax and information returns, and to provide tax consulting services on an as-needed basis at the request of the Receiver. During the subject reporting period, Receivership staff and professionals focused on preparing for year-end reporting and on planning for the tax requirements and obligations on closure of the Receivership.

*b. Qualified Settlement Fund and Receivership Entities 2022*

*Taxation*

As further described in section XI of this Report, on motion and by order of the Court, substantial assets of the Receivership Entities were transferred to the Aequitas Qualified Settlement Fund Irrevocable Trust (“QSF”) along with the obligation to make distributions under the Court-approved Distribution Plan.

The QSF is subject to tax on its modified gross income. To the extent that assets transferred to the QSF produce includable income, less certain expenses, the QSF will be required to pay tax at the maximum tax rate in effect for that tax year under section 1(e)

of the Internal Revenue Code. The QSF is required to pay tax by submitting quarterly estimates. During each quarter, including the subject reporting period, Receivership staff review the estimated income and expenses for the year and determine if a payment is required. Any remaining tax due is paid by the return due date.

State tax filing requirements for the QSF are determined by the source of the activity of the assets transferred to the QSF.

As described in the prior Reports, final federal and state tax returns have been filed for many of the Receivership Entities. 2022 federal and state returns for the remaining Receivership entities will be filed once completed. It is expected that the QSF will be the final tax filing entity.

*c. Non-Investor Fund Form K-1s*

Members of Aequitas Holdings LLC, Aequitas Partner Fund LLC, and Aequitas Management LLC will be provided 2022 form K-1s later this year.

*d. Distribution Information Reporting and Taxation*

If any future interim distributions are made, the Receiver will provide information reporting as required by law.

The Trustee/Administrator of the QSF as well as the Aequitas Receivership staff and representatives cannot provide Receivership claimants with tax or other legal advice.

Distribution recipients are responsible for determining their tax consequences and reporting requirements, if any, associated with Receivership distributions and are ultimately responsible for any tax obligation arising from such distributions. They should consult with their own tax advisors to determine the effects of U.S. federal, state, local, and any non-U.S. (if applicable) tax rules with respect to the tax consequences of any distributions.

## 5. Ongoing Litigation

As addressed above, the Receiver anticipates the remaining recovery efforts will be concluded during the second quarter of 2023, although this timetable will necessarily depend upon the posture of the adverse parties and the Court's calendar.

### A. Net Winners

With the benefit of the Court's determination that the consolidated Aequitas enterprise was operated as a Ponzi scheme at least as early as July 1, 2014 [Dkt. 813], the Receiver and his team gathered and analyzed data to identify "net winners" (investors who received funds in excess of their initial investments prior to initiation of the Receivership) and determine the amount of their net winnings. The Receiver then provided individual net winners a summary of their account activity as well as a pre-litigation offer of settlement. The majority of the net winners accepted the Receiver's offer and made the corresponding repayment to the Receivership Estate. Those net winner settlement agreements were addressed in the Receiver's First, Second, and Third Motions to Approve Settlements.

In accordance with the prior orders of the Court, on June 28, 2021, the Receiver filed suit against all net winners who had not agreed to return their net winnings to the Receivership Estate ("Net Winner Defendants"), seeking to recover approximately \$2,000,000 plus interest. Since filing suit, the Receiver has settled the Receivership Entity's claims against 41 of the Net Winner Defendants, including three that were approved by the Court on December 28, 2022 [Dkt. 1017].

The table below summarizes the status of the net winner recoveries as of December 31, 2022.



| Net Winner Settlement Summary (as of 12/31/22) | # of Parties | Amount             |
|------------------------------------------------|--------------|--------------------|
| Cash Received from Net Winners                 | 104          | \$3,295,905        |
| Additional Installment Payments Outstanding    |              | \$483,433          |
| Distribution Offsets                           | 9            | \$490,490          |
| <b>Total</b>                                   | <b>113</b>   | <b>\$4,269,827</b> |

The Receiver issued a final settlement offer to the remaining Net Winner Defendants and will soon file a motion for entry of summary judgment against the very few who did not accept the offer.

**B. Remaining Lawsuit Against Recipient of Commissions**

There is only one remaining pending lawsuit against a recipient of Ponzi Period transfers referred to as commissions. The efforts to serve that party in France are ongoing.

**6. Claims Process**

The Receiver undertook an extensive claim noticing process that included notices by publication in 15 major newspapers, issuance and dissemination of a press release, and mail and email noticing of over 6,982 parties, including at least 4,830 parties who received a Notice of Receiver's Initial Determination.

In total, the following number of Notices were sent out:

|                                                   |              |
|---------------------------------------------------|--------------|
| Investor with NOD                                 | 2,060        |
| Other Pre-Receivership Creditor / Vendor with NOD | 2,040        |
| Employee with NOD                                 | 84           |
| Administrative Claimant with NOD                  | 646          |
| Non-NOD notices (not counted above)               | 2,152        |
| <b>Total Notices</b>                              | <b>6,982</b> |

**7. Additional Information Sharing**

Consistent with the requirements of the Claims Procedures Order, the Receiver set up a dedicated data sharing site that allowed him to provide copies of notices to the

legal counsel representing various potential claimants. In some instances, copies of the notices were emailed to legal counsel directly.

While not required by the Claims Procedures Order, in the spirit of cooperation, the Receiver elected to also share copies of the notices received by investors with their Registered Investment Advisors (“RIA”) upon receipt of a confirmation of investor’s consent to the Receiver’s sharing of such information.

#### **8. Responding to Claims Process Inquiries**

Following the mailing of the claims process notices, the Receiver and his staff received numerous follow up inquiries from various parties, including potential claimants and their representatives. Through December 31, 2022, over 2,508 inquiries in connection with the claims process, distributions, and related tax reporting were addressed directly by the Receivership staff and professionals. The Receivership team is continuing to field and respond to inquiries as they are received.

#### **9. Claims Processing and Analysis**

The Receiver’s professionals and staff have performed the review of the filed claims and have submitted three motions to the Court to approve classification and allow distributions on certain claims. Several additional claims were resolved through settlements that have been approved by the Court. Through the date of this Report, the Court has fully or partially adjudicated 4,800 claims. The Receiver anticipates that the remaining handful of claims will be presented to the Court for resolution shortly.

Through December 31, 2022:

- 4,857 Notices of Receiver's Initial Determination ("NOD") were mailed or emailed out by the Receivership (including 4,830 original NODs and 27

replacement NODs that were finalized and sent out during the reporting period)

- 340 individual claim submissions were received by Epiq (the claims agent) including:
  - 33 duplicates
  - 3 claims representing amendments of previously filed claims
  - 43 late-filed claims
- 3 claims that were submitted prior to the Bar Date Order and the establishment of the claims process.

Of the 304 non-duplicative individual claims submissions received above, at least 15 non-duplicative claims did not list any appropriate Aequitas Receivership entity. Additionally, 68 of the non-duplicative claims were filed against multiple Aequitas Receivership entities. As detailed in the attached Report of Cash Receipts and Disbursements (Exhibit B to this Report), for the purpose of consolidated reporting, these claims are counted only once. On the individual entity reports, each entity determined on a preliminary basis as being named in the claim form has the claim included in its count.

Based on the initial review of the Receivership staff, the following is a summary of non-investor claims filed (or allowed NODs if no claim filed). The Receivership staff is continuing to review all submissions to determine the validity of claims. Nothing in the summaries should be considered an acceptance or allowance of any claim.

| Non-Investor Claims              | Count        |
|----------------------------------|--------------|
| NODs Mailed                      | 2,770        |
| Unique claims filed              | 91           |
| Less: Claims filed and NOD sent  | (20)         |
| <b>Total Non-Investor Claims</b> | <b>2,841</b> |

| Non-Investor Claim Type                 | Count        | Amount as Filed or Allowed |
|-----------------------------------------|--------------|----------------------------|
| Non-Officer Former Employees >\$12,850  | 41           | 1,438,316                  |
| Non-Officer Former Employees <=\$12,850 | 46           | 384,668                    |
| CarePayment Refund Checks               | 2,430        | 183,156                    |
| Campus Student Funding Refund Checks    | 189          | 61,614                     |
| Taxes                                   | 45           | 539,422                    |
| Other Claims >\$20,000                  | 15           | 88,704,271                 |
| Other Claims <=\$20,000                 | 75           | 248,897                    |
| <b>Total</b>                            | <b>2,841</b> | <b>\$ 91,560,344</b>       |

#### Top Ten Filed Non-Investor Claims

| Claimant Name                              | Amount               |
|--------------------------------------------|----------------------|
| Deloitte & Touche LLP <sup>7</sup>         | \$ 50,000,000        |
| ASFG Inc & TRD Consulting LLC <sup>8</sup> | 27,381,257           |
| Norman Gary Price/Strategic Capital Group  | 5,638,129            |
| CBL Insurance Ltd                          | 1,994,000            |
| DELL Financial Services LLC                | 1,124,865            |
| Olaf Janke                                 | 897,360              |
| Akin Gump Strauss Hauer & Feld LLP         | 646,127              |
| Brian K Rice                               | 438,837              |
| Salesforce.com Inc.                        | 346,478              |
| JCPR Inc D/B/A J Connelly                  | 65,998               |
| <b>Total Top Ten Trade Claims</b>          | <b>\$ 88,533,050</b> |

## V. Disposition of Assets/Interests

### A. Assets/Interests Sold

#### Synchronex, LLC<sup>9</sup>

Synchronex LLC provides technology solutions to the publishing industry via multiple products. It offers syncAccess, a cloud-based pay meter solution that helps newspaper publishers to develop, configure, own, and evolve mobile and digital products.

<sup>7</sup> On June 30, 2020, the Receiver executed an amended and restated settlement agreement with Deloitte, by which Deloitte agreed to release its contribution claim effective upon Court approval of the settlement.

<sup>8</sup> On April 28, 2022, on behalf of the Receivership Entity, the Receiver entered a Settlement Agreement with the Liquidating Trust of the Bankruptcy Estate of Tango Delta Financial, Inc., (fka American Student Financial Group, Inc. "ASFG"). ASFG and TRD Consulting, LLC ("Joint Claimant") filed a proof of claim in the receivership in the amount of \$27,381,251. The claims of the Liquidating Trust against the Receivership Entity have been released.

<sup>9</sup> <http://www.synchronex.com/en/>

The Receiver, on behalf of each of AH, ACL, ACF, APF, and Aequitas Management, LLC (“AM”), (AH, AM, ACL and APF each a “Seller Entity,” and collectively the “Seller Entities”), entered into a Purchase Agreement dated as of April 9, 2018, subject to approval of this Court, with Silvermine Media Holdings, LLC (“Purchaser”), which provides the terms for sale of the Seller Entities’ (a) membership interests in company, and (b) their lenders’ interests in certain loans to company (together, the “Assigned Interests”, as defined in the Purchase Agreement). The Court issued its Order Granting Receiver's Motion To Sell Personal Property To Silvermine Media Holdings, LLC, Free And Clear Of Liens, Interests, Claims And Encumbrances relative to the Assigned Interests on May 17, 2018 [Dkt. 614] and the sale closed on June 15, 2018, repaying the AH Loan in full. Pursuant to the Purchase Agreement, the Purchaser had until September 15, 2018, to calculate a purchase price adjustment for operating capital which could result in the receipt of additional consideration of up to \$75 thousand. On September 14, 2018, the Purchaser advised the Receivership that the review of the Closing Balance Sheet had concluded and the Losses (as defined in the Purchase Agreement) exceed \$75 thousand by a substantial margin and, accordingly, the Purchase Price will be reduced by \$75 thousand pursuant to the terms of the Purchase Agreement. Accordingly, the Receiver has filed suit to recover the \$75 thousand plus reasonable costs from Synchronex’s CEO based on representations and warranties made by him in conjunction with the Purchase agreement. The parties participated in the court-ordered mediation on May 4, 2022 and reached a settlement that resolved all outstanding claims between Mr. Michael Pirello and the Receivership Entity. The settlement was submitted for Court approval on May 26, 2022 [Dkt. 980] and approved by Judge Marco A. Hernández during this reporting period on October 14, 2022 [Dkt. 1004].

**B. Ongoing Asset Monetization and Sales Efforts**

**1. Campus Student Funding**

On August 17, 2017, the Court approved Receiver entering into the nationwide settlement with Consumer Financial Protection Bureau (CFPB) and thirteen state Attorneys General in connection with the Corinthian Colleges private student loan portfolio owned by the Receivership (the “Settlement”) [Dkt. 495]. Subsequently, on June 12, 2018, the Court approved the Receiver’s Motion for Approval of Proposed Settlement with Massachusetts Attorney General. [Dkt. 620]. The Massachusetts Settlement, implemented in the form of an Assurance of Discontinuance, became effective on June 21, 2018.

Following the very significant effort expended by the Receivership on the implementation of the Settlement at the end of 2017 and in the beginning of 2018, which resulted in processing relief in connection with approximately 47 thousand loans, the Receiver continued to implement the remaining obligations under the Settlement in 2018. Subsequently, the Receivership staff and retained professionals continued to work with the regulators to address any questions that came up in the course of the operations of the portfolio.

Additionally, we have continued to maintain an informational website for the borrowers in connection with the Settlement. Most of the borrower inquiries are being addressed by the servicer but the Receivership also addressed 1,935 borrower inquiries directly (through December 31, 2022). In addition to addressing direct borrower inquiries, the Receivership staff and retained professionals monitor, review, and respond as needed to borrower complaints that are submitted through the CFPB on-line consumer complaint portal or through other venues. All these activities are instrumental

in mitigating the Settlement implementation risk to the Receivership, reducing the number of potential borrower complaints, and stabilizing the portfolio.

To handle potential borrower inquiries related to the 1099 tax forms, the Receivership has set up an outsourced call center that handled 2,512 calls, including 1,082 calls answered by agents, through December 31, 2022 (the rest of the callers chose to only listen to a detailed recorded message). The Receivership staff and retained professionals continue to work with the call center vendor to review call logs and monitor the performance to make sure that the borrowers receive appropriate information.

In the reporting period, the Receivership team continued to work with the loan servicer and help address borrower inquiries. The Receiver is continuing to monitor the portfolio performance and evaluate the next steps in connection with the wind down of the remaining portfolio.

## **2. MotoLease Financial, LLC (“MLF”)**

MLF held subprime consumer leases for motorcycle and other recreational vehicles. Through December 31, 2022, the Receiver has collected approximately \$16.1 million on account of the leases owned at the beginning of the Receivership. The Receiver is in the process of winding down this portfolio and addressing the remaining tax matters. On June 21, 2022, the Receiver filed a Motion to Abandon All Right, Title, and Interest in Certain Tangible Personal Property of Motolease Financial, LLC which was granted on July 25, 2022.

## **3. Portland Seed Fund (PSF)<sup>10</sup>**

Portland Seed Fund is an investment in a local venture capital fund providing early-stage capital to Oregon based start-ups. Proceeds from recent monetizations of

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<sup>10</sup> <http://portlandseedfund.com/>

investments by the Fund were distributed to PSF members, including the Receivership, in June and August of 2021 and in May and October of 2022. The cumulative distributions from PSF are now greater than the contributions, and additional distributions are expected in the future.

The Receivership professionals have continued exploring opportunities to monetize the remaining PSF interest in the context of the PSF anticipated future wind down. At this time, the Receiver intends to hold this asset until further notice.

## **VI. Communications to Interested Parties**

### **A. Ongoing Communication with Investors/Counsel**

At the outset of the Receivership, to facilitate regular communication regarding significant opportunities, challenges and actions, the Receiver formed the Investor Advisory Committee (the "IAC"). Particularly with the Court's approval of the distribution plan and resolution of the investors' actions against the Professional Firm Defendants, there is no need for regular meetings with the IAC nor investors' counsel. However, as the Court is aware, the Receiver, his legal counsel, and staff continue to stay in contact with IAC members and investors' counsel, while also responding to significant numbers of direct investor inquiries. There has been no request to have a formal IAC meeting at this stage of the Receivership.

### **B. SEC and Other Governmental Agencies**

#### **1. SEC**

We continue to interact and cooperate with the SEC Staff, as required by the consent judgement, but there is nothing new to report (other than the developments referenced in sections III.B and III.D above).



**2. CSF and CFPB, and State Attorneys General**

Please see section V.B.1 above for the discussion of the Settlement with CFPB and fourteen state Attorneys General.

**3. Additional Governmental Agencies**

The Receiver has expended significant efforts to comply with various discovery requests from state and federal agencies in conjunction with their investigations. In addition, as discussed earlier, discovery and related disputes in the pending criminal matter, captioned *U.S. v. Jesenik, et. al.*, United States District Court for the District of Oregon, Case No. 3:20-cr-00228-SI, have required material attention of the Receiver and members of the Receiver's professional team in light of attorney-client privilege and other issues.

**VII. Lender Relationships**

**A. Retirement of Institutional Debt**

The Receivership Entities and affiliates have retired, generally on discounted terms, the entirety of the approximately \$104 million of institutional secured debt.

**VIII. Assets in the Possession, Custody and Control of the Receivership**

**Estate**

**A. Cash and Cash Equivalents**

Following the significant distributions made in 2020 and 2021 and collections resulting from numerous settlements, the Receiver had cash balances of approximately \$23.5 million as of December 31, 2022, for the entities included in the Receivership Entity.

Attached as Exhibit B to this Report is the Report of Cash Receipts and Disbursements in the form of the SFAR as prescribed by the SEC. The reports, together with the accompanying footnotes and detailed schedules, provide an accounting of the Receivership Entity's cash activities through December 31, 2022.

## IX. Accrued Professional Fees

As previously discussed, the Receiver has retained several key professionals to assist him in managing the various Aequitas entities, dealing with inquiries and investigations from governmental agencies and prosecuting his mandate as the Receiver.

The amounts are preliminary and subject to adjustment based on the interim and final fee applications. Detailed time records and supporting documents are being supplied to the Commission and fee applications will be filed with the Court for Court approval prior to the payment. All professionals, including the Receiver, are working at a discount to their standard rates.

### Aequitas Receivership

Professional Fees & Expenses by Entity (from October 1 to December 31, 2022)

| Entity                                        | Fees (\$)         | Percentage  | Expenses (\$)   | Percentage  | Total (\$)        | Percentage  |
|-----------------------------------------------|-------------------|-------------|-----------------|-------------|-------------------|-------------|
| Receiver                                      | 5,032.50          | 2.0%        | -               | 0.0%        | 5,032.50          | 2.0%        |
| FTI Consulting                                | 87,982.50         | 34.9%       | -               | 0.0%        | 87,982.50         | 34.5%       |
| Pepper Hamilton <sup>[1]</sup>                | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| Schwabe, Williamson & Wyatt                   | 159,404.00        | 63.2%       | 2,790.16        | 100.0%      | 162,194.16        | 63.6%       |
| Morrison Foerster <sup>[1]</sup>              | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| Law Office of Stanley H. Shure <sup>[1]</sup> | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| Snell & Wilmer <sup>[1]</sup>                 | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| Parsons Farnell & Grein <sup>[1]</sup>        | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| Pachulski Stang Ziehl & Jones <sup>[1]</sup>  | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| Akin Gump <sup>[1]</sup>                      | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| Ater Wynne <sup>[1]</sup>                     | -                 | 0.0%        | -               | 0.0%        | -                 | 0.0%        |
| <b>Total:</b>                                 | <b>252,419.00</b> | <b>100%</b> | <b>2,790.16</b> | <b>100%</b> | <b>255,209.16</b> | <b>100%</b> |

[1] Pepper Hamilton, Morrison Foerster, Law Office of Stanley H. Shure, Snell & Wilmer, Parsons Farnell & Grein, Pachulski Stang Ziehl & Jones, Akin Gump, and Ater Wynne did not incur fees or expenses during the billing period.

## **X. Receivership Claimants**

In the Initial Report, the Receiver provided a summary compilation of claimants. The summary reflected the Aequitas entities where claimants invested/loaned funds. On May 15, 2020, the 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 ("the First Distribution Motion") [Dkt. 835] was filed together with the supporting Declaration of Ronald F. Greenspan ("Greenspan First Distribution Declaration") [Dkt. 836]. The Court subsequently issued its Order Granting 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 on June 1, 2020 ("the First Distribution Order") [Dkt. 838]. Please refer to the exhibits included in the Greenspan First Distribution Declaration for the details of the claims that have been adjudicated as part of the First Distribution Order.

On October 21, 2020, the Receiver's Second Distribution Motion was filed together with the supporting Declaration of Ronald F. Greenspan ("Greenspan Second Distribution Declaration") [Dkt. 849]. The Second Distribution Motion was subsequently approved by the Court. Please refer to the exhibits included in the Greenspan Second Distribution Declaration for the details of the claims that were adjudicated as part of the Second Distribution Motion.

On February 18, 2021, the Receiver filed a 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 [Dkt. Nos. 873-875].

The Motion was approved by Judge Jolie A. Russo on March 7, 2021 [Dkt. 877].

On July 19, 2021, the Receiver's Third Distribution Motion was filed with the Court, together with the supporting Declaration of Ronald F. Greenspan ("Greenspan Third Distribution Declaration") [Dkt. 895, 896]. The Third Distribution Motion was subsequently approved by the Court. Please refer to the exhibits included in the Greenspan Third Distribution Declaration for the details of the claims adjudicated as part of the Third Distribution Motion.

## **XI. Summary of the Distribution Plan**

The Receiver, among other duties, was authorized, empowered, and directed to develop a plan for the fair, reasonable, and efficient recovery and distribution of Receivership Property for the benefit of investors and creditors (the "Distribution Plan").<sup>11</sup> The following describes the significant effort undertaken by the Receiver and his staff and retained professionals to advance the Distribution Plan. This Report is not intended to establish any presumption(s) regarding distribution of the Receivership Property.

### **A. Qualified Settlement Fund**

On December 23, 2019, the Receiver filed his Motion For Order To Authorize, Approve, And Take Continuing Jurisdiction Over A Qualified Settlement Fund ("QSF"), And For Related Relief [Dkt 779]. In relation to effectuating the Distribution Plan, the Receiver and his professionals determined that, for tax purposes, a QSF is the best vehicle for making distributions to holders of Allowed Claims, including Investors and other Claimants found to have Allowed Claims. Further, to mitigate certain potential tax

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<sup>11</sup> Receivership Order [Dkt. 156], ¶ 38.

consequences to the Receivership Estate under Oregon law, the Receiver requested the creation and transfer of assets to the QSF to be approved by the Court before January 1, 2020. The Receiver and his professionals estimate the potential tax savings to the Receivership Estate from implementing the QSF at upwards of \$2 million.<sup>12</sup>

The requested QSF motion was so ordered on December 23, 2019 [Dkt 781].

**B. Distribution Plan**

On December 31, 2019, the Receiver filed the Motion To Approve The Receiver's Distribution Plan And Determination Of A Ponzi Scheme [Dkt 787]. In conjunction with his request for the finding of a Ponzi scheme, the Receiver moved the Court to approve a Distribution Plan that contains interrelated components and compromises that he believes provides the most equitable treatment of Allowed Claims and the equitable distribution of funds. Impacted parties are urged to read the Distribution Plan in its entirety and is available for review at the Aequitas Receiver's website ([www.kccllc.net/aequitasreceivership](http://www.kccllc.net/aequitasreceivership)) and the Receiver's Claims Agent website (<http://www.AequitasClaims.com>).

For tax and other distribution purposes, the Receiver has allocated the distribution between the Defrauded Investors' multiple accounts based on each account's relative Net Investment Loss. For further information regarding the aggregation of accounts, please see Article VI.E of the Distribution Plan Motion.

**C. Findings of Fact and Conclusions of Law**

The Court entered its Findings of Fact and Conclusions of Law on March 31, 2020 [Dkt. 813]. In its Order, among other things, the Court:

- Approved the Distribution Plan as expressly modified by the Receiver;

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<sup>12</sup> Following additional tax planning work related to the possible tax treatment on cancellation of debt income under the "Corporate Activity Tax" (the "CAT"), newly created under Oregon House Bill ("HB") 3427 and HB 2164, the estimated tax impact was increased to approximately \$2 million from the initial estimate of in excess of \$1 million.

- Overruled any objections to the Receiver's Distribution/Ponzi Determination Motion that had not been withdrawn, waived, settled, or expressly reserved pursuant to the terms of the Order;
- Permitted the Receiver to commence with distributions consistent with the terms of the Distribution Plan without further order by the Court, noting that all distributions shall be free and clear of any and all liens, claims, interests, and encumbrances;
- Directed each Defrauded Investor and other Claimant to cooperate and supply such information and documentation as is requested by the Receiver and his professionals to effectuate the Distribution Plan; and
- Made the Order binding in all respects on all creditors and interest holders of the Receivership Entity and their successors and assigns.

**D. Distribution Plan Noticing**

In the first quarter of 2020, at least 4,796 Distribution Plan notices were sent to the parties based on the form and matter of notice that had been approved by the Court. The Receivership professionals worked closely with KCC, the host of the main Receivership website, and with Epiq, the noticing agent, to update relevant information provided to the public on the Receivership websites.

**E. The First Distribution**

In connection with the First Distribution Motion, on May 8, 2020, the Receiver provided conferral notices to counsel and mailed notices to 2,674 parties whose claims were resolved as part of the First Distribution.

As discussed earlier in the Report, the First Distribution Order was entered by the Court on June 1, 2020. The table below summarizes the First Distribution disbursements.

| Claims Paid -1st Interim Distribution                             | Count | Amount     |
|-------------------------------------------------------------------|-------|------------|
| Administrative Class Claims                                       | 429   | \$86,010   |
| Non-Officer Former Employees Claims                               | 78    | \$797,722  |
| Convenience Class Claims                                          | 336   | \$90,065   |
| Total Receivership Distributions                                  | 843   | \$973,797  |
| Expired and Uncashed Distributions<br>- funds returned to the QSF | (266) | (\$32,253) |
| Net Receivership Distributions                                    | 577   | \$941,544  |

#### F. The Second Distribution

As discussed above, the Second Distribution Order was entered by the Court on November 10, 2020. Distributions to Defrauded Investors were made to counsel representing the *Albers*, *Wurster*, and *Pommier* litigation groups, to investment custodians, or directly to Defrauded Investors, as applicable. The table below summarizes the Second Distribution disbursements.

| Claims Paid -2nd Interim Distribution                             | Count | Amount       |
|-------------------------------------------------------------------|-------|--------------|
| Administrative Class Claims                                       | 8     | \$958        |
| Non-Officer Former Employees Claims                               | 4     | \$49,546     |
| Convenience Class Claims                                          | 36    | \$18,689     |
| Defrauded Investor Claims <sup>1</sup>                            | 1652  | \$73,403,642 |
| Total Receivership Distributions                                  | 1700  | \$73,472,835 |
| Expired and Uncashed Distributions<br>- funds returned to the QSF | (21)  | (\$5,131)    |
| Net Receivership Distributions                                    | 1679  | \$73,467,705 |

1. Reduced by Net Winner Offsets as applicable

#### G. The Third Distribution

As discussed earlier in the Report, on July 19, 2021, the Receiver filed the Third Distribution Motion with the Court. By way of the Third Distribution Motion, the Receiver recommended distributions totaling approximately \$22 million. The Third Distribution

Motion was approved by the Court on August 5, 2021. The table below summarizes the Third Distribution disbursements.

| <b>Claims Paid -3rd Interim Distribution</b> | <b>Count</b> | <b>Amount</b>       |
|----------------------------------------------|--------------|---------------------|
| Administrative Class Claims                  | 13           | \$5,437             |
| Convenience Class Claims                     | 8            | \$21,524            |
| Defrauded Investor Claims                    | 1667         | \$22,019,424        |
| <b>Total Receivership Distributions</b>      | <b>1688</b>  | <b>\$22,046,385</b> |
| Returned Distributions                       |              |                     |
| - funds returned to the QSF                  | (1)          | (\$1,052)           |
| <b>Net Receivership Distributions</b>        | <b>1687</b>  | <b>\$22,045,332</b> |

#### **H. Lux Settlement Implementation and Funds Release**

In prior quarterly Reports, the Receiver has addressed the claims resolution with the Lux Parties. The settlement was approved by the Court on December 11, 2020 [Dkt. 866]. Throughout 2021, the Receivership staff and retained professionals worked with the Lux Parties and their counsel on finalizing the implementation of the Court-approved settlement, including but not limited to Aequitas Commercial Finance LLC resigning as the grantor of the ACC Funding Series Trust 2015-5 (“ACC Trust”) and ACC Trust releasing the funds held in a segregated bank account. The Lux settlement transactions were finalized effective November 24, 2021, with approximately \$9.3 million released shortly thereafter.

#### **I. ASFG Settlement Implementation and Funds Release**

In prior quarterly Reports and in this Report, the Receiver has addressed the claims resolution with the Liquidating Trust of the Bankruptcy Estate of Tango Delta Financial, Inc., (fka American Student Financial Group, Inc. “ASFG”). Following the approval of the ASFG settlement by the Court on October 13, 2022 [Dkt. 1004] and subsequent expiration of the appeal period, the Receiver released the funds previously held in a segregated bank account to be utilized in accordance with the terms of the



Receivership Order, the Court-approved Distribution Plan, and the settlement agreement with the Liquidating Trust of the Bankruptcy Estate of Tango Delta.

## **XII. Timeline and Future Interim Distributions**

As discussed more fully in the Report, the Receiver has made very substantial progress in actively recovering, stabilizing and monetizing assets, consolidated and rationalized the terabytes of electronic data and facilitated access by litigating parties, effected settlements with multiple governmental agencies and major claimants, completed the principal forensic investigation, organized and facilitated an exhaustive and exceedingly successful mediation process that resulted in recovery of a significant portion of Investor losses, implemented the claims process and obtained Court approval for the Distribution Plan. The Receiver has also obtained Court approval for the First, Second, and Third Distributions and has fully implemented all three interim distributions.

While it is difficult to provide a definitive timeline for the completion of the concluding phases of the Receivership, culminating in the final round of distributions on Allowed Claims and Court-ordered termination of the receivership, the Receiver reasonably anticipates the vast majority of the remaining tasks will be completed in the first half of 2023. The precise timing of any subsequent distributions is largely dependent upon when the claims resolution process and the remaining recovery lawsuits are concluded and their respective outcomes.