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

Defendants.

No. 3:16-cv-00438-JR

ORDER GRANTING 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



This matter having come before the Court on 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 "Motion")<sup>1</sup> [Dkt. 848], and the Court, having given all counsel, and all affected parties an opportunity to oppose the Motion, and having considered the Declaration of Ronald F. Greenspan [Dkt. 849], and the Court being fully advised in the premises, now, therefore,

THE COURT FINDS as follows:

A. On March 10, 2016, the Securities and Exchange Commission ("SEC") filed a complaint in this Court against the five entity defendants, Robert J. Jesenik, Brian A. Oliver, and N. Scott Gillis.

B. On March 16, 2016, pursuant to the Stipulated Interim Order Appointing Receiver, the Receiver was appointed as receiver for the entity defendants and 43 related entities (together, the "Receivership Entity") on an interim basis (the "Interim Receivership Order"). On April 14, 2016, pursuant to the Order Appointing Receiver, the Receiver was appointed as receiver for the Receivership Entity on a final basis (the "Final Receivership Order").

C. Due, timely, and adequate notice of the Motion was given, and such notice was good, sufficient, and appropriate under the circumstances. No other or further notice of the Motion is or shall be required.

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<sup>1</sup> Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Motion.

D. On December 31, 2019, the Receiver moved the Court for a determination that the Aequitas Enterprise operated as a Ponzi scheme and approval of the Receiver's proposed distribution plan.<sup>2</sup> That same day, the Receiver moved the Court to approve a notice procedure, briefing schedule, and hearing date.<sup>3</sup>

E. On January 14, 2020, the Court approved the Receiver's proposed means of providing interested parties notice of the Receiver's proposed distribution plan and Ponzi determination.<sup>4</sup> The Court set briefing deadlines, including a February 20, 2020 deadline for interested parties to file objections.<sup>5</sup> The Court additionally set March 31, 2020, as the hearing date on the Receiver's motion regarding a Ponzi determination and distribution plan.<sup>6</sup>

F. On March 31, 2020, following the scheduled hearing, this Court concluded that the Aequitas Enterprise operated as a Ponzi scheme.<sup>7</sup> Relatedly, the Court approved the Receiver's proposed distribution plan, as modified.<sup>8</sup>

G. The Court having reviewed the Motion, and having considered the presentations of counsel, and having considered any objections filed to the Motion, if any, and it appearing that

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<sup>2</sup> Receiver's Motion to Approve Receiver's Distribution Plan and Determination of a Ponzi Scheme [Dkt. 787].

<sup>3</sup> Receiver's 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].

<sup>4</sup> 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. 790].

<sup>5</sup> *Id.* at 2-3.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> FF&CL [Dkt. 813] at 14.

<sup>8</sup> *Id.* at 18.

the relief sought in the Motion is in the best interest of the Receivership Entity and its estate, and for good cause shown,

IT IS HEREBY ORDERED AND DECREED as follows.

1. The Motion is granted in its entirety and the Court hereby:
  - (a) Approves the Receiver's classification of the Claims of Specified Claimants listed on the following Exhibits to the Declaration of Ronald F. Greenspan:

Exhibit 1	Administrative Class
Exhibit 2	Non-Officer Former Employee Class
Exhibit 3	Convenience Class
Exhibit 4	Defrauded Investor Class
Exhibit 5	Creditor Class
Exhibit 6	Individual Defendant Class
Exhibit 7	Pass-through Investor Class
  - (b) For those Claims of Specified Claimants in Exhibits 1 – 4, 6, and 7, allows claim amounts as set forth in those exhibits;
  - (c) For those Specified Claimants in Exhibits 1 – 3 and 6 with Allowed Claims for which distributions may be had under the Distribution Plan, approves the final distribution of amounts as set forth in those exhibits (which for some Allowed Claims is zero) in full satisfaction of those Allowed Claims; and
  - (d) For those Specified Claimants in Exhibit 4 with Allowed Claims for which distributions may be had under the Distribution Plan, approves the initial distribution of amounts as set forth in that exhibit (in the Receiver's Calculated Interim Distribution [Rising Tide] field) in partial satisfaction of those Allowed Claims, recognizing that certain Defrauded Investors are members of plaintiff groups with intra-group allocation agreements and, as a result, distributions from the Receivership Estate to those Defrauded Investors and/or their portion of the proceeds of the Tort Claim Settlement with the Receivership Entity may be combined with those of other members of the respective plaintiff group and allocated in accordance with

an intra-group agreement, which may ultimately result in those Defrauded Investors receiving more or less than the Receiver's Calculated Interim Distribution [Rising Tide].

2. The Court is not by this Order adjudicating any rights of Claimants who were not identified as Specified Claimants in the Motion nor adjudicating the classification, Allowed Claim, or Distribution for any Specified Claimant for whom an exhibit field proposes "TBD" or is not specified for that particular determination in the Exhibits to the Declaration of Ronald F. Greenspan.

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

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

5. 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 10th day of November, 2020.

/s/ Jolie A. Russo  
United States Magistrate Judge Jolie A. Russo

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SUBMITTED BY:

SCHWABE, WILLIAMSON & WYATT, P.C.

By:       s/ Troy Greenfield      

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