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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JOHN WAYNE ZIDAR, et al.,

Defendants.

CASE NO. C00-823C

ORDER

This matter comes before the Court on the Receiver’s February 24, 2005 Motion Seeking Approval of the Amended Distribution Report and an Order Directing the Receiver to Distribute Receivership Assets Pursuant to the Amended Distribution Report (Dkt. No. 355).

The Receiver submitted an attachment with his motion identified as the “Amended Distribution Report.” The Amended Distribution Report lists each investor claimant and identifies his or her “Verified Amount” and his or her “Pro Rata Ratio.”

As of the date of the motion, the Receiver reported that the assets managed and controlled by his office (“Receivership Assets”) totaled \$24,801,473.39. He also reported that the verified losses (“Verified Amount”) for all claimants totaled \$61,602,302.95. The Receiver calculated a “Pro Rata Ratio” by dividing the Receivership Assets by the total Verified Amount. However, the Pro Rata Ratio

1 was calculated after the Receiver made four adjustments to the Receivership Assets. The Receiver
2 reduced the Receivership Assets as follows: (1) \$167,500.00 for future fees and costs; (2) \$100,198.30
3 for past fees; and (3) \$247,928.13 for monies owed individuals whose funds were frozen at ANZ Bank
4 New York. The Receiver then increased the Receivership Assets by \$1,269,242.34 to account for a prior
5 payment made to Dr. Heinz Zunker. Due to these adjustments, the Receivership Assets totaled
6 \$25,555,089.30 when the Receiver calculated the Pro Rata Ratio. Accordingly, the Receiver
7 recommends that each investor receive a Pro Rata Ratio of 41.48% on his or her Verified Amount.

8 The Court has considered the Receiver's motion, and the pleadings and declarations on file in this
9 action.

10 Based on the pleadings, declarations and records on file, the Court orders as follows:

11 IT IS ORDERED that the Court approves the Receiver's February 24, 2005 Amended
12 Distribution Report and directs the Receiver to make distributions to each claimant based on the Pro Rata
13 Ratio recommended in the Amended Distribution Report.

14 IT IS FURTHER ORDERED that the Court approves the Receiver's Pro Rata Ratio calculation
15 and the fact that it was calculated after the Receiver withdrew the following items from the Receivership
16 Assets: (1) \$167,500.00 for future fees and costs; (2) \$100,198.30 deduction for past fees; and (3)
17 \$247,928.13 deduction for funds plus interest from ANZ Bank New York that are directly traceable to
18 specific investors. The Court also approves the fact that the Receiver credited the Receivership Assets
19 for \$1,269,242.34 already paid Dr. Heinz Zunker.

20 IT IS FURTHER ORDERED that the Court approves the Receiver's analysis regarding the claim
21 filed by Dr. Heinz Zunker and orders the Receiver to make a payment to Dr. Heinz Zunker in an amount
22 representing just the excess owed Dr. Zunker beyond the \$1,269,242.34 he already received.

23 IT IS FURTHER ORDERED that the Receiver shall make distributions pursuant to the Amended
24 Distribution Report by mailing the disbursement checks via U.S. Mail within thirty (30) days of this
25 order.

1 IT IS FURTHER ORDERED that the Receiver shall forward the entire amounts owed attorney
2 David Smith's clients directly to David Smith by wire transfer within thirty (30) days of this order.
3 Attorney David Smith shall forward the disbursements to each of his clients. The Receiver identified
4 Smith's clients in Exhibit D accompanying his motion.

5 IT IS FURTHER ORDERED that the Receiver shall continue to recover assets that are linked to
6 the defendants' fraudulent transactions. It is ordered that within six (6) months of this order, the
7 Receiver shall submit a report to the Court and a "Supplemental Distribution Proposal" if the Receiver
8 has located and recovered other assets.

9 IT IS FURTHER ORDERED that the Supplemental Distribution Proposal, if any, shall be
10 distributed pursuant to the Pro Rata Ratio calculated in the Amended Distribution Report.

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12 SO ORDERED this 15th day of March, 2005.

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15 UNITED STATES DISTRICT JUDGE
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