

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

**ORDER GRANTING RECEIVER GREGORY S. MILLIGAN’S MOTION FOR ORDER  
APPROVING DISTRIBUTION PLAN AND INTERIM DISTRIBUTION**

This matter is before the Court on the Motion for Order Approving Distribution Plan and Interim Distribution filed by the Receiver Gregory S. Milligan (the “Motion”) (Dkt. 504). The Court, having considered the Motion and the information submitted in support, responses or objections, if any, the arguments of counsel, and the pleadings on file finds that the Motion should be, and hereby is, GRANTED.

IT IS THEREFORE ORDERED that:

1. The Motion is GRANTED, subject to the Court’s ruling on the pending objections to the Motion.
2. The Court finds the distribution plan set forth in the Motion (the “Plan”) is fair and reasonable, and is approved, including without limitation:
  - a. The division of those who submitted claims to the Receiver (“Claimants”) into five classes based on their relationship to the Receivership Estate;
  - b. The pooling of Receivership Estate assets for distribution;
  - c. The subordination of Class 5 Claimants such that allowed Class 5 Claimants shall not receive any distribution until allowed Class 1, 2, 3, and 4 Claimants

are paid in full;

- d. The netting of Claimant investments and Claimant recoveries based on their losses in the Ponzi scheme; and
- e. The use of the rising tide methodology to calculate distributions to allowed Class 4 Claimants, and the treatment of Claimant recoveries and net winnings as pre-receivership withdrawals for the purpose of those calculations.

3. The following Claimants are deemed insiders falling within Class 5: (i) I-0117; (ii) I-0181; (iii) I-0239; (iv) I-0268; (v) I-0104; and (vi) I-0189. If Relief Defendant Amanda Merrill is unsuccessful on her claims to disputed real and personal property and is determined to have submitted a claim against assets of the Receivership Estate, she will be deemed a Class 5 Claimant.

4. The Receiver shall reserve sufficient assets to ensure the payment of allowed Class 1, 2, and 3 Claimants and protection of assets in dispute.

5. Subject to paragraph 4 above, the Receiver is authorized to make an interim distribution of \$50,000,000.00 to allowed Class 4 Claimants in accordance with the Plan, withholding and reserving from the distribution the amount sought on disputed claims.

6. To be eligible for the distribution payment, each allowed Class 4 Claimant must provide the Receiver with a completed and signed W-9 on the most recent form W-9, found at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>. The allowed Claimant shall have 90 days from the date the distribution check is issued to negotiate the payment. To the extent the distribution payment is not negotiated within 90 days from the date of the check, such check shall be canceled, and the underlying funds will remain to the Receivership Estate for distribution to other allowed Claimants in this SEC Action pursuant to the priority established by the Plan or as otherwise ordered by this Court.

7. The Court finds that the Receivership Estate is a qualified settlement fund within the meaning of Section 468B of the Internal Revenue Code.

IT IS SO ORDERED, this 15th day of November, 2022.

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HON. RICHARD D. BENNETT  
UNITED STATES DISTRICT JUDGE