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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
(FOURTH) MOTION TO APPROVE (1)
CLASSIFICATION AND ALLOWANCE OF
CERTAIN ADMINISTRATIVE AND
CREDITOR CLASS CLAIMS, AND (2)
APPROVE DISTRIBUTIONS ON
ACCOUNT OF CERTAIN ALLOWED
ADMINISTRATIVE AND DEFRAUDED
INVESTOR CLASS CLAIMS

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APPROVE CLASSIFICATION AND ALLOWANCE OF CERTAIN
ADMINISTRATIVE AND CREDITOR CLASS CLAIMS AND
APPROVE DISTRIBUTIONS ON ACCOUNT OF CERTAIN
ADMINISTRATIVE AND DEFRAUDED INVESTOR CLASS
CLAIMS

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This matter having come before the Court on Receiver's (Fourth) Motion to Approve (1) Classification And Allowance of Certain Administrative and Creditor Class Claims, and (2) Approve Distributions on Account of Certain Administrative and Defrauded Investor Class Claims (the "Motion")¹ [Dkt. 1034], 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. 1035], 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.

¹ 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.² That same day, the Receiver moved the Court to approve a notice procedure, briefing schedule, and hearing date.³

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.⁴ The Court set briefing deadlines, including a February 20, 2020 deadline for interested parties to file objections.⁵ The Court additionally set March 31, 2020, as the hearing date on the Receiver's motion regarding a Ponzi determination and distribution plan.⁶

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

³ 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].

⁴ 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].

⁵ *Id.* at 2-3.

⁶ *Id.* at 3.

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

G. The Court having reviewed the Motion, and having considered the presentations of counsel, and having considered objections filed to the Motion, if any, and it appearing that 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 attached to the Declaration of Ronald F. Greenspan:

Exhibit 1	Administrative Class Claims
Exhibit 2	Creditor Class Claims
Exhibit 3	Defrauded Investor Class Claims
 - (b) Allows the claim amounts for those Specified Claimants in Exhibits 1 and 2, as set forth in those exhibits;
 - (c) Approves the final distribution for those Specified Claimants in Exhibit 1 and 2, with Allowed Claims for which distributions may be had under the Distribution Plan, in the amount as set forth in Exhibit 1, and 2, in full satisfaction or other resolution of those Specified Allowed Claims; and
 - (d) Approves the distribution amounts for those Specified Claimants as set forth in Exhibit 3 for which distributions may be had under the Distribution Plan

⁷ FF&CL [Dkt. 813] at 14.

⁸ *Id.* at 18.

(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 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 Receiver is authorized to make non-material adjustments to the distributions authorized by this Order and any other ancillary tasks consistent with the Motion that the Receiver deems necessary, when implementing this Order.

3. The Court is not by this Order adjudicating any rights of a Claimant not identified as a Specified Claimant in the Motion nor adjudicating the classification, Allowed Claim, or Distribution for any Specified Claimant not specified for that particular determination in the Exhibits attached to the Declaration of Ronald F. Greenspan.

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

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

6. 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 19th day of September, 2023.

/s/ Jolie A. Russo
Jolie A. Russo
U.S. Magistrate Judge

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SUBMITTED BY:

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