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7 **IN THE UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 **IN RE: INTERNAL REVENUE**
10 **SERVICE SECTION 1031 TAX**
11 **DEFERRED EXCHANGE LITIGATION,**

Case No. 2:07-cv-01394-RCJ-VCF

12 **NOTICE OF FILING**
13 **REPORT OF RECEIVER AND**
14 **ADMINISTRATOR FOR THE**
15 **PERIOD ENDED**
16 **DECEMBER 31, 2012**
17 **WITH CERTIFICATE OF SERVICE**

18 Larry L. Bertsch ("Receiver") submits this "Report of Receiver and Administrator
19 for the Period Ended December 31, 2012" ("Annual Report"). The report is designed to
20 show, in written and chart formats, the receipts and disbursements by Receiver prior to
21 and by Administrator after, the establishment of the Southwest Exchange Qualified
22 Settlement Fund.

23 Receiver filed this Annual Report in the District Court, Clark County, Nevada in In
24 re: Receivership of Southwest Exchange, Inc. and Consolidated Litigation, Case No. 07-
25 A-535439-B ("State Court Action").

26 The First Annual Report for the period ended December 31, 2009 was filed with the
27 respective Courts on February 16, 2010. The Second, on February 11, 2011; and the
28 Third, on June 27, 2012.

1 Receiver attaches to this Notice:

2 1. Report of Receiver and Administrator for the period ended December 31, 2012
3 (Exhibit 1).

4 2. Exhibit A to the Annual Report: a chart of each exchanger (by exchanger #) and
5 the corresponding principal amount of the claim of each exchanger indicating
6 distributions per exchanger.

7 3. Exhibit B to the Annual Report: inflow and outflow of cash into and out of the
8 receivership estate and the Southwest Exchange Qualified Settlement Fund.

9 Receiver submits the following comments on matters to be brought to the attention
10 of the Court.

11 **A. RESERVE FROM WAVE I SETTLEMENT**

12 On October 29, 2008, Receiver petitioned the State Court for approval of
13 distribution to state court plaintiffs. Receiver requested a holdback of \$823,998.13 from
14 the Wave I settlement amount held in the QSF for payment to the Receiver and his
15 counsel; a division into an approximately 55.72% component for the settlement class,
16 and an approximately 44.28% component for the state-court plaintiffs; and a holdback
17 of 15% of the component due the state court plaintiffs for attorney's fees for the state-
18 court plaintiffs. *Petition of Larry L. Bertsch for Approval of Distribution to State Court*
19 *Plaintiffs on Order Shortening Time*. On October 30, 2008, the State Court approved
20 the distribution. *Order Approving Distribution to State Court Plaintiffs*.

21 The requested holdback of \$823,998.13 from the Wave I settlement amount had
22 been based on then-pending fee applications of Receiver and his counsel. Receiver's
23 counsel subsequently reduced its fee request by \$82,929.50. *Errata to Fourth*
24 *Application of Santoro, Driggs, Walch, Kearney, Holley & Thompson for Allowance of*
25 *Attorney's, filed October 27, 2008*. The State Court approved the fee application at the
26 reduced amount. *Order Approving Fourth Application of Santoro, Driggs, Walch,*
27 *Kearney, Holley & Thompson for Allowance of Attorney's and Reimbursement of*
28 *Expenses, entered October 30, 2008*.

1 Accordingly, Receiver paid out the \$823,998.13 held from the Wave I settlement for
2 maintenance of the Document Depository at Litigation Services, maintenance of the
3 QSF, fees and expenses of Receiver and his counsel, including out-of-state counsel.

4 **B. SUMS HELD FOR EXCHANGERS**

5 Receiver holds the sum of \$193.95 for the benefit of one Exchanger ("Unpaid
6 Exchanger Amount"). The Unpaid Exchanger Amount represents sums available for
7 distribution, which have not been distributed because of the Exchanger's failure to
8 provide the Administrator with a W-9.

9 Receiver once again contacted the Unpaid Exchanger, who continues to refuse to
10 provide the Administrator with a W-9. Receiver intends to mail a specific report to the
11 Unpaid Exchanger of the sums due and requirements for payment to such exchanger.
12 Should the Unpaid Exchanger continue to refuse or otherwise fail to provide the Form
13 w-9, Receiver intends to seek permission from the State Court¹ to return the sums due
14 the Unpaid Exchanger to the QSF for distribution to other exchangers.

15 **C. COURT-ORDERED HOLDBACK**

16 In 2009, Receiver petitioned the State Court for permission to withhold up to 10% of
17 the disbursement due the Meldrum Family Trust pending resolution of the dispute
18 between the Plaintiffs' Legal Committee² and the Meldrum Family Trust regarding
19 recovery of fees and costs by the Plaintiffs' Legal Committee. *Petition of the Receiver, in*
20 *his capacity as Administrator of the QSF, for Permission to Withhold Certain Payments*
21 *on an Order Shortening Time, filed March 16, 2009.*

22 The State Court granted the relief requested in the petition. *Order Granting the*
23 *Petition of the Receiver, in his Capacity as Administrator of the QSF, for Permission to*
24 *Withhold Certain Payments, entered March 26, 2009.*

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26 ///

27 _____
28 ¹ Should this Court so require, Receiver will seek similar relief in this Action.

² Plaintiffs Legal Committee consists of several counsel representing state court plaintiffs.

1 In accordance with the referenced order, Receiver paid \$39,049.80 from the portion
2 of the Citigroup Settlement Payment due the Meldrum Family Trust to the Plaintiffs'
3 Legal Committee; withheld 7.85% of the balance due after payment to the Plaintiffs'
4 Legal Committee; remitted the remainder of that portion of the Citigroup Settlement
5 Payment due the Meldrum Family Trust to the Meldrum Family Trust; and retained
6 the withheld amount. No party requested an order for distribution of the withheld
7 7.85% of the balance due after payment to the Plaintiffs' Legal Committee. No order
8 has been entered releasing the Court-ordered Holdback.

9 In July 2012, Receiver filed his *Petition for Instructions on Disposition of Court*
10 *Ordered Holdback*. Meldrum Trust responded with its Motion to Distribute Funds to
11 the Meldrum Family Trust. After hearing on August 9, 2012, the Court authorized
12 Receiver to pay the Court-ordered Holdback in the sum of \$107,350.75 to the Meldrum
13 Family Trust. Receiver made the distribution as ordered.

14 **D. RECOVERY FROM BETTY KINCAID**

15 Wave III Settlements consisted of four settlements with Betty Kincaid ("Kincaid"),
16 David Keys ("Keys"), Underwriters at Lloyd's, London ("Lloyds") and Greenwich
17 Insurance Company ("Greenwich"). Keys, Lloyd's and Greenwich made their respective
18 payments required by the Wave III Settlements. However, Kincaid deposited \$500,000
19 of the \$1,200,000 due and has not deposit the balance, defaulting on her settlement.
20 Receiver distributed the deposited amount to Exchangers.

21 In 2010, Receiver petitioned the State Court and Class Counsel in this Action to
22 enforce the Wave III Settlement with Kincaid. Petition of Receiver to Enforce
23 Settlement and for Entry of Judgment against Defendant Betty Kincaid ("Kincaid
24 Petition"), filed November 23, 2010. The State Court granted the relief requested in the
25 petition. *Order Granting Petition of Receiver to Enforce Settlement and for Entry of*
26 *Judgment against Defendant Betty Kincaid, entered January 12, 2011 (State Court);*
27 *Order Granting Plaintiffs; Motion to Enforce the Kincaid Settlement Agreement, Doc.*
28 *239-1, (Federal Court).*

1 In 2010, Receiver petitioned this Court and the State Court for approval of an
2 agreement, which was specifically designed to deal with judgments entered against, or
3 about to be entered against, Defendant Betty Kincaid arising out of her default under
4 the Wave III Settlement Agreement. *Petition of Receiver for Approval of the*
5 *Intercreditor Agreement among Settlement Class and State Court Plaintiffs*
6 *("Intercreditor Petition"), filed November 23, 2010 (State Court);* *Petition of Receiver for*
7 *Approval of the Intercreditor Agreement among Settlement Class and State Court*
8 *Plaintiffs, Doc. 275 (Federal Court).* Each Court granted the relief requested in the
9 petition. *Order Granting Petition of Receiver for Approval of the Intercreditor*
10 *Agreement among Settlement Class and State Court Plaintiffs, entered January 12,*
11 *2011 (State Court);* *Order Granting Petition of Receiver for Approval of the Intercreditor*
12 *Agreement among Settlement Class and State Court Plaintiffs, Doc. 278 (Federal*
13 *Court).*

14 Class Action Counsel obtained a judgment³, and the Receiver obtained a judgment,
15 against Kincaid for the portions of the sums due the respective members of the Class
16 Plaintiffs and the State Court Plaintiffs. State Court Plaintiffs did not obtain separate
17 judgments for each exchanger's respective portion of judgment entered in favor of
18 Receiver for the benefit of State Court Plaintiffs.

19 Pursuant to the Intercreditor Agreement, the State Court Plaintiffs appoint their
20 respective counsel as their agents for purposes of pursuing post judgment remedies to
21 enforce judgments against Kincaid; the Settlement Class appoints Class Counsel as
22 their agents for purposes of pursuing post judgment remedies to enforce judgments
23 against Kincaid; and Plaintiffs' Counsel, not the Receiver, will handle post-judgment
24 remedies on the judgments against Kincaid.

25 As of the date of the Annual Report, Plaintiffs' Counsel have not taken any action
26 against Kincaid that resulted in a recovery on a judgment against Kincaid.

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³ See, *Judgment Against Defendant Betty Kincaid for \$296,940, Doc. 243.*

1 Receiver intends to request⁴ permission to distribute to State Court Plaintiffs each
2 exchangers pro rata share of the judgment against Kincaid.

3 **E. LITIGATION DEFENSE TRUST**

4 The Wave V Settlement Agreement established a Litigation Defense Trust in the
5 amount of \$2,063,500. The Litigation Defense Trust was established for the benefit of
6 persons and entities identified as the Individual Insureds, the Individual Plaintiffs
7 and Class Settlement Members .

8 The Wave V Settlement Agreement provides in part:

9 The \$2,063,500 constituting the Litigation Defense Trust is for the
10 benefit of the Individual Insured shall be held in the Southwest
11 Exchange Qualified fund until forty-five (45) calendar days after the
12 Medior Secured Creditors Litigation is dismissed, at which point any
13 funds remaining in the Litigation Defense Trust shall be distributed
14 from the Southwest Exchange Qualified Settlement to the Individual
15 Plaintiffs and Settlement Class members.

16 Application for reimbursement of attorneys fees from the Litigation
17 Defense Fund must be made by submitting detailed legal bill to the
18 Litigation Defense Trustee no later than fifteen (15) calendar days
19 after the Medior Secured Creditors Litigation is dismissed, and such
20 applications must be resolved no later than forty-five (45) calendar
21 days after the MediCor Secured Creditors Litigation is dismissed, and
22 any funds then remaining in the Litigation Defense Fund shall be
23 distributed from the southwest Exchange Qualified Settlement Fund
24 to the Individual Plaintiffs and Settlement Class members

25 Ex. A (Wave V Settlement Agreement) to *Final Order and Judgment of Dismissal*
26 *re: Wave V Settlement with Carolina Casualty Company and RSUI Indemnity*
27 *Company, Doc. 268.*

28 Receiver considers the Litigation Defense Fund to be restricted funds. In addition,
he cannot disburse the Litigation Defense Fund until (a) forty-five (45) calendar days
after the MediCor Secured Creditors Litigation is dismissed, and (b) application for
reimbursement of attorney's fees from the Litigation Defense Fund have been resolved.
In short, distribution of the Litigation Defense Fund to any person or entity entitled to

⁴ Receiver submits that similar relief is not required in this Action, as the judgment entered against Kincaid in the Federal Action is in favor of the Class. See, *Judgment Against Defendant Betty Kincaid for \$296,940, Doc. 243.*

1 lay claim to Litigation Defense Fund is completely contingent on dismissal of the
2 MediCor Secured Creditors Litigation.

3 Receiver obtained a report from counsel of record in the MediCor Secured Creditors
4 Litigation, which indicated that the case settled. Receiver requested the settlement and
5 dismissal documents to confirm the report. Should Receiver obtain the requested
6 documents, he intends to distribute the Litigation Defense Fund in calendar year 2013.

7 **F. DISPOSITION OF DOCUMENTS DEPOSITED WITH LITIGATION**
8 **SERVICES**

9 Receiver came into possession of certain documents of the parties during the course
10 of litigation. Upon receipt of documents, Receiver would deposit both the paper
11 documents and electronic documents he received with Litigation Services⁵. During the
12 course of litigation, the various parties to the action have also deposited documents
13 with Litigation Services. In addition an electronic depository at Litigation Services
14 hosts approximately scores of gigabytes of data. Receiver has, and in the past, made
15 available the information contained on SWX and related entities' servers to whomever
16 asked. The original hard drives are located in a safety deposit box at Nevada State
17 Bank.

18 In July 2012, Receiver filed his Petition for Instructions Regarding the Disposition
19 of Documents. After hearing on August 9, 2012, the State Court instructed Receiver

20 A. Each year, Receiver shall determine which documents appear to
21 be at least seven years old; over the next two years, commencing as of
22 February 1, 2012, Receiver may order Litigation Services to destroy
the documents that appear to have achieved seven years of age, subject
to the provision of Paragraph B of this Order;

23 B. The request of the SEC to direct Receiver to retain certain
24 documents⁶ in accordance with that certain letter dated August 2, 2012
25 from Marie K. DeBonis Senior Counsel of the SEC to Anthony Zmaila,
attached to this Order as Exhibit A.

26 ⁵ Receiver established a document depository at Litigation Services pursuant to order entered in the
27 State Court Action. Based on an arrangement among counsel participating in both the Federal and the
State Action, the document depository was available for use by parties in both actions.

28 ⁶ The SEC based its request on Securities and Exchange Commission v. Theodore R. Maloney, Case No.
02:11-cv-00075, United States District Court for District of Nevada.

1 The Security and Exchange Commission, from time to time after entry of the Order,
2 requested Receiver to retain documents for additional periods.

3 Dated this 4th day of March, 2013.

4 **ANTHONY A. ZMAILA LIMITED PLLC**

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9 *Attorneys for Larry Bertsch, Receiver*

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CERTIFICATE OF SERVICE

1 The undersigned hereby certifies that on the 4th day of March, 2013, I caused a true
2 and correct copy of the following document to be served upon the counsel listed herein
3 via the court general Notice of Electronic Filing:
4

DOCUMENTS FILED AND SERVED

5 1. NOTICE OF FILING

6 REPORT OF RECEIVER AND ADMINISTRATOR FOR THE PERIOD ENDED
7 DECEMBER 31, 2012

8 By ECF System:

9 By United States Mail:

10 I declare under penalty of perjury that the foregoing is true and correct.
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15 An employee of
16 Anthony A. Zmaila Limited PLLC
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EXHIBIT 1

**REPORT OF THE RECEIVER AND ADMINISTRATOR FOR THE
PERIOD ENDED DECEMBER 12/31/2012**

In Re: Receivership of Southwest Exchange, Inc. and Consolidated Litigation District Court, Clark County, Nevada Case 07-A-535439-B	In re Southwest Exchange Inc. Section 1031 Tax Exchange Litigation United States District Court District of Nevada MDL Docket No. 1878 Case No. 07-cv-1394 RCJ
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February 27, 2013

PURPOSE OF REPORT

The Receiver presents this Fourth Report to show the receipts and disbursements by Receiver prior to and by Administrator after the establishment of the Southwest Exchange Qualified Settlement Fund. The First Report of the Receiver and Administrator for the Period Ended December 12/31/2009 was filed with the respective Courts on February 16, 2009; the Second, on February 11, 2011; and the Third, on June 27, 2012.

DEPOSITS INTO AND DISBURSEMENTS FROM THE RECEIVERSHIP ESTATE

The Receiver was first appointed in the consolidated state actions on February 7, 2007. The Receiver was recognized as the ancillary receiver pursuant to Fed. R. Civ. P. 66 pursuant to Order entered February 25, 2008 in the federal class action.

DEPOSITS

The Receiver recovered amounts through collections, term sheets and voluntary turnovers. The Receiver established a bank account in which to deposit these recoveries. The following chart depicts monies collected on behalf of the receivership estate.

Account Cancellations/Reverse Exchanges	\$ 87,475.76
Bank/Investment Accounts	979,850.58
Cennedig	762,229.75
Court Sanctions	10,000.00
Trinity Star Ventures (French House)	458,427.16
Insurance Reimbursement for Receiver's legal costs	22,000.00
McGhan Individuals	606,683.64
McGhan Properties	282,450.44
SWX Sale of Equipment	4,363.40
	<u>\$3,213,480.73</u>

NOTES TO DEPOSITS CHART

- **Account Cancellations/Reverse Exchanges** – represents the total collected through cancelling SWX and other receivership entity's contracts and completing reverse exchanges.
- **Bank/Investment Accounts** – represents the amount collected from SWX and other receivership entity's bank or investment accounts.
- **Cennedig** – represents the result of a settlement with Cennedig, LLC and an interest in funds based the sale of an interest in a golf course located in Pahrump, NV.
- **Court Sanctions** – represents a court-imposed sanction against Theodore Maloney in favor of the receivership estate.
- **Trinity Star Ventures (French House)** – represents the proceeds of sale of an interest in an entity that owned real property located in Apt, France.
- **Insurance Reimbursement for Receiver's legal costs** – represents the receipt of two (2) payments of \$11,000, a reimbursement of certain expenses, by Underwriters at Lloyd's, London.
- **McGhan Individuals** – represents money turned over to the receivership estate by McGhan Family¹ members.
- **McGhan Properties** – represents the proceeds from sales of property controlled or owned by McGhan Family members.
- **SWX Sale of Equipment** – represent the proceeds from sale of SWX office furniture and equipment.

¹ McGhan Family Members consist of: Nikki Pomeroy, Don McGhan, Shirley McGhan and Jim McGhan.

DISBURSEMENTS

The Receiver utilized the recoveries to fund the receivership estate. The following chart depicts the disbursements made from deposits for collections, term sheets and voluntary turnovers to defray estate expenses.

Consultant/Mediators	\$ 69,636.11
Gide, Loyrette, Nouel	76,422.30
Prince & Keating	31,414.58
Santoro Driggs	1,173,567.44
Stradling Yocca Carlson & Rauth	205,129.38
Womble, Carlye, Sandridge & Rice	580,668.41
Larry L Bertsch	567,359.16
Insurance Payments	25,157.01
Litigation Services	80,216.08
Payments to McGhan (per term sheet)	270,400.02
Rent Expense	62,756.70
Other Administrative Expenses	67,866.33
Balance Transferred to QSF	2,887.21
	\$3,213,480.73

NOTES TO DISBURSEMENTS CHART

- Consultant/Mediators – represents payments to consultants and mediators involved in settlement facilitation.
- Gide, Loyrette, Nouel –Receiver’s French counsel employed for the litigation against Secured Creditors raising claims related to the Receiver’s claims in the Medicor bankruptcy case.
- Prince & Keating – Receiver’s special litigation counsel employed to prosecute the Receiver’s claims against Snell & Wilmer.
- Santoro Driggs - former counsel to Receiverna
- Stradling Yocca Carlson & Rauth - Receiver’s counsel employed to assist the Receiver challenge the claims of certain claimants of Qualified Exchange Services, Inc.
- Womble, Carlye, Sandridge & Rice - Receiver’s counsel employed to handle the Receiver’s claims in the Medicor Bankruptcy litigation.
- Larry Bertsch – Receiver and QSF Administrator
- Insurance Payments – represents payment to keep insurance current with Premium Assignment Corporation
- Litigation Services – represents payments to Litigation Services for expenses associated with the litigation document depository

- **Payments to McGhans (per term sheet) – represents payments to McGhan Family Members per court approved term sheet.**
- **Rent Expense – represents payments of rent for the SWX office. Rent payments were made in order to allow the Receiver to remove the records and office equipment in an orderly fashion.**
- **Other Administrative Expenses – represents other costs such as postage, changing of locks, expenses for moving records and documents, US Trustee charges (attributed to Qualified Exchange Services, Inc. bankruptcy case), and Nevada Power. All expenses were essential to maintain the estates assets and records.**
- **Balance Transferred to QSF – represents the amount of money transferred to the Southwest Exchange Qualified Settlement Fund.**

ESTABLISHMENT OF THE QUALIFIED SETTLEMENT FUND

On August 14, 2008, the State Court, and on October 6, 2008, the Federal Court, granted the Receiver's Petition to Establish Qualified Settlement Fund ("QSF Order"). The QSF Order:

- 1. Authorized Receiver to establish a qualified settlement fund under 26 C.F.R §1.468B;**
- 2. Approved the structure of qualified settlement fund and the uses of the qualified settlement fund, as outlined in the Petition;**
- 3. Confirmed the appointment of Larry Bertsch as the administrator over the qualified settlement fund;**
- 4. Provided for the court to retain jurisdiction over the qualified settlement fund.**

On August 18, 2008, the Receiver obtained an Employer Identification Number ("EIN") for the Southwest Exchange Qualified Settlement Fund ("QSF").

SETTLEMENTS; DEPOSITS INTO AND DISBURSEMENTS FROM THE QSF

As of the date of this report, the Southwest Exchange Qualified Settlement Fund received and distributed various amounts to Exchangers, Class Plaintiffs' Counsel, State Plaintiffs' Counsel and others. The following report, by Waves, shows the receipts of such settlements, the subsequent disbursements and reserves or retentions.

Wave I

Wave I consisted of one settlement with UBS Financial Services, which paid \$23,000,000 to the QSF in 2008. The Administrator distributed the Wave I settlement fund as follows:

	<u>UBS</u>
State Plaintiffs	9,710,740.67
Class Plaintiffs	9,047,678.31
Class Action Fees	3,015,892.76
Class Action Costs	293,444.05
KKBRF ²	54,123.04
Holland & Hart ³	54,123.04
Santoro Driggs ⁴	741,068.63
Womble, Carlye, Sandridge & Rice ⁵	47,951.28
Other Estate Expenses	34,978.22
	<u>23,000,000.00</u>

As of the date of this report, Administrator has NOT distributed funds to one exchanger⁶ his/her/its share of the settlement fund for the exchanger's failure to provide the Administrator with a W-9. Such undistributed funds remain in the QSF, but is reported and in the above total as though the funds had been distributed.

Exchanger #06-02-740 – Total \$45.96

² Kummer, Kaempfer, Bonner, Renshaw and Ferrario received this sum per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

³ Holland & Hart received this sum money per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

⁴ Santoro, Driggs, Walch, Kearney, Holley & Thompson served counsel for Larry L. Bertsch, Receiver and Administrator.

⁵ Womble, Carlye, Sandridge & Rice served as counsel for Larry L. Bertsch, Receiver and Administrator, in the Medicor Bankruptcy litigation

⁶ Mr. Miller spoke with this one Exchanger. The Exchanger refused to sign the W-9 required for distribution because he does not agree with the settlements. He also stated that his loss should include emotional pain and suffering and other costs, disagreeing with the a distribution plan based on principal lost theory.

Wave II

Wave II consisted of four settlements with the following defendants: United States Fire Insurance Company ("US Fire"), Continental Insurance Company ("Continental"), San Francisco Series of Lockton Companies, LLC ("Lockton") and Great American Insurance Company ("GAIC") (collectively, "Wave II Settlements"). The Wave II Settlements yielded \$17,075,000, all of which was deposited into the QSF. The Administrator distributed the Wave II settlement fund as follows:

	US Fire	Continental	GAIC	Lockton	Total
State Plaintiffs	2,763,069.79	2,072,302.34	2,763,069.77	1,837,441.40	9,435,883.30
Class Plaintiffs	1,520,217.55	1,140,163.16	1,520,217.55	1,010,944.68	5,191,542.94
Class Action Fees	506,739.18	380,054.39	506,739.18	336,981.56	1,730,514.31
Class Action Costs	26,865.95	20,149.46	26,865.95	17,865.85	91,747.21
KKBRF ⁷	12,203.06	9,152.30	12,203.07	8,115.04	41,673.47
Holland & Hart ⁸	12,203.06	9,152.30	12,203.07	8,115.04	41,673.47
Santoro Driggs ⁹	145,427.53	109,070.64	145,427.53	96,709.30	496,635.00
Larry L Bertsch, QSF Administrator	13,273.88	9,955.41	13,273.88	8,827.13	45,330.30
Total	5,000,000.00	3,750,000.00	5,000,000.00	3,325,000.00	17,075,000.00

As of the date of this report, Administrator has NOT distributed funds to one exchanger his/her/its share of the settlement fund for the exchanger's failure to provide the Administrator with a W-9. Such undistributed funds remain in the QSF, but are reported in the above totals as though the funds had been distributed.

Exchanger #06-02-740 -- Total \$34.64

⁷ Kummer, Kaempfer, Bonner, Renshaw and Ferrario received this sum per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

⁸ Holland & Hart received this sum money per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

⁹ Santoro, Driggs, Walch, Kearney, Holley & Thompson served counsel for Larry L. Bertsch, Receiver and Administrator.

Wave III

Wave III consisted of four settlements with the following defendants: Betty Kincaid "Kincaid"), David Keys ("Keys"), Underwriters at Lloyd's, London ("Lloyds") and Greenwich Insurance Company ("Greenwich") (collectively, "Wave III Settlements"). The Wave III Settlements totaled \$8,450,000. However, Kincaid did not deposit the entire amount due from her, defaulting on her settlement.¹⁰ Kincaid deposited \$500,000 of the \$1,200,000 due. The Administrator distributed the \$500,000 to the exchangers at the end of the year ended 12/31/12. The remaining three Wave III Settlements yielded \$7,250,000, all of which was deposited into the QSF. The Administrator distributed the Wave III settlement fund as follows:

	Lloyds	Greenwich	Keys	Kincaid	Total
Opt-Outs Distribution	2,142,546.70	1,741,211.68	114,177.78	285,444.53	4,283,380.69
Class Distribution	1,177,780.11	957,162.09	62,764.76	156,911.83	2,354,618.79
Class Action Fees	392,593.38	\$319,054.04	\$20,921.58	\$52,303.93	784,872.93
Class Action Costs	21,760.57	\$17,684.45	\$1,159.64	\$2,899.09	43,503.75
KKBRF ¹¹	9,159.62	\$7,443.87	\$488.12	\$1,220.31	18,311.92
Holland & Hart ¹²	9,159.62	\$7,443.87	\$488.12	\$1,220.31	18,311.92
Receiver's Reimbursed Legal Costs ¹³	22,000.00				22,000.00
Amount paid to Dzarnoski ¹⁴	100,000.00	100,000.00			200,000.00
Amount paid to Conton's Attorney ¹⁵	25,000.00				25,000.00
Total	3,900,000.00	3,150,000.00	200,000.00	500,000.00	7,750,000.00

As of the date of this report, Administrator has NOT distributed funds to one exchanger his/her/its share of the settlement fund for the exchanger's failure to provide the Administrator with a W-9. Such undistributed funds remain in the QSF, but are reported in the above totals as though the funds had been distributed.

Exchanger #06-02-740 – All Wave III Settlements Total \$15.71

¹⁰ Class Action Counsel obtained a judgment, and the Receiver obtained a judgment, against Kincaid for the portions of the sums due the respective members of the Class Plaintiffs and the State Court Plaintiffs.

¹¹ Kummer, Kaempfer, Bonner, Renshaw and Ferrario received this sum per court order as a result of settlement between a State Plaintiff and the Plaintiffs Legal Committee.

¹² Holland & Hart received this sum per court order as a result of settlement between a State Plaintiff and the Plaintiffs Legal Committee.

¹³ This amount represents two payments of \$11,000 to the Southwest Exchange Receivership for reimbursement of costs prior to the QSF's inception.

¹⁴ Mark Dzarnoski of Gordon & Silver represented the McGhan parties in this litigation and received this sum pursuant to the Wave III settlement agreements.

¹⁵ Olson, Cannon, Gormley & Desruisseaux represented Albert Conton, SWX employee, and received this sum pursuant to the Wave III settlement agreements.

Wave IV

Wave IV consisted of three settlements with the following defendants: Citigroup Global Markets, Inc (“Citi”), Brown and Brown of California, Inc. (“B&B”) and Federal Insurance Company (“Federal”) (collectively, “Wave IV Settlements”). The Wave IV Settlements yielded \$39,727,310.90, all of which were deposited into the QSF. The Administrator distributed the Wave IV settlement fund as follows:

	Citi	Federal	B & B	Total
Opt-Outs Distribution	16,082,518.60	2,633,970.14	4,214,352.25	22,930,840.00
Class Distribution	7,899,076.43	1,465,802.85	2,345,284.35	11,710,163.63
Class Action Fees	2,633,025.48	488,600.86	781,761.54	3,903,387.88
Class Action Costs	73,640.59	3,579.57	5,727.31	82,947.47
KKBRF ¹⁶	19,524.90	11,715.60	18,744.97	49,985.47
Holland & Hart ¹⁷	19,524.90	11,715.60	18,744.96	49,985.46
Santoro Driggs Anthony A Zmaila Limited PLLC ¹⁸		43,664.83	75,637.35	119,302.18
Other Receiver's Legal Expenses ¹⁹		94,587.72	130,855.07	225,442.79
Larry L Bertsch, QSF Administrator		25,127.76	179,724.94	204,852.70
Reserve ²⁰		221,235.07		221,235.07
Total	26,727,310.90	5,000,000.00	8,000,000.00	39,727,310.90

As of the date of this report, Administrator has NOT distributed funds to one exchanger his/her/its share of the settlement fund for the exchanger's failure to provide the Administrator with a W-9. Such undistributed funds remain in the QSF, but are reported in the above totals as though the funds had been distributed.

Exchanger #06-02-740 – All Wave IV Settlements – Total \$78.12

¹⁶ Kummer, Kaempfer, Bonner, Renshaw and Ferrario received this sum per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

¹⁷ Holland & Hart received this sum per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

¹⁸ Anthony A. Zmaila replaced Santoro Driggs as Counsel for the Receiver and Administrator.

¹⁹ This Total represents payments to Stradling Yocca Carlson & Rauth; Womble, Carlyle, Sandridge & Rice; and Prince & Keating.

²⁰ This Total represents the remaining amount of a total \$1,000,000 holdback to cover current and future costs of the QSF and Receivership estates.

Wave V

Wave V consisted of five settlements with the following defendants: Carolina Casualty Company ("Carolina"), RSUI Indemnity Company ("RSUI"), Medicor, Ltd. ("Medicor"), Snell & Wilmer, LLP ("Snell") and Patrick G. Byrne ("Byrne") (collectively, "Wave V Settlements"). The Wave V Settlements yielded \$11,317,943.57 all of which were deposited into the QSF. The Administrator distributed the Wave V settlement fund as follows:

	Medicor	Carolina	RSUI	Snell	Total
Opt-Outs Distribution	2,272,976.73	655,752.07	612,766.65	1,336,172.33	4,877,667.78
Class Distribution	1,250,116.18	359,135.14	335,593.37	985,066.76	2,929,911.45
Class Action Fees	416,705.39	119,711.72	111,864.45	595,437.22	1,243,718.78
Class Action Costs	8,885.77	4,593.44	4,292.33	3,983.12	21,754.66
KKBRF ²¹	657.97	189.82	177.38	386.78	1,411.95
Holland & Hart ²²	657.96	189.82	177.38	178,953.79	179,978.95
Court Holdback ²³		1,066,712.19	996,787.81		2,063,500.00
Total	3,950,000.00	2,206,284.20	2,061,659.37	3,100,000.00	11,317,943.57

As of the date of this report, Administrator has NOT distributed funds to one exchanger his/her/its share of the settlement fund for the exchanger's failure to provide the Administrator with a W-9. Such undistributed funds remain in the QSF, but are included in the above totals as though the funds had been distributed.

Exchanger #06-02-740 – All Wave V Settlements – Total \$19.52

²¹ Kummer, Kaempfer, Bonner, Renshaw and Ferrario received this sum per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

²² Holland & Hart received this sum per court order as a result of a settlement between a State Plaintiff and the Plaintiffs Legal Committee.

²³ According to the RSUI/Carolina settlement, this amount of money is to be placed in a Litigation Defense Trust. The sum becomes payable to the exchangers, subject to certain deductions, upon the passage of time or the occurrence of certain conditions.

Distributions

Notes to Exhibit A of this report

Exhibit A is a chart of each exchanger (by exchanger #) and the corresponding principal amount of the claim of each exchanger. **Exhibit A** presents each exchanger by descry listing each claim by category, described in these Notes on **Exhibit A** of this report.

Total Recovery Disbursed

“Total Recovery Disbursed” represents that amount each Plaintiff would have received if there were no fees or costs associated with the recoveries. Under such circumstances, State Plaintiffs would have recovered \$58,065,595.15; Class Plaintiffs would have recovered \$41,456,201.96.

The State Plaintiffs received a slightly larger settlement amount (\$5,515,825.90) than the Class Plaintiffs from the Citi Settlement of the Wave IV Settlement.

Percent of Recovery Disbursed to Claim

“% of Recovery Disbursed to Claim” represents the percentage of “Total Recovery Disbursed” to “Principal Amount (Claim)” without reference to deduction for fees and costs. Theoretically, this percentage represents the return per dollar per each dollar of claim if no costs or fees were associated with recoveries.

The difference can be traced to the slightly larger settlement amount (\$5,515,825.90) obtained by the State Plaintiffs from the Citi Settlement of the Wave IV Settlement.

Total Legal, Costs, and Expenses²⁴

“Total Legal, Costs, and Expenses” represents the amounts paid to the Plaintiffs’ Legal Committee, Class Plaintiffs’ Counsel, the Receiver, the Receiver’s Counsel, others pursuant to Settlement Agreements, the QSF Administrator, and miscellaneous administrative costs and expenses.

State Plaintiffs paid \$4,667,637.52 toward such Total Legal, Costs and Expenses.

Class Plaintiffs paid \$12,436,934.06 toward such Total Legal, Costs and Expenses.

Overall, State and Class Plaintiffs paid \$17,104,571.58 in Total Legal, Costs and Expenses.

²⁴ Total Legal, Costs, and Expenses include certain receivership legal fees and other expenses incurred and paid prior to the formation of the QSF. Prior to the formation of the QSF, the Receiver had recovered and monetized assets in amount of approximately \$3,187,000. The cash was used to defray the Receiver’s fees and costs, the Receiver’s counsels’ fees and costs, and pay required expenses under the McGhan Family Term Sheet.

Total Distributed to Exchangers

“Total Distributed to Exchangers” represents the gross amount paid to date to each individual exchanger.

The QSF has distributed \$53,397,957.63 to the twenty (20) plaintiffs constituting the State Plaintiffs. After Wave I, five Class Plaintiffs (the “UBS Group”), who received \$2,159,444.20 from the Wave I settlement, left Class Plaintiffs to become State Plaintiffs. For ease of reference, the UBS Group is included in the State Plaintiffs’ total in this presentation.

The QSF has distributed \$29,074,276.97 to exchangers constituting the Class Plaintiffs.

In total, State and Class Plaintiffs have received \$82,472,234.60 of the \$103,787,510.49 recovered through settlements and recoveries as of the date of this report.

The remaining amount has either been distributed or is still in the possession of the Administrator. Exhibit B lists the various amounts that have been distributed or are currently being held by the administrator.

Percent of Principal Returned to Claim

“% Principal Returned to Claim” represents the percentage of “Total Recovery Disbursed” less all fees and costs to “Principal Amount (Claim)”. The Receiver does not have exact information regarding the fees and costs charged by State Plaintiffs’ counsel. The Receiver believes that he has exact information regarding the fees and costs charged by Class Plaintiffs’ counsel in the form of fee and costs applications approved by the United States District Court for the District of Nevada.

State Plaintiffs, who had never been Class Plaintiffs, averaged a 97.17% recovery of their outstanding claim. Exchanger #06-01-1008 had a lower percentage because of the agreed amounts withheld to and paid to the Plaintiffs Legal Committee. The five (5) plaintiffs who left the Class Plaintiffs had a lower percentage of recovery.

Class Plaintiffs averaged 70.33% recovery of the Principal Amount.

Collectively, State Plaintiffs and Class Plaintiffs averaged a 74.06% recovery of the Principal Amount.

Notes to Exhibit B of this report

Exhibit B is a chart illustrating the various inflows and outflows of monies through the receivership estate and QSF.

- A. Total Recovered** – This amount shows that \$103,787,510.49 or 106.50% of the total of the principal amount of exchanger claims has been recovered.
- B. Total Exchangers** – \$82,472,234.60 has been distributed directly to the exchangers, whether in the state consolidated or federal class action litigation. \$82,472,234.60 represents 79.46% of the total recoveries, which shows that 79.46% of the recoveries have been paid to exchangers to date. After Wave I, the UBS Group, who received \$2,159,444.20 from the Wave I settlement, left the federal class action to become State Plaintiffs. As part of the Snell settlement, all exchangers were considered to be Class Plaintiffs. For ease of accounting and presentation, the UBS Group, and participants in the Snell settlement, is included in the State Plaintiffs' total in this presentation.
- C. Total Exchangers Counsel** – \$11,721,362.49 represents the total amount distributed to the exchanger's respective counsel. Of the total amount recovered exchanger's counsel received 11.29%.

Class Counsel's compensation was approved by court order, which generally approved a 25% contingency fee plus reimbursement of costs. For purposes of determining distributions to Class Counsel as a percentage of distributions to Class, the UBS Group's receipt from Wave I and Snell's distribution within Wave V, is added to distributions to Class Plaintiffs' distributions. The following chart depicts the amount of money distributed to Class Counsel as a percentage of distributions to Class Plaintiffs.

Distributions to Class Plaintiffs	\$40,286,060.77
Add: Distributions to UBS Group	2,159,444.20
Add: Distributions to Snell Group	<u>2,728,946.50</u>
Total distributions to class plaintiffs	\$45,174,451.47
Total costs & fees distributed to class counsel	\$11,211,783.80
% of recovery to applicable legal fees	24.82%

The State Plaintiffs were responsible for paying their own legal fees. As of the date of this report, neither the Receiver nor Administrator knows the amount of these fees. \$509,578.69 has been distributed to certain State Counsel as a result of court orders directing the Administrator to disburse funds to the respective firms. The following chart depicts the amount of money distributed to State Counsel as a percentage of distributions to State Plaintiffs:

State plaintiffs	\$53,907,536.32
Less: Original Class members	(2,159,444.20)
Less: Distributions to Snell Group	<u>(2,728,946.50)</u>
Total distributions to state plaintiffs	\$49,019,145.62
Total distributed to state counsel	\$ 509,578.69
% of recovery to state counsel distributions	1.04%

- D. Total Receiver and Professionals** – \$4,816,001.04 represents the total sums paid to the Receiver/Administrator and his corresponding professionals. Of this figure, \$2,704,197.38 or 56.15% was paid from the Receiver's initial collection efforts before the QSF was established. The initial collection of funds by the receiver funded the estate until the QSF was established.
- E. Total Non-Receiver Professionals** – As a result of certain settlements, various non-receiver and non-exchanger professionals received a total of \$1,595,556.43 or 1.54 % of the total recovered. Some of these professional include: Gordon Silver, Ltd., Martin & Allison, Ltd., Olson, Cannon, Gormley & Desruisseaux. Many of these amounts resulted from a condition within the corresponding settlement whereby money would be withheld from the gross settlement figure or paid to the QSF and subsequently paid by the QSF Administrator to the various parties.
- F. Total Other Payments** – This amount represents the various expenses incurred and paid during the course of the receivership.
- G. Yet to be Distributed** – This amount (\$2,640,147.88) represents monies being held, as of the date of this report, in both the QSF and receivership estate accounts.
- H. Reserve** – This amount includes the holdback of monies from Wave IV (\$221,235.07). The total, \$221,235.07, is currently held in the QSF to be used for payment of future professional fees.
- I. Arthrocure** – In late December of 2009, the Receiver deposited \$234,696.29 which represents the amount of money recovered through an agreement with the McGhan Family members involving Arthrocure.
- J. Interest Income** – As of the date of this report, the QSF has earned \$104,264.10 in interest income.
- K. Exchangers not yet paid** – As previously mentioned in this report, the QSF Administrator has yet to distribute \$193.95 to various exchangers for the reasons indicated.

L. Other Income – This amount represents the remaining funds from the Receiver’s collection efforts separate from the various settlements.

M. Litigation Defense Fund – This amount represents the amount of money to be held as a Litigation Defense Fund per the Carolina/RSUI (Wave V) settlements.

EXHIBIT A

	Principal Amount (Claim)	Total Recovery Disbursed	% of Recovery Disbursed to Claim	Total Legal, Costs, and Expenses	Total Distributed to Exchangers	% of Principal Returned to Claim
State Plaintiffs						
07-01-016	2,250,000.00	2,328,539.37	103.49%	142,290.88	2,186,248.49	97.17%
06-04-970	433,264.91	448,388.63	103.49%	27,399.84	420,988.79	97.17%
06-01-888	1,861,952.71	1,926,946.74	103.49%	117,750.61	1,809,196.13	97.17%
06-02-923	152,940.09	158,278.67	103.49%	9,671.99	148,606.68	97.17%
06-01-898	400,554.24	414,536.14	103.49%	25,331.21	389,204.93	97.17%
06-01-930	1,849,088.00	1,913,632.98	103.49%	116,937.05	1,796,695.93	97.17%
096-1019-D	2,515,250.09	2,603,048.39	103.49%	159,065.40	2,443,982.99	97.17%
06-01-1008	4,895,365.55	5,065,966.78	103.48%	640,318.25	4,425,648.53	90.40%
06-01-832	124,365.44	128,706.61	103.49%	7,864.92	120,841.69	97.17%
06-02-778	21,181,690.38	21,919,862.60	103.48%	1,338,334.32	20,581,528.28	97.17%
06-02-779	1,073,753.97	1,111,173.81	103.48%	67,843.58	1,043,330.23	97.17%
06-01-907	2,115.76	2,189.63	103.49%	133.80	2,055.83	97.17%
07-01-002	993,832.37	1,028,523.45	103.49%	62,850.35	965,673.10	97.17%
06-04-986	4,300,858.04	4,450,985.44	103.49%	271,987.94	4,178,997.50	97.17%
06-01-885	1,113,262.08	1,152,122.03	103.49%	70,403.13	1,081,718.90	97.17%
06-04-786	12,181,545.60	12,606,759.31	103.49%	1,512,756.92	11,094,002.39	91.07%
06-02-914	284,579.62	294,513.27	103.49%	35,340.33	259,172.94	91.07%
06-04-1001	267,466.87	276,803.17	103.49%	33,215.19	243,587.98	91.07%
07-04-024	176,717.15	182,875.66	103.48%	21,935.45	160,940.21	91.07%
06-01-998	50,000.00	51,742.48	103.48%	6,206.37	45,536.11	91.07%
	56,108,602.87	58,065,595.15		4,667,637.52	53,397,957.63	

	Principal Amount (Claim)	Total Recovery Disbursed	% of Recovery Disbursed to Claim	Total Legal, Costs, and Expenses	Total Distributed to Exchangers	% of Principal Returned to Claim
Class Plaintiffs						
116-1037-D	1,030,264.73	1,034,510.71	100.41%	309,942.33	724,568.38	70.33%
06-01-662	410,935.64	412,629.21	100.41%	123,624.87	289,004.34	70.33%
06-02-740	275.85	276.94	100.41%	82.99	193.95	70.33%
06-02-852	53,315.53	53,535.25	100.41%	16,039.31	37,495.94	70.33%
06-03-1022	59,488.38	59,733.55	100.41%	17,896.34	41,837.21	70.33%
06-02-927	61,636.05	61,890.07	100.41%	18,542.44	43,347.63	70.33%
07-03-003	80,185.21	80,515.68	100.41%	24,122.72	56,392.96	70.33%
06-01-968	504,614.65	506,694.29	100.41%	151,807.04	354,887.25	70.33%
06-01-969	151,449.95	152,074.10	100.41%	45,561.83	106,512.27	70.33%
06-02-813	5,188.24	5,209.62	100.41%	1,560.82	3,648.80	70.33%
06-02-796	536,714.61	538,926.53	100.41%	161,463.91	377,462.62	70.33%
06-04-966	76,424.13	76,739.09	100.41%	22,991.25	53,747.84	70.33%
06-04-961	47,984.33	48,182.09	100.41%	14,435.49	33,746.60	70.33%
06-01-1029	172,948.44	173,661.21	100.41%	52,029.39	121,631.82	70.33%
07-04-018	114,466.30	114,938.02	100.41%	34,435.76	80,502.26	70.33%
06-02-869	561,692.83	564,007.69	100.41%	168,978.30	395,029.39	70.33%
06-06-271	158,519.42	159,172.72	100.41%	47,688.60	111,484.12	70.33%
086-1006-D	1,128,956.46	1,133,609.17	100.41%	339,632.50	793,976.67	70.33%
06-04-963	363,368.44	364,865.96	100.41%	109,314.87	255,551.09	70.33%
06-01-955	147,500.00	148,107.88	100.41%	44,373.54	103,734.34	70.33%
115-0874-D	25,005.13	25,108.18	100.41%	7,522.48	17,585.70	70.33%
06-01-883	2,422,384.65	2,432,367.89	100.41%	728,744.28	1,703,623.61	70.33%
06-04-929	15,349.76	15,413.01	100.41%	4,617.78	10,795.23	70.33%
07-04-014	45,466.30	45,653.67	100.41%	13,677.97	31,975.70	70.33%
126-1043-D	168,289.00	168,982.55	100.41%	50,627.65	118,354.90	70.33%
06-04-398	664,098.63	666,835.56	100.41%	199,785.81	467,049.75	70.33%
011-1034-D	2,076,711.65	2,085,270.29	100.41%	624,752.86	1,460,517.43	70.33%

07-04-009	100,000.00	100,412.12	100.41%	30,083.76	70,328.36	70.33%
06-04-853	203,337.23	204,175.25	100.41%	61,171.48	143,003.77	70.33%
06-04-916	50,000.00	50,206.07	100.41%	15,041.88	35,164.19	70.33%
07-03-027	554,472.45	556,757.58	100.41%	166,806.14	389,951.44	70.33%
06-04-984	2,262,799.24	2,272,124.79	100.41%	680,735.00	1,591,389.79	70.33%
06-04-799	565,037.81	567,366.45	100.41%	169,984.59	397,381.86	70.33%
06-04-967AD	49,708.61	49,913.48	100.41%	14,954.22	34,959.26	70.33%
R06-01-887	203.61	204.44	100.41%	61.25	143.19	70.33%
06-02-563	616,350.02	618,890.15	100.41%	185,421.23	433,468.92	70.33%
06-01-805	9,493.83	9,532.96	100.41%	2,856.10	6,676.86	70.33%
06-01-794	25,221.07	25,325.03	100.41%	7,587.45	17,737.58	70.33%
06-02-874	242,966.41	243,967.73	100.41%	73,093.42	170,874.31	70.33%
06-06-716AD	70,869.00	71,161.07	100.41%	21,320.06	49,841.01	70.33%
06-06-717AD	165,906.96	166,590.70	100.41%	49,911.04	116,679.66	70.33%
06-04-1004	50,274.87	50,482.07	100.41%	15,124.57	35,357.50	70.33%
126-1041-D	734,788.89	737,817.14	100.41%	221,052.10	516,765.04	70.33%
06-01-919	109,642.05	110,093.92	100.41%	32,984.45	77,109.47	70.33%
06-04-1016	26,665.65	26,775.54	100.41%	8,022.03	18,753.51	70.33%
07-04-009	50,000.00	50,206.07	100.41%	15,041.88	35,164.19	70.33%
06-01-879	242,080.39	243,078.06	100.41%	72,826.87	170,251.19	70.33%
06-01-981	398,253.90	399,895.21	100.41%	119,809.73	280,085.48	70.33%
06-04-1013	103,125.00	103,550.01	100.41%	31,023.87	72,526.14	70.33%
06-03-652	142,751.61	143,339.93	100.41%	42,945.05	100,394.88	70.33%
06-02-812	5,188.24	5,209.60	100.41%	1,560.82	3,648.78	70.33%
06-02-814	5,188.24	5,209.60	100.41%	1,560.82	3,648.78	70.33%
07-04-013	3,000.00	3,012.36	100.41%	902.51	2,109.85	70.33%
06-04-987AD	78,209.00	78,531.32	100.41%	23,528.20	55,003.12	70.33%
06-04-958	175,619.77	176,343.55	100.41%	52,833.02	123,510.53	70.33%
06-04-975	133,253.22	133,802.39	100.41%	40,087.57	93,714.82	70.33%
07-04-015AD	174,049.70	174,767.00	100.41%	52,360.69	122,406.31	70.33%
07-01-001	161,420.95	162,086.21	100.41%	48,561.48	113,524.73	70.33%
06-04-911	75,315.24	75,625.63	100.41%	22,657.65	52,967.98	70.33%
06-02-953	206,754.30	207,606.40	100.41%	62,199.46	145,406.94	70.33%
06-01-1011	1,344,366.87	1,349,907.34	100.41%	404,436.05	945,471.29	70.33%
06-04-979	31,481.02	31,610.76	100.41%	9,470.67	22,140.09	70.33%
06-04-854	94,655.53	95,045.65	100.41%	28,475.94	66,569.71	70.33%
06-01-692	81,220.25	81,554.97	100.41%	24,434.10	57,120.87	70.33%
06-04-641	25,000.00	25,103.04	100.41%	7,520.94	17,582.10	70.33%
086-1011-D	592,402.23	594,843.65	100.41%	178,216.84	416,626.81	70.33%
06-02-942	97,181.17	97,581.68	100.41%	29,235.75	68,345.93	70.33%
06-03-1025	141,617.22	142,200.85	100.41%	42,603.78	99,597.07	70.33%
06-04-992	72,939.61	73,240.20	100.41%	21,942.97	51,297.23	70.33%
06-04-946	79,307.81	79,634.66	100.41%	23,858.77	55,775.89	70.33%
06-01-912	12,030.24	12,079.82	100.41%	3,619.15	8,460.67	70.33%
06-02-866	32,000.00	32,131.88	100.41%	9,626.80	22,505.08	70.33%
06-01-691	23,732.91	23,830.71	100.41%	7,139.75	16,690.96	70.33%
06-04-900	256,923.14	257,981.98	100.41%	77,292.13	180,689.85	70.33%
07-03-020	100,500.00	100,914.19	100.41%	30,234.17	70,680.02	70.33%
06-02-925	28,478.37	28,595.73	100.41%	8,567.36	20,028.37	70.33%
06-02-871	25,290.62	25,394.87	100.41%	7,608.37	17,786.50	70.33%
06-01-950	125,992.71	126,511.95	100.41%	37,903.34	88,608.61	70.33%
06-04-960AD	38,523.28	38,682.05	100.41%	11,589.25	27,092.80	70.33%
06-04-945AD	531,795.88	533,987.53	100.41%	159,984.17	374,003.36	70.33%
07-01-019	500,866.62	502,930.81	100.41%	150,679.49	352,251.32	70.33%
096-1021-D	41,887.71	42,060.33	100.41%	12,601.40	29,458.93	70.33%
06-03-1027	117,308.08	117,791.54	100.41%	35,290.68	82,500.86	70.33%

096-1024-D	485,677.54	487,679.15	100.41%	146,110.04	341,569.11	70.33%
06-04-1014	1,391,025.59	1,396,758.33	100.41%	418,472.74	978,285.59	70.33%
06-04-991	2,742,581.18	2,753,884.01	100.41%	825,071.42	1,928,812.59	70.33%
06-04-905	2,414,450.75	2,424,401.30	100.41%	726,357.47	1,698,043.83	70.33%
06-04-933AD	302,564.19	303,811.15	100.41%	91,022.67	212,788.48	70.33%
06-04-1019	377,328.54	378,883.61	100.41%	113,514.60	265,369.01	70.33%
06-04-841AD	105,363.36	105,797.59	100.41%	31,697.26	74,100.33	70.33%
076-1000-D	720,015.15	722,982.50	100.41%	216,607.60	506,374.90	70.33%
06-02-835	31,196.54	31,325.11	100.41%	9,385.09	21,940.02	70.33%
06-01-345	4,118,444.05	4,135,417.15	100.41%	1,238,982.65	2,896,434.50	70.33%
06-03-1015	137,574.81	138,141.79	100.41%	41,387.67	96,754.12	70.33%
06-04-1026AD	87,115.38	87,474.41	100.41%	26,207.58	61,266.83	70.33%
06-03-1023	40,525.90	40,692.92	100.41%	12,191.71	28,501.21	70.33%
06-01-808	334,706.15	336,085.56	100.41%	100,692.18	235,393.38	70.33%
06-01-865	529.43	531.62	100.41%	159.27	372.35	70.33%
06-04-936	154,181.80	154,817.22	100.41%	46,383.68	108,433.54	70.33%
06-04-880AD	65,760.96	66,031.99	100.41%	19,783.37	46,248.62	70.33%
06-03-573	2,268,735.11	2,278,085.11	100.41%	682,520.73	1,595,564.38	70.33%
06-04-990	123,895.17	124,405.77	100.41%	37,272.32	87,133.45	70.33%
06-01-800	4,792.72	4,812.47	100.41%	1,441.83	3,370.64	70.33%
06-02-924	134,329.77	134,883.38	100.41%	40,411.44	94,471.94	70.33%
06-04-768	848,953.59	852,452.34	100.41%	255,397.12	597,055.22	70.33%
06-03-759	28,861.07	28,980.02	100.41%	8,682.49	20,297.53	70.33%
06-03-721	65,714.66	65,985.49	100.41%	19,769.44	46,216.05	70.33%
06-01-042	16.00	16.07	100.41%	4.81	11.26	70.33%
06-01-954	109,016.57	109,465.84	100.41%	32,796.28	76,669.56	70.33%
06-01-873	241,876.96	242,873.79	100.41%	72,765.67	170,108.12	70.33%
07-04-009	100,000.00	100,412.12	100.41%	30,083.76	70,328.36	70.33%
06-04-1007	497,519.98	499,570.39	100.41%	149,672.70	349,897.69	70.33%
06-04-1010	75,000.00	75,309.10	100.41%	22,562.82	52,746.28	70.33%
06-04-982	62,592.76	62,850.72	100.41%	18,830.25	44,020.47	70.33%
	41,341,028.52	41,511,404.98		12,436,934.06	29,074,470.92	
Totals	97,449,631.39	99,577,000.13		17,104,571.58	82,472,428.55	

EXHIBIT B

	Amount	Percentage
Claims		
State Plaintiffs	56,108,602.87	57.58%
Class Plaintiffs	41,341,028.52	42.42%
Total Claims	<u>97,449,631.39</u>	<u>100.00%</u>
Total Recovered (A)	<u>103,787,510.49</u>	<u>106.50%</u>
Distributions		
Exchangers		
State Plaintiffs	53,397,957.63	51.45%
Class Plaintiffs	29,074,276.97	28.01%
Total Exchangers (B)	<u>82,472,234.60</u>	<u>79.46%</u>
Exchangers Counsel		
State Counsel	509,578.69	0.49%
Class Counsel	11,211,783.80	10.80%
Total Exchangers Counsel (C)	<u>11,721,362.49</u>	<u>11.29%</u>
Total Exchangers Distributions	<u>94,193,597.09</u>	<u>90.76%</u>
Receiver and Professionals		
Administrator/Receiver	825,991.63	0.80%
Anthony A Zmaila Limited PLLC	142,480.98	0.14%
Consultant/Mediators	69,636.11	0.07%
Gide, Loyrette, Nouel	76,422.30	0.07%
Prince & Keating	98,485.62	0.09%
Santoro Driggs	2,640,438.33	2.54%
Stradling Yocca Carlson & Rauth	211,103.66	0.20%
Womble, Carlye, Sandridge & Rice	751,442.41	0.72%
Total Receiver and Professionals (D)	<u>4,816,001.04</u>	<u>4.64%</u>
Non-Receiver Professionals		
Conton Attorney	25,000.00	0.02%
McGhan's Attorney	400,000.00	0.39%
Medicor Unsecured Creditors	275,000.00	0.26%
Medicor D&O attorneys	895,556.43	0.86%
Total Non-Receiver Professionals (E)	<u>1,595,556.43</u>	<u>1.54%</u>
Other Payments		
Insurance Payments	25,157.01	0.02%
Litigation Services	112,616.08	0.11%
Payments to McGhans	302,703.76	0.29%
Rent Expense	62,756.70	0.06%
Other Administrative Expenses	38,974.50	0.04%
Total Other Payments (F)	<u>542,208.05</u>	<u>0.52%</u>
Total Distributions	<u>101,147,362.61</u>	<u>97.46%</u>
Yet to be Distributed (G)	2,640,147.88	

Reconciliation

Total Recovered	103,787,510.49
Less: Amount Distributed	<u>(101,147,362.61)</u>
Remaining Amount in Bank Account	2,640,147.88

Amount in Bank Account

Reserve (H)	221,235.07
Arthrocare (I)	234,696.29
Interest Income (J)	104,264.10
Exchangers Not Yet Paid (K)	193.95
Other Income (L)	16,258.47
Litigation Defense Fund (RESTRICTED) (M)	<u>2,063,500.00</u>
Total Amount in Bank Account	2,640,147.88