

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION

OFFICE OF THE ATTORNEY
GENERAL, DEPARTMENT OF LEGAL
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

v.

CASE NO.: 51-2010-CA-2912-WS/G

BOTFLY L.L.C., DAVID R. LEWALSKI,
JON J. HAMMILL, and JON J. HAMMILL, P.A.,

Defendants.

**RECEIVER'S MOTION FOR AUTHORITY TO MAKE A SIXTH AND
FINAL DISTRIBUTION TO THE HOLDERS OF ALLOWED CLASS 1 CLAIMS**

Michael Moecker, as Receiver in the above-referenced case, by and through his undersigned counsel and pursuant to the Court's Order Appointing Receiver dated April 1, 2010 (the "**Order Appointing Receiver**"), respectfully moves this Court for an Order approving the payment of a sixth and final distribution to the holders of Allowed Class 1 Claims as set forth in this motion and the distribution list schedule attached as Exhibit A. The total amount sought to be paid to investors by this motion is \$93,234.19, an amount that represents one-half of one percent (0.005057%) of the allowed amount of the Allowed Class 1 Claims.¹

On February 24, 2012, the Court entered an order (the "**Order**") granting the motion and approving the Receiver's determination of claims and claim priorities as fair and equitable. The Court established a deadline for making objections to the Receiver's claim determinations and

¹ Claim 595 is listed on Schedule A because it is an Allowed Class 1 Claim. No payment will be made to Claim 595 in the sixth and final distribution. Pursuant to the Court's Amended Order of Instructions Regarding Payment of Claims (Judge Mills) entered November 8, 2012, no additional payment shall be made for Claim 595 until the resolution of an issue relating to the calculation of the net investment loss for that claim.

claim priorities and authorized the Receiver to make interim distributions to the holders of Allowed Class 1 Claims subject to the Court's review and approval of the amounts of the interim distributions. Pursuant to the Order, the Receiver made interim distribution payments to the holders of Allowed Class 1 Claims in the amount of 20% of the Allowed Amount of the claim. Since the initial distribution, the Court authorized four additional interim distributions. The most recent interim distribution was approved on January 31, 2018.

To date, pursuant to interim distribution orders the Receiver has sent payments totaling \$5,417,704.32. Some of the payments, however, have been returned as undeliverable and some of the payments have not been deposited. As reflected in the Receiver's Twenty-Eighth and Final Report, the payments that have cleared the Receiver's bank accounts total \$5,399,107.66.

It is Appropriate for the Receiver to Make A Final Distribution to Claimants

The Receiver has prepared a schedule (the "Allowed Claim and Distribution List") which sets forth certain information regarding the Allowed Class 1 claims to be paid pursuant to the proposed final distribution upon approval by the Court. A copy of the Allowed Class 1 Claim and Sixth and Final Distribution List is attached hereto as Exhibit "A." The Allowed Class 1 Claim and Sixth and Final Distribution List includes: (a) the claim numbers assigned by the Receiver; (b) the allowed amount of the claims; and (c) the amount of the proposed final distribution payments.

As of the conclusion of the Twenty-Seventh Interim Reporting Period on January 31, 2021, the balance held in the Receivership's account was \$122,611.87. The litigation brought by the Receiver has been concluded and the Receivership Estate's non-monetary assets have been fully administered. Taking into consideration (a) present and anticipated final administrative expenses, (b) the Receivership's outstanding obligations for payment for final legal fees, and (c)

the completion of recoveries from settlement agreements and the collection of judgments, the Receiver has calculated that a final distribution of one half of one percent (0.005057%) of the allowed amount of the Allowed Class 1 Claims is appropriate and will complete the administration of the Receivership Estate.

The Receiver has paid administrative expense claims as approved by this Court during the course of the Receivership proceedings and will continue to do so. As of the date of the filing of this motion, Michael Moecker & Associates has been paid for fees and costs of the services rendered through January 31, 2021 and has filed an application for approval of its final fees and costs through the anticipated completion of this case in the amount of \$1,819.33. The Receiver's counsel, Bush Ross, P.A., has been paid for its fees and costs through January 31, 2021 and has filed an application for approval of its final fees and costs through the anticipated completion of this case in the amount of \$9,000.00.

The Receivership has maintained a reserve in the amount of \$18,596.66 for distribution checks that were issued but were not cashed and contemplates that at the completion of the final distribution any and all unclaimed funds of the Receivership estate will be reported and delivered to the State of Florida, Department of Financial Services, as Florida Unclaimed Property.

Relief Requested

By this Motion, the Receiver requests that this Court enter an order authorizing the Receiver to make a final distribution to each holder of an Allowed Class 1 Claim in the amount set forth on Exhibit A. The Receiver will send payment to the holders of the Allowed Class 1 Claims using the claimant's address set forth on either the proof of claim or subsequently provided during the claims process for purposes of making any distributions to claimants.

WHEREFORE, the Receiver requests that this Court enter an order approving the Motion and granting such other and further relief as the Court deems just and proper.

Dated: April 20, 2021

BUSH ROSS, P. A.
Post Office Box 3913
Tampa, Florida 33601-3913
(813) 224-9255
(813) 223-9620 (telecopy)
Counsel for Receiver

By: /s/ Jeffrey W. Warren
Jeffrey W. Warren
Florida Bar No. 0150024
Primary E-Mail: jwarren@bushross.com
Secondary E-Mail: mlinares@bushross.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 20, 2021, a true and correct copy of the foregoing Receiver's Motion for Authority to Make a Sixth and Final Distribution to the Holders of Allowed Class 1 Claims was filed electronically with the Clerk of Court for Pasco County and furnished via electronic transmission to the following parties:

Gregory Slempp, Esq.
greg.slempp@myfloridalegal.com
jennifer.morganbyrd@myfloridalegal.com

/s/ Jeffrey W. Warren
ATTORNEY

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

Claim #	Allowed	Final Distribution 0.005057%
0003	\$20,000.00	\$101.14
0004	\$128,800.00	\$651.34
0006	\$8,400.00	\$42.48
0010	\$200,000.00	\$1,011.40
0012	\$50,000.00	\$252.85
0013	\$10,000.00	\$50.57
0014	\$25,000.00	\$126.43
0023	\$20,000.00	\$101.14
0025	\$20,000.00	\$101.14
0029	\$38,000.00	\$192.17
0031	\$100,000.00	\$505.70
0032	\$53,500.00	\$270.55
0034	\$40,600.00	\$205.31
0036	\$193,628.00	\$979.18
0037	\$17,000.00	\$85.97
0039	\$24,000.00	\$121.37
0041	\$25,000.00	\$126.43
0042	\$10,000.00	\$50.57
0043	\$99,000.00	\$500.64
0047	\$80,000.00	\$404.56
0048	\$43,000.00	\$217.45
0050	\$25,000.00	\$126.43
0053	\$110,000.00	\$556.27
0055	\$64,000.00	\$323.65
0057	\$6,135.00	\$31.02
0059	\$15,000.00	\$75.86
0064	\$20,000.00	\$101.14
0065	\$75,000.00	\$379.28
0068	\$30,000.00	\$151.71
0071	\$37,500.00	\$189.64
0072	\$25,000.00	\$126.43
0074	\$40,000.00	\$202.28
0075	\$10,500.00	\$53.10
0077	\$19,000.00	\$96.08
0079	\$4,000.00	\$20.23
0081	\$25,000.00	\$126.43
0082	\$30,000.00	\$151.71
0083	\$40,000.00	\$202.28
0084	\$30,000.00	\$151.71
0086	\$25,000.00	\$126.43
0091	\$25,000.00	\$126.43
0095	\$48,000.00	\$242.74
0098	\$32,000.00	\$161.82
0100	\$37,000.00	\$187.11
0101	\$5,000.00	\$25.29
0104	\$25,000.00	\$126.43
0105	\$155,000.00	\$783.84
0108	\$1,400.00	\$7.08

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

<u>Claim #</u>	<u>Allowed</u>	<u>Final Distribution 0.005057%</u>
0109	\$25,000.00	\$126.43
0113	\$100,000.00	\$505.70
0118	\$25,000.00	\$126.43
0120	\$22,500.00	\$113.78
0126	\$35,000.00	\$177.00
0128	\$9,000.00	\$45.51
0129L	\$17,000.00	\$85.97
0130	\$50,000.00	\$252.85
0131	\$20,000.00	\$101.14
0132	\$32,000.00	\$161.82
0133	\$10,000.00	\$50.57
0134	\$11,127.11	\$56.27
0135	\$129,100.00	\$652.86
0137	\$10,000.00	\$50.57
0138	\$50,000.00	\$252.85
0140	\$64,600.00	\$326.68
0141	\$22,750.00	\$115.05
0143	\$20,000.00	\$101.14
0144	\$25,000.00	\$126.43
0145	\$10,000.00	\$50.57
0146	\$195,900.00	\$990.67
0149	\$100,180.10	\$506.61
0150	\$40,000.00	\$202.28
0151	\$30,000.00	\$151.71
0152	\$50,000.00	\$252.85
0155	\$47,000.00	\$237.68
0156	\$111,930.00	\$566.03
0161	\$15,500.00	\$78.38
0162	\$42,000.00	\$212.39
0163	\$25,000.00	\$126.43
0164	\$40,000.00	\$202.28
0167L	\$2,800.00	\$14.16
0170	\$50,000.00	\$252.85
0171	\$100,000.00	\$505.70
0173	\$58,350.00	\$295.08
0176	\$10,000.00	\$50.57
0177	\$10,000.00	\$50.57
0178	\$30,000.00	\$151.71
0180L	\$14,000.00	\$70.80
0181	\$25,000.00	\$126.43
0182	\$25,000.00	\$126.43
0183	\$10,000.00	\$50.57
0184	\$38,000.00	\$192.17
0186	\$10,000.00	\$50.57
0187	\$31,595.00	\$159.78
0188	\$200,335.66	\$1,013.10
0190	\$20,000.00	\$101.14
0194	\$25,000.00	\$126.43
0196	\$25,000.00	\$126.43
0197	\$10,000.00	\$50.57

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

Claim #	Allowed	Final Distribution 0.005057%
0201	\$23,000.00	\$116.31
0202	\$13,000.00	\$65.74
0204	\$20,000.00	\$101.14
0207L	\$75,000.00	\$379.28
0210L	\$10,000.00	\$50.57
0211	\$100,000.00	\$505.70
0212	\$35,000.00	\$177.00
0215	\$20,000.00	\$101.14
0219	\$247,500.00	\$1,251.61
0222	\$170,511.00	\$862.27
0224	\$12,000.00	\$60.68
0225	\$35,000.00	\$177.00
0227	\$25,000.00	\$126.43
0228	\$25,000.00	\$126.43
0230	\$30,000.00	\$151.71
0232	\$23,000.00	\$116.31
0233	\$20,000.00	\$101.14
0235	\$25,000.00	\$126.43
0236	\$13,700.00	\$69.28
0239	\$491,250.00	\$2,484.25
0240	\$33,000.00	\$166.88
0243	\$75,000.00	\$379.28
0244	\$25,000.00	\$126.43
0245	\$9,000.00	\$45.51
0247	\$41,000.00	\$207.34
0250	\$5,000.00	\$25.29
0252	\$25,000.00	\$126.43
0253	\$42,000.00	\$212.39
0255	\$15,000.00	\$75.86
0256	\$25,000.00	\$126.43
0259	\$45,000.00	\$227.57
0262	\$50,000.00	\$252.85
0264	\$125,000.00	\$632.13
0265	\$10,000.00	\$50.57
0266	\$300,000.00	\$1,517.10
0267	\$30,000.00	\$151.71
0268	\$50,000.00	\$252.85
0269	\$24,000.00	\$121.37
0270	\$95,000.00	\$480.42
0274	\$51,000.00	\$257.91
0275L	\$5,000.00	\$25.29
0277	\$59,500.00	\$300.89
0278	\$50,000.00	\$252.85
0281	\$25,000.00	\$126.43
0282	\$12,500.00	\$63.21
0283	\$20,000.00	\$101.14
0284	\$10,000.00	\$50.57
0285	\$100,000.00	\$505.70
0288	\$101,000.00	\$510.76
0290	\$25,000.00	\$126.43

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

Claim #	Allowed	Final Distribution 0.005057%
0291	\$7,500.00	\$37.93
0292	\$25,000.00	\$126.43
0293	\$20,000.00	\$101.14
0300	\$11,000.00	\$55.63
0302	\$5,000.00	\$25.29
0303	\$14,000.00	\$70.80
0305	\$75,000.00	\$379.28
0306	\$50,000.00	\$252.85
0308	\$20,000.00	\$101.14
0311	\$7,000.00	\$35.40
0313	\$93,500.00	\$472.83
0314	\$436,000.00	\$2,204.85
0315L	\$7,000.00	\$35.40
0316	\$7,500.00	\$37.93
0319	\$19,400.00	\$98.11
0320	\$13,300.00	\$67.26
0322	\$25,000.00	\$126.43
0323	\$47,500.00	\$240.21
0325	\$25,000.00	\$126.43
0327	\$16,000.00	\$80.91
0329	\$60,000.00	\$303.42
0330	\$34,000.00	\$171.94
0333	\$25,000.00	\$126.43
0334	\$7,000.00	\$35.40
0336	\$40,000.00	\$202.28
0337	\$34,000.00	\$171.94
0339	\$50,000.00	\$252.85
0344	\$12,500.00	\$63.21
0347	\$127,120.17	\$642.85
0348	\$12,500.00	\$63.21
0349	\$25,000.00	\$126.43
0350	\$190,000.00	\$960.83
0351	\$25,000.00	\$126.43
0352	\$10,000.00	\$50.57
0353	\$620,000.00	\$3,135.34
0356	\$38,000.00	\$192.17
0357	\$200,000.00	\$1,011.40
0362	\$58,386.00	\$295.26
0365	\$74,000.00	\$374.22
0366	\$30,000.00	\$151.71
0368	\$13,500.00	\$68.27
0369	\$10,000.00	\$50.57
0372	\$25,000.00	\$126.43
0375	\$35,500.00	\$179.52
0377	\$10,000.00	\$50.57
0379	\$37,000.00	\$187.11
0380L	\$60,000.00	\$303.42
0383	\$49,000.00	\$247.79
0388	\$21,000.00	\$106.20
0390	\$30,000.00	\$151.71

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

Claim #	Allowed	Final Distribution 0.005057%
0391	\$30,000.00	\$151.71
0392	\$29,000.00	\$146.65
0393	\$10,000.00	\$50.57
0395	\$54,000.00	\$273.08
0396	\$17,000.00	\$85.97
0397	\$25,000.00	\$126.43
0400	\$62,000.00	\$313.53
0402	\$60,000.00	\$303.42
0403	\$15,000.00	\$75.86
0405	\$205,000.00	\$1,036.69
0408	\$18,000.00	\$91.03
0410	\$66,075.00	\$334.14
0411	\$60,000.00	\$303.42
0414	\$23,000.00	\$116.31
0416	\$14,000.00	\$70.80
0418	\$18,700.00	\$94.57
0420	\$21,000.00	\$106.20
0421	\$50,000.00	\$252.85
0422	\$109,000.00	\$551.21
0424	\$25,000.00	\$126.43
0426	\$25,000.00	\$126.43
0427	\$27,500.00	\$139.07
0428	\$25,000.00	\$126.43
0429	\$30,000.00	\$151.71
0431	\$42,800.00	\$216.44
0432	\$8,000.00	\$40.46
0433	\$30,000.00	\$151.71
0436	\$10,000.00	\$50.57
0437	\$40,000.00	\$202.28
0441	\$59,000.00	\$298.36
0442	\$35,000.00	\$177.00
0443	\$110,000.00	\$556.27
0445	\$5,000.00	\$25.29
0448	\$20,000.00	\$101.14
0449	\$268,675.02	\$1,358.69
0450	\$25,000.00	\$126.43
0451	\$25,000.00	\$126.43
0454	\$10,000.00	\$50.57
0458	\$6,000.00	\$30.34
0459	\$75,000.00	\$379.28
0462	\$25,000.00	\$126.43
0463L	\$22,500.00	\$113.78
0464	\$107,000.00	\$541.10
0465	\$3,000.00	\$15.17
0466	\$10,000.00	\$50.57
0467L	\$25,000.00	\$126.43
0468	\$20,000.00	\$101.14
0472	\$25,000.00	\$126.43
0473	\$10,000.00	\$50.57
0475	\$6,000.00	\$30.34

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

<u>Claim #</u>	<u>Allowed</u>	<u>Final Distribution 0.005057%</u>
0477	\$20,000.00	\$101.14
0480	\$49,000.00	\$247.79
0481	\$4,500.00	\$22.76
0482	\$10,500.00	\$53.10
0486	\$15,000.00	\$75.86
0492	\$100,000.00	\$505.70
0493	\$58,000.00	\$293.31
0496	\$35,000.00	\$177.00
0497	\$100,000.00	\$505.70
0498	\$45,000.00	\$227.57
0504	\$12,000.00	\$60.68
0505	\$50,000.00	\$252.85
0506	\$7,275.98	\$36.79
0510	\$25,000.00	\$126.43
0513	\$19,328.00	\$97.74
0515	\$112,000.00	\$566.38
0517	\$27,500.00	\$139.07
0519	\$255,000.00	\$1,289.54
0522	\$50,000.00	\$252.85
0523	\$4,000.00	\$20.23
0524	\$16,900.00	\$85.46
0526	\$88,300.00	\$446.53
0529	\$40,000.00	\$202.28
0530	\$27,000.00	\$136.54
0532	\$18,000.00	\$91.03
0534	\$31,000.00	\$156.77
0535	\$20,000.00	\$101.14
0537	\$45,000.00	\$227.57
0539	\$12,000.00	\$60.68
0540	\$15,000.00	\$75.86
0541	\$130,000.00	\$657.41
0542	\$69,600.00	\$351.97
0543L	\$3,000.00	\$15.17
0544	\$100,000.00	\$505.70
0546	\$15,000.00	\$75.86
0548	\$100,000.00	\$505.70
0549	\$33,000.00	\$166.88
0550	\$100,000.00	\$505.70
0552	\$25,000.00	\$126.43
0553	\$20,000.00	\$101.14
0554L	\$83,005.64	\$419.76
0555	\$30,000.00	\$151.71
0558	\$60,000.00	\$303.42
0560	\$10,000.00	\$50.57
0562	\$141,000.00	\$713.04
0563	\$11,000.00	\$55.63
0564	\$25,000.00	\$126.43
0566	\$31,000.00	\$156.77
0569	\$50,000.00	\$252.85
0570	\$30,800.00	\$155.76

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

<u>Claim #</u>	<u>Allowed</u>	<u>Final Distribution 0.005057%</u>
0575	\$10,400.00	\$52.59
0576	\$12,000.00	\$60.68
0578	\$25,000.00	\$126.43
0583	\$25,000.00	\$126.43
0584	\$53,000.00	\$268.02
0587	\$30,000.00	\$151.71
0589	\$95,000.00	\$480.42
0590	\$20,000.00	\$101.14
0591	\$24,500.00	\$123.90
0592	\$10,000.00	\$50.57
0593	\$10,000.00	\$50.57
0595	\$29,000.00	\$146.65
0597	\$257,898.00	\$1,304.19
0600	\$9,800.00	\$49.56
0602	\$25,000.00	\$126.43
0611	\$40,500.00	\$204.81
0613	\$245,000.00	\$1,238.97
0614	\$27,500.00	\$139.07
0615	\$10,000.00	\$50.57
0616	\$7,000.00	\$35.40
0617	\$245,000.00	\$1,238.97
0618	\$25,000.00	\$126.43
0619	\$41,450.00	\$209.61
0621	\$46,000.00	\$232.62
0622	\$57,500.00	\$290.78
0624	\$42,000.00	\$212.39
0626	\$100,000.00	\$505.70
0627	\$25,000.00	\$126.43
0628	\$357,330.00	\$1,807.02
0629	\$175,000.00	\$884.98
0630	\$74,000.00	\$374.22
0631	\$50,000.00	\$252.85
0632L	\$45,000.00	\$227.57
0634	\$40,000.00	\$202.28
0636	\$250,000.00	\$1,264.25
0640	\$25,000.00	\$126.43
0642	\$213,000.00	\$1,077.14
0643	\$25,000.00	\$126.43
0647	\$23,000.00	\$116.31
0649	\$9,000.00	\$45.51
0651	\$45,359.00	\$229.38
0652	\$10,000.00	\$50.57
0653	\$35,000.00	\$177.00
0654	\$25,000.00	\$126.43
0656	\$32,500.00	\$164.35
0658	\$100,000.00	\$505.70
0666	\$21,080.00	\$106.60
0667	\$25,000.00	\$126.43
0668	\$9,021.00	\$45.62
0670	\$20,000.00	\$101.14

EXHIBIT "A"

Allowed Class 1 Claim and Sixth and Final Distribution List

Claim #	Allowed	Final Distribution 0.005057%
0671	\$16,500.00	\$83.44
0672	\$42,000.00	\$212.39
0673	\$48,000.00	\$242.74
0679	\$12,000.00	\$60.68
0683	\$36,000.00	\$182.05
0684	\$46,000.00	\$232.62
0687	\$13,500.00	\$68.27
0688	\$10,000.00	\$50.57
0690	\$15,000.00	\$75.86
0691	\$24,500.00	\$123.90
0692	\$56,500.00	\$285.72
0693	\$100,000.00	\$505.70
0695	\$15,000.00	\$75.86
0696	\$10,000.00	\$50.57
0697	\$10,000.00	\$50.57
0698	\$6,914.52	\$34.97
0700	\$180,000.00	\$910.26
0701	\$49,150.00	\$248.55
0702	\$15,000.00	\$75.86
0703	\$30,000.00	\$151.71
0706	\$50,000.00	\$252.85
0707	\$19,500.00	\$98.61
0708	\$20,000.00	\$101.14
	\$18,436,660.20	\$93,234.19