

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-cv-60082-DIMITROULEAS/SNOW

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

FREDERIC ELM f/k/a FREDERIC ELMALEH,  
et al.,

Defendants,

and

AMANDA ELM f/k/a AMANDA ELMALEH,

Relief Defendant.

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**THE RECEIVER'S MOTION FOR COURT APPROVAL OF  
(a) THE RECEIVER'S RECOMMENDATIONS CONCERNING CLAIMS;  
(b) A DISTRIBUTION OF PRO RATA PERCENTAGES;  
AND (c) THE RECEIVER'S PROPOSED OBJECTION SCHEDULE**

The Court-appointed receiver, Grisel Alonso (the "Receiver"), not individually, but solely in her capacity as Receiver for Elm Tree Investment Advisors, LLC ("ETIA"); Elm Tree Investment Fund, LP ("ETIF"); Elm Tree 'e'conomy Fund, LP ("ETEF"); Elm Tree Motion Opportunity, LP ("ETMO"); and Etopia LP ("Etopia") (collectively, the "Receivership Entities"), respectfully submits this Motion for Court Approval of the Receiver's recommendations concerning claims and proposed objection schedule (the "Motion"). *The Receiver is authorized to state that the Securities and Exchange Commission has no objection to the relief requested.*

**BROAD and CASSEL**

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**I. CLAIMS RECEIVED**

Pursuant to both the Court's Order Approving Claims Process (the "First Claims Order") entered on March 30, 2016, [D.E. 149], and the Court's Order Granting Approval to Expand Claims Process to Consider Claims Relating to Etopia LP (the "Etopia Claims Order"), all Proof of Claim Forms ("POC Forms") were to be completed and returned to the Receiver's office. The First Claims Order and Etopia Claims Order are collectively referred to as the "Claims Orders" throughout this Motion.

To date, the Receiver has received 25 POC Forms (collectively, the "Claims" and each individually, a "Claim") from investors (collectively, the "Claimants" and each individually, a "Claimant").

Many of the Claims contained incomplete information or information that conflicted with the Receiver's records, requiring the Receiver and her professionals to undertake additional inquiry to Claimants. The Receiver undertook these additional inquiries to reduce the likelihood of substantial or numerous objections to the recommendations contained herein, and to test the veracity of the Receiver's own records. While following up with Claimants was beneficial, it added time to the process.

The Receiver notes that some Claims were received by the Receiver's office after the deadlines set forth in the POC Forms. It is the Receiver's position that because of the location of the investors—many of them reside outside the United States—and their potential unfamiliarity with the formality of the Receivership, equity dictates that those claims fitting within this category should be approved where indicated, as they are otherwise free and clear from any other objectionable characteristics.

The Receiver, her professional staff and her attorneys have reviewed each Claim, along with the supporting documentation provided by each Claimant. The Receiver's recommendations, discussed below, break the Claims down into three groups. The first group includes Claims the Receiver recommends be approved in full. This group of "Approved Claims"<sup>1</sup> includes 17 of the 25 Claims. The second group, "Rejected Claims,"<sup>2</sup> includes the single Claim the Receiver recommends be rejected in full. The third group, "Modified Claims"<sup>3</sup> includes those Claims the Receiver recommends be approved for a higher or lower amount than what was submitted in by the Claimant in the POC Form. This group of "Modified Claims" makes up the remaining 7 of 25 Claims.

## **II. INVESTOR CLAIMS**

The POC Form, which was approved by the Court on March 30, 2016 [D.E. 193] and April 16, 2018 [D.E. 149], directed investors and entities to submit a claims in accordance with its instructions and the Claims Orders.

As discussed above, in many cases Claimants left information on the POC Forms blank, wrote in ambiguous answers, or claimed amounts that did not reflect what was in the Receivership's books and records. In an effort to resolve any conflicts between the Receiver's records and the information of a POC Form or confusion based on a particular submission, and

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<sup>1</sup> "Approved Claims" refers to a claim as to which a POC Form has been submitted, by a Claimant, to the Receiver, in accordance with the provisions set forth in the POC Form and the Claims Orders, and which has been determined by the Receiver as compensable.

<sup>2</sup> "Rejected Claims" refers to a claim as to which a POC Form has been submitted, by a Claimant, to the Receiver, but that cannot be verified due to the existence of a discrepancy between the Claim and the Receivership Entities' records in the Receiver's possession, or is a Claim to which the Receiver objects.

<sup>3</sup> "Modified Claims" refers to a claim as to which a POC Form has been submitted, by a Claimant, to the Receiver, in accordance with the provisions set forth in the POC Form and the Claims Orders, and which has been determined by the Receiver as compensable in an amount higher or lower than the amount stated in the POC Form.

to ensure fair and equitable treatment of all Claimants, the Receiver followed up with Claimants to try to resolve discrepancies. The Receiver relied on Claimants' sworn answers on their POC Forms and their representations in telephone calls and e-mail correspondence, as well as the Receivership Entities' bank records, to prepare the following analysis and the attached documents.

### **III. BRIEF SUMMARY OF REQUESTED RELIEF**

The Receiver recommends that the Court—following notice and opportunity for objections—issue three sets of rulings concerning the Receiver's Schedule of Claims (attached as **Exhibit A**).

First, the Receiver seeks an order from the Court **allowing** the Allowed Claims and Modified Claims listed in Exhibit A (by Claim No.) in the amount reflected in column 10 (the "Allowed Amounts").

Second, the Receiver seeks an order from the Court **rejecting** the Rejected Claims listed in Exhibit A (by Claim No.).

Third, the Receiver seeks an order from the Court permitting a *pro rata* distribution of monies to holders of Approved and Modified Claims, consistent with the percentages reflected in column 11 of Exhibit A (the "Pro Rata Percentages") and the distribution amounts in column 12 of Exhibit A (the "Proposed First Distribution Amounts").

### **IV. ASSETS FOR DISTRIBUTION**

The Receiver currently maintains approximately \$2,352,647.58 in the Receivership account, as of January 30, 2019. Because of the limited funds available to investors, there are currently not enough funds to repay Approved Claims and Modified Claims their full Allowed Claim Amounts. Accordingly, the Receiver proposes that holders of Approved Claims and

Modified Claims be paid a *pro rata* percentage of the total funds available for distribution, with such percentage to be calculated using the Allowed Claim Amounts for holders of Approved and Modified Claims.

The Receiver proposes to make this interim payment as soon as practicable, but no later than sixty (60) days after a final order is entered by the Court ruling on the Receiver's recommendations in this Motion and objections, if any, to the Receiver's recommendations. Pursuant to this Motion, the Receiver seeks to distribute, *pro rata*, a total of \$1,800,000. The Receiver believes that sufficient funds (approximately \$552,000) will remain in the Receivership to complete the administration of the Receivership after this first distribution and to be used in further distributions. The Receiver recommends that any distribution of cash under this plan that goes unclaimed after six (6) months following the date of distribution be deemed forfeited, and such distribution, together with all interest earned thereon, become part of the reserve for later distribution.

## **V. RECEIVER'S RECOMMENDATIONS**

### **A. Receiver's Recommendations for Allowed Amounts on Exhibit A**

As stated above, a Schedule of Claims is attached as Exhibit A to this Motion. The Schedule of Claims identifies, among other things: (1) each POC Form, listed by Claim number;<sup>4</sup> (2) whether the Claim is an Approved Claim, a Rejected Claim, or a Modified Claim; (3) the amounts claimed in each Claim; (4) the proposed Allowed Amounts for holders of Approved and

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<sup>4</sup> The Receiver has made every effort to maintain the identities of the investors and creditors confidential throughout this case. As part of that effort, the Receiver replaced the names of the each investor on the Schedule of Claims with a Claimant number. Each Claimant will be notified of his or her Claimant number via e-mail, if possible.

Modified Claims<sup>5</sup>; and (5) the Pro Rata Percentage amount for holders of Approved and Modified Claims.

**i. Approved Claims**

Claims numbered 1-4, 7, 9-10,<sup>6</sup> 12, 14-17, 19-20, 22, and 24-25 on Exhibit A are holders of Approved Claims. For these Approved Claims, the Receiver has confirmed that the funds that serve as the basis for these claims were transferred to the Receivership Entities, and the claimed amounts match the amounts located in the Receivership Entities' books and records.<sup>7</sup> Therefore, the Receiver recommends the Court enter an order approving the Allowed Claim Amounts for Claims 1-4, 7, 9-10, 12, 14-17, 19-20, 22, and 24-25, as reflected in column 10 of Exhibit A.

**ii. Rejected Claims**

Claim 8 on Exhibit A is the sole Rejected Claim.

The Receiver recommends that Claim 8 be rejected because it is based in part on a transaction with a non-Receivership entity. The individual who submitted Claim 8 is a "net winner"<sup>8</sup> with respect to the Receivership Entities and was sued by the Receiver in the action styled *Alonso v. Benvenuto, et al.*, Case No. 16-62603 in the United States District Court for the

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<sup>5</sup> The sole Rejected Claims does not have an Allowed Claim Amount on Exhibit A, and instead reflects a \$0 amount.

<sup>6</sup> According to the Receivership's books and records, a \$20,000 cashier's check was made out to the individual who submitted Claim 10, but there is no proof it was ever cashed. The Claimant who submitted Claim 10 also prepared a written declaration, swearing under oath that she never received the \$20,000 cashier's check. Based on the Receiver's inability to confirm that the check was ever sent to this Claimant, and taking into consideration her sworn declaration, the Receiver recommends Claim 10 be approved in full.

<sup>7</sup> There are small differences between the Receivership's records and the claim amounts for bank fees that were charged to the investors when their monies were deposited into the Receivership Entities' accounts. Only those claims that varied by a greater than \$150 transaction fee or exchange fee are included in Modified Claims.

<sup>8</sup> The individual who submitted Claim 8 received more in returns from the Receivership Entities than he invested.

Southern District of Florida. Therefore, the Receiver recommends that the Court enter an order rejecting Claim 8.

**iii. Modified Claims**

Claims 5-6, 11, 13, 18, 21, and 23 on Exhibit A are the Modified Claims.

The Receiver recommends that these Modified Claims be approved. For these Claims, the Receiver is recommending Allowed Claim Amounts that are either higher or lower than the amounts claimed in the POC Forms. The Receiver addresses each of the Modified Claims as follows:

Claim 5 is for a total Claimed Net Investment amount of \$54,147.00, reflected in column 5 of Exhibit A. According to the Receivership Entities' bank records, this does not include \$39,965.00 that the Claimant invested in Etopia, a Receivership Entity. After bringing this discrepancy to the Claimant's attention, the Claimant contacted the Receiver and stated that he did not file a claim for Etopia because Fred Elm informed him that the Etopia Fund had been cancelled and the Claimant was refunded his investment in Etopia. In the interests of equity, the Receiver recommends that credit be given to Claimant for the \$39,965.00 invested in Etopia. Therefore, the Receiver recommends that, for Claim 5, the Allowed Claim Amount be approved as \$94,119.00, as reflected in Column 10 on Exhibit A.

Claim 6 is for a total Claimed Net Investment amount of \$155,225.00, reflected in column 5 of Exhibit A. According to the Receivership Entities' bank records, this does not include \$61,165.00 that the Claimant invested in Etopia or \$101,200.00 that the Claimant received back from Etopia. After bringing this discrepancy to Claimant's attention, the Claimant contacted the Receiver and stated that he did not file a claim for Etopia because Fred Elm informed him that the Etopia Fund had been cancelled and the Claimant was refunded his

investment in Etopia. In the interests of equity, the Receiver recommends that this investment and return related to Etopia be counted as part of Claim 6. Therefore, the Receiver recommends that, for Claim 6, the Allowed Claim Amount be approved as \$115,190.00, as reflected in Column 10 on Exhibit A.

Claim 11 is for a total Claimed Net Investment amount of \$60,000.00, reflected in column 5 of Exhibit A. According to the Receivership Entities' bank records, the total Confirmed Net Investment amount for this Claim is \$49,913.66. The Receiver contacted this Claimant to inquire as to the discrepancy. Despite bringing this discrepancy to Claimant's attention, Claimant has not responded. . In the interests of equity, the Receiver recommends that, for Claim 11, the Allowed Claim Amount be approved as \$49,913.66, as reflected in Column 10 on Exhibit A.

Claim 13 is for a total Claimed Net Investment amount of \$2,548,556.51, reflected in column 5 of Exhibit A. The Receivership Entities' bank records reflects an additional \$750,000 invested by this Claimant in Etopia, a Receivership Entity. Claim 13 did not include the Etopia investment in the Claimed Net Investment amount. The Receiver wrote a letter to the Claimant's counsel advising of this discrepancy. After bringing this discrepancy to Claimant's attention, the Claimant has not responded. Based on the foregoing, in the interests of equity, the Receiver respectfully submits that an additional \$750,000.00 should be included in the Net Investment calculation for Claim 13. As such, the Receiver recommends that, for Claim 13, the Allowed Claim Amount be approved as \$3,298,556.51, as reflected in Column 10 on Exhibit A.

Claim 18 is for a total Claimed Net Investment amount of \$273,115.00, reflected in column 5 of Exhibit A. According to the Receivership Entities' bank records, the total Confirmed Net Investment amount for this Claim is \$202,065.00. The Receiver contacted this

Claimant to inquire as to the discrepancy. After bringing this discrepancy to Claimant's attention, the Claimant contacted the Receiver and advised that he disputes the amount of the returns and claims that the payments are instead commissions he earned under a brokerage contract. Based on the foregoing, the Receiver recommends that, for Claim 18, the Allowed Claim Amount be approved as \$202,065.00, as reflected in Column 10 on Exhibit A.

Claim 21 is for a total Claimed Net Investment amount of \$717,000.00, reflected in column 5 of Exhibit A. According to the Receivership Entities' bank records, the total Confirmed Net Investment amount for this Claim is \$681,115.00. The Receiver contacted this Claimant to inquire as to the discrepancy. After bringing this discrepancy to Claimant's attention, the Claimant contacted the Receiver and advised that he disputes receipt of any returns on his investments. Based on the foregoing, the Receiver recommends that, for Claim 21, the Allowed Claim Amount be approved as \$681,115.00, as reflected in Column 10 on Exhibit A.

Claim 23 is for a total Claimed Net Investment amount of \$82,000.00, reflected in column 5 of Exhibit A. According to the Receivership Entities' bank records, the total Confirmed Net Investment amount for this Claim is \$56,945.00. The Receiver contacted this Claimant to inquire as to the discrepancy. After bringing this discrepancy to Claimant's attention, the Claimant contacted the Receiver and stated that she reviewed her bank account records and verified receipt of the returns. Based on the foregoing, the Receiver recommends that, for Claim 23, the Allowed Claim Amount be approved as \$56,945.00, as reflected in Column 10 on Exhibit A.

**B. Receiver's Recommendation for Pro Rata Percentage Amounts and Proposed First Distribution Amounts on Exhibit A**

The Receiver recommends that the Court authorize the Pro Rata Percentages, in the amounts reflected in column 11 of Exhibit A, to the holders of Approved Claims and Modified

Claims, pending resolution of any objections. Each Pro Rata Percentage was determined by dividing the Claimant's Allowed Claim Amount by the total amount of funds available for distribution.

The Receiver also recommends, at this time, that the Court authorize the Proposed First Distribution Amounts, reflected in column 12 of Exhibit A. The Proposed First Distribution Amounts were determined by multiplying each Pro Rata Percentage by the total amount of the first distribution, \$1,800,000.00.

In sum, the Receiver respectfully requests that the Court enter an order approving the distribution of monies, reflected in column 12 of Exhibit A, to holders of Approved Claims and Modified Claims, based on their Pro Rata Percentages.

#### **VI. PROPOSED OBJECTION PROCEDURE FOR DISPUTED CLAIMS**

By returning executed POC Forms to the Receiver, all Claimants have submitted to the exclusive jurisdiction of this Court for the purpose of resolving their claims, and therefore all necessary procedures and discovery can be set and conducted by this Court. *Alexander v. Hillman*, 296 U.S. 222, 238-239 (1935).

The Receiver proposes that sufficient notice will be provided to Claimants by e-mailing to them when possible (using the most recent contact information available to the Receiver), a copy of this Motion, the proposed Order, the applicable claim number, and a written notice stating that deadlines for objections will be set by the Court.

The Receiver further proposes to publish this Motion, the proposed Order, and the same written notice (without the identifying Claimant information) on the Receivership website at [www.elmtreereceivership.com](http://www.elmtreereceivership.com).

In light of the foregoing notice to Claimants, the Receiver recommends that the Court adopt the following objection procedure (the “Objection Procedure”):

First, the Receiver recommends that Claimants be provided thirty (30) days from the entry of the Court’s order approving this Objection Procedure—if approved—to respond in writing to the Receiver’s recommendations. Claimants shall both file their objections with the Court and send their objections to the Receiver at her office, Grisel Alonso, Receiver, Michael Moecker and Associates, 1883 Marina Mile Blvd., Suite 106, Ft. Lauderdale, FL 33315, 954-252-1560, **to be received** no later than thirty (30) days from the entry of the Court’s order approving this Objection Procedure. The Receiver recommends that Claimants send their objections to the Receiver by e-mail, if possible, to ElmTreeInfo@Moecker.com. If objections are sent by regular mail, Claimants must request proof of delivery and/or return receipt.

If a Claimant does not object within the time frame provided, the Receiver’s proposes that her recommendations be deemed sustained with prejudice with respect to such Claimant, subject to Court approval, and the right of Claimant to object will be deemed irrevocably waived.

Second, the Receiver proposes that the Court order her to submit responses to timely-filed Claimant objections within thirty (30) days from the final due date for Claimant objections.

Third, the Receiver recommends that the Court, to the extent necessary, set a hearing date to resolve objections and rule on the Receiver’s recommendations. The Receiver recommends that the hearing be set for a date as soon as possible after the Receiver’s response to objections is due, if the Court determines a hearing is necessary,

## **VII. SUPPORT FOR RECEIVER’S RECOMMENDATIONS**

This Court’s power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad. *SEC v. Hardy*,

803 F. 2d 1034, 1037 (9th Cir. 1986). “[I]t is a recognized principle of law that the district court has broad powers and wide discretion to determine the appropriate relief in an equity receivership.” *Id.*, citing *SEC v. Lincoln Thrift Ass’n*, 577 F. 2d 600, 606 (9th Cir. 1978) and *SEC v. Safety Fin. Serv., Inc.*, 674 F. 2d 368, 373 (5th Cir. 1982) (a court overseeing a receivership is accorded “wide discretionary powers” in light of “the concern for orderly administration”).

**A. The Court’s Use of Summary Proceedings Is Appropriate In Receivership Actions**

Allowing investors and creditors an opportunity to object to this Motion provides sufficient due process. The use of summary proceedings in equity receiverships, as opposed to plenary proceeding, is within the jurisdictional authority of the federal district courts. *SEC v. Elliot*, 953 F. 2d 1560, 1566 (11th Cir. 1992); *Hardy*, 803 F. 2d at 1040. “A summary proceeding reduces the time necessary to settle disputes, decreases litigation costs, and prevents further dissipation of receivership assets.” *Elliot*, 953 F. 2d at 1566 (citation omitted). Summary proceedings may be used to allow, disallow and subordinate claims of creditors. *Hardy*, 803 F. 2d at 1040. “[A] district court does not generally abuse its discretion if its summary procedures permit parties to present evidence when facts are in dispute and to make arguments regarding those facts.” *Elliot*, 953 F.2d 1567.

There is no question that, as party to these summary proceedings, the Receiver may make recommendations to the Court in connection with distributions, and the Court may adjudicate investor objections. By filing their claims with the Receiver, investors have submitted themselves to the jurisdiction of this Court for decision on the Receiver’s recommendations. *Alexander v. Hillman*, 296 U.S. 222, 238 (1935).

The Receiver believes the summary proceedings proposed herein strike a proper balance between distributing the assets of the Receivership efficiently and providing all Claimants an opportunity to be heard regarding the distribution of those funds. The Claimants' due process rights will be met by providing all Claimants notice and an opportunity to object to this Motion and the Receiver's recommendations.

**B. Pro Rata Distribution Of The Receivership Estate Is Equitable And Appropriate**

The task of formulating a proper distribution plan is a sensitive undertaking because a plan that is "equitable" might not necessarily be popular with all investors. Federal law is clear, however, that securities receiverships, such as the instant proceeding, are governed by equitable principles. *Elliot*, 953 F. 2d 1560, 1572 (11th Cir. 1992); *SEC v. First Sec. Co.*, 528 F. 2d 449, 454 (7th Cir. 1976); *SEC v. Credit Bancorp, Ltd.*, 194 F.R.D. 457, 464 (S.D.N.Y. 2000) ("the fundamental principal of a [receivership] distribution plan is that it should be equitable and fair, with similarly-situated investors treated alike").

Under these principles, the Court may distribute the assets of a receivership estate in a manner that is fair and equitable to all of the creditors, even if it means that certain tracing rules should be suspended. *See Elliot* at 1569-70. As with many fraudulent schemes, some investor assets may be "fortuitously identifiable by virtue of the liquidation or encumbering of the assets of [other investors]," but the traceability of an investor's funds does not distinguish that investor's claim in a legally cognizable way. *See SEC v. Credit Bancorp*, 194 F.R.D. at 463; *See U.S. v. Real Property*, 89 F. 3d 551, 552, 553 (9th Cir. 1996) (holding that it is inequitable to allow creditors to use tracing fictions to recover full amount of its claim at expense of equally innocent fraud victims).

As previously reported, there is one type of conduct at the core of this fraudulent scheme. The Defendants were engaging in ongoing violations of the federal securities laws through their illegal activities in connection with their operation of several hedge funds. The investment raising activity and the operations of all of the Receivership Entities were under the control and direction of Fred Elm.

The Receiver's investigation reveals that funds were commingled by Elm into the various accounts of the Receivership Entities and related entities. Based upon the Receiver's investigation, it appears that all investors received similarly false assurances, and all services offered by the Receivership Entities were part of the same overall fraudulent scheme, or were otherwise improper. Consequently, all of the defrauded investors should share equally in the pooled assets in accordance with the Receiver's distribution plan.

The Receiver's goal is the efficient and equitable administration of the claims in this case. The request for authority to reject certain categories of claims is imperative in order to provide for an equitable distribution in this case.

### **VIII. CONCLUSION**

The Receiver respectfully requests that this Court enter an order approving: (1) the Receiver's Recommendations Concerning Claims; (b) the proposed Pro Rata Percentages; (c) the Proposed First Distribution Amounts; (d) the Receiver's Proposed Objection Schedule; and (e) any such other relief as is just and proper.

The Receiver requests that this Court enter the proposed order, attached hereto as **Exhibit B**, establishing the Objection Procedure recommended in Section VI above.

Respectfully submitted,  
**NELSON MULLINS BROAD AND CASSEL**  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 4, 2019, a true and correct copy of the foregoing was served via electronic transmission on all counsel or parties of record on the Service List below.

By: s/Daniel S. Newman  
Daniel S. Newman, P.A.

**SERVICE LIST**

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<p>Christopher Bruno, Esq.  <a href="mailto:cbruno@brunodegenhardt.com">cbruno@brunodegenhardt.com</a>                  Bruno &amp; Degenhardt                  10615 Judicial Drive                  Suite 703                  Fairfax, VA 22030  <i>Counsel for Defendant Frederic Elm and Relief Defendant Amanda Elm</i></p>	<p>Grisel Alonso, Esq.  <a href="mailto:galonso@moecker.com">galonso@moecker.com</a>                  Michael Moecker &amp; Associates, Inc.                  1883 Marina Mile Blvd., Suite 106                  Fort Lauderdale, FL 33315  <i>Receiver</i></p>

Schedule of Claims  
Exhibit A

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12
Claim No.	Claim Receipt Date	Claimed Investment	Claimed Return	Claimed Net Investment	Confirmed Investment	Confirmed Return	Confirmed Net Investment	Claimed versus Confirmed Net Investment	Allowed Claim Amount	Pro Rata Percentage	Proposed 1st Distribution Amount
1	5/2/2016	\$34,000.00	\$0.00	\$34,000.00	\$34,000.00	\$0.00	\$34,000.00	\$0.00	\$34,000.00	0.321%	\$5,772.58
2	5/20/2016	\$700,000.00	\$0.00	\$700,000.00	\$700,000.00	\$0.00	\$700,000.00	\$0.00	\$700,000.00	6.603%	\$118,847.29
3	6/9/2016	\$50,000.00	\$0.00	\$50,000.00	\$49,965.00	\$0.00	\$49,965.00	\$35.00	\$49,965.00	0.471%	\$8,483.15
4	6/21/2016	\$50,000.00	\$0.00	\$50,000.00	\$49,980.00	\$0.00	\$49,980.00	\$20.00	\$49,980.00	0.471%	\$8,485.70
5	6/21/2016	\$54,147.00	\$0.00	\$54,147.00	\$94,119.00	\$0.00	\$94,119.00	-\$39,972.00	\$94,119.00	0.888%	\$15,979.70
6	6/21/2016	\$155,225.00	\$0.00	\$155,225.00	\$216,390.00	\$101,200.00	\$115,190.00	\$40,035.00	\$115,190.00	1.087%	\$19,557.17
7	6/21/2016	\$252,866.00	\$0.00	\$252,866.00	\$252,866.00	\$0.00	\$252,866.00	\$0.00	\$252,866.00	2.385%	\$42,932.06
8	6/22/2016	\$150,000.00	\$102,998.74	\$47,001.26	\$99,835.00	\$102,998.74	-\$3,163.74	\$50,165.00	\$0.00	0.000%	\$0.00
9	6/24/2016	\$3,000,000.00	\$0.00	\$3,000,000.00	\$2,999,950.00	\$0.00	\$2,999,950.00	\$50.00	\$2,999,950.00	28.297%	\$509,337.06
10	6/24/2016	\$70,000.00	\$50,000.00	\$20,000.00	\$70,000.00	\$50,000.00	\$20,000.00	\$0.00	\$20,000.00	0.189%	\$3,395.64
11	6/28/2016	\$60,000.00	\$0.00	\$60,000.00	\$49,913.66	\$0.00	\$49,913.66	\$10,086.34	\$49,913.66	0.471%	\$8,474.43
12	6/28/2016	\$1,000,000.00	\$0.00	\$1,000,000.00	\$1,000,000.00	\$0.00	\$1,000,000.00	\$0.00	\$1,000,000.00	9.432%	\$169,781.85
13	6/28/2016	\$4,000,000.00	\$1,451,443.49	\$2,548,556.51	\$4,750,000.00	\$1,451,443.49	\$3,298,556.51	-\$750,000.00	\$3,298,556.51	31.113%	\$560,035.03
14	6/30/2016	\$23,880.00	\$0.00	\$23,880.00	\$23,860.00	\$0.00	\$23,860.00	\$20.00	\$23,860.00	0.225%	\$4,050.99
15	7/1/2016	\$480,000.00	\$14,800.00	\$465,200.00	\$479,870.00	\$14,800.21	\$465,069.79	\$130.21	\$465,069.79	4.387%	\$78,960.41
16	7/1/2016	\$70,000.00	\$0.00	\$70,000.00	\$69,970.00	\$0.00	\$69,970.00	\$30.00	\$69,970.00	0.660%	\$11,879.64
17	7/5/2016	\$200,000.00	\$0.00	\$200,000.00	\$199,950.00	\$0.00	\$199,950.00	\$50.00	\$199,950.00	1.886%	\$33,947.88
18	7/5/2016	\$432,000.00	\$158,885.00	\$273,115.00	\$360,950.00	\$158,885.00	\$202,065.00	\$71,050.00	\$202,065.00	1.906%	\$34,306.97
19	7/5/2016	\$48,500.00	\$0.00	\$48,500.00	\$48,410.00	\$0.00	\$48,410.00	\$90.00	\$48,410.00	0.457%	\$8,219.14
20	7/6/2016	\$32,000.00	\$0.00	\$32,000.00	\$32,000.00	\$0.00	\$32,000.00	\$0.00	\$32,000.00	0.302%	\$5,433.02
21	7/27/2016	\$717,000.00	\$0.00	\$717,000.00	\$716,965.00	\$35,850.00	\$681,115.00	\$35,885.00	\$681,115.00	6.424%	\$115,640.96
22	6/15/2016	\$15,000.00	\$0.00	\$15,000.00	\$14,975.00	\$0.00	\$14,975.00	\$25.00	\$14,975.00	0.141%	\$2,542.48
23	10/10/2017	\$82,000.00	\$0.00	\$82,000.00	\$81,945.00	\$25,000.00	\$56,945.00	\$25,055.00	\$56,945.00	0.537%	\$9,668.23
24	10/10/2017	\$127,000.00	\$64,000.00	\$63,000.00	\$126,960.00	\$64,000.00	\$62,960.00	\$40.00	\$62,960.00	0.594%	\$10,689.47
25	6/1/2018	\$80,000.00	\$0.00	\$80,000.00	\$79,980.00	\$0.00	\$79,980.00	\$20.00	\$79,980.00	0.754%	\$13,579.15
		\$11,883,618.00	\$1,842,127.23	\$10,041,490.77	\$12,602,853.66	\$2,004,177.44	\$10,598,676.22	-\$557,185.45	\$10,601,839.96	100.000%	\$1,800,000.00

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-cv-60082-DIMITROULEAS/SNOW

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

FREDERIC ELM f/k/a FREDERIC ELMALEH,  
et al.,

Defendants,

and

AMANDA ELM f/k/a AMANDA ELMALEH,

Relief Defendant.

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**ORDER APPROVING RECEIVER'S  
RECOMMENDATION FOR OBJECTION PROCEDURE**

This matter comes before the Court on the Receiver's Motion for Court Approval of: (a) the Receiver's recommendations concerning claims; (b) a distribution of Pro Rata Percentages (as defined in the Receiver's previous filings); and (c) the Receiver's proposed objection schedule (the "Motion"), filed on February \_\_\_, 2019, ECF No. [\_\_\_]. The Securities and Exchange Commission does not object to the relief sought by Receiver in the Motion. Having considered the Motion, and being otherwise fully advised, it is

**ORDERED and ADJUDGED:**

1. The objection schedule proposed by the Receiver in the Motion is **GRANTED**;
2. The Court approves the Receiver's recommended objection and hearing schedule as follows:

- A. Claimants will have thirty (30) days from the date of this Order to object in writing to the Receiver's recommendations. Claimants shall: (i) file their objections with the Court; and (ii) send their objections to the Receiver via email at [ElmTreeInfo@Moecker.com](mailto:ElmTreeInfo@Moecker.com), or by mail to the Receiver's office, care of Grisel Alonso, Receiver, Michael Moecker and Associates, 1883 Marina Mile Blvd., Suite 106, Ft. Lauderdale, FL 33315, **to be received** no later than \_\_\_\_\_, 2019;
- B. If objections are sent to the Receiver by regular mail, Claimants must request proof of delivery and/or return receipt;
- C. If a Claimant does not object within the time frame provided, the Receiver's recommendations will be deemed sustained with prejudice as to that Claimant, and the right of that Claimant to object will be deemed irrevocably waived;
- D. Within thirty (30) days of the deadline for Claimant objections (*i.e.*, by \_\_\_\_\_, 2019) the Receiver shall file her responses to timely-filed objections;
- E. To the extent necessary, the Court may set a hearing for a date after the Receiver's responses to objections are due to rule on any objections that are timely filed;
- F. The Receiver shall serve a copy of this Order on each Claimant by electronic mail when possible, using the most recent contact information available to her, and shall post a copy of this order on the Receivership website: [www.elmtreereceivership.com](http://www.elmtreereceivership.com).

**DONE AND ORDERED** in Chambers in \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_,  
2019.

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WILLIAM P. DIMITROULEAS  
United States District Court Judge

Copies to: Counsel of record