

1 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
2 DAVID R. ZARO (BAR NO. 124334)
TIM C. HSU (BAR NO. 279208)
3 865 South Figueroa Street, Suite 2800
Los Angeles, California 90017-2543
4 Phone: (213) 622-5555
Fax: (213) 620-8816
5 E-Mail: dzaro@allenmatkins.com
thsu@allenmatkins.com

6 EDWARD G. FATES (BAR NO. 227809)
7 One America Plaza
600 West Broadway, 27th Floor
8 San Diego, California 92101-0903
Phone: (619) 233-1155
9 Fax: (619) 233-1158
E-Mail: tfates@allenmatkins.com

10 Attorneys for Receiver
11 KRISTA L. FREITAG

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 Consumer Financial Protection Bureau
and Maria T. Vullo, Superintendent of
17 Financial Services of the State of
New York,

18 Plaintiffs,

19 v.

20 Pension Funding, LLC; Pension
Income, LLC; Steven Covey; Edwin
21 Lichtig; and Rex Hofelter,

22 Defendants.

Case No. 8:15-cv-1329

**DECLARATION OF KRISTA L.
FREITAG IN SUPPORT OF
MOTION FOR:**

**(A) APPROVAL OF PROPOSED
ALLOWED CLAIM AMOUNTS;**

**(B) APPROVAL OF DISTRIBUTION
PLAN; AND**

**(C) AUTHORITY TO MAKE
INTERIM DISTRIBUTIONS**

Date: June 2, 2017
Time: 2:30 p.m.
Ct. No.: 10A
Judge: Hon. Josephine L. Staton

1 I, Krista L. Freitag, declare:

2 1. I am the permanent receiver for Defendants Pension Funding, LLC,
3 Pension Income, LLC, and their subsidiaries, affiliates, and successors-in-interest.
4 This declaration is made in support of my Motion for (A) Approval of Proposed
5 Allowed Claim Amounts; (B) Approval of Distribution Plan; and (C) Authority to
6 Make Interim Distributions. I have personal knowledge of the facts set forth herein
7 and, if called as a witness, could and would testify to such facts under oath.

8 2. In the final week of December 2016, notices detailing investors' net
9 losses from their investments were sent (via United States Postal Service certified
10 return receipt) to each investor. The notices, a blank example of which is attached
11 hereto as Exhibit A, advised investors that they had 60 days from issuance of the
12 notice to dispute my calculation of their net loss, which would be used to determine
13 their allowed claim amount in the receivership. Although responses to the notices
14 were received from approximately 20 investors, none of them disputed my
15 calculation.

16 3. Attached hereto as Exhibit B is a schedule of proposed and undisputed
17 allowed claim amounts representing each unique, third-party investor's collective¹
18 net loss.² Such net loss is the critically important basis for the calculation of the
19 proposed distribution of remaining assets. As approved by the Court in the Claims
20 Procedures Order, the proposed allowed claim amounts are based on my forensic
21 accounting of all transactions into and out of the bank accounts used by the
22 Receivership Entities and pensioners, as well as the calculation of each investor's net
23 loss as determined by their total transfers to and total transfers from the
24 Receivership Entities or the associated pensioners.

26 ¹ Some investors participated in more than one contract; in such event, the net loss
27 amounts reflect the combined amount of all contracts.

28 ² Claims are listed alphabetically by last name of the claimant, with the exception
of claims held by trusts or other entities.

1 **Distribution Plan**

2 4. I am requesting approval of my proposed Distribution Plan, a copy of
3 which is attached hereto as Exhibit C. The Distribution Plan provides for priority
4 payment of all allowed administrative expenses, while all other allowed claims be
5 paid from the remaining assets via the rising tide method of calculating *pro rata*
6 distributions. The other key features of the Distribution Plan are as follows:

7 **Pooling of Receivership Funds**

8 5. As detailed in my Forensic Accounting Report and Recommendations
9 (Dkt. No. 116), the Receivership Entities collected the full investor "purchase
10 price," which was then used to fund (a) upfront, lump sum payments to pensioners,
11 (b) commission and/or agency fee payments, (c) receivership entity management
12 fee, life insurance and reserve impound accounts, and (d) receivership entity
13 "profit." Notably, in the Buyer and Reserve Funds Agreement, it states that each
14 buyer's (8 percent and 2.84 percent) contribution to the reserve funds are for the
15 benefit of all buyers, providing combined resources for the buyer group; and that
16 subject to the financial health of the reserve fund, the buyer gets 100 percent payout
17 even if the pensioner redirects or otherwise defaults. As such and in practice, the
18 Receivership Entities pooled and commingled the investor reserve funds, which
19 have no direct tie to any individual investor/buyer.

20 6. When pensioners redirected their pension payments or otherwise
21 defaulted, the Receivership Entities paid investors their contractual payments from
22 the reserve funds without regard to the source of the funds in the reserve account.
23 Many pensioners defaulted, filed bankruptcy, or passed away. Therefore, many
24 investors were regularly paid from the commingled/pooled reserve funds. As
25 mentioned in my Forensic Accounting Report and Recommendations, assuming the
26 January 2016 reserve account funds used to pay Investors monthly installments
27 (approximately \$80,000) persisted, I estimated the Receivership Entities' cash (the
28 reserve funds) would have been depleted in or before August 2016.

1 7. Moreover, the pooled reserve funds were also used to fund new
2 contracts between the Receivership Entities and pensioners, creating pensioner
3 contracts with no third-party investor directly associated with them. Finally, there is
4 no evidence that investors performed an independent investigation of the particular
5 pensioner whose lump sum advance they were funding or that pensioner's
6 creditworthiness. Instead, it appears investors simply relied on the Receivership
7 Entities to match them with and check pensioner creditworthiness, and then invested
8 based on the representations made to them by the Receivership Entities, including
9 the guarantee that their monthly payments would be made (as long as there were
10 sufficient reserve funds to make the payments).

11 8. Under these facts and circumstances, combined with the fact that some
12 investors invested early and some later, I believe the most fair and equitable manner
13 of distributing receivership estate assets is to pool the assets and distribute them
14 *pro rata* (via the rising tide method of calculation) to all investors with allowed
15 claims. If, on the other hand, receivership estate funds were to be divided up on a
16 contract-by-contract basis and investors received only what their pensioners happen
17 to payback, some investors would receive very little (*e.g.*, investors whose
18 pensioners defaulted shortly after funding) and other investors would recover the
19 majority of their investment – the full lump sum the associated pensioner received.
20 Moreover, as noted above, a substantial portion of the funds in the receivership
21 estate (including the Lynk Capital loan participation interest, stipulated judgment
22 amounts paid by Defendants Lichtig and Hofelter, and pensioner payments under
23 contracts with the Receivership Entities) are not directly linked to any one investor
24 and therefore must be pooled and distributed on a *pro rata* basis.

25 9. Accordingly, distributing receivership estate funds on a contract-by-
26 contract basis would produce largely arbitrary and inequitable results in that some
27 investors would receive substantially more than others. The proposed Distribution
28 Plan provides that all receivership estate assets will be pooled and investors will

1 receive distributions from the pool based on the allowed amount of their claims and
2 the rising tide method, which is discussed next.

3 Rising Tide Method

4 10. Also discussed in my Forensic Accounting Report and
5 Recommendations is the fact that some investors recovered a larger portion of their
6 investment prior to my appointment, whereas others recovered only a small
7 percentage. Specifically, on a contract basis, early investors had a net loss of
8 approximately 28% (or recovery of 72%) of their investments, whereas late
9 investors had a net loss of approximately 84% (or recovery of 16%) of their
10 investments. Dkt. No. 116, p. 10.

11 11. As a result of this wide variation in existing recoveries, the Distribution
12 Plan attempts to equalize investor recoveries regardless of the timing of investments
13 and takes into account pre-receivership distributions. To accomplish this, the
14 Distribution Plan provides that amounts investors received from the Receivership
15 Entities prior to my appointment be accounted for when calculating the rising tide
16 method of *pro rata* distributions. This distribution method, known as the "rising
17 tide" method, allows investors who received very little from the Receivership
18 Entities and/or pensioner (or significantly less than other investors) to recover first.

19 12. Use of the rising tide method will allow me to distribute, on an interim
20 and immediate basis, the recommended amount of \$2,904,157.72 (discussed in
21 further detail below) to all investors who received less than **53%** (or with net losses
22 of greater than 47%) of their investment prior to the receivership.³ Investors who
23 have previously received 53% or more of their investment will not participate in the
24 first round of distributions, but may participate in future rounds depending on
25
26

27 ³ If the Court were to order a higher or lower amount of the first distribution, the
28 rising tide threshold percentage to which all investors' recovery will be brought
would increase or decrease.

1 amounts collected in the future, at which time the rising tide threshold will be
2 increased, thus making more investors eligible to receive a distribution.

3 13. For example, suppose there are three investors: Investor A invested
4 \$100,000 near the end of the scheme and received/recovered only \$16,000 or 16%;
5 Investor B invested \$100,000 sometime during the middle of the scheme and
6 received/recovered \$40,000 or 40%; and Investor C invested \$100,000 in the early
7 stages of the scheme and received/recovered \$72,000 or 72%. Investor A would
8 receive \$37,000 (\$37,000 plus \$16,000 already received equals \$53,000 or **53%**, the
9 target recovery for this interim distribution) in the initial distribution, Investor B
10 would receive \$13,000 (\$13,000 plus \$40,000 already received equals \$53,000 or
11 **53%**, the target recovery for this interim distribution), and Investor C (who already
12 received 72%, an amount higher than the 53% target recovery for this interim
13 distribution) would not participate in the initial distribution. Although very unlikely
14 based upon recovery projections, Investor C could potentially participate in future
15 distributions if and when the "rising tide" brings all other investors up to the 72%
16 recovery Investor C already received. The rising tide, therefore, promotes the fair
17 and equitable treatment of investors by evening out pre-receivership and post-
18 receivership recoveries.

19 14. Finally, to avoid unnecessary complication and expense in making
20 distributions, the Distribution Plan provides that all claims submitted after March 1,
21 2017 (of which there are currently none) are automatically disallowed. My office
22 sent notices to all 179 investors,⁴ none of whom disputed their claim amounts. I was
23 appointed on January 8, 2016, meaning any and all persons with claims against the
24 Receivership Entities have had well over a year to contact me and assert those

25
26 ⁴ One investor received more in distributions and commissions than he invested,
27 one was bought out by the Receivership Entities prior to my appointment, one
28 cannot be located (despite using a private investigation firm to attempt to locate a
current address), four investors were combined into one (due to wholly owned
entities and a death), and a few other investors were combined as clarified during
the claims process – leaving 171 investors with proposed allowed claims.

1 claims. I am not aware of any amounts owed to non-investors, such as trade
2 creditors, taxing authorities, or former employees. Defendant Ed Lichtig was the
3 only person working for the Receivership Entities at the time of my appointment
4 and he conducted the Receivership Entities' operations from his home. Therefore, it
5 is highly unlikely there are any unknown persons with valid claims at this point.
6 Therefore, any claims submitted after March 1, 2017, should be automatically
7 disallowed.

8 **Interim Distributions**

9 15. I request authority to make interim distributions to holders of allowed
10 claims. As of March 31, 2017, there was approximately \$2.2 million in (book
11 balance) cash on hand in the receivership estate. Although pensioner overpayments
12 (amounts paid in excess of lump sum advances) have been refunded and such
13 payments are reflected in the March 31, 2017 book balance, the cash balance has
14 grown steadily throughout the receivership as I have collected monthly payments
15 from pensioners, distributions from pensioner bankruptcy estates, unused retainers
16 from several law firms, stipulated judgment amounts from Defendants Lichtig and
17 Hofelter, and payments on the Lynk Capital loan participation. I propose that
18 \$2,904,157.72, the vast majority of cash on hand plus the \$900,000 anticipated Lynk
19 loan participation sale proceeds, be distributed at this time. The remaining cash, as
20 well as continuing collections from pensioner payments, will be reserved and are
21 anticipated to more than cover unpaid administrative expenses and those that will be
22 incurred prior to conclusion of the receivership.

23 16. As the case progresses, cash will continue to accumulate and likely
24 exceed projections for administrative expenses (even factoring in a contingency
25 reserve). Accordingly, and to provide for this, I request authority to make
26 subsequent interim distributions pursuant to the terms of the Distribution Plan. Such
27 subsequent distributions will be made in my discretion after providing notice to the
28 Consumer Financial Protection Bureau and the Superintendent for Financial

1 Services for the State of New York. At all times, I will continue to reserve
2 sufficient cash to cover projected administrative expenses through conclusion of the
3 receivership.

4 I declare under penalty of perjury under the laws of the United States that the
5 foregoing is true and correct.

6 Executed this 24th day of April 2017, at Los Angeles, California .

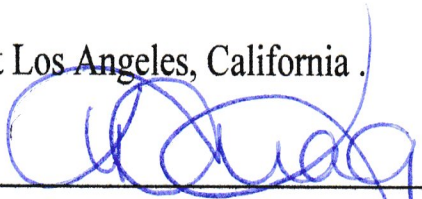
7 
8 _____
9 KRISTA L. FREITAG
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

EXHIBIT A



December 28, 2016

«AddressBlock»

Re: Consumer Financial Protection Bureau, et al. v. Pension Funding, LLC, et al.; USDC
C.D. Cal. Case No. 15-01329-JLS-JCG

«GreetingLine»

As you have been advised in prior communications, on January 8, 2016, the United States District Court for the Central District of California ("Court") appointed me as receiver for Pension Funding, LLC, Pension Income, LLC, and their subsidiaries, affiliates, and successors-in-interest, including PGR, LLC ("Receivership Entities").

On December 14, 2016, the Court entered an order approving my recommendations regarding procedures for the administration of claims of those who invested in contracts with the Receivership Entities. The Court's order can be viewed at the website established for the receivership: www.ethreadvisors.com (use tab for CFPB case docs and click on links to review documents). It was also provided to you via the December 15, 2016 email I sent to you.

In accordance with the Order and as mentioned in the December 15, 2016 email, we are providing you with notice of our calculation of your claim against the receivership estate and the opportunity to contact us with concerns regarding the calculation. Enclosed herewith is a schedule showing the payment(s) you made to the Receivership Entities and payments you received from the Receivership Entities. As the schedule reflects, you transferred a total of \$«Amount_Funded» and received a total of «Total_Paid». Your proposed allowed claim amount is the net amount of those payments, or \$«Balance».

If the list of payments and the net amount reflected on the schedule are accurate, you do not need to take any action. If, on the other hand, you disagree with the schedule or believe that payments are missing, you must respond in writing within 60 days of the date of this letter, state the nature of your dispute, and provide copies of all documentation supporting your position, including your bank records showing payments you believe are missing and/or were not remitted to you. Correspondence and supporting documents must be either emailed to pf-pi@ethreadvisors.com or mailed to:

E3 Advisors
Attn: PF-PI Receiver Claims Administrator
401 West A Street, Suite 1830
San Diego, CA 92101
(619) 512-2598



Please note that in connection with the Order, the Court has determined that amounts incurred by investors above and beyond their direct net losses (such as attorney fees, IRA fees, financial advisor fees, and the like) may not be included in investor claims against the receivership estate. Only the actual amount paid to the Receivership Entities, less the amount received from the Receivership Entities, qualifies as a claim against the receivership estate.

Please continue to check the receivership website for updates about the case. You may direct any questions regarding your claim or the claims administration process to my staff at pf-pi@ethreadvisors.com or (619) 512-2598.

Sincerely,

Krista Freitag

Enclosure

EXHIBIT B

Claimant Names per Contracts (Number of Contracts, if multiple)	Amount Invested	Pre- Receivership Distributions	Net Loss (Amount Invested less Pre- Receivership Distributions)	Pre- Receivership Recovery of Investment (%)	Proposed Initial Interim Distribution	Recovery of Investment (%) After Proposed Initial Interim Distribution
Acosta, Dianne	76,545.20	22,000.00	54,545.20	28.74%	18,568.96	53.00%
Acosta, Dianne & Herbert	60,000.00	17,244.70	42,755.30	28.74%	14,555.30	53.00%
Adachi, Kumi W. (2)	200,000.00	74,776.66	125,223.34	37.39%	31,223.34	53.00%
Albericci, Loretta	90,874.46	23,744.00	67,130.46	26.13%	24,419.46	53.00%
Alice & James Greaves Rev Liv Trust DOD 2/27/03	40,000.00	12,019.11	27,980.89	30.05%	9,180.89	53.00%
Anderson, Christine	100,000.00	39,192.60	60,807.40	39.19%	13,807.40	53.00%
Anderson, N. Elise (2)	128,619.66	51,653.06	76,966.60	40.16%	16,515.36	53.00%
Armon, Joan	74,223.59	46,823.04	27,400.55	63.08%	-	63.08%
Ashmore, Paul E	38,272.60	14,500.00	23,772.60	37.89%	5,784.48	53.00%
Barnes, Lavinia P. (2)	289,970.22	175,302.32	114,667.90	60.46%	-	60.46%
Bohn, Kathleen	76,545.20	25,000.00	51,545.20	32.66%	15,568.96	53.00%
Bronchetti, Paul J.	38,272.60	7,500.00	30,772.60	19.60%	12,784.48	53.00%
Buckley, Iris	70,804.31	18,500.00	52,304.31	26.13%	19,026.28	53.00%
Carey, John H.	145,435.88	55,100.00	90,335.88	37.89%	21,981.02	53.00%
Castro, Anastasia	72,055.38	50,683.88	21,371.50	70.34%	-	70.34%
Chun, Mildred (2)	90,611.68	42,279.81	48,331.87	46.66%	5,744.38	53.00%
Cieslak, Mary (2)	205,086.79	109,850.89	95,235.90	53.56%	-	53.56%
Collins, Kent (2)	496,593.11	195,934.28	300,658.83	39.46%	67,260.07	53.00%
Constant, Doris (2)	131,293.39	24,013.36	107,280.03	18.29%	45,572.14	53.00%
Cox, Sheila Q. (2)	76,089.30	45,500.00	30,589.30	59.80%	-	59.80%
Cristopherson, Betty	79,655.23	22,893.86	56,761.37	28.74%	19,323.41	53.00%
Crowder, Gail (2)	174,129.61	83,652.72	90,476.89	48.04%	8,635.97	53.00%
Cupertino, Joyce	76,545.20	23,000.00	53,545.20	30.05%	17,568.96	53.00%
Curl, Franklin (3)	367,675.68	182,528.44	185,147.24	49.64%	12,339.67	53.00%
Curtis, Kathy	62,258.04	18,707.05	43,550.99	30.05%	14,289.71	53.00%
Cusick, James	103,459.16	50,009.52	53,449.64	48.34%	4,823.83	53.00%
Dantin, Elvin Joseph Jr.	95,681.50	40,000.00	55,681.50	41.81%	10,711.20	53.00%
Davis, Glenn B. (2)	176,053.90	115,289.00	60,764.90	65.49%	-	65.49%
Davis, Merrilee N (4)	418,115.15	88,735.78	329,379.37	21.22%	132,865.25	53.00%
Davis, Thomas & Harriett (3)	250,000.00	81,563.70	168,436.30	32.63%	50,936.30	53.00%
Deitterick, Bernadine V.	141,245.03	73,810.00	67,435.03	52.26%	1,049.87	53.00%
Demayo, Nicholas (2)	111,174.25	27,095.60	84,078.65	24.37%	31,826.75	53.00%
Deming II, Howard E.	76,545.20	24,000.00	52,545.20	31.35%	16,568.96	53.00%
Dempewolf, Donald A.	71,402.13	39,178.02	32,224.11	54.87%	-	54.87%
Dempewolf, W. Joyce (2)	116,884.52	56,226.00	60,658.52	48.10%	5,722.80	53.00%
DeSouza, John R. and Beverly- Ann	96,650.56	26,515.86	70,134.70	27.43%	24,708.94	53.00%
Dirla, Nancy & Frederick	38,272.60	14,500.00	23,772.60	37.89%	5,784.48	53.00%
Duhon, Barbara	116,130.55	22,757.25	93,373.30	19.60%	38,791.94	53.00%
Eaton, David	137,168.23	60,927.66	76,240.57	44.42%	11,771.50	53.00%
Eaton, Gloria	141,608.62	61,050.00	80,558.62	43.11%	14,002.57	53.00%
Erikson, Ed	37,702.50	27,030.00	10,672.50	71.69%	-	71.69%
Evans Sr., Ernest E. (2)	226,005.76	136,632.42	89,373.34	60.46%	-	60.46%
Fagan, Judith	91,557.24	28,706.88	62,850.36	31.35%	19,818.46	53.00%
Fakoor, Pinda	86,496.08	24,860.00	61,636.08	28.74%	20,982.92	53.00%
Feldman, Yelena	84,569.43	44,193.20	40,376.23	52.26%	628.60	53.00%
Fosbre, Peter (2)	96,503.59	16,389.62	80,113.97	16.98%	34,757.28	53.00%
Frimann, Janet	62,845.91	27,915.02	34,930.89	44.42%	5,393.31	53.00%
Frimann, Lonnie G. (2)	234,998.36	100,982.04	134,016.32	42.97%	23,567.09	53.00%
Fry, Lana	38,272.60	16,000.00	22,272.60	41.81%	4,284.48	53.00%
Gallant, Jane (2)	175,107.10	34,314.45	140,792.65	19.60%	58,492.31	53.00%
Gates, Stillman	130,586.11	52,886.00	77,700.11	40.50%	16,324.64	53.00%
Giardino, Michael	173,473.62	97,450.47	76,023.15	56.18%	-	56.18%
Gisela I. Keller or Stanley G. Keller (3)	281,491.98	154,453.32	127,038.66	54.87%	-	54.87%
Gorman, A.E.	42,342.51	21,573.63	20,768.88	50.95%	867.90	53.00%
Goulian, James	142,362.59	53,935.65	88,426.94	37.89%	21,516.52	53.00%
Goulian, James and Knar (5)	500,000.00	166,312.40	333,687.60	33.26%	98,687.60	53.00%
Gourdier, Leslie & Irene	91,854.24	32,400.00	59,454.24	35.27%	16,282.75	53.00%
Grice, Cindy L.	99,508.76	40,300.00	59,208.76	40.50%	12,439.64	53.00%
Grice, Jerry G.	155,646.24	65,068.48	90,577.76	41.81%	17,424.03	53.00%
Grobner Trust DTD 7/22/93	100,000.00	22,209.14	77,790.86	22.21%	30,790.86	53.00%
Grobner, Charlotte (2)	153,581.64	33,921.98	119,659.66	22.09%	47,476.29	53.00%

Claimant Names per Contracts (Number of Contracts, if multiple)	Amount Invested	Pre- Receivership Distributions	Net Loss (Amount Invested less Pre- Receivership Distributions)	Pre- Receivership Recovery of Investment (%)	Proposed Initial Interim Distribution	Recovery of Investment (%) After Proposed Initial Interim Distribution
Groff, Carol (2)	100,818.45	35,561.97	65,256.48	35.27%	17,871.81	53.00%
Grotz, Werner	29,847.81	20,995.00	8,852.81	70.34%	-	70.34%
Hacke Living Trust DTD 7/2/1997	51,383.86	31,064.26	20,319.60	60.46%	-	60.46%
Hall, Marvin L. (2)	164,286.86	81,248.47	83,038.39	49.46%	5,823.57	53.00%
Hanson, Cynthia	110,990.54	52,200.00	58,790.54	47.03%	6,624.99	53.00%
Hardman, John	114,817.80	33,000.00	81,817.80	28.74%	27,853.43	53.00%
Harris, Valerie (2)	294,124.16	61,422.33	232,701.83	20.88%	94,463.47	53.00%
Hayes, Culver (6)	687,725.51	440,881.60	246,843.91	64.11%	-	64.11%
Hayes, Mary K. (3)	205,134.11	143,131.84	62,002.27	69.77%	-	69.77%
Herndon, Carolyn J.	58,554.19	41,187.12	17,367.07	70.34%	-	70.34%
Herrin, Ruth	48,261.75	12,610.00	35,651.75	26.13%	12,968.73	53.00%
Hooker, Rose	91,854.24	30,000.00	61,854.24	32.66%	18,682.75	53.00%
Horgan, John	39,620.56	15,010.69	24,609.87	37.89%	5,988.21	53.00%
IRA Services Trust Co. CFBO Charles E. Dillard under Tax ID 26-2627205 for IRA Account Number 264428	60,515.46	41,748.09	18,767.37	68.99%	-	68.99%
Jacobi, Marilyn (4)	401,268.80	114,458.69	286,810.11	28.52%	98,213.77	53.00%
James Kearney and Brenda Kearney, JT/WROS	38,272.60	20,500.00	17,772.60	53.56%	-	53.56%
Jay Peter McMahan and Ada Sue McMahan Family Trust DTD 10/9/1998	120,590.07	50,413.12	70,176.95	41.81%	13,499.62	53.00%
Jeanrenaud, Sharon L. (2)	116,904.42	64,144.92	52,759.50	54.87%	-	54.87%
Jeff Rattner	45,927.12	18,000.00	27,927.12	39.19%	6,341.37	53.00%
Jerome I. & Joyce C. Mantell, JT/WROS	132,380.12	91,325.70	41,054.42	68.99%	-	68.99%
John & Marion Halpern Rev Liv Trust	125,000.00	29,394.36	95,605.64	23.52%	36,855.64	53.00%
Jones, John and Karen	38,272.60	6,500.00	31,772.60	16.98%	13,784.48	53.00%
Jones, Melvin	63,149.79	15,675.00	47,474.79	24.82%	17,794.39	53.00%
Jones, Sandra Sue (2)	95,681.50	20,050.00	75,631.50	20.95%	30,661.20	53.00%
Joseph Gantman Rev Inter Vivos Trust DTD 9/13/2001 (2)	223,711.77	52,606.98	171,104.79	23.52%	65,960.26	53.00%
Just, Robert	53,428.55	21,638.00	31,790.55	40.50%	6,679.13	53.00%
Kaplan, David & Terri	117,192.23	52,054.68	65,137.55	44.42%	10,057.20	53.00%
Kennedy, Doris	88,331.20	27,695.28	60,635.92	31.35%	19,120.26	53.00%
Kline, Susan (2)	149,252.58	76,844.54	72,408.04	51.49%	2,259.33	53.00%
Kritner, Thomas (2)	146,451.64	42,299.02	104,152.62	28.88%	35,320.35	53.00%
Krol, Richard (3)	479,527.36	206,732.79	272,794.57	43.11%	47,416.71	53.00%
LaGreca, Phyllis	85,361.68	18,958.06	66,403.62	22.21%	26,283.63	53.00%
Lawry, Richard & Kathleen	67,012.26	32,392.02	34,620.24	48.34%	3,124.48	53.00%
Ledoux, Sylvia	130,145.21	30,604.32	99,540.89	23.52%	38,372.64	53.00%
Leo LeClair and Arlene LeClair JT/WROS	39,448.33	14,945.44	24,502.89	37.89%	5,962.17	53.00%
Lindbuchler, Lorraine	107,163.28	22,400.00	84,763.28	20.90%	34,396.54	53.00%
Lipoma, Patricia	45,927.12	17,400.00	28,527.12	37.89%	6,941.37	53.00%
Livshits, Simon	83,683.04	37,170.50	46,512.54	44.42%	7,181.51	53.00%
Lois M. Miller Rev Living Trust dated 6/26/2006	116,825.99	75,233.62	41,592.37	64.40%	-	64.40%
Lubczyk, Brigitte	141,120.26	53,464.98	87,655.28	37.89%	21,328.76	53.00%
Maes, Katie	80,000.00	30,308.77	49,691.23	37.89%	12,091.23	53.00%
Martinez-Lee, Urbana	50,411.22	18,315.00	32,096.22	36.33%	8,402.95	53.00%
Mason, Diane (2)	207,872.79	110,569.17	97,303.62	53.19%	-	53.19%
McCrum, Dennis (2)	243,863.92	144,223.65	99,640.27	59.14%	-	59.14%
McCutcheon Family Trust dated October 31, 2000 (3)	296,083.99	190,672.23	105,411.76	64.40%	-	64.40%
McVey, Krista (2)	125,000.00	34,293.42	90,706.58	27.43%	31,956.58	53.00%
Merritt, John	76,545.20	33,000.00	43,545.20	43.11%	7,568.96	53.00%
Miller, David	160,774.92	39,900.00	120,874.92	24.82%	45,310.71	53.00%
Miller, Stephen and Carolyn	102,386.09	33,439.75	68,946.34	32.66%	20,824.88	53.00%
Mitchell A. Jackson and Lisa M. Jackson	91,556.48	35,883.30	55,673.18	39.19%	12,641.63	53.00%

Claimant Names per Contracts (Number of Contracts, if multiple)	Amount Invested	Pre- Receivership Distributions	Net Loss (Amount Invested less Pre- Receivership Distributions)	Pre- Receivership Recovery of Investment (%)	Proposed Initial Interim Distribution	Recovery of Investment (%) After Proposed Initial Interim Distribution
Mitchell, Mary Jane	38,272.60	10,500.00	27,772.60	27.43%	9,784.48	53.00%
Mitchell, Raynine E.	60,099.46	21,984.20	38,115.26	36.58%	9,868.51	53.00%
Moore, Ray G. & Jeanne L.	75,961.92	30,763.78	45,198.14	40.50%	9,496.04	53.00%
Oshiro, Bonnie (5)	318,092.61	162,340.95	155,751.66	51.04%	6,248.13	53.00%
Pacak, Vojtech and Eva	100,000.00	24,821.98	75,178.02	24.82%	28,178.02	53.00%
Partain, Brenda S.	148,312.45	81,378.36	66,934.09	54.87%	-	54.87%
Parvin, Steven R.	59,601.51	39,708.13	19,893.38	66.62%	-	66.62%
Passut, Barbara A.	205,685.35	116,238.03	89,447.32	56.51%	-	56.51%
Peters, Donna J (6)	474,580.24	81,700.00	392,880.24	17.22%	169,827.53	53.00%
Phil Bartlett & Donna F. Eads JT/WROS (13)	1,411,477.20	781,547.05	629,930.15	55.37%	-	55.37%
Phillips, Virgie R.	126,588.15	57,881.95	68,706.20	45.72%	9,209.77	53.00%
Ramirez, Gilbert C. (3)	228,461.16	138,116.84	90,344.32	60.46%	-	60.46%
Rech, Rose M.	70,804.31	32,375.00	38,429.31	45.72%	5,151.28	53.00%
Rech, Rose M. & Hans (2)	76,545.20	26,000.00	50,545.20	33.97%	14,568.96	53.00%
Richard Starks Recovable Living Trust DTD 11/30/10 (2)	199,060.39	104,022.40	95,037.99	52.26%	1,479.61	53.00%
Riggs, Sally	38,272.60	14,000.00	24,272.60	36.58%	6,284.48	53.00%
Robert E. Devereaux Rev Living Trust dated 8/12/1998	85,154.58	54,837.86	30,316.72	64.40%	-	64.40%
Robert H. Chatham III & Laura R. Chatham (2)	110,816.02	20,968.08	89,847.94	18.92%	37,764.41	53.00%
Roberts, Darrell	61,887.23	35,787.40	26,099.83	57.83%	-	57.83%
Rogers, Sylvia (2)	208,764.93	98,919.57	109,845.36	47.38%	11,725.84	53.00%
Ron Prisco (3)	293,520.99	127,071.74	166,449.25	43.29%	28,494.38	53.00%
Rosson, Mark (2)	177,952.31	84,257.60	93,694.71	47.35%	10,057.12	53.00%
Schwartz, Arlene	90,192.50	64,661.59	25,530.91	71.69%	-	71.69%
Sciacca, Jeanette	39,165.88	15,861.77	23,304.11	40.50%	4,896.15	53.00%
Semple, Margaret (2)	100,216.04	22,257.08	77,958.96	22.21%	30,857.42	53.00%
Shah, Jigneshu & Urvi	50,000.00	24,168.77	25,831.23	48.34%	2,331.23	53.00%
Sicade, Marsha L. (4)	303,732.89	101,330.50	202,402.39	33.36%	59,647.93	53.00%
Simmons, Norma	70,038.86	28,365.00	41,673.86	40.50%	8,755.60	53.00%
Smith, Murry	89,776.04	29,321.25	60,454.79	32.66%	18,260.05	53.00%
Smith, Roger S.	75,267.00	52,943.28	22,323.72	70.34%	-	70.34%
Snider, Corinne (2)	191,198.09	62,446.25	128,751.84	32.66%	38,888.74	53.00%
Snider, Mark F.	85,513.24	48,037.88	37,475.36	56.18%	-	56.18%
Space, Jo Ellen	63,842.89	43,180.00	20,662.89	67.63%	-	67.63%
Sperling, Tiffany	50,388.17	26,331.20	24,056.97	52.26%	374.53	53.00%
Stanley G. Keller Revocable Living Trust DTD 7/3/2007 (2)	233,508.02	128,124.78	105,383.24	54.87%	-	54.87%
Stovall, Jim (2)	98,272.60	43,867.05	54,405.55	44.64%	8,217.43	53.00%
Tanya Barchat Rev Inter Vivos Trust DTD 1/14/2014	166,139.82	43,409.60	122,730.22	26.13%	44,644.50	53.00%
Thatcher, Karen A.	98,114.11	51,271.20	46,842.91	52.26%	729.28	53.00%
The Batra Family Rev Liv Trust DTD 9/18/2012	58,278.45	28,931.68	29,346.77	49.64%	1,955.90	53.00%
The GODA Trust, Gary D. Allen or Carolyn D. Allen Trustees (2)	248,605.80	94,187.07	154,418.73	37.89%	37,574.00	53.00%
The Harley TF Priddy REV Living Trust DTD 3-30-00 (4)	327,735.16	175,592.78	152,142.38	53.58%	-	53.58%
The William & Opal Ratzlaff Living Trust Dated 12/18/1990 by Joel Ratzlaff Trustee (2)	100,561.43	69,374.79	31,186.64	68.99%	-	68.99%
Theodore & Eileen Almazan Rev Trust DTD 3/8/90	50,000.00	20,902.72	29,097.28	41.81%	5,597.28	53.00%
Throssel, Estella	38,272.60	21,500.00	16,772.60	56.18%	-	56.18%
Timmons, Linda R.	174,286.34	107,655.85	66,630.49	61.77%	-	61.77%
Treece, Virginia	114,817.80	46,500.00	68,317.80	40.50%	14,353.43	53.00%
Truitt, Elisabeth	86,603.32	50,079.92	36,523.40	57.83%	-	57.83%
Tully, Orvis (2)	143,352.68	35,014.20	108,338.48	24.43%	40,962.72	53.00%
Twentynine Palms United Methodist Church	84,199.72	36,300.00	47,899.72	43.11%	8,325.85	53.00%
Walker III, Norman G. (2)	291,628.79	160,015.38	131,613.41	54.87%	-	54.87%

Claimant Names per Contracts (Number of Contracts, if multiple)	Amount Invested	Pre- Receivership Distributions	Net Loss (Amount Invested less Pre- Receivership Distributions)	Pre- Receivership Recovery of Investment (%)	Proposed Initial Interim Distribution	Recovery of Investment (%) After Proposed Initial Interim Distribution
Walsh, Arthur	66,026.36	30,190.30	35,836.06	45.72%	4,803.67	53.00%
Warner, Ellen	130,637.40	25,592.01	105,045.39	19.59%	43,645.81	53.00%
Weltzien, Sarah (2)	179,257.37	54,183.92	125,073.45	30.23%	40,822.49	53.00%
Wheeler-Evans, Lima	91,076.54	41,644.40	49,432.14	45.72%	6,626.17	53.00%
Wiley, Dianne	84,000.00	40,603.43	43,396.57	48.34%	3,916.57	53.00%
Willes, Hannelore Laura	74,832.12	31,283.84	43,548.28	41.81%	8,377.18	53.00%
William A. Gunkel and Gladys M. Gunkel Irrev Trust (2)	197,169.09	56,668.70	140,500.39	28.74%	47,830.92	53.00%
Williams, Joan M.	96,104.79	47,710.14	48,394.65	49.64%	3,225.40	53.00%
Wyatt, Willorene	38,272.60	14,000.00	24,272.60	36.58%	6,284.48	53.00%
Yelder, Julius (2)	148,140.22	74,477.87	73,662.35	50.28%	4,036.45	53.00%
Grand Total	24,300,450.16	10,478,368.67	13,822,081.49		2,904,157.72	

EXHIBIT C

1 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
2 DAVID R. ZARO (BAR NO. 124334)
TIM C. HSU (BAR NO. 279208)
3 865 South Figueroa Street, Suite 2800
Los Angeles, California 90017-2543
4 Phone: (213) 622-5555
Fax: (213) 620-8816
5 E-Mail: dzaro@allenmatkins.com
thsu@allenmatkins.com

6 EDWARD G. FATES (BAR NO. 227809)
7 One America Plaza
600 West Broadway, 27th Floor
8 San Diego, California 92101-0903
Phone: (619) 233-1155
9 Fax: (619) 233-1158
E-Mail: tfates@allenmatkins.com

10 Attorneys for Receiver
11 KRISTA L. FREITAG

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

15 Consumer Financial Protection Bureau
16 and Maria T. Vullo, Superintendent of
Financial Services of the State of
17 New York,

18 Plaintiffs,

19 v.

20 Pension Funding, LLC; Pension
Income, LLC; Steven Covey; Edwin
21 Lichtig; and Rex Hofelter,

22 Defendants.

Case No. 8:15-cv-1329

DISTRIBUTION PLAN

Ctrm.: 10A

Judge: Hon. Josephine L. Staton

1 Krista L. Freitag ("Receiver"), the Court-appointed receiver for Defendants
2 Pension Funding, LLC, Pension Income, LLC, and their subsidiaries, affiliates, and
3 successors-in-interest, including PGR, LLC (collectively, "Receivership Entities"),
4 hereby submits this Distribution Plan.

5 I. INTRODUCTION

6 This Distribution Plan, when approved by the Court, will be the vehicle by
7 which Allowed Claims against the Receivership Entities are satisfied. Further
8 information about the Receivership Case and distribution of Receivership Estate
9 assets proposed herein is contained in the Receiver's Notice of Motion and Motion
10 for Order (A) Approval of Proposed Allowed Claim Amounts, (B) Approval of
11 Distribution Plan, and (C) Authority to Make Interim Distributions; Memorandum
12 of Points and Authorities.

13 II. DEFINITIONS

14 Unless the context otherwise requires, the following terms have the following
15 meanings when used in their capitalized forms herein. Such meanings are equally
16 applicable to both the singular and plural forms of the terms.

17 **Administrative Claim.** Claims arising from post-Receivership Date
18 activities such as services rendered by the Receiver and for the Receiver by
19 attorneys and accountants and goods and services provided by vendors during the
20 receivership.

21 **Allowed Claim.** Any Claim allowed by the Court pursuant to an order
22 entered in the Receivership Case.

23 **Claims Cutoff Date.** March 1, 2017.

24 **Cash.** All cash and cash equivalents of the Receivership Entities held by the
25 Receiver.

26 **Claim.** Any right to payment from the Receivership Entities whether or not
27 such right is reduced to judgment, liquidated, unliquidated, contingent, matured,
28 unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

1 **Claimant.** Holder of an Allowed Claim.

2 **Court.** United States District Court for the Central District of California.

3 **Estate or Receivership Estate.** All assets, including Cash, loans, claims,
4 causes of action, or rights of recovery held by the Receiver on behalf of the
5 Receivership Entities.

6 **Pro Rata Share.** A proportionate share such that the ratio of the
7 consideration distributed on account of an Allowed Claim to the amount of such
8 Allowed Claim is the same as the ratio of the consideration distributed on account of
9 all Allowed Claims to the amount of all Allowed Claims.

10 **Receiver.** Krista L. Freitag, or any successor receiver appointed by the
11 Court.

12 **Receivership Case.** That certain litigation, pending in the Court, known as
13 *Consumer Financial Protection Bureau et al. v. Pension Funding, LLC, et al.*, Case
14 No. 8:15-cv-1329, the Honorable Josephine L. Staton, presiding.

15 **Receivership Date.** January 8, 2016.

16 **Reserve Cash.** All Cash other than what is distributed to Claimants with
17 authorization from the Court.

18 **Rising Tide Distribution.** The method used to calculate distributions to
19 Claimants. Amounts Claimants received from the Receivership Entities prior to the
20 Receiver's appointment are accounted for when calculating the rising tide method of
21 *pro rata* distributions. A Claimant does not receive a distribution from the
22 receivership estate until all other Claimants have received an amount (factoring in
23 pre-receivership payments and post-receivership distributions from the receivership
24 estate) that is equal to the amount, on a percentage of invested funds basis, that
25 Claimant received prior to the Receiver's appointment. For example, if the initial
26 recovery from the receivership estate is 53% (factoring in pre-receivership
27 distributions and the initial round of post-receivership distributions), all investors
28

1 will be brought up to a 53% recovery before investors who have recovered 53% or
2 more in pre-receivership distributions participate.

3 III. TREATMENT OF CLAIMS

4 A. Administrative Claims

5 Administrative Claims will be paid in full from Cash after proper application
6 and approval by the Court. Notwithstanding the foregoing, Administrative Claims,
7 not including fees and costs of the Receiver and her professionals, that represent
8 liabilities incurred in the ordinary course of administration of the Receivership
9 Estate shall be paid by the Receiver in the ordinary course, without approval of the
10 Court. Upon entry of an order approving this Distribution Plan, Reserve Cash shall
11 be established as the amount of Cash held by the Receiver in excess of the amount
12 authorized to be distributed by the Court. Cash coming into the Receivership Estate
13 after approval of this Distribution Plan shall be added to Reserve Cash.

14 Administrative Claims that are approved and authorized to be paid by the Court on
15 and after approval of the Distribution Plan, shall also be paid directly from Reserve
16 Cash.

17 B. Allowed Claims

18 After all Administrative Claims have been paid in full, Claimants shall
19 receive Cash pursuant to the rising tide method of calculating each Claimant's
20 *Pro Rata* Share of total funds to be distributed to all Allowed Claimants. The
21 amount of Cash to be distributed initially to Claimants will be determined by
22 calculating the amount necessary for each Claimant to recover at least 53%
23 (equivalent to a net loss of 47%) of his or her investment (factoring in pre-
24 receivership payments). Claimants who recovered/received more than 53% of their
25 investments prior to the receivership will not participate in the initial round of
26 distributions, but may participate in future distributions as a higher rising tide
27 threshold is reached.

28

IV. DISTRIBUTIONS

A. Distribution Payments

Claimants shall be paid from Cash other than Reserve Cash as soon as practicable after the Court has entered an order setting the allowed amount of all Claims, approving this Distribution Plan, and authorizing the Receiver to make interim distributions ("Approval Orders"). All distributions shall be made in Cash in the form of a check in U.S. dollars. Unless the Claimant requests otherwise in writing, Distributions shall be directed to the name and address stated on the claim notice sent to Claimants via United States Postal Service Certified Return Receipt during the Court-approved claims process.

The total initial interim distribution shall be in a set amount approved by the Court. The Receiver shall have the authority to make subsequent interim distributions, in her discretion and consistent with the terms of this Distribution Plan, while continuing to maintain sufficient Reserve Cash to satisfy Administrative Claims. Subsequent interim distributions will not be made without prior notice to the Consumer Financial Protection Bureau ("CFPB") and Superintendent of Financial Services of the State of New York ("Superintendent") and confirmation that the CFPB and Superintendent do not object.

At or near the conclusion of the Receivership Case, the Receiver shall seek final approval and payment of all fees and costs incurred by herself and her professionals, approval of a specified amount of Reserve Cash necessary to close the Receivership Case, and authority to make a final distribution of all remaining Cash in the Receivership Estate.

B. Uncashed Distributions

The Receiver shall conduct a reasonable investigation into distribution payments that remain uncashed 90 days after they were issued for the purpose of identifying correct addresses for the applicable Claimants. If a correct address can be identified, the payment shall be reissued as soon as practicable. If a correct

1 address cannot be identified, the Claimant's Claim will be automatically and
2 permanently extinguished. Funds allocated to extinguished claims may be
3 distributed pursuant to this Distribution Plan to remaining Claimants in subsequent
4 distribution rounds. Any funds remaining in receivership accounts 120 days after all
5 final distribution checks have been issued shall be transferred to the CFPB.

6 **V. RETENTION OF JURISDICTION**

7 The Court shall have and retain exclusive jurisdiction of matters arising out
8 of, and related to, the Receivership Case and the Distribution Plan, among other
9 things, for the following purposes:

10 1. To consider any modifications to the Distribution Plan, to cure any
11 defect or omission, or reconcile any inconsistency in the Distribution Plan or any
12 order of the Court;

13 2. To hear and determine any objection or other dispute with respect to
14 Claims;

15 3. To protect the property of the Receivership Estate from adverse Claims
16 or interference inconsistent with the Distribution Plan;

17 4. To issue such orders in aid of execution of the Distribution Plan as may
18 be necessary and appropriate;

19 5. To hear and determine all applications for compensation and
20 reimbursement of expenses of the Receiver and her professionals;

21 6. To recover all assets of the Receivership Estate, wherever located;

22 7. To hear and determine all litigation, causes of action and all
23 controversies, suits, and disputes that may arise in connection with the
24 interpretation, implementation, or enforcement of the Distribution Plan; and

25 8. To enter a Final Decree closing the Receivership Case and discharging
26 the Receiver.

27
28

VI. MISCELLANEOUS PROVISIONS

The Distribution Plan supersedes all prior discussions, understandings, agreements, and documents pertaining or relating to any subject matter of the Distribution Plan. The headings used herein are inserted for convenience only and neither constitutes a portion of the Distribution Plan nor in any manner shall affect the provisions or interpretation(s) of the Distribution Plan. All notices, requests, and demands to or upon the Receiver to be effective shall be in writing (including, without limitation, by email) addressed as follows:

Krista L. Freitag, Receiver
E3 Advisors
355 S. Grand Avenue, Suite 2450
Los Angeles, California 90071
Email: pf-pi@ethreadvisors.com

with a copy to:

Edward G. Fates, Esq.
Allen Matkins Leck Gamble
Mallory & Natsis LLP
One America Plaza
600 West Broadway, 27th Floor
San Diego, California 92101-0903

Dated: April 25, 2017

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: /s/ Edward Fates

EDWARD G. FATES
Attorneys for Receiver
KRISTA L. FREITAG