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June 13, 2010

Re: Claims Procedure for *United States v Michael E. Kelly*,  
06 CR 964 (Northern District of Illinois, Eastern Division)

Dear Investor:

Please read this letter before completing any of the enclosed forms. This letter provides a summary of the procedure you must follow in order to be entitled to receive restitution in the case referenced above.

First, let me introduce myself and explain why you are receiving this correspondence. As you are probably aware, in February 2009, Judge Guzman appointed Douglas Doetsch to serve as Special Master in the criminal case *United States v Michael E. Kelly*. The Special Master's job is to collect certain assets under Michael E. Kelly's control and sell those assets for the benefit of the victims of the fraud scheme allegedly perpetrated by Mr. Kelly, which involved the sale of Universal Leases. I am the Claims Processing Agent and my job is to distribute the proceeds of Mr. Kelly's assets to victims. You are receiving this letter because, according to information I received, you purchased a Universal Lease from Mr. Kelly and may have lost money as a result of your investment.

## **A. Collection of Assets**

Since his appointment, the Special Master has collected assets owned by companies affiliated with Mr. Kelly which are located in Panama and Mexico. Some of these assets have been sold, and others are in the process of being sold. At this time, I cannot say how quickly the assets will be sold, as many of the assets are ongoing businesses which include real estate located in Mexico and Panama. Therefore, the liquidation process may take a considerable period of time. The Special Master does expect to be able to make periodic restitution payments to victims on a rolling basis as assets are sold. The Special Master, with the guidance of the Court, will decide when distributions can be made.

## **B. Determination of Loss**

The Court has determined that the victims will each receive a pro rata share of the proceeds of the assets collected from Mr. Kelly should the proceeds available for restitution from the liquidation of the assets be

insufficient to make full restitution to all victims. "Pro rata" means that the money will be distributed to victims as a percentage of their total loss. For example, if the proceeds of Mr. Kelly's assets equal 50% of the total victim losses, then each victim will receive 50% of his or her own personal loss. The Court has also determined that a victim who was assessed tax penalties as a result of withdrawing the amount representing the initial purchase price of a lease from a tax-sheltered investment will have his or her loss figure increased by the amount of the tax penalty. Finally, the Court has determined that any payments made by Mr. Kelly to victims, including any rental payments, will be deducted from the amount of his or her loss. This calculation (total initial investment including tax penalties minus any payments received) results in a figure that is referred to as the Total Restitution Amount. Any victim who purchased more than one Universal Lease may be asked to file a Victim Claim Form for each lease and the Total Restitution Amount for each lease will be added together to determine the victim's total loss.

Please note that the amount of loss that is calculated for purposes of criminal restitution may be different than the amount that could be awarded to a defrauded investor in a civil lawsuit. While criminal restitution does not supplant a civil judgment, any assets and funds collected by the Special Master will be used to pay criminal restitution to the victims in this case and, unless the proceeds of Mr. Kelly's assets exceed the total amount of loss, the assets collected by the Special Master will not be available to satisfy any civil judgment against Mr. Kelly. At this time, the Special Master does not expect the value of the assets and funds in the Restitution Trust to exceed the total of all victims' Total Restitution Amounts. Accordingly, the Special Master does not expect assets or funds in the Restitution Trust to be available for plaintiff awards in civil lawsuits. If you have any questions regarding these matters, you should discuss this with your legal advisor.

### **C. Victim Claim Form**

As the Claims Processing Agent to the Special Master, it is my job to accurately calculate each victim's Total Restitution Amount as well as each victim's appropriate pro rata share of the proceeds of the assets. To accomplish this task, I have received records and information from the United States Attorney's Office and Mr. Kelly relating to each victim's purchase of a Universal Lease and any payments made by Mr. Kelly to victims. Based on the records and information, I have calculated your *Total Restitution Amount*. This figure is listed on page 3 of the attached **Victim Claim Form**. *You should carefully review this figure and compare it to any records or information that you have in your possession.* At this time, the appropriate pro rata fraction of distributable assets each victim will be entitled to has not been established as the full extent of all victims' Total Restitution Amount has not yet been determined. In addition the Special Master has not yet determined the full value of assets available for distribution.

1. If you believe that the Victim Claim Form is accurate

If you believe that the Total Restitution Amount listed on the Victim Claim Form is accurate, you must sign the Victim Claim Form where indicated and return the form to me at the address listed on the form by postmarking it no later than **August 25, 2010**. Failure to sign and return the Victim Claim Form to me will result in you being excluded from receiving any restitution payments in this case. Upon receipt of your Victim Claim Form, I will mail an acknowledgment letter to you so that you know that I have received your Victim Claim Form.

2. If you do not believe that the Victim Claim Form is accurate

If you do not believe that the Total Restitution Amount listed on the Victim Claim Form is accurate, you may Request Reconsideration by indicating on the form what you believe your correct Total Restitution Amount should be, providing *a detailed explanation including all supporting documentation for your claim*, and returning the form and supporting materials to me at the address listed on the form by postmarking them no later than **August 25, 2010**. Failure to sign and return the form to me will result in your being excluded from receiving any restitution payments in this case.

Upon receipt of a Victim Claim Form containing a Request for Reconsideration, I will review the request and supporting documentation to determine the validity of the request. I will then mail to you a Final Determination Notice setting forth my conclusions regarding your Request for Reconsideration. A Victim Claim Form in which the victim has disagreed with the listed Total Restitution Amount will be treated as a **Request for Reconsideration**, *only if* an explanation and supporting documentation is provided. I may also, in my discretion, refer your Request for Reconsideration to Judge Guzman or an appointed Magistrate Judge for Adjudication.

If you are dissatisfied with the result of the Final Determination Notice, you may make a **Request for Adjudication** within 30 days of the date that the Final Determination Notice was mailed. A failure to timely request adjudication will waive your right to object to the Final Determination Notice. All Requests for Adjudication will be referred to Judge Guzman or an appointed Magistrate Judge. The Judge may make a final decision based on any written submissions, or may hold a hearing to determine the victim's Total Restitution Amount.

#### **D. Waiver/Release**

The Victim Claim Form contains a waiver/release for each victim to sign. In part, this waiver/release waives any claim against the lease, the leased property and any transferee of the leased property. It is extremely important that you sign the waiver/release. The Universal Lease(s) that you purchased may or may not create a lien (or other legal impediment) on the leased property under Mexican law. A lien or other legal impediment on any property that is not released prior to sale or other transfer may negatively affect the price that a buyer is willing to pay for the property. Any potential purchaser of the leased property will be made aware of the existence of the Universal Leases and the signed waiver/releases. It is in the best interests of all victims to obtain the highest possible price for the leased property, and the Special Master believes that your signing the waiver/release will significantly contribute toward that goal. Signing the waiver/release *does not* waive or release any claims you may have against Michael E. Kelly in his personal capacity, or any claims you may have against any agent, servant or co-conspirator of Michael E. Kelly.

#### **E. Claims Procedure Order**

Also included with this correspondence is the Amended Claims Procedure Order (the "Claims Procedure Order") entered by Judge Guzman on April 27, 2010. This order describes, in greater detail, the Claims Procedure that you must follow to receive restitution payments. The Claims Procedure has been approved by the Court and is the official guide that you should follow when submitting your claim. This letter is intended only as a summary of the Claims Procedure and the Victim Claim Form and is not a replacement for, or amendment of, the Claims Procedure Order. In the event of a conflict in the terms of the Claims Procedure Order and this letter, the terms of the Order will govern.

## **F. Payment**

Once each participating victim's Total Restitution Amount has been calculated, I will calculate the total amount of restitution owed to all victims by adding up all participating victims' Total Restitution Amount<sup>1</sup>. Based on the total amount of proceeds available for restitution from the liquidation of the assets as determined by the Special Master, I will then calculate the appropriate amount of such restitution proceeds each victim will receive by multiplying the proceeds available for distribution by a fraction, the numerator of which is the individual victim's Total Restitution Amount and the denominator of which is the Total Restitution Amount for all victims combined. As noted above, restitution is likely to be made in a series of installment payments. Payments will be made by check and will be mailed directly to each victim. Checks cannot be mailed to a third party.

You are entitled to receive restitution payments and you will receive the same restitution payments regardless of whether you are represented by counsel. Be aware, however, that the Special Master, the Claims Processing Agent and their staff do not represent you and as such cannot give you legal, tax or financial advice.

We will not send restitution payments to other individuals, including counsel, unless you provide a notarized assignment of your claim. If you inherited the Universal Lease, are serving as executor for a now deceased leaseholder or are the caretaker for a leaseholder who cannot act for himself/herself, please provide all documentation which demonstrates you are authorized to make the claim on behalf of the leaseholder.

If you have any questions regarding this process, you may contact us at 1-877-482-4119 or via email at [claimsagent@stengerlaw.com](mailto:claimsagent@stengerlaw.com).

Very Truly Yours,

**STENGER & STENGER, P.C.**

Phillip S. Stenger

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<sup>1</sup>You are not required to participate in the restitution program, but you will not receive restitution payments if you decide not to participate.