

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION :

Plaintiff,

00 Civ 2685 (MGC)

v.

ENTERPRISES SOLUTIONS, INC.  
HERBERT S. CANNON  
DR. JOHN A. SOLOMON,

Defendants,

And

ROWEN HOUSE, LTD,  
MONTVILLE, LTD.,

Relief Defendants.

SUPPLEMENTAL DISTRIBUTION PLAN

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I. DEFINITIONS

As used herein, the following words shall have the following meanings:

- (i) "AATM" shall mean American ATM Corp., a CANNON "SHELL" COMPANY.
- (ii) "ACII" shall mean American Casinos International, Inc., the predecessor of ESI and a CANNON "SHELL" COMPANY.
- (iii) "AGGREGATE NET STOCK LOSS" shall mean the sum of an ELIGIBLE CLAIMANT'S ESI NET STOCK LOSS and SUPPLEMENTAL NET STOCK LOSS (collectively, "AGGREGATE NET STOCK LOSSES").
- (iv) "APPROVED SUPPLEMENTAL NET STOCK LOSS" shall mean the amount of a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT'S asserted

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SUPPLEMENTAL NET STOCK LOSS that is finally approved pursuant to this plan.

- (v) "CANNON" shall mean DEFENDANT Herbert S. Cannon.
- (vi) "CANNON 'SHELL' COMPANIES" shall mean ESI, ACII, AATM and CYGA.
- (vii) "COURT" shall mean the United States District Court for the Southern District of New York.
- (viii) "COURT CLERK" shall mean the Clerk of the COURT.
- (ix) "CYGA" shall mean Cybergames, Inc., a CANNON "SHELL" COMPANY.
- (x) "DEFENDANT" shall mean ENTERPRISES, CANNON and SOLOMON (collectively, "DEFENDANTS").
- (xi) "ELIGIBLE SUPPLEMENTAL CLAIMANT(S)" shall mean those persons and entities filing a PROOF OF SUPPLEMENTAL CLAIM FORM (or other authorized substitute therefor as provided in Section II.(v)) with the RECEIVER in the manner provided in this plan who purchased stock of AATM and/or CYGA between April 1, 1997 and June 30, 2000 and who are finally determined in the manner provided in this plan to have sustained an APPROVED SUPPLEMENTAL NET STOCK LOSS. Unless waived by the RECEIVER or the COURT for good cause shown, in no event shall an ELIGIBLE SUPPLEMENTAL CLAIMANT include any of the EXCLUDED PARTIES.

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- (xii) "*ENTERPRISES*" or "*ESI*" shall mean the DEFENDANT Enterprises Solutions, Inc., a CANNON "SHELL" COMPANY.
- (xiii) "*ESI NET STOCK LOSS*" shall mean an ESI ELIGIBLE CLAIMANT'S NET STOCK LOSS as determined by the COURT for purposes of the INITIAL DISTRIBUTION (collectively, "*ESI NET STOCK LOSSES*").
- (xiv) "*EXCLUDED PARTIES*" shall mean the DEFENDANTS, RELIEF DEFENDANTS, the CANNON "SHELL" COMPANIES, GLOBAL, their RELATED PARTIES, the defendants in *United States of America v. Cannon et al.*, 04 Crim. 842 (United States District Court for the Southern District of New York), or any other person or entity who the RECEIVER determines participated in the development or implementation of the fraudulent scheme of the DEFENDANTS, or in the marketing of the stock of the CANNON "SHELL" COMPANIES, or who knew or with the exercise of reasonable diligence could have known of the fraudulent nature of the scheme.
- (xv) "*FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE*" shall mean the RECEIVER's response to a request for reconsideration of an initial RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION.
- (xvi) "*GIBRALTAR FUNDS*" shall mean monies, totaling \$747,144.29, transferred to the RECEIVER by the Gibraltar Liquidator of the RELIEF DEFENDANTS, as the same may have increased or decreased through the earning of interest, the payment of administrative costs, etc..

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- (xvii) "*GLOBAL*" shall mean Global Financial Group, a Minneapolis-based brokerage firm.
- (xviii) "*INVESTOR RESPONSE FORM*" shall mean a document previously submitted to the RECEIVER by a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT on a form developed by the RECEIVER containing financial and other information requested by the RECEIVER in reference to purchases of stock of any of the CANNON "SHELL" COMPANIES.
- (xix) "*POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT(s)*" shall mean those persons identified by the RECEIVER as having possible claims against the GIBRALTAR FUNDS under this plan, or who are asserting such status. Designation of a person or entity as a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT does not involve any determination of the validity or amount of such person or entity's claim, or its status as an ELIGIBLE SUPPLEMENTAL CLAIMANT.
- (xx) "*RECEIVER*" shall mean Phillip S. Stenger or his successor(s).
- (xxi) "*RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION*" shall mean the determination of the RECEIVER concerning a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT's claim, as reflected in the relevant SUPPLEMENTAL CLAIMS DETERMINATION NOTICE.
- (xxii) "*RELATED PARTY*" or "*RELATED PARTIES*" shall mean family members (blood or marriage); entities such as corporations, trusts, partnerships

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or limited liability companies, etc., in which the POTENTIALLY ELIGIBLE CLAIMANT, POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT or EXCLUDED PARTY (or any of its family members or other RELATED PARTIES or affiliates) were officers, directors, general partners, trustees, beneficiaries, members, equity owners, or otherwise played a significant role or held a significant position; and if the POTENTIALLY ELIGIBLE CLAIMANT, POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT or EXCLUDED PARTY is a "legal entity" (corporation, trust, partnership, limited liability company, etc.) rather than a "natural person," its RELATED PARTIES would include its own officers, directors, general partners, trustees/beneficiaries, members, equity owners, and those who otherwise played a significant role or held a significant position.

(xxiii) "*RELIEF DEFENDANT*" shall mean Rowen House, Ltd., a Gibraltar entity, and Montville, Ltd., a Gibraltar entity controlled by CANNON (collectively, "*RELIEF DEFENDANTS*").

(xxiv) "*SOLOMON*" shall mean DEFENDANT Dr. John A. Solomon.

(xxv) "*SUPPLEMENTAL CLAIM DETERMINATION NOTICE*" shall mean the notice sent by the RECEIVER to a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT stating the RECEIVER's SUPPLEMENTAL CLAIM DETERMINATION concerning the claim of the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT.

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(xxvi) "*SUPPLEMENTAL CLAIMS BAR DATE*" shall mean the date one hundred and fifty (150) calendar days after entry of the SUPPLEMENTAL DISTRIBUTION PLAN APPROVAL ORDER by which date a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT'S PROOF OF SUPPLEMENTAL CLAIM FORM must be filed as prescribed in this plan to avoid the permanent barring of any right of the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT to participate in any distributions from the GIBRALTAR FUNDS. The SUPPLEMENTAL CLAIMS BAR DATE shall be **July 17, 2011**; provided that such SUPPLEMENTAL CLAIMS BAR DATE may be extended by the RECEIVER in his absolute discretion, in which event such extension shall constitute the SUPPLEMENTAL CLAIMS BAR DATE.

(xxvii) "*SUPPLEMENTAL CLAIM FORM*" shall mean the form prescribed by the SUPPLEMENTAL DISTRIBUTION PLAN APPROVAL ORDER for the filing of proof of a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT'S claim, and may also include any INVESTOR RESPONSE FORM accepted in lieu thereof as provided in Section II. (v).

(xxviii) "*SUPPLEMENTAL DISTRIBUTION PLAN*" shall mean the plan approved by the COURT for the distribution of the GIBRALTAR FUNDS to the ELIGIBLE SUPPLEMENTAL CLAIMANTS as set forth in this document, as the same may be modified by the COURT from time to time.

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- (xxix) "*SUPPLEMENTAL DISTRIBUTION PLAN APPROVAL ORDER*" shall mean the order or orders entered by the COURT adopting a SUPPLEMENTAL DISTRIBUTION PLAN.
- (xxx) "*SUPPLEMENTAL DISTRIBUTION PLAN NOTICE*" shall mean the notice given to POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANTS as provided in this plan, notifying the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANTS of their right and obligation to file their PROOF OF SUPPLEMENTAL CLAIM FORMS and any SUPPLEMENTAL DISTRIBUTION PLAN OBJECTIONS.
- (xxxi) "*SUPPLEMENTAL DISTRIBUTION PLAN OBJECTION(s)*" shall mean objections to the SUPPLEMENTAL DISTRIBUTION PLAN filed in the manner provided in this plan by a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT.
- (xxxii) "*SUPPLEMENTAL NET STOCK LOSS*" shall mean: (a) the aggregate amount paid by an ELIGIBLE SUPPLEMENTAL CLAIMANT for the purchase of stock of AATM and/or CYGA (b) less any amounts realized by that ELIGIBLE SUPPLEMENTAL CLAIMANT through sales of such stock (collectively, "*SUPPLEMENTAL NET STOCK LOSSES*").
- (xxxiii) "*SUPPLEMENTAL DISTRIBUTION PLAN OBJECTIONS BAR DATE*" shall mean the date ninety (90) calendar days after entry of the SUPPLEMENTAL DISTRIBUTION PLAN APPROVAL ORDER by which date a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT must file, as

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prescribed in this plan, any SUPPLEMENTAL DISTRIBUTION PLAN OBJECTIONS, to avoid the permanent barring of any right of the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT to object to the SUPPLEMENTAL DISTRIBUTION PLAN. The SUPPLEMENTAL OBJECTIONS BAR DATE shall be May 18, 2011.

## II. THE SUPPLEMENTAL DISTRIBUTION PLAN

The following, including the definitions set forth above, is hereby established as the SUPPLEMENTAL DISTRIBUTION PLAN:

- (i) Promptly following the entry by the COURT of the SUPPLEMENTAL DISTRIBUTION PLAN APPROVAL ORDER, the RECEIVER shall cause to be mailed by United States First Class Mail to those POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANTS known to the RECEIVER a SUPPLEMENTAL DISTRIBUTION PLAN NOTICE and a PROOF OF SUPPLEMENTAL CLAIM FORM.
- (ii) The RECEIVER shall also post a copy of the SUPPLEMENTAL DISTRIBUTION PLAN APPROVAL ORDER including Exhibits on the RECEIVER'S ENTERPRISES website, [www.enterprisessolutions.com](http://www.enterprisessolutions.com), and, if so directed by the COURT, shall publish a copy of the SUPPLEMENTAL DISTRIBUTION PLAN NOTICE for one time in the national edition of the *Wall Street Journal*. The RECEIVER, at his sole discretion, may also give additional notice of the distribution process in such manner as the RECEIVER deems appropriate.



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- (iii) The RECEIVER shall promptly provide a copy of the SUPPLEMENTAL DISTRIBUTION PLAN APPROVAL ORDER and PROOF OF SUPPLEMENTAL CLAIM FORM to any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT so requesting.
- (iv) Any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT who objects to the SUPPLEMENTAL DISTRIBUTION PLAN may file a written SUPPLEMENTAL DISTRIBUTION PLAN OBJECTION with the COURT, with a copy to the RECEIVER. Such written SUPPLEMENTAL DISTRIBUTION PLAN OBJECTION must be mailed by the objecting POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT in sufficient time that it is received by both the COURT and the RECEIVER by no later than the SUPPLEMENTAL DISTRIBUTION PLAN OBJECTIONS BAR DATE; the burden of insuring such timely receipt shall be upon the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT. The RECEIVER shall have the right, in his discretion, to file with the COURT a written response to any such SUPPLEMENTAL DISTRIBUTION PLAN OBJECTION, with copies to the objecting POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT. The COURT shall thereafter rule upon the SUPPLEMENTAL DISTRIBUTION PLAN OBJECTIONS, making such revisions, if any, to the SUPPLEMENTAL DISTRIBUTION PLAN as the COURT feels advisable, or may set the matter for hearing. Any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT who does not timely file a SUPPLEMENTAL

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DISTRIBUTION PLAN OBJECTION in the manner herein provided shall be forever barred from subsequently asserting objections to the SUPPLEMENTAL DISTRIBUTION PLAN.

- (v) On or before the SUPPLEMENTAL CLAIMS BAR DATE, each POTENTIALLY ELIGIBLE CLAIMANT must file with the RECEIVER a properly completed SUPPLEMENTAL CLAIM FORM in the form approved by the RECEIVER, reflecting such POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT's claim, together with all supporting documentation; provided that if any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT has previously provided investment information to the RECEIVER by providing the RECEIVER a properly completed INVESTOR RESPONSE FORM, and has received written confirmation from the RECEIVER of receipt of such INVESTOR RESPONSE FORM, then such POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT shall not be required to complete and/or file with the RECEIVER an additional PROOF OF CLAIM FORM, but shall provide to the RECEIVER such additional information, if any, as the RECEIVER may request. The SUPPLEMENTAL CLAIMS BAR DATE shall be July 17, 2011; provided that, as to any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT, such SUPPLEMENTAL CLAIMS BAR DATE may be extended by the RECEIVER in his absolute discretion for good cause shown, in which event such extension shall constitute the SUPPLEMENTAL

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CLAIMS BAR DATE as to such POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT. Unless waived by the RECEIVER in his sole discretion for good cause shown, any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT who does not file a properly completed and documented SUPPLEMENTAL CLAIM FORM in the manner herein provided, so that such form and documentation are received by the RECEIVER on or before the SUPPLEMENTAL CLAIMS BAR DATE, shall be forever barred from asserting a claim against the RECEIVER or the GIBRALTAR FUNDS. The burden shall be upon the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT to insure that its SUPPLEMENTAL CLAIM FORM has been properly and timely received by the RECEIVER, as evidenced by a letter of confirmation from the RECEIVER.

- (vi) The RECEIVER shall review each SUPPLEMENTAL CLAIM FORM to determine the apparent validity and amount of such POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT'S SUPPLEMENTAL NET STOCK LOSS, together with any additional conclusions of the RECEIVER on other issues relevant to the claim. Each POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT shall have the burden of proof to establish the validity and amount of its claim, and that it qualifies as an ELIGIBLE SUPPLEMENTAL CLAIMANT; and the RECEIVER shall have the right to request, and the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT shall be obligated to provide to the RECEIVER, any

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additional information and/or documentation deemed relevant by the RECEIVER in order to make the RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION. The RECEIVER shall mail by United States First Class Mail a SUPPLEMENTAL CLAIMS DETERMINATION NOTICE to each POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT who has filed a PROOF OF SUPPLEMENTAL CLAIM FORM with the RECEIVER, setting forth the RECEIVER'S conclusions concerning such claim..

- (vii) Any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT that is dissatisfied with the RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION concerning its claim, as reflected in the relevant SUPPLEMENTAL CLAIMS DETERMINATION NOTICE, may request reconsideration of the RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION by filing a written request for reconsideration with the RECEIVER. Such written request must be mailed by the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT in sufficient time that it is received by the RECEIVER no later than twenty (20) calendar days after the date on which the SUPPLEMENTAL CLAIMS DETERMINATION NOTICE was mailed to the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT by the RECEIVER; the burden of insuring such timely receipt shall be upon the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT. Such request for reconsideration shall clearly explain the POTENTIALLY ELIGIBLE SUPPLEMENTAL

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CLAIMANT'S disagreement with the RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION as reflected in the SUPPLEMENTAL CLAIMS DETERMINATION NOTICE and shall include copies of all relevant documentation not previously provided to the RECEIVER. A failure to properly and timely seek reconsideration of a RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION as reflected in the relevant SUPPLEMENTAL CLAIMS DETERMINATION NOTICE shall permanently waive the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT'S right to object to or contest the RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION. The RECEIVER shall respond to such request for reconsideration with a FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE.

- (viii) Any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT that is dissatisfied with a FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE concerning its claim may appeal such decision by the RECEIVER to the COURT by filing a written notice of appeal with the COURT CLERK, with a copy to the RECEIVER. Such written notice of appeal must be mailed by the appealing POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT in sufficient time that it is received by both the COURT CLERK and the RECEIVER by no later than twenty (20) calendar days after the date on which the FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE was mailed to the POTENTIALLY

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ELIGIBLE SUPPLEMENTAL CLAIMANT by the RECEIVER; the burden of insuring such timely receipt shall be upon the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT. Such appeal shall clearly explain the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT's disagreement with the RECEIVER's decision as reflected in the FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE and shall include copies of all relevant documentation, which shall also be provided to the RECEIVER. The RECEIVER shall have the right, in his discretion, to supplement his position as stated in his SUPPLEMENTAL CLAIMS DETERMINATION NOTICE and FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE by filing with the COURT CLERK a written response to such appeal, with copies to the appealing POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT.

- (ix) An appealing POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT shall have the right to reasonable discovery from the RECEIVER relating to its claim if necessary for the proper preparation and presentation of the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT's appeal, so long as such discovery and its manner of conduct would not interfere with, or unduly burden, the administration of the Receivership. If the RECEIVER and the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT cannot agree concerning the reasonableness and appropriateness of such discovery request and/or implementation, the request for

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discovery shall be referred to the COURT for determination. A revised written notice of appeal, with supporting documentation, may be filed with the COURT CLERK by the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT, with copies to the RECEIVER, within twenty (20) calendar days after the date such discovery materials are delivered to the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT by the RECEIVER.

- (x) A failure to properly and timely request reconsideration of a RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION as reflected in the relevant SUPPLEMENTAL CLAIMS DETERMINATION NOTICE, or to appeal the decision contained in a FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE, shall permanently waive the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT'S right to object to or contest the RECEIVER'S SUPPLEMENTAL CLAIMS DETERMINATION or the FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE.
- (xi) In the event that a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT properly appeals a FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE, the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT shall have the burden of proof in such appeal. The COURT shall review the documentation provided by the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT and the RECEIVER. At that time, the COURT may make a final determination or may set the matter for hearing and at the conclusion of the hearing make a final

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determination. In the COURT's discretion, any such matter may be referred to a Magistrate Judge.

- (xii) No POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT who has failed to timely file an appropriate SUPPLEMENTAL CLAIM FORM or SUPPLEMENTAL DISTRIBUTION PLAN OBJECTION, or to request reconsideration of an initial RECEIVER's SUPPLEMENTAL CLAIMS DETERMINATION, or to appeal a FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE, shall be permitted to object to the barring or treatment of its claim or any objections to the SUPPLEMENTAL DISTRIBUTION PLAN on the basis that the RECEIVER failed to mail, or properly to mail, or that such POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT failed to receive, a copy of the SUPPLEMENTAL DISTRIBUTION PLAN NOTICE, SUPPLEMENTAL CLAIM FORM or the relevant SUPPLEMENTAL CLAIMS DETERMINATION NOTICE or FINAL SUPPLEMENTAL CLAIMS DETERMINATION NOTICE, or that a SUPPLEMENTAL CLAIM FORM, SUPPLEMENTAL DISTRIBUTION PLAN OBJECTION, request for reconsideration, or appeal made by the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT, was improperly reflected as not having been received by, or properly recorded as received by, the RECEIVER or the COURT CLERK, or that a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT's name and/or contact information was not properly reflected on the RECEIVER's



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records. The burden of notifying the RECEIVER of a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT's current address and other contact information, and of insuring that a POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT's name and/or contact information are properly reflected on the RECEIVER's records, shall be upon the POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT; and the RECEIVER shall be under no obligation to attempt to determine current contact information for any POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT or to determine the identity of POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANTS whose names and/or current contact information do not appear, or properly appear, on the RECEIVER's records. The RECEIVER shall be exonerated against any and all liability arising out of or related to the conduct of his duties, including implementation of this SUPPLEMENTAL DISTRIBUTION PLAN, except for willful misconduct.

- (xiii) Promptly following completion of processing of all POTENTIALLY ELIGIBLE SUPPLEMENTAL CLAIMANT claims and SUPPLEMENTAL DISTRIBUTION PLAN OBJECTIONS, including the resolution of any appeals arising therefrom, the RECEIVER shall prepare a list of all ELIGIBLE SUPPLEMENTAL CLAIMANTS, the APPROVED SUPPLEMENTAL NET STOCK LOSS of each such ELIGIBLE SUPPLEMENTAL CLAIMANT, and the percentage of the aggregate APPROVED SUPPLEMENTAL NET STOCK LOSSES of all ELIGIBLE SUPPLEMENTAL CLAIMANTS represented

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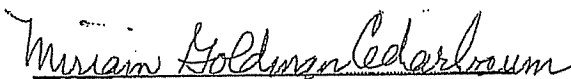
by each ELIGIBLE CLAIMANT's APPROVED SUPPLEMENTAL NET STOCK LOSS, and shall petition the COURT for approval of such list. At the same time, the RECEIVER shall petition the COURT for authority to distribute out of the GIBALTAR FUNDS to each ELIGIBLE SUPPLEMENTAL CLAIMANT (subject to availability of funds, including payment of estimated administrative costs as well as any federal, state or local taxes payable in connection with the Receivership) an amount equal to the percentage of such claimant's APPROVED SUPPLEMENTAL NET STOCK LOSS which is equal to the percentage of the APPROVED NET STOCK LOSS received by each ESI ELIGIBLE CLAIMANT from the INITIAL DISTRIBUTION (27.9%). If further monies remain undistributed after such SUPPLEMENTAL DISTRIBUTION (after a prudent reserve as stated above), the Receiver may petition the Court for authority to conduct a final distribution in equal proportion to both ESI and SUPPLEMENTAL ELIGIBLE CLAIMANTS in the ratio of each claimant's APPROVED NET STOCK LOSS on terms to be approved by this Court.

(xiv) Following such distribution, any monies remaining out of the GIBALTAR FUNDS shall be distributed to the United States Treasury or otherwise be disposed of as the COURT shall order.

The COURT reserves the right to amend this SUPPLEMENTAL DISTRIBUTION PLAN from time to time.

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AS ORDERED BY THIS COURT on the 18 day of February, 2011.

  
Honorable Miriam Goldman Cedarbaum  
United States District Court Judge  
Southern District of New York