

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	Case No. 06 CR 964
)	
vs.)	
)	Hon. Ronald A. Guzman
MICHAEL E. KELLY)	
)	
Defendant.)	

**ORDER APPROVING
DISTRIBUTION OF RESTITUTION FUND**

The Special Master, Douglas A. Doetsch, by and through his counsel, having filed his *Motion and Memorandum for Distribution of Restitution Fund* (the “**Distribution Motion**”) moving this Court to approve a first distribution, and this Court having held a hearing thereon, and the Court being otherwise fully advised in the premises¹,

IT IS ORDERED AND ADJUDGED as follows:

1. The amount of USD \$50,020,000 shall be transferred to Fifth Third Bank or Bank of America in accounts in the name of the Special Master and the amount of USD \$50,000,000.00 shall be distributed as the “**First Distribution Amount**” to the First Distribution Eligible Victims in accordance with the Total Restitution Amounts (“**TRA**”) set forth in the *Victim List*, as fully set forth in **Exhibit C** to the *Distribution Motion*, and the balance of \$20,000.00 is to be used to offset banks costs and fees associated with the distribution.

¹ Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Claims Procedure Orders and the Distribution Motion.

2. The procedures used by the Claims Processing Agent as set forth in the *Claims Procedure Orders* (and further implementing orders) to provide notice to Victims of their TRA as determined by the Claims Processing Agent, including posting on the Claims Processing Agent's website and publication in *The Wall Street Journal*, were fair and equitable and provided adequate due process to Victims, and that the Claims Processing Agent has fully complied with all orders of this Court including the Claims Procedure Orders in determining the TRA for each Victim.

3. The procedures used by the Claims Processing Agent in calculating TRAs, including but not limited to combining the claims of Co-Victims who purchased investments jointly, reducing TRAs by payments made, including commission payments, and netting positive and negative claims of Victims in different leases were fair and equitable and are hereby approved the Court.

4. The Claims Processing Agent shall distribute the First Distribution Amount to the First Distribution Eligible Victims as provided on the *Victim List* (Exhibit C to the *Distribution Motion*) via United States Postal Service First Class Regular Mail within thirty (30) calendar days after entry of this Order approving the First Distribution (by December 20, 2012) and further that: (i) the distribution shall be made to the First Distribution Eligible Victims at the last known address contained in the records of the Claims Processing Agent via United States First Class Mail; (ii) the burden is on the First Distribution Eligible Victims to notify the Claims Processing Agent of a First Distribution Eligible Victim's current address and other contact information, and of insuring that a First Distribution Eligible Victim's name and/or proper contact information are contained in the Claims Processing Agent's records; (iii) the Claims Processing Agent is under no duty or obligation to attempt to determine current address

and other contact information for any First Distribution Eligible Victim; and (iv) the Claims Processing Agent implement the security procedures of "Positive Pay."

5. The First Distribution Amount checks which are returned or which have not been cashed within one hundred and twenty (120) calendar days from the date of mailing of such checks and **in no event later than April 19, 2013**, will be void, the right to receive such payments will terminate, subject only to the sole discretion of the Special Master, and the amounts otherwise distributable to such First Distribution Eligible Victims shall be returned to the Restitution Fund and disposed of according to the Court's further instructions and that the Claims Processing Agent will, in the mailing of the First Distribution Amount checks, warn First Distribution Eligible Victims of this potential loss of rights and the need to promptly cash their checks by including copies of a "**Letter to First Distribution Eligible Victims**" substantially in the form attached as **Exhibit D** to the *Distribution Motion* and further that such Victims shall have no right to participate in future distributions, be removed from the list of Victims, and that the Claims Processing Agent shall have no further duty to locate these Victims or notify these Victims of future hearings, motions, orders or developments in this case.

6. Due to the joint ownership of some claims, prior to mailing the distribution checks, the Claims Processing Agent shall mail a letter to each Co-Victim advising them as to which address the checks will be mailed in a letter substantially in the form attached as **Exhibit E** to the *Distribution Motion* ("**Letter to Co-Victim Claimants**") and further that a copy of the *Letter to First Distribution Eligible Claimants* which is to be mailed with the first distribution check be also mailed to each Co-Victim so they will be informed as to when the checks are mailed. However, the failure of the Claims Processing Agent to mail the Letter to

Co-Victim Claimants or the Letter to First Distribution Eligible Victims, or the failure of the Victims or Co-Victim to receive such letters, shall not give rise to any claim against the Claims Processing Agent, the Special Master or their employees, attorneys, accountants or agents as these letters are meant to provide courtesy notices and do not convey substantive rights to Victims or Co-Victims.

7. In order to effectuate the distribution of the First Distribution Amount and all subsequent distributions, the Court releases and discharges the Special Master and the Claims Processing Agent (both in their personal and representative capacities) and their attorneys, accountants, employees, officers, directors and agents and all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing and distribution of checks and determination of claims filed pursuant to the Claims Procedure or otherwise involved in the administration of the estate, from any act or omission arising out of such involvement.

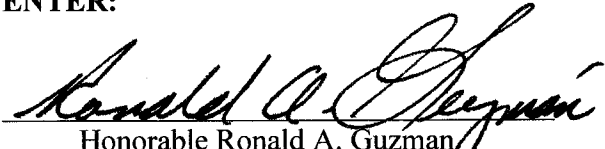
8. The Kelly Restitution Fund shall indemnify, defend and hold harmless the Special Master and the Claims Processing Agent (both in their personal and representative capacities) and their attorneys, accountants, employees, officers, directors and agents and all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing and distribution of checks and determination of claims filed pursuant to the Claims Procedure or otherwise involved in the administration of the estate (the “**Indemnified Parties**”), from and against all actions pending or threatened, whether at law or in equity, in any forum, from liabilities, damages, losses, costs and expenses, including, but not limited to, reasonable attorneys' and other professionals' fees and costs, arising from conduct or omission of the Indemnified Parties in connection with this case.

9. Provident Trust's request to have the First Distribution Amount checks for certain First Distribution Eligible Victims be made out and sent directly to Provident Trust is DENIED. The Claims Processing Agent shall distribute the First Distribution Amount directly to the First Distribution Eligible Victims.

Dated: November 20, 2012

SO ORDERED.

ENTER:


Honorable Ronald A. Guzman