

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

<b>SECURITIES EXCHANGE COMMISSION</b>	)	
	)	
<b>Plaintiff,</b>	)	
<b>vs.</b>	)	
<b>DAVID TANNER, et al.,</b>	)	
	)	
<b>Defendants,</b>	)	<b>Civil Action No.: 05-4057-RDR</b>
<b>and</b>	)	
<b>MARGARET F. SPENCER, et al.,</b>	)	
	)	
<b>Relief Defendants.</b>	)	

**MEMORANDUM AND ORDER**

On November 20, 2006, this case came before the Court on a hearing on the Receiver’s Motion for Order Allowing and Disallowing Investor Claims (the “Claims Motion”) (Doc. 233). The Receiver appears by counsel, Kenneth L. Weltz and Brian M. Holland. Investor Carol Jean Burrow appears by counsel, Rodney K. Murrow. Investor Peder Heineman appears by counsel, Richard Peterson Kline. Investor Wamaduze Valley Ministries appears by counsel, Todd A. Luckman. The following investors appeared *pro se*: Heather Roenne, David Swetman, Vernon & Teresa Packard, Thomas Freund, and Jason Herter.

There have been 62 objections to the Claims Motion filed as docket numbers: 273, 249, 250, 256, 265, 267, 268, 270, 269, 271, 272, 274, 279, 280, 287, 290, 295, 296, 297, 298, 304, 305, 306, 307, 308, 309, 312, 314, 310, 311, 315, 316, 317, 318, 319, 327, 320, 321, 322, 323, 324, 325, 326, 328, 329, 330, 331, 332, 333, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, and 347 (collectively, the “Objections”).

The Court, having reviewed the Claims Motion, the Objections thereto, and having heard statements of counsel and the investors in attendance, finds and determines that:

A. The Receiver has given due and sufficient notice of the Claims Motion to all investors who filed a Claim. The Receiver provided e-mail notice of the investors’ opportunity to file a claim for lost investments to all known investors on February 24, 2006. The Receiver further provided e-mail notice of the April 28, 2006 deadline for investors to file a claim (the

“Claims Bar Date”) to all known investors on March 1, 2006. The Receiver further provided notice of the Claims Motion to all known investors on October 11, 2006. The investors in this case invested in Capital Enhancement Club by wire transfer, cashier’s check, and e-currency transfers. The Receiver has advised the Court there is no method by which the Receiver can obtain a mailing address for the investors. Accordingly, the Court finds notice of the Claims Motion to the investors by e-mail is sufficient.

B. The Claim Motion provides that investor claims filed past the Claims Bar Date will be paid only after all timely allowed claims are paid in full. The Court finds several investors failed to file a timely claim because they were lulled by defendant David Tanner into not filing claim, they encountered technical difficulties in opening the Receiver’s notices of opportunity to file a claim, and/or they were unable to supply the Receiver with documentation to support their claim prior to the Claims Bar Date. Accordingly, the Court finds that all allowed claims shall be treated equally and that allowed late-filed claims shall be paid *pari parsu* with allowed timely-filed claims.

Based upon the foregoing findings, and upon the record made before the Court at the November 20, 2006 hearing, and for good and sufficient cause shown;

THE COURT HEREBY ORDERS THAT:

1. The Claims Motion is Granted, subject to the terms and conditions set forth in this Order.
2. The investor claims listed on Exhibit A attached to this Order are hereby allowed.
3. The investor claims listed on Exhibit B attached to this Order are hereby disallowed.
4. All allowed claims, regardless of the date they were filed, shall be treated equally for purposes of disbursement of recovered assets of the receivership estate.
5. Except as otherwise noted on the exhibits to this Order, the Objections to the Claims Motion are overruled.



IT IS SO ORDERED.

Dated this 4<sup>th</sup> day of December, 2006 at Topeka, Kansas.

s/Richard D. Rogers  
United States District Judge

Submitted by:

Lathrop & Gage L.C.

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