

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

SECURITIES EXCHANGE COMMISSION)

Plaintiff,)

vs.)

DAVID TANNER, et al.,)

Defendants,)

and)

MARGARET F. SPENCER, et al.,)

Relief Defendants.)

Civil Action No.: 05-4057-RDR

**RECEIVER'S CONSOLIDATED RESPONSE TO OBJECTIONS TO
PROPOSED PLAN FOR GENERAL DISTRIBUTION TO INVESTORS**

COMES NOW the Receiver *Pendente Lite* Larry E. Cook (the "Receiver"), and for his Consolidated Response to Objections to Proposed Plan for General Distribution to Investors, respectfully states as follows:

1. On April 13, 2007, the Receiver filed his Motion to Approve Plan for General Distribution to Investors (the "Distribution Plan") (Doc. # 372).

2. On April 30 and May 5, 2007, thirteen individuals filed objections to the Distribution Plan (Doc. # 374 and 375). Only three of the objecting individuals even have an allowed claim in this case.

3. The objections are mostly nonsensical. The Receiver is not going to debate with these individuals over whether the United States is still a democracy. However, these objections have harmed over 1,100 holders of allowed claims who would have had their first distribution check in hand by now had the objections not been filed. Accordingly, the Receiver offers the following points in response to the objections:

A. Only three of the objections are from holders of allowed claims: Joe Goldberg, Eric Riener, and Anne Davis. Although the other ten represent themselves as CEC members, they did not file a claim. These ten are: Caroline Kirk, David Burns, Hugh Mitchell, Helen Epperly, Glen & Sandra Clark, Richard Cohen, Martha Joerding, Donita Hotchiss, Donna Kay Mitchell, and Floyd Russell.

B. Caroline Kirk is the common-law wife of defendant Richard Kringen who received over \$120,000 in CEC funds.

C. Caroline Kirk and Richard Kringen are aggregators in the CEC scheme who sent several e-mails to "David Tanner" directing payments from CEC to various members they recruited into the scheme, including Hugh Mitchell and Helen Epperly.

D. David Burns is Caroline Kirk's son.

E. Several of the objections state they did not file a claim for their lost investment because they trusted David Tanner. The Receiver provided repeated notice of the Claims Bar Date to all e-mail addresses obtained from safe-mail.net. As set forth in the Receiver's Motion for Order Approving Claims Solicitation Procedure and Establishing Claims Bar Date filed on March 1, 2006 (Doc. 187), the Receiver's only means of communicating with the defrauded investors was by e-mail. As further set forth in the Receiver's e-mail notification to investors, the Receiver advised the investors that he was aware of misinformation being promulgated by "David Tanner," and that investors would need to decide for themselves whether to file a claim (Doc. 197).

F. Several objections allege the Distribution Plan would allow the Receiver to hold people in contempt of court for failure to abide by the terms of the Distribution Plan. This is incorrect. If individuals interfere with the Receiver's efforts after the Distribution Plan is approved, the Receiver may petition the Court for an Order to Show Cause why those individuals

should not be held in contempt. Only the Court is empowered to find persons in contempt of court.

G Many of the objections maintain CEC was a legitimate investment program successfully run by David Tanner. The Receiver and the Commission have confirmed David Tanner is merely an alias for Scott Klion, a securities fraud recidivist who has made a career out of operating pyramid or "Ponzi" schemes. *See Joint Motion to Modify Permanent Injunction and Order of Disgorgement Against David Tanner* (Doc. 376). The Receiver has reviewed tens of thousands of pages of bank records and other documents and has not found a single legitimate investment by CEC. Furthermore, the Receiver has traced the following withdrawals from CEC investor funds: \$5.1 million to Server to Go under Klion's alias "James Tucker;" \$9.5 million to Seaforth Meridian under the name James Tucker; \$2.75 million in purchases of jewelry shipped to Klion's former residence in St. Maarten; \$1.9 million in cash withdrawals by James Tucker; and \$1 million transferred to relief defendant Dynamic Environmental Systems.

H. Many of the objections (presumably, those filed by individuals who profited from the scam) object to the Receiver recovering those profits. It is unlikely the Receiver will recover funds sufficient to pay the defrauded investors in full. It is only fair for the investors as a whole if those few who profited off of the CEC scam are compelled to disgorge their ill-gotten gains and those funds be distributed to those who lost their principal investment.

I. Several of the objections object to the Receiver's fees and expenses. When this case was commenced, the Commission approached the Receiver and his

counsel to request they consider accepting the case even though there may be insufficient funds frozen to pay fees and expenses. The Receiver and his counsel agreed to take this case and applied their highly specialized knowledge and experience to recover over \$6 million in investor funds. In addition, the Receiver currently has real property listed for sale with an estimated sales price of \$400,000 an Order for the return of \$3 million from Latvia (which should be repatriated around June 30, 2007), and pending Orders for the return of money and real property in the United Kingdom (one-half of the proceeds of which will be for the benefit of CEC investors). Although some of the recovered funds were ultimately transferred back to the Seaforth Meridian case, the CEC investors still stand to receive millions of dollars more than they would have received had the intensive recovery efforts not been undertaken.

4. Many of the objections to the Distribution Plan did not contain addresses or contact information. Accordingly, Notice of this Consolidated Response is being served on those individuals who provided an address and a copy of this Consolidated Response will be posted to the Receiver's website: www.ceclubreceiver.com.

5. Counsel for the Commission has reviewed the instant Consolidated Response and concurs with its contents.

WHEREFORE, the Receiver respectfully requests the Court enter its Order:

- (i) Denying the Objections to the Distribution Plan;
- (ii) Approving the Distribution Plan submitted by the Receiver; and
- (iii) For such other and further relief as the Court deems just and appropriate.

Dated: May 10, 2007

Respectfully submitted,

Lathrop & Gage L.C.

By: /s/ Brian M. Holland

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of May, 2007, I electronically filed the foregoing, with the Clerk of the Court for the District of Kansas, Topeka Division, by using the CM/ECF system which will send a notice of electronic filing to the following CM/ECF participants:

J. Kevin Edmundson, SEC

In addition, I hereby certify that a copy of the foregoing was sent via first class US Mail, postage prepaid, to:

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/s/ Brian M. Holland

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