UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v. Civil Action No. 09-C-506

WEALTH MANAGEMENT LLC, Honorable William C. Griesbach
JAMES PUTMAN and SIMONE FEVOLA,

Defendants,

and

WML GRYPHON FUND LLC,
WML WATCH STONE PARTNERS, L.P.,
WML PANTERA PARTNERS, L.P.,
WML PALISADE PARTNERS, L.P.,
WML L3, LLC, and
WML QUETZAL PARTNERS, L.P.

Relief Defendants.

RECEIVER'S SECOND AMENDED PROPOSED PLAN FOR THE ALLOCATION OF THE ASSETS OF WEALTH MANAGEMENT LLC, WML GRYPHON FUND LLC, WML WATCH STONE PARTNERS, L.P., WML PANTERA PARTNERS, L.P, WML PALISADE PARTNERS, L.P., WML L3, LLC, AND WML QUETZAL PARTNERS, L.P.

SUMMARY

Faye B. Feinstein, as Receiver for Wealth Management LLC ("WM"), Employee Services of Appleton, Inc. ("ESA"), and the Relief Defendants, WML Gryphon Fund LLC

("Gryphon"), WML Watch Stone Partners, L.P. ("Watch Stone"), WML Pantera Partners, L.P. ("Pantera"), WML Palisade Partners, L.P. ("Palisade"), WML L3, LLC ("L3"), and WML Quetzal Partners, L.P. ("Quetzal," and together with Gryphon, Watch Stone, Pantera, Palisade, and L3, the "WM Funds"), hereby submits the Receiver's Second Amended Proposed Plan for the Allocation of the Assets of WM and the WM Funds (the "Plan" or the "Allocation Plan").

WM operated as a financial planning firm for families and individuals, and as the General Partner or Managing Member of each of the WM Funds. Each of the WM Funds was a "fund of funds", having made investments in other investment funds and/or other types of alternative investments (the "Sub-Funds"). All of the WM Funds were unregistered investment pools. More than $100 million was placed under investment in the WM Funds. As Managing Member or General Partner, WM had complete authority to select and manage each of the WM Funds' investments. The Private Placement Memoranda ("PPM") for the WM Funds indicate that James Putman ("Putman") and Simone Fevola ("Fevola") were primarily responsible for the WM Funds' investments, and that both were managing members of WM. The PPMs provided that the goals of the WM Funds ranged from investing in "investment grade" debt securities, "to achiev[ing] a high level of income consistent with the preservation of capital" (*see* Gryphon, Palisades, and Pantera Fund PPMs), to "generating steady returns . . . through diversification" with current income not being an objective (*see* Quetzal Fund PPM), "to achiev[ing] maximum long-term capital

appreciation" and "current income" (*see* L3 PPM). The various operating/partnership agreements generally imposed no limits on the types of investment vehicles in which the WM Funds could invest or on the types of positions, concentration of investments, or amount of leverage the WM Funds could take on.

Virtually all of the investments made by the WM Funds are illiquid, *e.g.*, investments were made in, among other things, life insurance premium financing vehicles, water parks, and real estate funds. Some of the WM Funds invested in others of the WM Funds. WM is also itself an investor in each of the WM Funds. The Receiver believes that most of the investors in the WM Funds did not fully understand the risks and illiquidity associated with their investments. Many of the investors are retirees who sought relatively safe, low-risk investments and relied on their investments in the WM Funds as their primary source of retirement income.

WM had placed the WM Funds in liquidation mode prior to the Receiver's appointment. The Receiver has been tasked with winding down the business of WM and liquidating the WM Funds. It appears that the statements provided to investors regarding the value of their investments in the WM Funds were substantially overstated; "valuations" were taken by WM from reports issued by the Sub-Funds without any independent verification. Statements provided to investors often indicated that they were making "profits". More importantly, reported valuations bear little relationship to the ultimate recoveries which can be expected from the Sub-Funds. In most cases, recoveries to

investors are dependent upon the timing and actions of the managers of the Sub-Funds and are directly related to distributions made and to be made by the Sub-Funds as they comply with redemption requests made by WM and liquidate their own investments. In some cases, the Receiver may be able to sell a WM Fund's position in a Sub-Fund back to the Sub-Fund or to a third party. The process of redemption and liquidation will be a long one and may extend over several years. One of the Sub-Funds, SageCrest II LLC, is in its own bankruptcy proceeding which is highly contentious and is likely to go on for quite some time. Sub-Funds MKA Real Estate Opportunity Fund I, LLC, and MKA Real Estate Qualified Fund I, LLC, are each invested in loans made to real estate developers and other real estate related investments and are currently being investigated by the SEC. However, in an effort to alleviate the financial burden to investors, the Receiver is proposing this Plan which, once approved, will enable her to begin making *pro rata* interim distributions to investors and creditors as and when funds become available.

The Plan maintains the separateness of each of the WM and WM Funds entities, while treating creditors and investors generally uniformly and equitably. The Plan addresses liquidation of WM as a formerly operating business and proposes allocating distributions first to creditors, and then to investors, all in accordance with applicable state law priorities. The WM operating entity has secured and trade creditors and employees, all of whose claims will be paid ahead of equity holders in WM.

The Receiver is paying current operating expenses for the WM Funds. The

Receiver intends to reserve for accruing administrative claims, i.e. for the custodian of the WM Funds, for accounting fees, and for legal and other fees requiring Court approval, and to pay such claims as appropriate. The Receiver does not believe there are any general unsecured claims against the WM Funds which will be allowed by the Court.

The allocation methodology discussed below for making distributions to investors attempts to account for the fact that redemption requests made by investors were not treated equally by WM; upon information and belief, some investors' redemption requests were honored, some were honored only at a small percentage of their requests, others were not honored, and some investors did not make redemption requests, because they believed those requests would not be honored. The Receiver has attempted to provide a mechanism which would treat all investors fairly, without having to "claw back" redemptions received by certain more fortunate investors.

Approval of the claims procedure proposed herein will allow the Receiver and her professionals to finalize the pro-rata distribution percentages of each investor and enable interim distributions to be made as cash becomes available.

BACKGROUND

A. History and Structure of WM and the WM Funds

WM operated as a financial planning firm for families and individuals. Beginning in 2003, WM established the WM Funds, for which WM served as General Partner or Managing Member. WM caused many, if not most, of its clients to invest their monies in

the WM Funds. WM and its principals had total discretion to invest those monies in each of the WM Funds. The WM Funds are unregistered investment pools that together were invested in a total of twenty-two (22) alternative investments, defined herein as the "Sub-Funds". Further, two of the WM Funds were themselves invested in others of the WM Funds.

At all relevant times, the managers of WM were James Putman, either alone or together with Simone Fevola. James Putman was the founder, Chief Executive Officer, and at various times the President or Chairman of the Board of Managers of WM. Simone Fevola served as WM's President and Chief Investment Officer from September 2002 through October 2008, when he resigned. As of April 14, 2009, WM claimed to have discretionary management authority over 447 advisory clients and to have approximately $131 million in assets under management, with approximately $102 million of its clients' funds invested in the WM Funds, with the remaining assets invested in stocks, bonds, and other common instruments. *See* Complaint dated May 20, 2009, filed herein by the Securities and Exchange Commission, Docket No. 1. It appears that the number of advisory clients includes clients of WM who were not invested in the WM Funds The Receiver believes that there are currently approximately 308 separate investments in the WM Funds in the aggregate and that some investors have made investments in more than one of the WM Funds.

WM operated from an office located in Appleton, Wisconsin. At various times,

WM had as many as 14 employees. When the Receiver was appointed, only 5 employees, in addition to Putman, remained. Employees were paid through a separate entity, ESA, established for that purpose. ESA itself conducted no business, and the employees were effectively employees of WM. This Plan, therefore, treats the employees paid by ESA as employees and potential creditors of WM for distribution purposes.

WM's operating expenses were paid from funds which it caused to be disbursed to it from the WM Funds. Each investor was charged a management fee equal to 1.0% per annum, payable quarterly in advance, based upon each investor's net asset "valuation" as reflected in the records of each WM Fund. When the WM Funds went into liquidation mode, the fee became a liquidation fee – payable in the same way, in the same percentage. These fees were paid to WM. The PPMs provided that in addition to these fees, each fund was to pay to WM its proportional share of WM's expenses relating to the Fund's operations. Cash was transferred to ESA regularly to cover WM's payroll and other employee benefits.

WM's assets consist of personal property, general intangibles, and its own investments in each of the WM Funds. WM's assets (except for a company vehicle) are subject to a blanket security interest in favor of Community First Credit Union ("CFCU"). The security interest arises in connection with a line of credit and note payable executed on May 8, 2008. With the Receiver's consent, CFCU intends to liquidate its personal property collateral and apply the proceeds to its debt. Upon information and belief, WM's debt to

CFCU is not less than $650,000.

WM's initial cash investments in the WM Funds, and subsequent redemptions, were as follows:

Pantera	$ 10,000; no redemption
Quetzal	10,000; redemption of $36,723.61
Watch Stone	360,000; no redemption
Gryphon	60,000; redemptions of $62,943.23
L3	10,000; no redemption
Palisade	10,000; redemption of $1,193.26

Upon information and belief the $360,000 investment made by WM to the Watch Stone Fund came from a "loan" made to WM by Fevola, in order to enable Watch Stone to satisfy certain redemption requests. None of these redemptions falls after the May 31, 2008, cut-off date discussed herein with respect to balancing distributions to equity holders.

As of May 31, 2009, the unaudited financials of WM indicated the following amounts as
WM's investment balances in the WM Funds:

Pantera	$6,554.48
Quetzal (Incentive Allocation)	$56,455.73
Watch Stone	$341,759.12
Gryphon	$11,039.05
L3	$11,898.70
MWP (owned 99% by L3 and 1% by WM)	$1,926.00
Palisades	$13,358.46

The Receiver intends to honor the WM position as an investor in the WM Funds with the exception of the Quetzal "incentive allocation", and the Gryphon position since it received redemptions in excess of investments, and distribute WM's *pro rata* distribution to it, in order that those funds may be used to satisfy the debts owed by WM to employees, CFCU and other creditors in accordance with this Plan. WM's *pro rata* percentage of its investment in each WM Fund will be calculated in the same manner as the percentage distribution to all other investors. *See infra*, pp. 24-27. The PPMs for Palisade, Pantera, Quetzal, and L3 provide that in addition to the other fees to which it was entitled, WM was entitled to an annual "incentive allocation" of 5% or 10%, based upon annual "profits" in the funds. Unless and until Quetzal returns 100% of the principal amount of each investor's investment, the Receiver will not honor the incentive payment allegedly due to WM from Quetzal. The Receiver does not expect that there will be sufficient funds distributed to WM to enable it to pay any of its equity holders. None of the distributions from WM (or from any of the WM Funds, as discussed further below) will be paid to Putman or Fevola.

The custodian of the cash held by the WM Funds is Fiduciary Partners ("FP"), located in Appleton, Wisconsin. FP maintains a single omnibus account at M&I Bank containing all of the cash held in the aggregate by the WM Funds, although FP accounts for the cash and transactions on a per-fund basis. The non-interest bearing nature of this account permits FP to access full federal insurance under the Transaction Account

Schwab Account held by Receiver in

Guarantee Program ("TAGP") component of the Temporary Liquidity Guarantee Program established by the FDIC. The TAGP is currently in place through June 30, 2010. Although the Receiver will re-evaluate this issue periodically, particularly when and if the TAGP sunsets, the Receiver believes that the modest returns available from investing the cash of the WM Funds in interest-bearing accounts that have an appropriately short-term (to permit periodic distributions) and are also FDIC-insured to the maximum of $250,000 per account would be more than offset by the costs of opening, monitoring, and making deposits and withdrawals from such accounts.

WM's operating account and the ESA account were maintained at CFCU. CFCU has offset funds in the WM account (but not the ESA account) and applied the proceeds against its debt. The offset was effected without prior notice to the Receiver, and in violation of the asset freeze order entered by this Court. The Receiver believes that CFCU does have a valid security interest in the funds that were in the Company's account and in the ESA account on the date of her appointment, subject to priming liens, if any, including those of employees under state law.

The Receiver maintains an account at Charles Schwab & Co., Inc. ("Schwab"). As of November 16, 2009, the cash balances in each of the Receiver's, WM's, and WM Funds' accounts are as follows:

Wealth Management general operating account:	$0
Employee Services of Appleton account:	$ 1,103.85

Schwab Account held by Receiver in the name of the Company:	$ 15,331.69
Gryphon Fund account:	$1,682,326.97
Watch Stone Fund Account:	$ 248,841.27
Pantera Fund account:	$ 114,176.50
Palisade Fund account:	$1,506,226.78
L3 Fund account:	$ 6,685.41
Quetzal Fund account:	$ 550,059.72
MWP Fund account (owned 99% by L3 and 1% by WM)	$ 8,341.57

B. The SEC Litigation and Appointment of the Receiver

The captioned enforcement action was filed by the SEC on May 20, 2009, against WM, Putman, WM's founder, majority owner, and Chief Executive Officer, and Fevola, WM's former president and Chief Investment Officer, alleging, and seeking to restrain and enjoin them from violations of, Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b)of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, and Sections 206(1), 206(2), 206(4), and 207 of the Investment Advisers Act of 1940 ("Advisers Act") and Rule 206(4)-8 thereunder. The SEC has alleged among other things that:

WM, Putman, and Fevola misrepresented the safety and stability of Gryphon and Watch Stone, which were unsuitable investments for some of WM's clients.

WM, Putman, and Fevola breached their fiduciary duty to certain of their clients and further violated the antifraud provisions of the federal securities laws because the WM Funds' investments were unsuitable for some clients, including their elderly retiree clients who sought safe, low-risk investments and relied on their investments in the WM Funds as their primary source of retirement income, but whose money was placed in the WM Funds' illiquid and risky investments.

At all times in connection with their representations to prospective and actual investors in Gryphon and Watch Stone, WM, Putman, and Fevola knew or were reckless in not knowing that their statements concerning the safety, stability, liquidity and suitability of Gryphon and Watch Stone were false and misleading.

In regular reports to investors, WM reported generally positive returns for the WM Funds, and in some cases remarkably consistent returns, but these purported returns were based almost entirely on the values reported by third-party managers of the WM Funds' investments in risky, illiquid ventures, and WM failed to perform any independent due diligence on, or verification of, those values.

Clients entrusted WM, Putman, and Fevola with nearly all of their liquid assets, and WM, Putman, and Fevola betrayed that trust by encouraging them to invest in Gryphon, Watch Stone and other illiquid and risky investments.

Putman and Fevola caused the WM funds to invest in risky life insurance premium financing funds, and then Putman and Fevola each took $1.24 million in undisclosed kickbacks derived from these investments.

WM and Putman overstated the values of the WM Funds, were taking fees based on inflated valuations, and gave conflicting information to investors regarding redemptions.

The SEC requested the appointment of a Receiver to, among other things, protect the assets of WM and the WM Funds against dissipation by WM and Putman, engage in an orderly liquidation of WM's holdings, and provide for the equitable distribution of funds to the WM Fund investors.

On May 20, 2009, the Court entered an order appointing Faye B. Feinstein as Receiver for WM and the WM Funds. Also on that date, the Court entered (i) an Order Freezing Assets, which prohibited WM and the WM Funds from withdrawing, transferring, pledging, or otherwise dissipating any of their monies or other assets (excluding the segregated, individual accounts of advisory clients which are not invested in the WM Funds); and (ii) a Temporary Restraining Order and Order For Emergency Relief against WM and the WM Funds. At the request of WM, the Court scheduled an expedited hearing for May 26, 2009, on the SEC's request for entry of a preliminary injunction.

On May 26, 2009, by agreement of the parties, this Court entered (i) the First Modified Order For Appointment of a Receiver (the "Modified Receiver Order"); (ii) an Order Extending Asset Freeze; and (iii) a Preliminary Injunction Order against WM, Putman and the WM Funds. Among other things, the Modified Receiver Order authorized the Receiver (i) to administer and manage the business affairs, funds, assets, causes of action, and any other property of WM and the WM Funds; (ii) engage in an independent inquiry concerning the finances and operations of WM and the WM Funds, including the identification and location of all assets held or under management; and (iii) prepare an independent accounting of WM's and the WM Funds' assets. Pursuant to the Preliminary Injunction Order, WM and Putman conceded that the SEC has made a *prima facie* case against them for violations of the securities laws and is likely to prevail on the merits of its complaint against them, and they agreed not to commit further violations and to cooperate to the fullest extent with the Receiver.

On June 16, 2009, at the Receiver's request, this Court entered an Order staying all ancillary litigation against WM, Putman, and Fevola (the "Stay") in order to preserve the status quo, protect the interests of investors, creditors and third parties, and protect the Receiver's ability to fulfill her duties. The stay was subsequently extended on June 26, 2009, and was modified on September 9, 2009, pursuant to a motion (Docket No. 55) filed by Community First Credit Union ("CFCU"), to permit CFCU to proceed against property mortgaged to it to secure obligations allegedly owed to it by Putman (Docket No. 64). The

Receiver objected to CFCU's motion (Docket No. 68) to the extent CFCU seeks to lift the stay to permit it to proceed generally with litigation filed by CFCU in Wisconsin state court after imposition of the Stay. In that litigation, CFCU seeks to recover on Putman's alleged guarantee of WM's obligations to CFCU. On November 20, 2009, the Court entered an order granting CFCU's Motion (Docket No. 162).

The Plan provides that neither Putman nor Fevola will receive any distributions from WM or any of the WM Funds. This includes distributions on a promissory note made by WM to Fevola, in the amount of $400,000, in consideration for a loan allegedly made by Fevola to WM. The Receiver intends to investigate whether and to what extent the family members and affiliates of Fevola and Putman may have received funds from WM, from the WM Funds, or from the life insurance premium financing investments, either directly or from Putman and Fevola, and may seek return of any such funds for the benefit of the receivership estates.

The Receiver filed her First Report with this Court on June 10, 2009, and her second report on September 4, 2009.

RECEIVER'S MARSHALING OF WM'S AND THE WM FUNDS' ASSETS

As noted above, at the time of the Receiver's appointment, the Receiver took control of the accounts held by WM and ESA at CFCU. WM also had an account at Schwab; those funds were transferred to the Receiver's Schwab account. The Receiver and her designee are the sole parties authorized to disburse monies from the Receiver's Schwab account and from the WM Funds' accounts at Fiduciary Partners.

The Receiver filed a copy of the Modified Receiver Order, the Preliminary Injunction Order and the Order Extending Asset Freeze in each jurisdiction where each of the WM Funds is domiciled, in each jurisdiction where each of the Sub-Funds is domiciled, and in the domicile of Houston Casualty Insurance Company, the underwriter for the Company's directors and officers insurance policy (the "D&O Policy"). In addition, the Receiver served a copy of the Modified Receiver Order, Preliminary Injunction Order and the Order Extending Asset Freeze on CFCU, Schwab, Fiduciary Partners, each of the Sub-Funds, Houston Casualty Insurance Company, and the former administrator of the WM Funds, Woodfield Fund Administration LLC ("Woodfield").

A. The Sub-Funds

The Receiver is in communication with the managers of each of the Sub-Funds and is investigating the best mechanisms to monetize the investments of the WM Funds. The Receiver has received the following distributions from the Sub-Funds from her appointment through November 16, 2009 (which are reflected in the account balances above):

WML Gryphon Fund LLC

06/01/09	$4,485.25 from Alma, Inc.
06/30/09	$12,252.38 from Alma, Inc.
07/06/09	$90,000 from Gulf Island Waterpark
07/20/09	$730,362.92 from WMS Washington Fund, LLC
09/02/09	$81,151.44 from WMS Washington Fund, LLC (final distribution)
10/01/09	$14,273.27 from Alma, Inc.
10/27/09	$7,717.50 from Alma, Inc.

WML Palisade Partners, L.P.

07/20/09 $1,095,544.39 from WMS Washington Fund, LLC
08/05/09 $32,952.46 from Ravinia Funding LLC
09/02/09 $121,727.15 from WMS Washington Fund, LLC (final distribution)
09/02/09 $32,085.74 from Ravinia Funding LLC
10/08/09 $17,773.85 from Ravinia Funding LLC
11/05 /09 $21,281.12 from Ravinia Funding LLC

WML Pantera Partners, L.P.

06/01/09 $555.59 from Alma, Inc.
09/02/09 $937.68 from Alma, Inc.
09/04/09 $688.77 from Murvin & Meier
10/01/09 $846.43 from Alma, Inc.
10/06/09 $642.47 from Murvin & Meier
10/27/09 $1,028.88 from Alma, Inc.
11/04/09 $721.84 from Murvin & Meier

WML Quetzal Partners, L.P.

11/05/09 $58,615.30 from GPS Income Fund LP

WML Watch Stone Partners, L.P.

08/05/09 $27,512.55 from Ravinia Funding LLC
09/02/09 $26,788.91 from Ravinia Funding LLC
10/08/09 $14,839.67 from Ravinia Funding LLC
11/05/09 $17,767.96 from Ravinia Funding LLC

The Receiver expects to continue to receive distributions from the Sub-Funds and, potentially, to monetize investments by sale to third parties or back to the Sub-Funds. The Receiver is also reserving her right to make distributions in kind to investors when the investments cannot be monetized, or when recouping or monetizing the investments will require keeping the receivership estates open for longer than a reasonable period of time.

B. Potential Insurance Recoveries and Proposed Treatment Thereof

The Receiver and her professionals (referred to herein at times as the "Receiver

Team") has examined potential insurance recoveries for claims arising out of WM's financial insolvency. The Receiver Team identified potentially responsive policies, including investment adviser and fund professional and directors and officers liability insurance policies issued by Houston Casualty Insurance Company ("Houston Casualty"), general liability insurance policies issued by Society Insurance, A Mutual Company ("Society"), and an ERISA compliance bond issued by Travelers Casualty and Surety Company of America ("Travelers"). After indentifying potentially applicable policies, the Receiver tendered all existing and potential claims made against the Company under these policies.

Houston Casualty issued two investment adviser and fund professional and directors and officers policies to the Company with policy periods running from April 2008 to April 2010. Each policy is a "claims made" policy carrying liability limits of $1,000,000. These limits include both defense and indemnity payments. To date, the Receiver has received acknowledgements of the tenders and notice that attorneys for the insurance company are analyzing coverage under these policies for the tendered claims. The Receiver is awaiting a final coverage response for these claims.

Society issued two consecutive general liability policies which provide an aggregate limit of $1,000,000 in primary coverage. A Society excess liability policy carries a per occurrence limit of $1,000,000 per policy period with a $2,000,000 aggregate limit. The Society policies are "occurrence-based" policies with consecutive one-year policy periods

running from September 2007 to September 2009. These policies generally provide coverage for bodily injury, property damage, personal injury and advertising injury. Society's counsel issued a preliminary opinion letter that none of the claims arising from WM's financial insolvency trigger coverage under these general liability policies based upon the provided coverage. The Receiver has researched and analyzed potential coverage under the Society polices at issue and believes that a pursuit of coverage under these policies for the claims at issue may be challenging based upon the interpretive case law and policy language. The Receiver is analyzing whether pursuing coverage is likely to achieve a positive result for the receivership estates, and whether the costs of such litigation would be outweighed by any expected benefit.

Travelers has issued an ERISA compliance bond with policy limits of $500,000. This bond covers losses associated with unpaid contributions to WM's sponsored ERISA plans arising from fraud or dishonesty. The Receiver is evaluating what, if any, losses may be claimed under the bond, whether coverage exists under the bond, and whether the requisite conduct exists in order to trigger coverage under the bond. The Receiver has preliminarily examined the extent of potential losses that may be covered under the bond. The potential losses appear to be nominal at this time. Additionally, the bond's language, particularly the language addressing the named insured provision, may pose coverage difficulties.

The Receiver believes that any proceeds of insurance policies that provide coverage

for losses arising from the misfeasance, malfeasance, or other acts or omissions of WM and its directors, officers, or agents should be distributed to the investors in the WM Funds, who sustained the most direct harm from the failure of WM. Therefore, the Receiver proposes that monetary recoveries, if any, from claims against the insurance policies described above, be allocated to the six WM Fund Estates, pro-rata, in proportion to the amount that total cash invested in a given WM Fund bears to the total aggregate cash invested in all of the WM Funds together. Those allocations would then be further distributed to the investors in each WM Fund, as described in this Plan below. For example, if $100,000,000 in cash had been invested in the six WM Funds as a group, and Gryphon accounts for $20,000,000 of that cash, Gryphon would be allocated $20,000,000/$100,000,000 = 20% of any insurance recoveries.

C. Receiver Causes of Action Against Third Parties

The Receiver has not yet determined whether she has any claims against third parties other than the estate's potential claims against James Putman and Simone Fevola, which she intends to pursue or resolve. The Receiver reserves her right to pursue any litigation she deems appropriate.

D. Putman Promissory Note to Gryphon, Watch Stone, and Palisade

It has come to the Receiver's attention that prior to the Receiver's appointment, Putman executed a seven-year Promissory Note dated February 1, 2009 (the "Putman Note"), to the Gryphon, Watch Stone and Palisade Funds on a pro-rata basis, in the total

amount of $722,000 plus interest at 3.13%, apparently in an effort to return some of the commissions he received from the life insurance premium financing investments. The maturity date of the Putman Note is February 1, 2016, and interest payments are due each October 1 and April 1, beginning October 2009. The Receiver has been informed that Fevola did not execute a similar note. Putman did not make the interest payment on the Putman Note due October 1, 2009, and he has made no other payments of principal or interest on the Putman Note. The Receiver is preparing a complaint against Putman to recover amounts due under the Putman Note.

HIRING PROFESSIONALS AND APPOINTMENT OF AN INVESTORS' ADVISORY COMMITTEE

The Receiver has hired the law firm of Quarles & Brady LLP as her counsel. Prior to her appointment, WM had retained the accounting firm of Jordan Patke & Associates ("JPA") to replace RSM McGladrey and prepare the audits for the WM Funds, the K-1's for investors, and the tax returns for the WM Funds. The Receiver has continued to employ JPA for these purposes.

After the Receiver's appointment, the firm that had previously been retained to prepare the K-1's for the Company and the Company's tax return – Grant Thornton – informed the Receiver that it would not prepare the 2008 returns and associated K-1's. The Receiver has retained the firm of Alan Lasko & Associates ("Lasko") to replace Grant Thornton. Lasko has also assisted the Receiver in determining the methodology for making distributions to investors, will determine the percentage distribution for each investor, and

will effect the distributions. Lasko has significant experience in representing trustees and receivers and in forensic accounting, and will also be able to assist the Receiver in determining whether there are any viable causes of action to be brought by the estates.

At the Court's suggestion, the Receiver requested volunteers for an investors' advisory committee. The Receiver received responses from 19 investors who have invested in a cross-section of the WM Funds. The Receiver appointed all of the volunteers to the committee. The first meeting took place on August 21, 2009, at the offices of Quarles & Brady in Milwaukee. At that meeting an exchange of information took place, and the Receiver Team spent a considerable amount of time informing the group about their work to date, and about the investments made by Sub-Funds The Baetis Fund, L.P. and The Brown Investment Fund, L.P. (the "Baetis and Brown Sub-Funds"). Members of the group volunteered to assist with respect to analyzing certain investments and making necessary decisions. The Receiver Team is working with certain members of the committee to review the recommendations of Wood, Hat & Silver, the general partner of the Baetis and Brown Sub-Funds. Specifically, the Receiver Team, with the approval of the SEC and the concurrence of certain members of the committee, retained the services of Scott Witt, an independent actuary who has the expertise and experience to review the recommendations of the general partner and to explore the sale of the insurance policies individually or as a portfolio. The Receiver, the SEC and these interested investors believe that there is now in place a cost-effective means to maximize the return of the Baetis and Brown Sub-Fund

assets to WM investors.

CLASSIFICATION OF CLAIMS AGAINST AND INTERESTS IN WM AND THE WM FUNDS AND DISTRIBUTION METHODOLOGY

Terms and Assumptions

Entitlements to distributions from an insolvent entity's estate arise either from *claims* against the entity – that is, obligations of the entity on debts owed to a creditor for money loaned or for goods or services provided on credit – or from *equity interests* in the entity – that is, the rights of partners in a partnership, members in a limited liability company, and shareholders in a corporation to receive a distribution of the residual value left in the entity *after* creditors are paid in full.

For the purposes of this Allocation Plan, a "**creditor**" is a person who holds a claim against, and an "**investor**" is a person who holds an equity interest in, WM and/or one or more of the WM Funds.

Any given claim against an entity may have priority over, or be subordinate to, another given claim, depending upon the nature of the claims at issue and the rights conferred upon each claim holder by law. For example, under Wisconsin law, claims which are secured by collateral must be paid out of that collateral before unsecured claims may be paid, while certain claims for unpaid wages, if secured by liens properly created under the relevant Wisconsin law, must be paid before certain other secured claims. However, an entity's obligations to its creditors on debts owed to those creditors must all be paid before investors/equity holders may receive distributions on account of their equity

interests. *See* Delaware Code, title 6, §18-804 (upon winding up of LLC, assets must be used first to pay creditors, and then to pay members on account of their interests); Wisconsin Statutes §183.0905 (same); Delaware Code, title 6, §17-804 (upon winding up of limited partnership, assets must be used first to pay creditors, and then to pay partners on account of their interests); Wisconsin Statutes §179.74 (same).

This Allocation Plan treats the assets of WM and of the WM Funds as seven (7) separate receivership estates, one comprising the assets and liabilities of WM (the "WM Estate") and separate estates for the assets and liabilities of each of the six separate WM Funds (each a "WM Fund Estate"). Therefore, creditors of and investors in WM may look only to the assets of WM for payment, while creditors (if any) and investors in each of the WM Funds may look only to the assets of the specific WM Fund or Funds against which they hold claims or in which they had investments for payment in connection with those claims or investments.

B. The WM Estate

Only WM itself appears to have creditors as well as investors (although this Plan provides for the possibility that an entity may be able to establish its status as a creditor of a WM Fund). The claims of WM's creditors have different levels of priority to payment. Therefore, in the WM Estate, this Plan creates five (5) classes of claims and one (1) class of investors, the treatments of which are described below.

1. Administrative Claims

For the purposes of this Plan, "**Administrative Claims**" are those that arose against the WM Estate on or after the date of the appointment of the Receiver on May 20, 2009. The Receiver has been paying the expenses of the WM Estate in the ordinary course and will continue to do so, as authorized by the Court's Order Appointing Receiver. The Receiver therefore anticipates that the only Administrative Claims outstanding against the WM Estate at any given time will be ordinary course claims that have not yet become due and payable. The Receiver will continue to pay ordinary course expenses of the WM Estate as they come due. In order to ensure sufficient operating capital and available funding for future administrative costs, the Receiver will retain a sufficient reserve from any partial cash distribution to pay administrative claims pursuant to the terms outlined herein.

2. Claims of Employees for Unpaid Wages Secured by Valid Liens Under Chapter 109 of the Wisconsin Statutes

Chapter 109 of the Wisconsin Statutes (the "Wisconsin Wage Law") provides that employees of an employer who have claims against the employer for unpaid wages and certain other forms of compensation (including, without limitation, salaries, commissions, severance pay, and vacation and holiday pay) may, upon compliance with the Wisconsin Wage Law, hold a lien on property of the employer ("Wage Lien"). Further, upon compliance with the Wisconsin Wage Law, such liens may be entitled to priority over prior

perfected liens and security interests of certain other secured creditors (a "Priming Wage Lien"), up to a maximum of $3,000 per employee for services rendered within the 180 days prior to the date the company ceases operating. Under the Wisconsin Wage Law, the Wisconsin Department of Workforce Development ("DWD") may assert and enforce, upon compliance with the provisions of the Wisconsin Wage Law, a Wage Lien on behalf of unpaid employees.

If Priming Wage Liens are properly asserted and perfected under the Wisconsin Wage Law as of the time the Receiver makes distributions hereunder, the Receiver will honor those Priming Wage Liens and make distributions to those employees first. Thereafter, distributions will be made from the assets of the WM Estate to CFCU. However, nothing in this Plan shall limit or otherwise affect the rights of the DWD or the employees of WM under the Wisconsin Wage Law, including their rights, if any, to pursue CFCU for amounts owed under the Wisconsin Wage Law.

To date, the Receiver has been informed that one employee has filed claims with DWD (one against WM and an identical one against ESA) alleging gender and age discrimination in connection with her failure to receive certain payments to which she alleges she is entitled. The Receiver has not investigated these claims.

If there are funds remaining in the WM Estates after CFCU has been paid in full, employees with non-priming Wage Liens will be paid.

3. Secured Claims of Community First Credit Union

Pursuant to a Promissory Note in the principal amount of $700,000, and Security Agreement dated May 8, 2008, Community First Credit Union ("CFCU") asserts a claim against WM, secured by a blanket security interest in substantially all of WM's assets. Subject to verification of WM's actual receipt of loan proceeds from CFCU, the Receiver believes that CFCU's security interest is valid (subject to priming liens, if any) and that the outstanding debt owed to CFCU by WM is not less than $650,000. To the extent of the value of CFCU's collateral, the claim of CFCU will be paid before any unsecured claim against, or investor interest in, WM. *See* Wisconsin Statutes §409.203(2) (describing circumstances under which a security interest in collateral is enforceable against third parties). To the extent CFCU's collateral is not sufficient to pay the secured claim of CFCU in full, CFCU shall have an unsecured deficiency claim against the WM Estate.

It appears that CFCU has offset cash formerly held in WM's account at CFCU against debts alleged to be owed by WM to CFCU. CFCU effected that offset after the Court imposed a stay of actions against the assets of WM and the WM Funds and without the prior knowledge of the Receiver. The Receiver reserves the right under the Plan to seek recovery of some or all of the amounts offset by CFCU, as well as appropriate sanctions against CFCU, and CFCU will retain all of its rights and defenses in connection with any such action by the Receiver.

4. Tax Claims of Federal and State Governmental Entities

The Receiver and her advisers are still in the process of ascertaining whether the

WM Estate owes any federal or state tax liabilities and, if so, whether such liabilities are secured by valid, perfected liens. To the extent such claims exist, they will be paid pursuant to the priorities established by applicable law.

5. General Unsecured Claims

General unsecured claims are claims for money owed by WM that are not secured by collateral and that otherwise have no special priority for payment. As indicated in the Receiver's Reports, the Receiver has been paying and will continue to pay those ordinary course payables that are necessary to wind-down WM's business, liquidate WM and the WM Funds, and preserve the value of the Estates. Most payables that arose before the date of the appointment of the Receiver will constitute general unsecured claims against the WM Estate. Allowed general unsecured claims will be paid, as and when cash becomes available at intervals to be in the discretion of the Receiver, pro rata from the cash, if any, remaining in the WM Estate after payment in full of all allowed claims in Classes 1-4 created in the WM Estate.

6. Equity Investors in WM

As of the date of this Plan, the Receiver believes that, given the large claim of CFCU, there are unlikely to be any distributions from the WM Estate to holders of equity interests in WM. However, if there should be assets to distribute to holders of equity interests in WM, those assets will be distributed pursuant to the same procedures and methodology described below for distributions to the investors in the WM Funds.

C. The WM Fund Estates

1. Administrative Claims

The Receiver Order provides that the Receiver and her professionals shall be paid their fees, costs, and expenses from the assets of WM and the WM Funds. All such payments may be made only upon application to the Court in accordance with the SEC billing guidelines for receivers, which permit receivers to make interim applications for payment, subject to a final application at the close of the receivership. The Receiver and her professionals intend to file the required SFAR forms and interim applications for allowance and payment of their fees and reimbursable expenses at intervals during the receivership cases, and will file a final application at the close of the receivership cases.

2. Classes of Claims Created in WM Fund Estates and Treatment of Such Classes

Based upon information currently available to the Receiver and her professionals, the WM Funds appear to have no "creditors", as that term in defined in this Plan (*e.g.*, secured or unsecured lenders; employees; trade vendors), whose claims would be entitled to payment ahead of the claims of investors. However, so as not to prejudge that issue, this Plan creates one (1) class of general unsecured claims and one (1) class of investors in each WM Fund Estate.

This Plan does not separately describe the treatment of the class of general unsecured claims against each WM Fund Estate; the description of the treatment to be afforded to such unsecured claims, if any, as described below, is intended to apply to creditors of, if any, each WM Fund. Moreover, because the same method for calculating

distributions to investors will be used as to each WM Fund, this Plan does not separately describe the treatment of the investor class for each WM Fund Estate; the description of the treatment to be afforded to "WM Fund Investors", as described below, is intended to apply to investors in each WM Fund.

A general unsecured claim against a WM Fund Estate is a claim for money owed by a WM Fund that is not secured by collateral and that otherwise has no special priority for payment. Allowed general unsecured claims, if any, against each WM Fund will receive, as and when available in the discretion of the Receiver, pro rata distributions of the cash in the relevant WM Fund Estate, until all such allowed claims against that WM Fund Estate have been paid in full.

Nothing in this Plan is meant to waive any rights of the Receiver, and the Receiver reserves all such rights, to object to allowance, and/or seek subordination of any unsecured claim against a WM Fund.

3. Investor Classes Created in WM Fund Estates

For the reasons set forth in the "Rationale for Treatment of WM Fund Investors" below, the Plan does not treat investors who made redemption requests as "creditors" with unsecured claims entitled to be paid before investors who did not make redemption requests. Under the Plan, each WM Fund Estate will be separately administered. The Plan creates a single class of investors in each WM Fund Estate, as follows:

(a) in the Estate of WML Gryphon Fund, LLC, the Plan creates

a class of all membership interests in Gryphon;

(b) in the Estate of WML Watch Stone Partners, L.P., the Plan creates a class of all limited partnership interests in Watch Stone;

(c) in the Estate of WML Pantera Partners, L.P., the Plan creates a class of all limited partnership interests in Pantera;

(d) in the Estate of WML Palisade Partners, L.P., the Plan creates a class of all limited partnership interests in Palisade;

(e) in the Estate of WML L3, LLC, the Plan creates a class of all membership interests in L3; and

(f) in the Estate of WML Quetzal Partners, L.P., the Plan creates a class of all limited partnership interests in Quetzal.

4. Treatment of WM Fund Investors

Each of the investor classes described above will be treated in the same manner under the Plan; the following treatment assumes that any allowed unsecured claims against the relevant WM Fund have been paid in full; absent such payment in full, the WM Fund Investors in such WM Fund will receive no distributions:

(a) *Cash Distributions*: At intervals to be determined in the reasonable discretion of the Receiver as described herein, each investor will receive that investor's Pro-Rata Share (as defined below) of the Net Fund Cash then available from the redemption/liquidation of assets of the relevant

WM Fund, after payment in full of any allowed unsecured claims. "**Net Fund Cash**" means cash from the redemption/liquidation of the assets of the relevant WM Fund, *after* payment of the costs of the liquidation of those assets, including the fees of the Receiver and her professionals allocable to that WM Fund.

(b) *Calculation of Pro-Rata Share of Net Fund Cash*: The "**Pro-Rata Share**" of each investor in a WM Fund shall be that investor's percentage ownership interest in that WM Fund, based on total cash investments in the Fund made at any time, *less* redemption payments made on or before May 31, 2008 ("Net Cash"), based on information contained in the books and records of WM and/or the relevant WM Fund and any timely objection received from an investor to the Receiver's calculation of such investor's Net Cash (an "Investor Net Cash Objection"), and calculated by dividing the aggregate net cash investment of a particular investor in a WM Fund by the total cash invested by all investors in that WM Fund. The Receiver intends to rely on the records of WM and the WM Funds (reconciled, if necessary, as described later in this Plan, by agreement or Court order), subject to the following adjustments:

(i) Redemption Payments Received *After* May 31, 2008: If an investor in a given WM Fund received a redemption payment after

May 31, 2008, that investor's Pro-Rata Share will be calculated as though the redemption payment had not been made and remained as part of the investor's capital account, and that redemption payment will be treated as an advance payment of the total distribution the investor would be entitled to under this Plan. The investor will not be entitled to receive any distribution of the assets of the relevant WM Fund unless and until that investor's entitlement exceeds the amount of the advance payment. If the investor's entitlement to distributions from the relevant WM Fund never exceeds the advance payment received by the investor – that is, total distributions to that investor would be less than the advance payment – then, that investor will receive no distribution under this Plan. The Receiver reserves her right to pursue recovery of any redemption payments for the benefit of the relevant WM Fund Estate (whether as preferential transfers, fraudulent conveyances, or under another legal or equitable theory).

(ii) Redemption Payments Received *On or Before* May 31, 2008: Subject to the Receiver's reserved right to pursue recovery of redemption payments for the benefit of the relevant WM Fund Estate (whether as preferential transfers, fraudulent conveyances, or under another legal or equitable theory), redemption payments made on or before May 31, 2008, will not affect the distribution to be received by the investor under this

Plan, but, rather, shall simply be deducted from the total principal amount of cash contributed by the investor to the relevant WM Fund to obtain the Net Cash invested.

(iii) Unpaid redemption requests do not reduce capital accounts: The Receiver's review indicates that the books and records of the WM Funds accounted for redemption requests that had not yet been paid by (1) reducing the requesting investor's capital account by the amount of the unpaid redemption request and (2) showing the investor as a creditor of that WM Fund who holds an unsecured claim in the amount of the redemption request.

For the reasons set forth in the "Rationale" section below, the Receiver will calculate each investor's Pro-Rata Share as though the amount of any unpaid redemption request remains as an equity investment in the WM Fund.

(iv) Examples: The following examples are intended to show how the above assumptions and protocols would work in practice; note that, in each example, "Net Cash" invested in a WM Fund means all cash invested by an investor in the Fund at any time, less all redemption payments received on or before May 31, 2008:

Example 1: Assume (A) Investor A's capital

account shows Net Cash invested in Gryphon of $100,000; (B) this investment represented 2% of the total cash invested in Gryphon by all investors; and (C) Investor A received a cash redemption payment of $10,000 *after* May 31, 2008.

For distribution purposes under the Plan, Investor A's Pro-Rata Share in Gryphon will be calculated based on Investor A's $100,000 investment; because the example assumes that $100,000 represents 2% of the total cash invested in Gryphon, Investor A's Pro-Rata Share is 2%. The Plan will treat Investor A as having already received $10,000 of whatever his total distribution ultimately turns out to be, and the $10,000 will be credited against future periodic distributions to be made by the Receiver. At each periodic distribution, Investor A's distribution will be calculated, and, until his periodic entitlements to distributions exceed $10,000, he will receive no distribution.

For example, if, on February 1, the Receiver has $200,000 to distribute to Gryphon investors, Investor A would be entitled to 2% of that sum, or $4,000. Investor A would receive no distribution on February 1, because Investor A is treated as having already received $10,000. The $10,000 received is credited against and reduced by the $4,000 distribution Investor A would have received. If, on the following June 1, the Receiver

has an additional $500,000 to distribute to Gryphon investors, Investor A's share of that amount would be $10,000. The remaining $6,000 of his advance payment ($10,000 minus the initial distribution that Investor A did not receive in the amount of $4,000) is credited against the proposed $10,000 distribution, and Investor A would receive a distribution of $4,000 on June 1, and would participate in all distributions from Gryphon thereafter.

Example 2: Assume (A) Investor B's capital account shows Net Cash invested in Watch Stone of $100,000; (B) this investment represented 2% of the total cash invested in Watch Stone by all investors; and (C) Investor B made a redemption request after May 31, 2008, but was not paid on that redemption request. Investor B will be classified under the Plan as an investor in Watch Stone and *not* as an unsecured creditor of Watch Stone. As an investor, Investor B will be eligible to participate in distributions made under the Plan based upon his 2% ownership of Watch Stone.

Example 3: Assume (A) Investor C's capital account shows Net Cash invested in Palisade of $100,000; (B) this investment represented 2% of the total cash invested in Palisade by all investors; and (C) Investor C made no redemption requests after May 31, 2008. Investor

C will be classified under this Plan as an investor in Palisade and will be eligible to participate in distributions under the Plan based upon her 2% ownership of Palisade.

(c) *Reservation of Right to Make In-Kind Distributions*: The Receiver would prefer to redeem/liquidate all of the investments of the six WM Funds and distribute only cash to investors. However, total liquidation by the Receiver of each of the Sub-Funds within the WM Funds may be impractical. As the Receiver has noted in her status reports, the capital of each WM Fund was invested in one or more of twenty-two total alternative investment funds (defined above in this Plan as the "Sub-Funds"). The Sub-Funds were themselves invested in largely illiquid assets, including, as examples, life insurance policies, an amusement/water park, oil drilling and production companies, and real estate financing companies. One of the Sub-Funds is a debtor in a contentious bankruptcy proceeding. It may not be possible or cost-effective for the receivership estates to remain open for the time it will take for all of the Sub-Funds to liquidate their assets and make cash distributions to the relevant WM Funds.

Therefore, the Receiver reserves the right under the Plan, subject to any limitations on her rights as an investor in the Sub-Funds, to assign to investors in the WM Funds their Pro-Rata Share of a particular Sub-Fund

investment. For example, Gryphon owns an investment in a Sub-Fund called MKA Real Estate Opportunity Fund I, LLC ("MKA Opportunity"), which is itself invested in real estate mortgages. If it appears that the assets of MKA Opportunity cannot be or will not be reduced to cash in a reasonable length of time, and if the Receiver is not prohibited from doing so under the MKA Opportunity governing documents, the Receiver reserves the right to directly assign to an Investor with a 1% interest in Gryphon, 1% of Gryphon's interest in MKA. *SEC v. Enterprise Trust Co.*, No. 08 C 1260, 2008 WL 4534154, at *3 (N.D. Ill. Oct. 7, 2008) (authorizing distribution in-kind of illiquid assets), *aff'd*, 559 F.3d 649 (7th Cir. 2009).

4. Rationale for Treatment of WM Fund Investors

The Court has broad discretion to approve procedures for allocation of assets in receivership cases, and may do so if "a distribution is equitable and fair in the eyes of a reasonable judge." *SEC v. Enterprise Trust Co.*, No. 08 C 1260, 2008 WL 4534154, at *3 (N.D. Ill. Oct. 7, 2008), *aff'd*, 559 F.3d 649 (7th Cir. 2009). The methodology described above for distributing the assets of the WM Funds to the investors entitled thereto is based upon the following facts known to the Receiver and her professionals, or upon assumptions that appear to the Receiver to be justified as equitable under the facts and circumstances of the cases:

(a) *No investor in a WM Fund has a higher priority to a distribution than any other investor in that same WM Fund:* Some investors in the various WM Funds made redemption requests that were not honored, and others made requests that were only partially honored. As described above, the Receiver's review indicates that the books and records of the WM Funds accounted for unpaid redemption requests by (1) reducing the requesting investor's capital account by the amount of the redemption request, and (2) showing that investor as a creditor of that WM Fund, with an unsecured claim in the amount of the redemption request.

Although the Plan has created a class of unsecured creditors in each WM Fund Estate, the Receiver does not believe, based on information currently available, that any WM Fund has true "creditors", as that term in defined in the Plan (*e.g.*, secured or unsecured lenders, employees, trade vendors), whose claims should be paid ahead of investors. All equity investors in the WM Funds have been equally disadvantaged by the actions described in the SEC's Complaint and by the market factors adversely affecting their investments. The Receiver believes it is inequitable to give some investors preferential access to the assets of what appear to be insolvent WM Funds, solely because some investors submitted redemption requests while others did not, and some such requests were honored, while others were not.

Therefore, for the purposes of this Plan, the persons entitled to recoup their equity investments from each WM Fund will be treated as investors, all of whom share the same

priority to payment, based upon their Pro-Rata Shares in the given WM Fund.

(b) *Distributions will be made to investors solely on the basis of the percentage ownership interest of each investor in each WM Fund, and solely based on total cash invested at any time, less distributions received* ***on or before May 31, 2008*** *– using this "bright-line" rule is equitable and more cost-effective for the Estates and all investors as a whole than the alternatives*: Lasko's initial review of the records of the WM Funds indicates that redemption activity increased markedly across the WM Funds during June 2008; it was in that month that Putman disclosed to a committee of the WM board that he and Fevola had been receiving consideration (*i.e.*, "kickbacks") from insurance brokers related to investments in life insurance premium financing ("LIPF"), ostensibly for steering investments of the WM Funds to LIPF. Two of the Sub-Funds in which certain WM Funds were significantly invested were solely invested in LIPF. It is not unreasonable to assume that the increase in redemption requests in June 2008 was, in a significant, but unquantifiable, respect, related to information, some of which may not have been publicly known, regarding apparently improper and perhaps illegal activities by WM and its principals with respect to the WM Funds.

For that reason, the Plan's distribution scheme presumes that redemptions paid out on or before May 31, 2008, were not motivated by information regarding the acts and omissions described in the SEC Complaint, but that those made after May 31, 2008, are more likely to have been.

The Receiver understands that any bright-line rule like the one proposed above is inherently both under-inclusive – because some investors may have requested and received redemption payments before May 31, 2008, on the basis of knowledge or suspicions regarding the conduct of WM, Putman, and Fevola – and over-inclusive – because some investors may have received redemption payments after May 31, 2008, that they requested for reasons unrelated to that conduct. However, the reason for such bright-lines is their ease of application and cost-effectiveness. The Receiver selected that date based on reasonable inferences from the redemption history of the WM Funds. The alternative would be to investigate, and either settle or litigate, each individual investor's assertions regarding the reasons for particular redemption payments, under circumstances where each investor will have cause to recall those circumstances in a manner that would increase the investor's distribution.

Moreover, while the Receiver does not waive any of her rights in this regard, the Plan presumes that she will not seek cash recoveries of redemption distributions from investors who received them after May 31, 2008, although she would be entitled to do so under fraudulent transfer law, on the ground (among others) that the WM Funds did not, as a matter of law, receive reasonably equivalent value in exchange for the redemption of the equity interests of the investors, and those redemption payments were made at a time when each WM Fund was either (a) insolvent, (b) rendered insolvent by the payment, or (c) left with assets that were unreasonably small in relation to the business of the given WM Fund.

See Delaware Code, title 6, §§1302, 1304(a)(2), 1305 (Uniform Fraudulent Transfer Act); Wisconsin Statutes §§242.02, 242.04(1)(b), 242.05 (same); *Buncher Co. v. Official Committee of Genfarm*, 229 F.3d 245, 252 (3d Cir. 2000) (stock redemptions are treated as dividends to shareholders which return no value to the redeeming company).

In lieu of pursuing such actions, the Receiver must establish some standard for accounting for redemption payments. The rule proposed by the Receiver accomplishes that goal.

Furthermore, each investor in WM and the WM Funds could assert injury and damages resulting from the actions of WM, Putman, and Fevola described in the SEC's Complaint. In the Receiver's judgment – based upon her years of experience in representing insolvent entities, their trustees, assignees, and other representatives, and their creditors – the cost and delay involved in the Receiver's investigating, conducting discovery upon, and litigating scores of investor claims for particularized consequential and punitive damages (such as for lost profits, misrepresentation, or breach of fiduciary duty) would drain the Estates for all constituencies, without an equivalent or offsetting benefit. Therefore, the Receiver proposes to allow investor claims solely based on actual cash investment in each WM Fund, net of redemptions as provided above.

(c) *Adjustments to the capital accounts of investors in each WM Fund were made uniformly, according to each investor's pro rata share of the given WM Fund*: Lasko's initial review of the records of the WM Funds indicates that adjustments for profits

earned, and losses incurred, by each WM Fund appear to have been allocated uniformly among all the investors in each WM Fund, proportionate to each investor's percentage ownership interest in the WM Fund. Therefore, such allocations may be ignored for the purpose of calculating each investor's percentage ownership interest as of a date certain, because all capital accounts would have sustained the same proportionate adjustment as of that date certain.

(d) *The books and records of WM regarding the percentage interest of each investor in each WM Fund appear to be reliable*: The SEC Complaint does not suggest that WM, Putman, Fevola, or any other employee of WM or of the WM Funds falsified records regarding cash invested and distributions made from the WM Funds, or was so negligent in keeping such records that those records should be deemed unreliable. Based upon the initial review of those records to date by the Receiver and her professionals, the Receiver believes that those records may be relied upon for the purpose of determining each investor's net cash in and Pro-Rata share of each WM Fund as of May 31, 2008, subject to review and reconciliation of any timely filed Investor Net Cash Objection. However, the Receiver intends to perform a forensic analysis of the distributions made from the WM Funds from and after May 31, 2008, in order to fully evaluate the "cash-in, cash-out" status of each Fund and to verify redemptions.

By separate motion, the Receiver has proposed a process by which each investor in a WM Fund will be informed of such investor's Net Cash position as calculated by the

Receiver and Lasko and how such investor may assert an Investor Net Cash Objection; the reconciliation of any timely Investor Net Cash Objections by the Receiver and Lasko will act as a check on the reliability of WM's records. Investor Net Cash Objections that diverge significantly from the calculations of the Receiver and Lasko will have to be resolved by agreement or by Court intervention, and distributions would then be delayed accordingly.

D. Equitable Subordination of Claims of Putman and Fevola

This Plan provides that all claims of Putman and Fevola and any equity interests of Putman and Fevola, whether related to the WM Estate or to one of the WM Fund Estates, are to be equitably subordinated to those of all other creditors of, and investors in, WM and the WM Funds, and effectively disallowed. Putman and Fevola would receive no distributions from any of the seven Estates. The claims and interests of Putman and Fevola to be subordinated include, without limitation, a certain Promissory Note dated June 30, 2008, in the principal amount of $400,000, made by WM in favor of Fevola.

"Disqualifying those who took the business over the edge is the most common feature, and the least contested aspect, of distribution plans." *SEC v. Enterprise Trust Co.*, No. 08 C 1260, 2008 WL 4534154, at *3 (N.D. Ill. Oct. 7, 2008), *aff'd*, 559 F.3d 649 (7th Cir. 2009); *see also SEC v. Basic Energy & Affiliated Resources, Inc.*, HYPERLINK "http://www.loislaw.com/pns/doclink.htp?alias=F6CASE&cite=273+F.3d+657" \o "273 F. 3d 657" 273 F.3d 657, HYPERLINK "http://www.loislaw.com/pns/doclink.htp?alias=F6CASE&cite=273+F.3d+657" \l "PG660" \o "273 F.3d 657, 660" 660 (6th Cir.

2001) (affirming distribution that prohibited defendants from recovering at all, and reduced recovery of employees based on level of involvement in fraudulent scheme).

The statements of the district court in its decision in the *Enterprise Trust* case, recently affirmed by the Seventh Circuit, apply with equal force to the WM cases. In *Enterprise Trust*, the proposed plan excluded two principals of an investment company who deceived investors regarding the nature their accounts, the losses sustained in the accounts, and the use being made of the account assets. The principals had entered into consent decrees that precluded them from arguing that they had not violated federal securities law, as alleged in the SEC's complaint. The court overruled the objections of the principals to their exclusion from distributions under the plan, observing that "it is difficult to find cases in which business officers like [the *Enterprise Trust* principals] took a share of a Receiver's distribution . . . . They are not innocent victims of [the company's] actions." *Enterprise Trust*, 2008 WL 4534154, at *6.

Pursuant to the Preliminary Injunction Order entered in this case, Putman and WM conceded that the SEC has made a *prima facie* case of their violations of securities laws and that the SEC is likely to prevail on the merits of its Complaint against them, and they agreed not to commit further violations. The Receiver proposes that the rule of the *Enterprise Trust* case should apply here as well: Putman and Fevola are not innocent victims of WM's actions. Their claims should be equitably subordinated as described above.

HOLDBACK FOR ADMINISTRATIVE EXPENSES, INCLUDING POTENTIAL LITIGATION

The Receiver proposes to hold back a portion of the distributable assets of WM and the WM Funds in order to fund administrative expenses, including ongoing investigation and potential litigation against those that may be responsible for losses suffered by the clients of WM and the WM Funds. Assets recovered from any judgments or settlements would be distributed in accordance with this Plan. To the extent that the Receiver determines that potential litigation is not viable, unlikely to merit the cost associated with pursuit of the claim, or believes her efforts would be duplicative of any actions that may be brought by government agencies, such litigation will not be pursued.

DISTRIBUTION PROCEDURES AND TIMING

By separate motion, the Receiver will seek a Court order setting a deadline for filing of proofs of claim (by creditors), the service upon investors of the Receiver's calculation of such investor's Net Cash position, and the filing of Investor Net Cash Objections against the WM Fund Estates. Only after all claims and interests have been analyzed and fixed will the Receiver be in a position to make initial distributions to creditors and investors.

The Receiver proposes to make periodic distributions to creditors of, and investors in, WM and the WM Funds, in her discretion, as sufficient proceeds of the redemption/ liquidation of the Estates' assets become available, provided, however, that, after appropriate holdbacks, the amount of each distribution to be made to each creditor or investor is not so small, as determined by the Receiver in her discretion, as to render the cost of making of such distributions prohibitive in comparison to the amount of each

distribution.

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Subject to her reserved right to make in-kind distributions under the Plan, the Receiver will continue to make periodic distributions of cash to creditors of, and investors in, WM and the WM Funds until all of the assets of all of the Estates are liquidated and distributed pursuant to this Plan.

Respectfully submitted this 25th day of November, 2009.

By: /s/ Faye B. Feinstein
Faye B. Feinstein
Receiver for WM and the WM Funds

QUARLES & BRADY LLP

/s/ Christopher Combest

Christopher Combest, Esq. (IL ARDC No. 06224701)
300 North LaSalle Street, Suite 4000
Chicago, IL 60654
Phone: (312) 715-5000
Facsimile: (312) 715-5155
E-mail: christopher.combest@quarles.com

Michael H. Schaalman
411 East Wisconsin Avenue, Suite 2040
Milwaukee, WI 53202
Telephone: (414) 277-5325
Facsimile: (414) 978-8944
E-mail: michael.schaalman@quarles.com

Counsel to Faye B. Feinstein, Receiver

These amounts take into account checks which the Receiver has written but which may not yet have cleared.

The Plan does not treat ESA as a separate receivership estate, because ESA was created solely to manage payroll and benefits for WM employees, conducted no business of its own, and had no assets.

As explained below, the Receiver believes that no WM Fund has true "creditors" who hold claims against a WM Fund entitled to payment in full before investors in such WM Fund.

Claims of the Receiver and her professionals for payment of fees and reimbursable expenses allowed by the Court will be paid from the WM Funds Estates, and not from the WM Estate.

On October 28, 2009, the Receiver filed the *Motion of the Receiver for Entry of an Order (I) Establishing Creditor Bar Date and Investor Claim Objection Deadline; and (II) Approving Form and Manner of Notice Thereof* (Docket No. 126). The Bar Date Motion seeks an order of the Court limiting the right to file proofs of claim against WM or the WM Funds to entities who hold claims for goods or services provided, or money loaned, to WM or a WM Fund.

It appears that WM itself was an investor in certain of the WM Funds. If WM legitimately paid for its investment in each such WM Fund, then WM will be entitled to a distribution from each such WM Fund, in the same manner as any other investor in that WM Fund. It also appears that certain of the WM Funds

may have invested in other WM Funds (for example, it appears that Gryphon invested some of its cash in Pantera, and that Quetzal invested some of its cash in Gryphon). In each such case, if the investing WM Fund legitimately paid for its investment in the other WM Fund, then the investing WM Fund will be entitled to a distribution out of the WM Fund in which it invested, in the same manner as other investors in that WM Fund.

For example, if Investor A invested $600 in a fund and Investor B invested $400, Investor A owns 60% of that fund and Investor B owns 40%. If, at the end of a year, that fund has earned $100 of profit, or has lost $100 of principal, so long as the profit or loss is allocated 60% to Investor A and 40% to Investor B, while the absolute dollars in the capital accounts of the Investors will have changed (A will have either $660 or $540, and B will have $440 or $360), A and B will still own 60% and 40%, respectively, of the fund.