

EXHIBIT “B”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

LAKE DOW CAPITAL, LLC a/k/a
CLIFFORD, EDWARDS & TAYLOR
AND TY EDWARDS,

Defendants.

Civil Action File No.
1:05-CV-2709

Judge Clarence Cooper

**RECEIVER'S FIRST AMENDED PLAN OF DISTRIBUTION, AS
AMENDED IN ACCORDANCE WITH THIS COURT'S ORDER DATED
NOVEMBER 16, 2006**

**RECEIVER'S PLAN OF DISTRIBUTION AND MOTION
TO APPROVE PLAN OF DISTRIBUTION, TO
CONSOLIDATE ASSETS AND LIABILITIES AND TO
ESTABLISH PROCEDURES IN CONNECTION THEREWITH**

COMES NOW S. Gregory Hays, the duly authorized and acting Receiver herein, by and through his undersigned counsel, and makes and files his First Amended Plan of Distribution, as Amended and Motion to Approve Plan of Distribution and to Establish Procedures in Accordance with this Court's Order Dated November 16, 2006 Connection Therewith (the "First Amended Plan"). This First Amended Plan amends the Plan filed by the Receiver with this Court on August 25, 2006:"") and as follows:

PROCEDURAL BACKGROUND

1. This action commenced on October 19, 2005 through the filing a "Complaint for Injunctive and Other Equitable Relief and for Civil Monetary Penalties under the Commodity Exchange Act" (the "Complaint") by the U.S. Commodity Futures Trading Commission ("CFTC") against Lake Dow Capital LLC, a/k/a Clifford Edwards and Taylor LLC ("Lake Dow/CET") and Ty Edwards ("Edwards") (collectively, the "Defendants"). In the Complaint, the CFTC alleged that the Defendants employed schemes to defraud or had engaged in practices that operated as a fraud or deceit upon actual and prospective commodity pool participants and clients in an investment fund known as the "Aurora Fund".

2. On October 19, 2005, this Court entered its "Ex Parte Restraining Order to Freeze Assets, Preserve Books and Records, Authorize Expedited Discovery and To Appoint a Temporary Receiver" (the "TRO Order"). Pursuant to the terms of the TRO Order, the assets of the Defendants were frozen and S. Gregory Hays was appointed as Receiver for each of the Defendants. On November 8, 2005, this Court entered is "Consent Order of Preliminary Injunction and Asset Freeze" (the "Preliminary Injunction Order") continuing the appointment of the Receiver with the duties, obligations and powers set forth in the TRO Order (the "TRO Order" and "Preliminary Injunction Order" shall be collectively referred to herein as the "Receivership Orders").

3. On December 19, 2005, the Receiver filed his First Interim Report in accordance with Paragraph IV(F) of the TRO Order. On July 17, 2006, the Receiver filed his Second Interim Report and provided detailed information to the Court, the parties and investors regarding the assets held by the Receiver and claims asserted against such assets.

4. The Receivership Orders authorize and direct the Receiver to:

- (a) to take full control of the corporate Defendants and any business entities owned by any Defendant;
- (b) to take custody and possession of all funds and property, to secure the residential and business premises of the Defendants,
- (c) to preserve, hold and manage all receivership assets, and
- (d) to manage and preserve the assets of the receivership during the pendency of this action.

5. In addition to freezing the assets of the Defendants, the Receivership Assets also froze and placed under the control of the Receiver all "assets held in the accounts of Aurora Capital Management LLC and the Aurora Investment Fund." On July 19, 2006, the Receiver file a motion with this Court seeking to add Aurora Capital Management LLC ("ACM") and Aurora Investment Fund, L.P. ("AIF") as Relief Defendants in this case.¹

6. As authorized in the Receivership Orders and as set forth in the First Interim and Second Interim Reports (the "Reports"), the Receiver believes he has identified all of the assets of the Defendants. In addition, the Receiver has completed the claims review process in this case and now has accurate information regarding the extent and validity of possible claims against the Receivership Estate and the assets held by the Receiver. Although the Receiver is still in the process of liquidating certain of the Defendants' assets and although additional work remains

¹ For purposes of this Plan, references to "Aurora Fund" shall be used to generally refer to the hedge fund into which investors were investing. The term "AIF" shall be used to refer to the legal entity known as Aurora Investment Fund, a Delaware Limited Partnership".

to be completed in this case, the Receiver believes that it is now appropriate to proceed with a Plan of Distribution which will provide for the treatment of the claims asserted in this case and for an interim distribution during the pendency of this case and a final distribution at the conclusion of the case.

7. On August 25, 2006, the Receiver filed his Plan of Distribution with this Court together with his Motion seeking approval of same. On September 25, 2006 this Court entered its Order and Notice of Hearing with Respect to Plan of Distribution (the "Order and Notice"). The Order and Notice directed that a hearing be held on the Plan of Distribution on November 13, 2006 and that any objections to the Plan be filed five business days prior to such hearing. Only one objection was timely filed to the Plan of Distribution, to wit, the Objection of Richard Mintz, Alvin Pannell and Joseph Wyant (the "Objection"). This Court held a hearing with respect to the proposed Plan of Distribution and the Objection. This Court sustained the Objection in its Order dated November 16, 2006 and this First Amended Plan of Distribution is filed by Receiver in accordance with the instructions set forth in the November 16 Order and as announced by the Court at the conclusion of the November 13 hearing. This First Amended Plan of Distribution, together with all other significant documents, will be placed on the Receiver's web site at www.haysconsulting.net.

ASSETS AVAILABLE FOR DISTRIBUTION

8. As set forth in the Reports, the Receiver has frozen the following assets which are available for distribution:

(a) Cash: As of July 31, 2006, the Receiver is currently holding or has frozen at Man Financial the sum of \$19,053,333 from three separate sources as follows:

(i) AIF Account or "SKY" Account: As of July 31, 2006, the balance of funds held in this account totals \$7,817,656 ("SKY Account Funds"). These funds are held in the name of AIF.

(ii) IRA Accounts: As of July 31, 2006, the aggregate balance of the IRA and/or qualified investment accounts, which were separately established by Man Financial, is \$9,120,763.07, 10,615,042 Attached hereto as Exhibit "A" is a listing of the balance in each individual IRA Account, with the name of each investor redacted ("Segregated IRA Account Funds").²

(iii) Cash Proceeds: As of July 31, 2006, the balance of the remaining cash proceeds is \$620,635 ("Proceeds Account Funds"). These funds represent a combination of cash held by the Defendants and/or AIF and ACM at the time the Receiver was appointed plus the proceeds of assets owned by the Defendants.

(b) Remaining Real Estate and Personal Property: The Receiver continues to hold the following Real Estate and Personal Property:

(i) Camden County Property: The Receiver will sell the Camden County Property and deposit any recovery in connection with such sale in the Proceeds Account. The Camden County Property was purchased using funds deposited with the Defendants for investment in the Aurora Fund; however, this property was titled in the name of Ty Edwards.

(ii) Edwards Residence: Pursuant to a Court Order, the Receiver has ~~abandoned~~continued to make mortgage payments with respect to the Edwards Residence in order to preserve any interest held by the Receivership Estate in the Edwards Residence. ~~equity in this home. The Receiver is currently~~

² Exhibit "A" does not include the balances for the Segregated IRA Claims of Wyant, Pannell and Mintz which are separately addressed pursuant to this Court's Order dated November 16, 2006.

~~re-evaluating whether to continue to make mortgage payments and whether the Receivership Estate should continue to maintain this asset. The Court will ultimately determine whether any funds from the Edwards Residence will be used for distributions pursuant to this Plan of Distribution.~~

(iii) Automobiles: The Receiver has liquidated one automobile owned~~will either liquidate or seek Court permission to liquidate the two vehicles~~ purchased by Mr. Edwards and is currently in negotiations to liquidate the remaining automobile owned by him. The Receiver has and/or will deposit any proceeds from such ~~recoveries~~recovery into the Proceeds Account.

(c) Claims and Causes of Action: The Receiver is currently investigating several claims and causes of action against third parties. These claims may be held by one or more of the Defendants and/or AIF or ACM. To the extent that the Receiver realizes any recovery on such claims, the proceeds of such recoveries shall be deposited into the Proceeds Account.

FIRST AMENDED PLAN OF DISTRIBUTION

A. CATEGORIES OF CLAIMS

9. As set forth in the Reports, the Court established a bar date for the filing of claims in this case and the Receiver has conducted an extensive review of the claims filed. Based upon the information known to the Receiver and based upon this Court's Order of November 16, 2006,~~the Receiver has determined that~~ there are nine~~eight~~ categories of claimants in this case.

10. Category I (Administrative Claims): These consist of the expenses of administering the Receivership and include fees and expenses paid in connection with preserving assets of the Receivership, fees and expenses paid in accordance with the Receivership Orders or other Orders of the Court and the fees and expenses of the Receiver and his financial consultants and attorneys. The Receiver

will not know the full amount of Administrative Claims until the conclusion of this case. Attached hereto as Exhibit B is a listing of the Administrative Claims paid to date.

11. Category II (Secured Claims): Certain creditors hold perfected liens against one or more of the assets of the Receivership. A listing of secured claims asserted against the assets of the Receivership is attached hereto as Exhibit "C".

12. Category III (Tax Claims): These are the claims of local, state and federal taxing authorities. Since neither the Defendants nor AIF nor ACM filed tax returns, taxes payable are unknown and could be significant for Mr. Edwards. Taxes will also be payable on the interest income earned on the funds held in the Receivership.

13. Category IV (General Investor Claims): These are claims of persons who invested directly into AIF as Limited Partners and whose investments were commingled with the amounts invested by other limited partners of AIF. 22 persons holding aggregate claims of \$6,120,093 are in Category IV.³ The proceeds of General Investor Claims are held in either of the SKY Account Funds or the Proceeds Account Funds.

14. Category V (Lake Dow/CET Investor Claims): In addition to soliciting investors to invest as limited partners in AIF, the Defendants also

³ The aggregate claim amounts in Categories IV, V and VI has been determined using the *principal* amount of each investor's investment. The Receiver has not made any allowance for interest or earnings.

solicited persons to invest in Lake Dow/CET as shareholders whose fund would in turn be invested in AIF as part of the Lake Dow/CET's investment. Such investors were to receive a share of the profits and losses of the Aurora Fund. 153 persons holding aggregate claims of \$7,109,677 fall within Category V.

15. Category VI (Segregated IRA Investor Claims): As has been discussed in the Reports, starting in the fall of 2004 and after the Defendants had switched brokerage firms from Bear Stearns to Man Financial, Man Financial established separate accounts for new investors who rolled over IRA accounts. A listing of these accounts is in Exhibit "A". 4144 persons holding aggregate claims of \$8,542,056,369,886,185 are in Category VI.

16. Category VII (Segregated IRA Claims of Wyant, Pannell and Mintz): Pursuant this Court's Order of November 16, 2006, this category consists of the claims of Joseph Wyant, Alvin Pannell and Dr. Richard Mintz relating to their Segregated IRA accounts, the aggregate balance of which, as of July 31, 2006, is \$1,494,021.59. This sum reflects the principal balances invested and does not include any accrued interest.

17. Category VIII (General Trade Claims): This category consists of 3 persons who have filed claims totaling \$20,910⁴ for goods and services provided to the Defendants prior to the appointment of the Receiver.

18. Category ~~IXVII~~ (Claims of Ty Edwards): Ty Edwards, a Defendant herein, has filed claims with the Receiver.

⁴ One of the claims was filed in an unliquidated amount which will have to be determined if funds are unavailable for this Case.

B. TREATMENT OF CLAIMS

19. The following definitions shall apply to this Plan:

(a) "Allowed Administrative Claim" shall mean any Category I Administrative Claim, the amount of which has been determined to be due and payable as an expense of administration of the Receivership Estate either by a final Court order or by the consent of the Receiver;

(b) "Allowed Secured Claim" shall mean any Category II Secured Claim, the amount of which has been determined to be a properly perfected and valid secured claim either by a final Court order or by the consent of the Receiver;

(c) "Allowed Tax Claim" shall mean any Category III Tax Claim, together with any interest or penalties thereon, the amount of which has been determined to be due and payable either by a final Court order or by the consent of the Receiver;⁵

(d) "Allowed General Investor Claims" shall mean, with respect to each individual claimant, the principal amount invested by such claimant and shall not include any interest or other income even if an individual claimant received statements from the Defendants stating that their investments had earned interest or other income;

(e) "Allowed Lake Dow/CET Investor Claims" shall mean, with respect to each individual claimant, the principal amount invested in Lake Dow/CET by such claimant and shall not include any interest or other income even if an individual claimant received statements from the Defendants stating that their investments had earned interest or other income;

(f) "Allowed Segregated IRA Investor Claims" shall mean, with respect to each individual claimant, the principal amount invested in the Aurora Fund by such claimant and shall not include any interest or other income even if an individual claimant received statements from the Defendants stating that their investments had earned interest or other income;

(g) "Allowed Segregated IRA Claims of Wyant, Pannell and Mintz" shall mean the balance held in the Segregated IRA Accounts of each of Wyant, Pannell

⁵ The Receiver intends to oppose any claim by any taxing authority for penalties and interest; however, the District Court, or the federal appellate courts, shall have the final say on the determination of the amounts of any tax claims.

and Mintz including all interest earned on such sums and less only commissions or expenses attributable to each of Wyant, Pannell and Mintz.

(h) "Allowed General Trade Claims" shall mean any Category VII General Trade Claims, asserted against any of the Defendants and/or AIF and ACM, the amount of which has been determined to be due and payable by a final Court order or by the consent of the Receiver;

20. Category I (Administrative Claims): Allowed Administrative Claim shall be paid in full from funds held in the SKY Account Funds and/or the Proceeds Account Funds.

21. Category II (Secured Claims): Allowed Secured Claims shall be paid only from the proceeds of assets securing such claims and only to the extent that there are sufficient proceeds to pay such claims. At present, the Receiver believes that all secured claims will be paid in full from the proceeds of the assets securing such claims; however, in the event that the proceeds of any asset is insufficient to pay any secured claim in full, such remaining claim or deficiency shall be treated as a Class VII General Trade Claim.

22. Category III (Tax Claims): Allowed Tax Claims shall be paid in full from funds held in the SKY Account Funds, the Proceeds Account Funds and, to the extent necessary to pay such claims, from the Segregated IRA Investor Account Funds.

23. Category IV (General Investor Claims) and Category V (Lake Dow/CET Investor Claims): Allowed Category IV and V claims shall be paid

pro-rata from funds remaining in the SKY Account and the Proceeds Account after the payment of all Allowed Administrative Claims, Secured Claims and Tax Claims.

24. Category VI (Segregated IRA Investor Claims): Each person holding an Allowed Segregated IRA Investor Claims shall have such claimant's segregated account returned or "rolled over" *less* the amount of the "Assessment", as that term is defined below.

25. Category VII (Segregated IRA Claims of Wyant, Pannell and Mintz): Each of Joseph Wyant, Alvin Pannell and Richard Mintz shall have the balance of each such claimant's segregated IRA accounts returned or "rolled over" including all interest earned in such accounts but less commissions or expenses. Investors in this category shall not be entitled to receive any of the proceeds of the "Assets Available for Distribution" as listed above in this First Amended Plan and shall only be entitled to the amounts held in their respective, separate IRA accounts less commissions or expenses.

26. Category VIII (General Trade Claims): In the event, and only in the event, that the Receiver has sufficient funds to pay the Allowed Amounts of all claims in Categories I through VI, the Receiver shall pay Category VI claims on a pro-rata basis from the SKY Account and the Proceeds Account.

27. Category IX-VIII (Claims of Ty Edwards): No distributions shall be made on these claims unless otherwise directed by the Court.

C. CONSOLIDATION OF ASSETS AND LIABILITIES

28. The named Defendants in this action, and the entities for which the Receiver was appointed as Receiver are Lake Dow/CET and Ty Edwards. In addition, the Receiver has filed a motion with this Court to include each of AIF and ACM as Relief Defendants in this case. The Receiver believes, based upon his investigation to date, that Lake Dow/CET, AIF and ACM were operated as a common enterprise by Defendant Ty Edwards at all times relative hereto and that, for purposes of making distributions to investors and creditors, the assets and liabilities of Defendant Edwards and Lake Dow/CET, ACM and AIF should be consolidated. This section does *not* apply to the Segregated IRA Claims of Wyant, Pannell and Mintz as set forth in Category VII.

29. By way of background, a total of three entities were established in 2002 by Defendant Ty Edwards and others to manage the hedge fund referred to herein as the Aurora Fund. These three entities included not only Lake Dow/CET, which is a named Defendant herein, but also ACM and AIF.

30. ACM is a Delaware Limited Liability Corporation. According to information provided by the Defendants, ACM owned a majority of the stock or ownership interests in Lake Dow/CET. Lake Dow/CET is also a Delaware

Limited Liability Corporation. Defendant Edwards initially held a fifty-percent ownership interest in ACM and ultimately came into sole and exclusive control of ACM

31. AIF is a Delaware Limited Partnership. The General Partner of AIF was Defendant Lake Dow/CET. Most of the funds raised by Defendants Edwards and Lake Dow/CET for investment purposes were deposited into an AIF bank account Peoples Bank, a Georgia Bank. Most of these funds were subsequently deposited into a brokerage account held in the name of AIF at either Bear Stearns or, later, Man Financial.

32. As set forth in the Reports, Defendant Edwards was solely responsible for the day to day operations of the Defendants and of ACM and AIF from at least August, 2004. Even prior to this date, Defendant Edwards had significant, if not total, control from the time Lake Dow/CET, ACM and AIF were established in 2002.

33. In addition, the bank account information obtained by the Receiver shows that amounts raised from investors were commingled and that Mr. Edwards did not keep track of profits and losses or of expenses and commission to be charged to Lake Dow/CET, AIF or ACM or even individual investors. In addition, Defendant Edwards transferred at least approximately \$1.8 Million of investor

funds to himself, again without keeping any records of the purposes or sources of such payments.

34. The only exception to the commingling of investor funds occurred after August, 2004 and after the investment accounts for the Aurora Fund were moved from Bear Stearns to Man Financial. Man Financial, unlike Bear Stearns, required that rollovers from IRA's or other similar qualified investments be established in separate accounts which led to the Segregated IRA Investor Accounts listed in Exhibit "A". The Receiver is informed and believes that prior to the switch to Man, funds from persons rolling over IRA's or similar qualified investments were commingled with other investor funds. Due to Man's insistence on establishing separate accounts, the funds invested in the Segregated IRA Investor Accounts were essentially beyond the reach of Defendant Edwards and were not commingled with other investor funds. However, the Receiver is informed and believes that each Segregated IRA Investor intended to invest in the Aurora Fund and to share in profits and losses therein on a pro-rata basis with other investors.

35. Finally, as set forth above, the vast majority of claimants in this matter are investors in Categories IV, V and VI, each of whom intended to invest in the Aurora Fund and to share the profits and losses therein. The Receiver is informed and believes that each of the investors in Categories IV, V and VI believed they

were investing in the same investment vehicle and that each was looking to the aggregate of assets invested in the Aurora Fund for recovery on their investments.

36. Based on the foregoing, the Receiver has reached the following conclusions with respect to the management and operation of the Aurora Fund and of each of the Defendants and AIF and ACM:

(a) Common Ownership and Control: Defendant Ty Edwards asserted control over all of the assets of Lake Dow/CET, AIF and ACM during all times relevant hereto. In addition, ACM was the majority shareholder in Lake Dow/CET which was itself the General Partner in AIF which was the entity in possession of the bulk of assets at issue in this Receivership;

(b) Identical or Overlapping Officers and Directors: From at least August, 2004, Defendant Ty Edwards was and acted as the sole officer and director of each of Lake Dow/CET, AIF and ACM. Prior to that time, Messrs. Clifford and Edwards were overlapping officers and directors for each;

(c) Commingling of Assets and Business Functions: With the exception of the Segregated IRA Investor Accounts the monies raised by the Defendants herein were commingled with other investor funds and were, for all intents and purposes, treated as a common fund under the direction and control of Defendant Ty Edwards. In addition, all of the business functions of Lake Dow/CET, ACM and AIF were managed as one by Defendant Ty Edwards. Finally, monies raised from investors were generally used to pay not only obligations of the corporate entities but were freely used by Defendant Edwards for his own personal benefit, including paying personal bills and buying assets such as cars and real property which were titled in his name;

(d) Failure to Maintain Corporate Records and Other Formalities: There was a wholesale failure by the Defendants to maintain the separate corporate identities of Lake Dow/CET, AIF and ACM and, indeed, to maintain any separate identity between Ty Edwards, individually, and each of these entities.

37. Accordingly, the Receiver requests that for purposes of this Plan of Distribution that the assets of each of the Defendants and of AIF and ACM be

consolidated. The Receiver further requests that the claim in Categories I through VI above be paid as set forth above from these consolidated assets on a pro-rata basis and without regard to the entity against which such claimants assert their respective claims. In essence, and for purposes of this Plan, the Receiver is requesting a substantive consolidation of the assets and liabilities of Ty Edwards, Lake Dow/CET, AIF and ACM. The Receiver believes that such consolidation is fair and equitable under the circumstances of this case.

D. THE ASSESSMENT OF SEGREGATED IRA INVESTOR CLAIMS.

38. As set forth in the Reports, the Receiver has concluded that although the persons in Categories IV (General Investor), IV (Lake Dow/CET Investors) and VI (Segregated IRA Investors) intended to invest in the Aurora Fund, certain inequalities currently exist between the two groups and the Receiver believes that these inequalities should be addressed in this Plan of Distribution. These provisions do *not* apply to the Segregated IRA Claims of Wyant, Pannell and Mintz.

39. In particular, from the inception of the Aurora Fund and until approximately July, 2004 when the Defendants moved their brokerage account from Bear Stearns to Man Financial, all funds raised by the Defendants, regardless of whether they were direct investments, IRA rollovers or other qualified investment rollovers, were deposited into accounts held in the name of the

Defendants with most of those funds ultimately deposited into the "SKY Account" at Mann Financial. However, after the Defendants employed Man Financial as their broker in July, 2004 and moved the brokerage accounts to Man Financial, Man Financial would not permit investors rolling over IRA funds or other qualified investment funds to deposit their investments into the SKY Account. Man Financial segregated all of these accounts which are listed in Exhibit "A".

40. The inequality in the treatment of the General Investors and the Segregated IRA Investors stems from the fact that the proceeds of the funds from General Investors were invested in accordance with the strategies devised by the Defendants and incurred significant losses as a result. In particular, the investment strategy of the Aurora Fund was to use approximately 5% of all funds raised to sell futures contracts. The Defendants claimed that they had developed strategies for timing downturns in the market and that they would sell futures contracts at such times. Timing such purchases would be the main source of investment returns to potential investors. However, the Defendants actually suffered losses from their sales of futures contracts resulting in losses for investors.

41. For reasons still not entirely clear, the proceeds of the Segregated IRA Investors were not invested in accordance with the Defendants' investment strategies and, in particular, the five percent of the proceeds of amounts invested by Segregated IRA Investors were not invested in a futures account and were

instead placed in cash accounts. This had two significant consequences. First, the Segregated IRA Investors did not suffer any trading losses in their accounts and, second, the entire amount of the funds invested by Segregated IRA Investors continued to earn interest while invested in the cash accounts.⁶

42. The Receiver has determined that the Segregated IRA Investors intended to invest in the Aurora Fund and that they should receive the same treatment as General Investors and Lake Dow/CET Investors.

43. Due to tax considerations, the Receiver does not intend to force a roll over of the Segregated IRA Investor Accounts into the SKY Account. However, the Receiver does believe that at the conclusion of this case, a determination should be made as to the pro-rata losses incurred by the General Investors, Lake Dow/CET Investors and the Segregated IRA Account Investors based upon the total assets available for distribution and to assess each Segregated IRA Investor Account by a percentage necessary to ensure that the General Investors and Lake Dow/CET Investors receive the same pro-rate distribution.

44. The procedure for determining the Assessment shall be as follows:

(a) At the conclusion of his administration of this case, the Receiver shall total the amount of all allowed General Investor Claims, Lake Dow/CET Investor Claims and Segregated IRA Investor Claims. In addition, the Receiver shall total

⁶ Defendant Ty Edwards asserts that he instructed Man Financial to trade the Segregated IRA Investor funds in the same manner as General Investor Funds, but that Man Financial failed to follow his instructions. Defendant Edwards further asserts that Man Financial's failure to trade the Segregated IRA Investor funds as directed resulted in the trading losses since the correct number of futures contracts were not sold. The Receiver has not made a determination as to the merits of these accusations.

the amounts of the SKY Account Funds, the Segregated Investor Account Funds and the Proceeds Account Funds. The Receiver shall then determine the percentage distribution which should be made on a consolidated basis (the "Consolidated Distribution Percentage").

(b) Once the Receiver determines the Consolidated Distribution Percentage, the Receiver shall determine (i) the percentage distribution which would be made to General Investors and Lake Dow/CET Investors using only the balances from the SKY Account and the Proceeds Account and (ii) the percentage distribution to Segregated IRA Investors from the Segregated IRA Investor Accounts only. The Receiver anticipates that the percentage to be distributed to Segregated IRA Investors will be higher than the Consolidated Distribution Percentage.

(c) The Receiver shall then determine the aggregate amount of funds which would have to be transferred from the Segregated IRA Investor Accounts to the SKY Account which would be required to ensure that each Allowed General Investors, Allowed Lake Dow/CET Investor Claim and Allowed Segregated IRA Investor Claim receives the Consolidated Distribution Percentage. The Receiver shall then determine the pro-rata amount which must be withdrawn from each of the Segregated IRA Investor Accounts and shall deduct such amount from the final distribution to be made to each Segregated IRA Account Holders (the "Assessment").

D. Method of Implementing the Plan of Distribution.

45. Categories I, II and III: The Receiver shall pay Allowed Claims in Categories I, II and III as they are determined by the Court and/or by the Receiver and as the Court directs payment of same.

46. Interim Distribution to Categories IV, V and VI: Within sixty (60) days of the entry of a final date on which an order is entered approving this First Amended Plan of Distribution, the Receiver shall make an interim distribution to persons holding Allowed Claims in Categories IV, V and VI. The amount of the Interim Distribution shall be forty percent (40%) of each Allowed Claim in

Categories IV, V and VI. With respect to persons holding Allowed Claims in Categories IV and V, the Interim Distribution shall be funded from the SKY Account Funds. With respect to persons holding Allowed Claims in Category VI, the Interim Distribution shall be funded through rollovers from each such persons Segregated IRA Account Funds.

47. Final Distribution: Upon the conclusion of his administration of this case, the Receiver shall pay or make allowance for the payment of all Allowed Claims in Categories I, II and III and shall file a final report wherein the amount of the Assessment shall be calculated. Upon approval of the Final Report by the District Court, the Receiver shall make final distributions to all persons holding Allowed Claim in Categories IV, V and VI. The amount of the final distribution to persons holding Allowed Claims in Categories IV, V and VI shall be the Consolidated Distribution Percentage.

48. Category VII Claims: Within sixty days of the entry of a final order approving the Receiver's First Amended Plan of Distribution, the entire balances held in the segregated IRA accounts of Wyant, Pannell and Mintz shall be returned or "rolled over" to them less only commissions or expenses.

49. Category VIII Claims: At the time of the filing of the Final Report, the Receiver shall determine whether funds exist for the payment of any distributions to persons in Category VIII. In the event sufficient funds exist,

provisions for distributions to persons holding Category VIII Claims shall be made in the Final Report.

50. Excess Amounts: In the unlikely event that sufficient funds exist to pay Allowed Claims in Categories I through VI and VIII~~IVH~~ and that there are still funds remaining, the entire amount of such funds shall be distributed to investors in Categories IV, V and VI.

REQUEST FOR HEARING

~~47. This Plan of Distribution affects the rights of each of the investors, creditors and parties in interest in this case. The Receiver requests that this Court establish the procedures for considering the Plan of Distribution and to provide investors and creditors with a full and fair opportunity to be heard with respect to the Plan of Distribution. A proposed Order and Notice of Hearing is attached hereto as Exhibit "D".~~

CONCLUSION

~~WHEREFORE, the Receiver respectfully requests that this Court issue an Order establishing procedures for considering this Plan of Distribution and that upon the conclusion of the hearing requested by the Receiver that this Court enter an Order approving this Plan of Distribution, granting the Receiver's Motion to Consolidate Assets and Liabilities and for such other and further relief as this Court may deem just and proper.~~

Respectfully Submitted this ~~16th~~^{25th} day of ~~November~~^{August}, 2006.

s/ Henry F. Sewell, Jr.
Henry F. Sewell, Jr.
Georgia Bar No. 636265

MCKENNA LONG & ALDRIDGE LLP
303 Peachtree Street, Suite 5300
Atlanta, GA 30308
Telephone: (404) 527-4000
Facsimile: (404) 527-4198
Email: hsewell@mckennalong.com
Attorneys for S. Gregory Hays, Receiver

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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U.S. COMMODITY FUTURES
TRADING COMMISSION,

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LAKE DOW CAPITAL, LLC a/k/a
CLIFFORD, EDWARDS AND TY
EDWARDS,

Defendants.

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Judge Clarence Cooper

CERTIFICATE OF SERVICE

~~This is to certify that I have this day served the within and foregoing
RECEIVER'S PLAN OF DISTRIBUTION AND MOTION TO APPROVE PLAN
OF DISTRIBUTION, TO CONSOLIDATE ASSETS AND LIABILITIES AND
TO ESTABLISH PROCEDURES IN CONNECTION THEREWITH upon
opposing counsel in the above captioned action by United States Mail addressed as
follows:~~

~~Laura Bonander, Esq. —
United States Attorney
600 U.S. Courthouse
75 Spring Street, S.W.
Suite 600
Atlanta, Georgia 30303~~

~~Lael E. Campbell
Tracey Wingate
U.S. Commodity Futures Trading
Commission
1155 21st Street NW
Washington, DC 20581~~

~~Larry A. Rosenbluth, Esq.
5855 Sandy Spring Circle
Suite 150
Atlanta, GA 30328~~

~~Joel S. Arogeti, Esq.
Kitchens Kelley Gaynes P.C.
Eleven Piedmont Center Suite 900
3495 Piedmont Road, N.E.
Atlanta, GA 30305~~

~~This 25th day of August, 2006.~~

~~s/ Henry F. Sewell, Jr.
Henry F. Sewell, Jr.
Georgia Bar No. 636265~~

~~MCKENNA LONG & ALDRIDGE LLP
303 Peachtree Street, Suite 5300
Atlanta, Georgia 30308
(404) 527-4000
(404) 527-4198 (facsimile)~~

~~Attorneys for S. Gregory Hays as
Receiver~~