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UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )

and )

COMMODITY FUTURES TRADING )  
COMMISSION, )  
 )  
Plaintiff, )

vs. )

DAREN L. PALMER and TRIGON GROUP, )  
INC., a Nevada Corporation, )  
 )  
Defendants. )

Case No.: CV 09-075-E-EJL

Case No.: CV 09-076-E-EJL

The Honorable Edward J. Lodge

REPORT AND RECOMMENDATIONS  
ON CLAIMS PROCESS BY R. WAYNE  
KLEIN, RECEIVER

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of Trigon Group, Inc.

("Trigon") and the assets of Daren L. Palmer (the "Receivership Entities" and/or "Palmer"),

submits this Report on the status of the claims process and his recommendations on the treatment  
of the claims of investors and creditors of Trigon.

## **PROCEDURAL HISTORY OF THE CLAIMS PROCESS**

On January 21, 2010, the Court approved the Receiver's request to begin the claims process. The Court approved the claim form, procedures to govern the claims process, and the timetable for completing the claims process.

The Receiver undertook to advertise the availability of the claims process and to make the claim forms easily accessible to all potential claimants. On January 22, 2010, the Receiver mailed 82 claim forms to potential claimants. The claim forms were mailed to known victims as well as other persons who might want to assert claims. This included trade creditors, municipal government agencies, relatives of Messrs. Palmer and Yost, defendants who have been sued by the Receiver, and persons with whom the Receiver had reached settlements.

In addition to the mailings, the claim forms and a description of the claims process were posted on the Receiver's website, where any person could download the forms used to make claims. Copies of the claim forms were mailed to several persons who requested them. The Receiver also requested the assistance of the news media in the Idaho Falls area in advertising the availability of the claims process and the deadline. The *Post Register* had a front-page story about the claims process on January 27, 2010. The initiation of the claims process was also reported by at least two television stations.

## **RECEIPT, PROCESSING, AND ANALYSIS OF CLAIMS**

The Receiver processed the claims, as they were received, as follows:

- Claims were date-stamped when received.
- A unique claim number was assigned to each claim received, based on the sequence in which the claim was received.

- Summary information from each claim was entered into a tracking sheet. This summary included the claim number, information on the claimant, the amount of the claim, and the type of claim (*e.g.*, whether it was an investor claim or trade creditor).
- The claim was assigned to an analyst who first verified whether the claim form had been completed. If the claim form lacked required signatures, omitted necessary responses, or included claims for an investment made through another person or entity, the claimant was requested to submit a corrected claim form. Three claim forms required corrections.
- In several cases, claims of multiple investors were divided into distinct claims, where the investors had invested together, through another entity. The Receiver divided the claim amounts among the beneficiaries, according to their respective interests. In other cases, claims were combined, such as claims submitted by related family members or where investments were made by multiple companies controlled by one person.
- The analyst then evaluated every transaction between the claimant and Trigon, Duane Yost (“Yost”), and Daren Palmer to ensure that payments listed in the claim form included all financial transactions that occurred. Transactions identified on the claim form were checked against bank records the Receiver had reconstructed for Trigon, Palmer, other companies controlled by Palmer, and multiple Yost entities. In some cases, claimants submitted documentation that demonstrated the claimant had invested larger amounts than shown on the

reconstructed bank accounts.<sup>1</sup> In other cases, the Receiver's records showed that monies had been paid by Trigon or Yost to the claimant, which the claimant had not included in his or her claim form.

- The analysis was reviewed by the Receiver.
- If the amount claimed matched the records of the Receiver or the claimant submitted proof of higher amounts than shown on the records of the Receiver, the claimant was sent a notice that the claim amount was "Allowed."
- If the claim form asserted a claim for an amount higher than shown on the Receiver's records and did not provide documentation proving the claimed amounts, a notice of "Reduced Claim" was sent to the claimant. In these cases, the claimants were given an opportunity to submit documentation demonstrating that the amounts claimed were valid. Alternatively, the claimants had the opportunity to accept the amount of "Reduced Claim" determined by the Receiver.
- If the Receiver determined the claim was not valid, a notice of "Rejected Claim" was sent to the claimant, along with an explanation of the reasons for the "Rejected Claim." An opportunity was provided to the claimant to submit additional information or explanation as to why the claim should be deemed valid.

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<sup>1</sup> In most cases, this was a result of the claimant identifying the sources of funds where the Receiver knew monies had come into the bank account, but did not know the identity of the payor.

- Most claimants who received notice of reduced or rejected claim amounts responded by accepting the Receiver's determination or by providing additional documentation to the Receiver, seeking to justify the amount of the claim. The Receiver reviewed these submissions and, in a number of instances, accepted the documentation provided by the claimant and revised the allowable claim amount upwards.
- As this additional documentation was received and the Receiver's calculation of allowable amounts changed, the summary tracking sheet was updated.
- In a few cases, the Receiver entered into discussions with claimants in an effort to reach agreement on the treatment of certain claims.

#### **TIMELINESS OF CLAIM SUBMISSIONS**

1. Claims Timely Filed: The Court-established deadline for filing claims was February 28, 2010. Thirty-three claims were filed by the deadline.
2. Claims Filed After the Deadline: Three claims were filed after the deadline.
  - a. One claimant was living out of state temporarily when the claim forms were mailed and was unaware of the claims process. This claim was received on March 10, 2010. The Receiver is recommending that this claim be allowed, but at a discounted amount.
  - b. A second claimant submitted his claim on April 21, 2010. This claimant explained that a family member has been undergoing treatment for cancer and that he had not been aware that the claim form had been mailed to him or that the deadline was February 28, 2010. The Receiver is recommending that, under these

circumstances, the claim be allowed but with a 25% reduction in the claim amount because of the delayed filing.

- c. A third claimant submitted a claim on April 28, 2010. This claimant asserts that she is entitled to recovery from the Receivership Estate based on investments made by a relative for her benefit. The Receiver is recommending that this claim be rejected as the amount sought is already included in another claim.

### **CLASSIFICATION OF CLAIMS**

The attached spreadsheet, marked as Exhibit A, shows each claim-by-claim number.

This includes the amount, classification, and recommended "Allowable Claim Amount" of each claim. Exhibit B, containing the names of the claimants, is being filed with the Court under seal and is also being provided to the SEC and the CFTC.

3. Initial "Allowed" Claims: Sixteen claims were for the same amounts as shown on the Receiver's records or included documentation that demonstrated payments of amounts greater than shown on the Receiver's records. These claims total \$10,150,204.29.
4. Later "Allowed" Claims: Another four claims had initially been classified as "Reduced" but were later changed to "Allowed" based on documentation provided by the claimant showing eligibility for the entire amount. These claims total \$326,000.00.
5. "Reduced" Claims Accepted by Claimant: There were eight claims where the Receiver told the claimants that he intended to recommend a reduced amount of claim and the claimants have accepted the Receiver's preliminary determination. These eight claims originally totaled \$4,034,232.00. The reduced claim amounts these claimants have accepted total \$3,748,583.50, a reduction of \$285,648.50.

6. “Reduced” Claims Claimant is Expected to Contest or Where no Reponse was Given: Five other claims (including two claims that were combined into one) had a total claim amount of \$12,681,003.99. The Receiver notified these claimants that he intended to recommend to the Court that \$7,226,221.90 of these claims be deemed allowed. This is a reduction of \$5,454,782.09. One of these claimants has indicated an intention to contest the Receiver’s recommendation. It is not known if the other claimants will file objections.

7. “Rejected” Claims: Three claims were submitted, totaling \$2,126,203.00, which the Receiver has determined to reject. One claimant has indicated acceptance of the Receiver’s determination. It is not known whether the other two claimants will file objections with the Court.

### **SUMMARY OF VALID CLAIM AMOUNTS**

8. From the beginning, the Receiver has been cognizant that the recovery for valid claimants would be maximized by both increasing the amount of funds recovered and reducing the number and size of valid claims. As noted in prior reports to the Court and in notices of settlements, the Receiver has entered into a number of settlement agreements that have involved the other party agreeing not to submit claims against Receivership assets. This has substantially reduced the amount of valid claims, thereby increasing the percentage amount each valid claim will be paid from assets recovered by the Receiver.

9. The following chart summarizes the claim amounts submitted and the Receiver’s recommendation to the Court. These are described in more detail in attached Exhibit A.

<b>Category</b>	<b>Claim Amount</b>	<b>Receiver Recommendation</b>	<b>Reduction</b>
Initial “Allowed”	\$10,150,204.29	\$10,150,204.29	\$0.00
Later “Allowed”	\$326,000.00	\$326,000.00	\$0.00
“Reduced” Accepted	\$4,034,232.00	\$3,748,583.50	\$285,648.50

<b>Category</b>	<b>Claim Amount</b>	<b>Receiver Recommendation</b>	<b>Reduction</b>
“Reduced” No Response	\$12,681,003.99	\$7,226,221.90	\$5,454,782.09
“Rejected”	\$2,261,203.00	\$0.00	\$2,261,203.00
<b>Total</b>	<b>\$29,452,643.28</b>	<b>\$21,451,009.69</b>	<b>\$8,001,633.59</b>

### **RECOMMENDED PROCEDURE FOR RESOLUTION OF OBJECTIONS**

10. As noted above, eight of the claimants who were the subject of “Reduced” recommendations have agreed to accept the Receiver’s recommendation. The Receiver expects that others will decide not to contest the Receiver’s recommendation. At most, there will be six objections that might be filed with the Court. Due to the small number of potential objections, the Receiver recommends that these objections be handled by the Court instead of appointing a special master or creating a third-party appeal process.

11. The Receiver recommends the following procedure for resolving the objections.
- a. Deadline for Filing Objections: The claims procedure approved by the Court on January 21, 2010 included a requirement that those objecting to the Receiver’s recommendation of an “Allowable Claim Amount” will have thirty (30) days to file an objection with the Court. At the same time the Receiver filed this Report with the Court, he mailed a copy of the Report to all claimants and posted a copy on his website. The claimants were notified that any objections would need to be filed before that deadline.
  - b. Reply by the Receiver: The Receiver requests that he be allowed thirty (30) days following the Deadline for Objections to file a response to each of the objections.
  - c. Evaluation by the Court: The Court can then rule on the written submissions or set a date and time for a hearing at which it can accept evidence and hear oral argument on the objections. Due to the similarity of the issues involved in the



various objections, the Receiver recommends that all objections be considered at one hearing if a hearing is held.

12. After the Court has ruled on the objections, a proposed order will be submitted to authorize the Receiver to begin making payments to claimants.

### CONCLUSION

The Receiver respectfully submits this Report and Recommendations on the Claims Process. The Receiver verifies under penalty of perjury that the foregoing is true and correct.

DATED THIS 13<sup>TH</sup> day of May, 2010.

By   
R. Wayne Klein, Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13<sup>th</sup> day of May, 2010, I electronically filed the foregoing REPORT AND RECOMMENDATIONS ON CLAIMS PROCESS BY R. WAYNE KLEIN, RECEIVER with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

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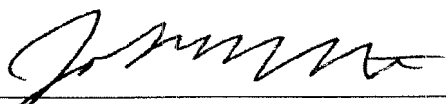
*Counsel to Defendant Daren L. Palmer*

AND, I HEREBY CERTIFY that I have served the foregoing document to the following non-CM/ECF Registered Participants (list names and addresses):

Alan Conilogue  
Deputy Attorney General  
State of Idaho  
PO Box 83720  
Boise, ID 83720-0031

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- E-mail
- Telecopy

*Local Counsel for Plaintiffs*

  
\_\_\_\_\_  
John F. Kurtz, Jr.

### TRIGON CLAIM FORM TRACKING SHEET

CLAIM	DATE REC'D	ALLOWED, REDUCED, OR REJECTED?	CLAIM AMOUNT	P.A.C. AMOUNT	REDUCTION ACCEPTED?	ALLOWABLE CLAIM AMOUNT
2002	1/29/2010	Allowed	\$1,000,000.00	\$1,000,000.00	N.A.	\$1,000,000.00
2003	1/29/2010	Allowed	\$2,738,700.00	\$2,738,700.00	N.A.	\$2,738,700.00
2004	2/2/2010	Allowed	\$25,000.00	\$25,000.00	N.A.	\$25,000.00
2006	2/4/2010	Allowed	\$200,000.00	\$200,000.00	N.A.	\$200,000.00
2007	2/5/2010	Allowed	\$50,000.00	\$50,000.00	N.A.	\$50,000.00
2008	2/8/2010	Allowed	\$55,500.00	\$55,500.00	N.A.	\$55,500.00
2009	2/8/2010	Allowed	\$420,000.00	\$420,000.00	N.A.	\$420,000.00
2012	2/8/2010	Allowed	\$100,000.00	\$100,000.00	N.A.	\$100,000.00
2013	2/8/2010	Allowed	\$250,000.00	\$250,000.00	N.A.	\$250,000.00
2014	2/8/2010	Allowed	\$83,069.29	\$83,069.29	N.A.	\$83,069.29
2015	2/8/2010	Allowed	\$3,904,518.00	\$3,904,518.00	N.A.	\$3,904,518.00
2016	2/8/2010	Allowed	\$160,000.00	\$160,000.00	N.A.	\$160,000.00
2021	2/22/2010	Allowed	\$35,417.00	\$35,417.00	N.A.	\$35,417.00
2022	2/22/2010	Allowed	\$250,000.00	\$250,000.00	N.A.	\$250,000.00
2023	2/22/2010	Allowed	\$378,000.00	\$378,000.00	N.A.	\$378,000.00
2024	2/22/2010	Allowed	\$500,000.00	\$500,000.00	N.A.	\$500,000.00
<b>Initial "Allowed"</b>			<b>\$10,150,204.29</b>	<b>\$10,150,204.29</b>		<b>\$10,150,204.29</b>
2010	2/8/2010	Reduced	\$170,000.00	\$50,000.00	N.A.	\$170,000.00
2025	2/25/2010	Reduced	\$125,000.00	\$25,000.00	N.A.	\$125,000.00
2028	3/1/2010	Reduced	\$11,000.00	\$0.00	N.A.	\$11,000.00
2029	3/1/2010	Reduced	\$20,000.00	\$9,000.00	N.A.	\$20,000.00
<b>Later "Allowed"</b>			<b>\$326,000.00</b>	<b>\$84,000.00</b>		<b>\$326,000.00</b>
2001	1/28/2010	Reduced	\$2,187,500.00	\$2,162,500.00	Yes	\$2,162,500.00
2005	2/4/2010	Reduced	\$212,214.00	\$12,214.00	Yes	\$12,214.00
2011	2/8/2010	Reduced	\$197,548.50	\$185,000.00	Yes	\$185,000.00
2017	2/12/2010	Reduced	\$317,582.50	\$312,582.50	Yes	\$312,582.50
2026	2/25/2010	Reduced	\$38,000.00	\$35,000.00	Yes	\$35,000.00
2027	2/25/2010	Reduced	\$919,387.00	\$100,000.00	Yes	\$898,787.00
2030	3/1/2010	Reduced	\$112,000.00	\$167.45	Yes	\$105,000.00
2035	4/21/2010	Reduced	\$50,000.00	\$37,500.00	Yes	\$37,500.00
<b>"Reduced Accepted"</b>			<b>\$4,034,232.00</b>	<b>\$2,844,963.95</b>		<b>\$3,748,583.50</b>
2019-2020	2/22/2010	Reduced	\$8,930,000.00	\$4,224,844.00		\$4,224,844.00
2032	3/1/2010	Reduced	\$120,000.00	\$94,000.00		\$94,000.00
2033	3/1/2010	Reduced	\$69,003.99	\$62,730.90		\$62,730.90
2034	3/10/2010	Reduced	\$3,562,000.00	\$1,903,647.00		\$2,844,647.00
<b>"Reduced" Contested or No response</b>			<b>\$12,681,003.99</b>	<b>\$6,285,221.90</b>		<b>\$7,226,221.90</b>
2018	2/18/2010	Rejected	\$796,203.00	\$0.00	Yes	\$0.00
2031	3/1/2010	Rejected	\$1,365,000.00	\$0.00		\$0.00
2036	4/28/2010	Rejected	\$100,000.00	\$0.00		\$0.00
<b>"Rejected"</b>			<b>\$2,261,203.00</b>	<b>\$0.00</b>		<b>\$0.00</b>
			<b>\$29,452,643.28</b>	<b>\$19,364,390.14</b>		<b>\$21,451,009.69</b>

**Exhibit**

**A**