SEP 2 0 2010

	SALT LAKE COUNTY	
Ву		KF
	Depu	V Clerk

## IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

A. DAVID BARNES MD

Plaintiff,

٧.

FFCF INVESTORS, ET AL.,

Defendants.

AMENDED MINUTE ENTRY

CASE 080922273

Judge Denise P. Lindberg

The Court issued a Minute Entry in this matter on September 10, 2010. In that Minute Entry the Court stated it would approve the "'pro-rata' distribution plan." The Court issues this Amended Minute Entry simply to clarify that its intent was to approve the Receiver's proposed <u>benchmark Pro-Rata</u> distribution plan (a.k.a., the "target" distribution plan), rather than the alternative "gross" pro-rata plan.

The Court was persuaded by the Receiver's Response to the objections lodged and the authority cited by the Receiver. As the Receiver's noted, both of the alternative approaches to distribution discussed in his initial submission can properly be considered "pro-rata" distribution plans. However, within that general characterization, in similar cases the SEC has recommended adoption of distribution plans that require the Receiver to first make distributions to those investors who have not yet received a benchmark (or target) percentage return on their verified investment amounts.

Distributions to claimants who received returns in excess of the benchmark amount are made only after all other investors have recovered the same percentage. See SEC Memorandum in SEC v. Palmer et al., Ext. B to Receiver's Response to Objections on

The the Raddivactor of

Recommended Distribution Plan)(emphasis added). The Court apologizes that its Minute Entry of September 10, 2010 did not clearly state its intentions. The Court, however, reaffirms its decision regarding allowable claim amounts as stated in the September 10 Minute Entry.

TOTAL CONTRACTOR

## ORDER

The Receiver is directed to submit an Order consistent with this Amended Minute Entry.

Dated this <u>20</u> day of September, 2010.

By the Court:

A ROB

Denise P. Lindberg

**District Court Judge**