

CLERK, U.S. DISTRICT COURT

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Resources Receivership Estate. It is comprised of the assets and claims with respect to Funding Resources Group and others.

3. On November 26, 2002, the Receiver filed his Final Report and Proposed Distribution Plan as to the Funding Resources Receivership Estate. On December 20, 2002, Magistrate Judge Kaplan issued his Findings and Recommendations regarding the approval of the Report. On January 15, 2003, Judge Lynn issued an Order Accepting the Findings and Recommendations.

4. On January 17, 2003, consistent with the Final Report as approved, the Receiver mailed final distribution checks to each holder of an allowed claim against the Funding Resources Receivership Estate. Also, consistent with the Final Report, each distribution check mailed stated on its face that it would be void if not cashed within 45 days.

5. As of June 30, 2003, the following checks had not been cashed for the following reasons:

- a. Check #2669 in the amount of \$186.24 payable to Jeff Hardcastle - mailed to last known address in Australia but not returned as undeliverable; follow-up letters sent but no response;
- b. Check #2890 in the amount of \$249.97 payable to Kelly Maie Swift Nicholson - mailed to last known address in Australia but not returned as undeliverable; follow-up letters sent but no response;
- c. Check #2967 in the amount of \$16.76 payable to Nenad Mrvos - mailed to last known address in New Zealand; returned to sender because moved - no forwarding address;
- d. Check #2963 in the amount of \$175.07 and check #2964 in the amount of \$152.72 each payable to Robert Kolb - check sent three times and refused each time; from telephone conversations Mr. Kolb appears to have Alzheimer's.

#### ARGUMENT AND AUTHORITIES

6. The Receiver has been unable to locate any statute which governs how to dispose of unclaimed funds. In a bankruptcy context however, the answer is governed by statute - 11 U.S.C.

§ 347(a) which provides that the funds should be paid into the registry of the court and disposed of under chapter 129 of title 28. The Receiver believes this to be the best approach.

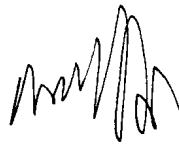
7. The Receiver has located one case, *SEC v. Kimmes*, reported at 1999 WL 2092 (N.D. Ill.) and 1999 WL 162771 (N.D. Ill.) which discussed various alternatives, including a supplemental pro-rata distribution of the unclaimed funds to the other claimants in the case. In this case, however, such an approach is not practical. The total of the unclaimed funds is \$780.76. There are 470 investors who did cash their checks. Their claims total \$9,796,257.74. The cost of postage to mail 470 new checks would total \$173.90 (.37 x 470) which would leave a balance of \$606.86 to distribute against claims of \$9,796,257.74 for a distribution percentage of .000062%. Accordingly, most of the distribution checks would be for only a few cents. Moreover, such a procedure would require the case to remain open for several more months.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that this Court enter an order authorizing the Receiver to pay the unclaimed funds into the registry of the Court, and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY & LOWNDS, P.C.  
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BY:

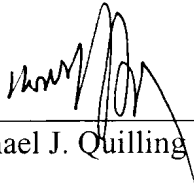


Michael J. Quilling  
State Bar No. 16432300

ATTORNEYS FOR RECEIVER

### **CERTIFICATE OF CONFERENCE**

Prior to the filing of this Motion, I conferred with Robert B. Brunig of the Securities and Exchange Commission and he does not oppose it. Accordingly, the Motion is submitted as unopposed.

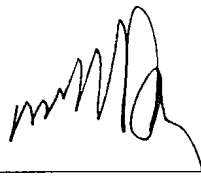


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Michael J. Quilling

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of July, 2003, a true and correct copy of the foregoing document was served via first class mail, postage pre-paid, on the persons set forth below and upon each of the persons/entities on the service list attached hereto.

Robert B. Brunig  
Securities & Exchange Commission  
801 Cherry Street, 19<sup>th</sup> Floor  
Fort Worth, Texas 76102



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Michael J. Quilling