

BOUTIN GIBSON DI GIUSTO HODELL INC.

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

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Attorneys for Michael J. Quilling
Receiver of Defendants Secure Investment Services, Inc.,
American Financial Services, Inc., and Lyndon Group, Inc.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

SECURE INVESTMENT SERVICES, INC.,
AMERICAN FINANCIAL SERVICES, INC.,
LYNDON GROUP, INC., DONALD F.
NEUHAUS, and KIMBERLY A. SNOWDEN,

Defendants.

Case No. 2:07-cv-01724 GEB CMK

RECEIVER’S MOTION FOR ORDER
TO ADJUST “A” CLAIMS

Date: June 21, 2010
Time: 9:00 a.m.
Department: 10

TO: THE PARTIES AND ALL COUNSEL OF RECORD:

COMES NOW, Michael J. Quilling, in his capacity as Receiver (“Receiver”), and files his Motion for Order to Adjust “A” Claims. In support, the Receiver would respectfully show unto the Court as follows:

1. On October 29, 2007, the Court entered an Order [Doc. No. 73] establishing the claim procedures for this case. Among other things, the Court directed the Receiver to send claim forms to all persons or entities believed to be an investor with a potential claim against any

1 of the corporate defendants. Pursuant to paragraph 8 of the Order, the Receiver requests that the
2 Court adjust each of the following claims for the reasons set forth below:

3 **Death Benefit Claim**

4 2. When Secure Investment Services, Inc. ("SIS") solicited investors, it represented
5 that upon death of a given insured, the investor would receive a certain fixed amount. Upon
6 receipt of the claim form from the Receiver, a number of investors submitted a claim for the
7 entire amount they were told they were to receive upon death of the insured as opposed to the
8 amount of their actual investment. As set forth on Exhibit 1, there are 76 claims submitted for
9 the entire amount of the death benefit which the Receiver has been unable to resolve by contact
10 with the investor. Accordingly, the Receiver requests that the Court adjust the amount of the
11 allowed claim to reflect only that amount which was actually invested by a given investor as
12 opposed to the anticipated amount to be received on death of the insured.

13 **Interest Claim**

14 3. The Receiver has received several claims from investors who have made a claim
15 for interest but have not provided a monetary amount. In these instances the investors have
16 written the terms "plus interest" or "+ int" in or around the net claim box on the claim form. As
17 set forth on Exhibit 1, there are 10 claims submitted that include a claim for interest which the
18 Receiver has been unable to resolve by contact with the investor. Accordingly, the Receiver
19 objects to any claim that includes a claim for unpaid interest, whether enumerated or not, and
20 requests the Court to disallow the "plus interest" or "+ int" portion of the claim and allow a claim
21 for only the actual amount invested.

22 **Miscellaneous**

23 4. Investor Michael Cowan filed claim number SIA-00357 in the amount of
24 \$7,775.00. Records available to the Receiver reflect that Mr. Cowan only invested \$7,240.00 and
25 the additional monies claimed by Mr. Cowan is cash being held in his IRA account and is not a
26 part of this investment. Accordingly, the Receiver requests that the Court adjust the amount of
27 the allowed claim to \$7,240.00.

1 5. Investor Stephen Bunge filed claim number SIA-00387 in the amount of
2 \$23,000.00. Records available to the Receiver reflect that Mr. Bunge only invested \$22,529.51
3 and the additional monies claimed by Mr. Bunge appear to be a matter of rounding his net claim
4 amount. Accordingly, the Receiver requests that the Court adjust the amount of the allowed
5 claim to \$22,529.51.

6 6. Investor Herbert Fink filed claim number SIA-00616 in the amount of
7 \$76,682.53. Mr. Fink was initially a claimant in the Citifirst Trust, Ltd. Receivership and had his
8 claim transferred to SIS by Gerard A. McHale, Jr. Receiver for Citifirst Trust, Ltd. During
9 review of the claim, Mr. McHale stated that Mr. Fink's original investment was separated into
10 two different schemes, of which only \$48,000.00 was deposited into Citifirst Trust, Ltd. The
11 remaining funds were left under the control of Sterling Trust Company, an entity not associated
12 with the SIS receivership. Furthermore, Mr. McHale confirmed that Mr. Fink received a
13 distribution from Citifirst Trust, Ltd receivership in the amount of \$1,000.00. The Receiver
14 believes that the claim amount should be reduced to \$47,000.00, but has been unable to resolve
15 the claim with the investor. Accordingly, the Receiver requests that the Court reduce the amount
16 of the allowed claim to \$47,000.00.

17 7. Investors Howard and Jeannie Mulcay filed claim number SIA-00625 in the
18 amount of \$250,000.00. The Mulcay's were initially claimants in the Citifirst Trust, Ltd.
19 Receivership and had their claim transferred to SIS by Gerard A. McHale, Jr., Receiver for
20 Citifirst Trust, Ltd. During review of the claim, Mr. McHale stated that Mr. & Mrs. Mulcay's
21 original investment was separated into two different schemes, of which only \$100,000.00 was
22 deposited into Citifirst Trust, Ltd. The remaining funds were sent to AmeriFirst Funding Corp.,
23 an entity not associated with the SIS receivership. Furthermore, Mr. McHale confirmed that the
24 Mulcay's received a distribution from the Citifirst Trust, Ltd receivership in the amount of
25 \$2,083.00. The Receiver believes that the claim amount should be reduced to \$97,917.00, but has
26 been unable to resolve the claim with the investor. Accordingly, the Receiver requests that the
27 Court reduce the amount of the allowed claim to \$97,917.00.

1 8. Investor M. Dorothy Hunewill filed claim number SIA-00628 in the amount of
2 \$30,027.21. Ms. Hunewill was initially a claimant in the Citifirst Trust, Ltd. Receivership and
3 had her claim transferred to SIS by Gerard A. McHale, Jr., Receiver for Citifirst Trust, Ltd.
4 Records available to the Receiver reflect that Ms. Hunewill only invested \$30,000.00 and the
5 additional \$27.21 is cash being held in her IRA account and is not a part of this investment.
6 Furthermore, Mr. McHale confirmed that Ms. Hunewill received a distribution from the Citifirst
7 Trust, Ltd receivership in the amount of \$625.00. The Receiver believes that the claim amount
8 should be reduced to \$29,375.00, but has been unable to resolve the claim with the investor.
9 Accordingly, the Receiver requests that the Court reduce the amount of the allowed claim to
10 \$29,375.00.

11 WHEREFORE, PREMISES CONSIDERED, the Receiver prays that, upon final
12 consideration of this motion, the Court enter an order adjusting and allowing the 91 investor "A"
13 claims set out in Exhibit 1 and for such other and further relief, general or special, at law or in
14 equity, to which the Receiver may show himself justly entitled.

15 Submitted this 12th day of April, 2010.

16
17 Respectfully submitted,

18 /s/ Michael J. Quilling

19 MICHAEL J. QUILLING (Tex. Bar No. 16432300)
20 BRENT J. RODINE (Tex. Bar No. 24048770)
21 QUILLING, SELANDER, CUMMISKEY
& LOWNDS, P.C.

22 Chris Gibson, SBN 073353
23 Maralee MacDonald, SBN 208699
24 BOUTIN GIBSON DI GIUSTO HODELL INC.
25 Attorneys for Receiver
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2010, a copy of this Motion was served on all interested parties through the Court’s electronic filing system. In addition, a copy of this motion was served on the following other persons by First Class U.S. Mail:

Bazzle John Wilson
1291 Nunneley Road
Paradise, CA 95969

Ernest Jeremias
5022 17th Avenue, Apt. 1
Brooklyn, NY 11204

/s/ Maralee MacDonald
Maralee MacDonald

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2010, a copy of this motion was served on all interested parties through the Court’s electronic filing system. In addition, a copy of this motion was served on the following investors whose Claim is the subject of the foregoing Receiver’s Motion by U.S. Certified Mail, Return Receipt Requested:

Albert & Evelyn McConnell
McConnell Revocable Living Trust
3201 Life Way
Placerville, CA 95667

Andrew S Boyd
2032 Greenbrook Parkway
Matthews, NC 28104

Anne V. Doan
762 Macklin Court
San Jose, CA 95133

Arch & Claire Marjama
PO Box 2499
Paradise, CA 95967

Arthur R English
1596 Lost River Road
Lincoln, CA 95648

Ben H Mendoza
6842 Kenfig Place SW
Port Orchard, WA 98367

Betty Jo Parsons
1 Woodstone Lane
Chico, CA 95928

Beverlee Penner
Northstate Bus College
20050 Pine Creek Road
Red Bluff, CA 96080

Brenda Hellekson
Hellekson Family Trust
20050 Plains Drive
Red Bluff, CA 96080

Carol Dutcher
1618 Harvest Glenn Drive
Chico, CA 95928

Clara Mary Schiavo
Schiavo Revocable Trust
4166 Dan Avenue
Olivehurst, CA 95961

Clifford W Penner
20050 Pine Creek Road
Red Bluff, CA 96080

Colleen Cannon (Winter)
184 Estates Drive
Chico, CA 95928

Daniel M Hartigan
538 Roberts Street
Reno, NV 89502

Debra A Cannon
769 East 9th Street
Chico, CA 95928

1	Douglas E Charmley 1388 Huggins Avenue Chico, CA 95926	Elizabeth A Radmanovich 542 San Pedro Drive Las Vegas, NV 89104	Elvia V Armenta 126 Valencia Drive Universal City, TX 78148
2			
3	Estate of Doris I Wendt c/o Darla Hastings 76 Oak Street	Fan Chen & Tracy Dong 1214 Hearthside Court Fullerton, CA 92831	Frances Beckett 1536 Wild Rye Drive Reno, NV 89509
4	Brattleboro, VT 05301		
5	Frank E. Hutchinson 251 Estates Drive	Gary Luedtke 615 Marquette Avenue	Glenn R. Hagen Hagen Family Trust
6	Chico, CA 95928	South Milwaukee, WI 53172	15202 Torrey Pine Road Magalia, CA 95954
7			
8	Hannah L Edwards 63 Live Oak Drive	Helmut & Erica Przystaw 1609 Wheatgrass Drive	Herbert Fink 1677 Brookhouse Cir. Apt 224
9	Petaluma, CA 97952	Reno, NV 89509	Sarasota, FL 34231
10	Howard & Jeannie Mulcay 9170 Bayberry Bend #104	James G Holloway 123 Wilson Street	Jeanne D Galligher 4007 229th Place S.W.
11	Ft. Myers, FL 33908	San Marcos, TX 78666	Mountlake Terrace, WA 98043
12	Jerry & Virginia Dent Dent Family Trust	John M. & Krystyna R. Malek Malek Family Trust	Joseph C Ray 5911 Winterhaven
13	718 East Evans-Reimer Road	PO Box 1475	San Antonio, TX 78239
14	Gridley, CA 95948	Torrance, CA 90505	
15	Joseph E. & Kliena Montgomery	Joseph L Mason, Jr. PO Box 44	Kevin & Elizabeth Radmanovich
16	12056 South 3240 West	Livingston, MT 59047	542 San Pedro Drive Las Vegas, NV 89104
17	Larry & Marilyn Anderson 6115 Christian Lane	Larry Anderson 6115 Christian Lane	Leslie Balascoe 3594 Skyline View Drive
18	Eureka, CA 95503	Eureka, CA 95503	Reno, NV 89509
19	Linda Funderburk 4002 Green Leaf Street	Lorraine D. Machuta 13941 Chestnut Circle	M Dorothy Hunewill 8792 East Bay Circle
20	Indian Trail, NC 28079	Magalia, CA 95954	Ft. Myers, FL 33908
21	Marian L Halasz 800 S 15th Street #3314	Marie Rose Huval Frabbiele 7777 Round Court	Marilyn Anderson 6115 Christian Lane
22	Sebring, OH 44672	Las Vegas, NV 89123	Eureka, CA 95503
23	Marilyn Steinheimer 79 Cottage Avenue	Mary K Flanagan 773 190th Street	Michael & Brenda Todd 4 Clara Lane
24	Chico, CA 95926	Ft. Scott, KS 66701	Chico, CA 95926
25	Michael D Cowan 3887 Adobe Lane	Michele M Walls 1114 Discovery Street	Norman & Marion Weisenburger Rev Trust
26	Butte Valley, CA 95965	Yreka, CA 96097	24384 Hartland Street West Hills, CA 91307
27			
28			

1 Ray Varlinsky
3691 Honey Run Road
Paradise, CA 95969

Rex W Clark
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Redding, CA 96002

Robert & Jeanne McAuliffe
10331 Somerset Drive
Truckee, CA 96161

2 Roger Penner
3 26124 Walch Avenue
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4 Scott & Kathryn Arbuckle
5 3186 Kensington Drive
El Dorado Hills, CA 95762

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570 W Riverview Circle
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Chico, CA 95926

6 Stephen P Bunge
7 3616 Fieldstone Drive West
Bozeman, MT 59715

Ted & Connie Dunlap
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Ocala, FL 34482

Timothy G Titus
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8 Todd Pershing
9 Jonezen Enterprises, Inc.
PO Box 6140
10 Auburn, CA 95603

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Redding, CA 96001

Walter H. O Connor
2048 Gables Way Lane
Matthews, NC 28104

11 William C Kreger
1735 Lilac Lane
12 Auburn, CA 95603

William J. Hughes, Jr
1065 43rd Street
Sacramento, CA 95819

Yvonne E Luedtke
615 Marquette Avenue
South Milwaukee, WI 53172

13
14
15 /s/ Michael J. Quilling

Michael J. Quilling

Exhibit “1”

Exhibit 1

Death Benefit Claims

Claim	Investor	Company	Inv Amt	Claim Amt	Allowed
SIA-00009	Albert & Evelyn McConnell, TTEE	McConnell Revocable Living Trust	\$16,000.00	\$25,600.00	\$16,000.00
SIA-00132	Lary & Marilyn Anderson		\$30,000.00	\$67,500.00	\$30,000.00
SIA-00133	Lary Anderson		\$47,520.12	\$106,920.40	\$47,520.12
SIA-00134	Marilyn Anderson		\$56,066.75	\$126,150.00	\$56,066.75
SIA-00138	Frank E. Hutchinson		\$50,000.00	\$150,000.00	\$50,000.00
SIA-00139	Frank E. Hutchinson		\$50,000.00	\$100,000.00	\$50,000.00
SIA-00140	Frank E. Hutchinson		\$30,000.00	\$90,000.00	\$30,000.00
SIA-00142	Leslie Balascoe		\$15,000.00	\$21,000.00	\$15,000.00
SIA-00147	Jery & Virginia Dent, TTEEs	Dent Family Trust	\$25,000.00	\$40,000.00	\$25,000.00
SIA-00149	Scott & Kathryn Arbuckle		\$20,000.00	\$45,000.00	\$20,000.00
SIA-00150	Sharon L Limroth		\$25,000.00	\$43,750.00	\$25,000.00
SIA-00151	Sharon L Limroth		\$30,000.00	\$52,500.00	\$30,000.00
SIA-00152	Sharon L Limroth		\$87,000.00	\$139,200.00	\$87,000.00
SIA-00153	Sharon L Limroth		\$13,000.00	\$20,888.00	\$13,000.00
SIA-00155	Sharon L Limroth		\$45,000.00	\$67,500.00	\$45,000.00
SIA-00157	Daniel M Hartigan		\$10,000.00	\$20,000.00	\$10,000.00
SIA-00174	Helmut & Erica Przystaw		\$140,000.00	\$280,000.00	\$140,000.00
SIA-00175	Helmut & Erica Przystaw		\$10,000.00	\$22,500.00	\$10,000.00
SIA-00177	Walter H. O Connor		\$50,000.00	\$80,000.00	\$50,000.00
SIA-00193	Elvia V Armenta		\$78,201.00	\$125,122.00	\$78,201.00
SIA-00220	Joseph L Mason, Jr.		\$20,000.00	\$45,000.00	\$20,000.00
SIA-00227	Marilyn Steinhelmer		\$25,000.00	\$50,000.00	\$25,000.00
SIA-00239	Marian L Halasz		\$10,000.00	\$15,000.00	\$10,000.00
SIA-00241	William C Kreger		\$40,000.00	\$80,000.00	\$40,000.00
SIA-00242	William C Kreger		\$50,000.00	\$120,000.00	\$50,000.00
SIA-00245	Douglas E Chamley		\$15,000.00	\$45,000.00	\$15,000.00
SIA-00250	Vernon R Waderbrook Jr.		\$13,400.00	\$29,480.00	\$13,400.00
SIA-00251	Vernon R Waderbrook Jr.		\$10,000.00	\$15,000.00	\$10,000.00
SIA-00252	Vernon R Waderbrook Jr.		\$40,000.00	\$64,000.00	\$40,000.00
SIA-00253	Vernon R Waderbrook Jr.		\$8,000.00	\$17,600.00	\$8,000.00
SIA-00256	Joseph C Ray		\$34,488.00	\$82,771.20	\$34,488.00
SIA-00283	Jeanne D Gallagher (fka Baldwin)		\$22,291.00	\$40,123.80	\$22,291.00
SIA-00285	Jeanne D Gallagher (fka Baldwin)		\$24,000.00	\$54,000.00	\$24,000.00
SIA-00291	Beverlee Penner	Northstate Bus College	\$70,765.65	\$159,222.71	\$70,765.65
SIA-00292	Beverlee Penner	Northstate Bus College	\$24,000.00	\$54,000.00	\$24,000.00
SIA-00294	Clifford W Penner		\$19,048.63	\$34,287.53	\$19,048.63
SIA-00345	Frances Beckett		\$10,000.00	\$16,000.00	\$10,000.00
SIA-00346	Glenn R. Hagen, TTEE	Hagen Family Trust	\$10,000.00	\$18,000.00	\$10,000.00
SIA-00348	Arthur R English		\$15,000.00	\$24,000.00	\$15,000.00
SIA-00349	Sandra L Marildl		\$15,000.00	\$24,000.00	\$15,000.00
SIA-00378	Linda Funderburk		\$35,000.00	\$56,000.00	\$35,000.00
SIA-00379	Linda Funderburk		\$35,000.00	\$61,250.00	\$35,000.00
SIA-00389	Timothy G Titus		\$10,855.95	\$24,425.89	\$10,855.95
SIA-00395	Michole M Walls		\$6,560.40	\$19,681.20	\$6,560.40
SIA-00411	James G Holloway		\$48,779.08	\$117,069.79	\$48,779.08
SIA-00419	Debra A Cannon		\$8,750.00	\$8,750.00	\$8,750.00
SIA-00425	Hannah L Edwards		\$65,772.62	\$106,400.00	\$65,772.62
SIA-00445	Clara Mary Schiavo, TTEE	Schiavo Revocable Trust	\$35,000.00	\$49,000.00	\$35,000.00
SIA-00448	Ray Varlinsky		\$19,737.85	\$39,475.70	\$19,737.85
SIA-00455	Rex W Clark		\$30,000.00	\$48,000.00	\$30,000.00
SIA-00468	Mary K Flanagan		\$100,000.00	\$140,000.00	\$100,000.00
SIA-00482	Andrew S Boyd		\$50,000.00	\$80,000.00	\$50,000.00
SIA-00489	Stanley E Goodin		\$11,256.84	\$22,443.68	\$11,256.84
SIA-00492	Elizabeth A Radmanovich		\$16,500.00	\$31,350.00	\$16,500.00
SIA-00493	Kevin & Elizabeth Radmanovich		\$10,000.00	\$22,000.00	\$10,000.00
SIA-00500	Gary Luedtke		\$10,000.00	\$27,500.00	\$10,000.00
SIA-00501	Gary Luedtke		\$13,000.00	\$28,600.00	\$13,000.00
SIA-00503	Yvonne E Luedtke		\$8,000.00	\$17,600.00	\$8,000.00
SIA-00504	Yvonne E Luedtke		\$10,000.00	\$27,500.00	\$10,000.00
SIA-00513	Ben H Mendoza		\$7,500.00	\$13,125.00	\$7,500.00
SIA-00514	Ted & Connie Dunlap		\$153,000.00	\$338,600.00	\$153,000.00
SIA-00518	Estate of Doris I Wendt	c/o Data Hastings	\$100,000.00	\$210,000.00	\$100,000.00
SIA-00519	Todd Pershing	Jonezen Enterprises, Inc.	\$15,000.00	\$30,000.00	\$15,000.00
SIA-00520	Todd Pershing	Jonezen Enterprises, Inc.	\$25,000.00	\$50,000.00	\$25,000.00
SIA-00538	Fan Chen & Tracy Dong		\$10,000.00	\$17,500.00	\$10,000.00
SIA-00550	Robert & Jeanne McAuliffe		\$24,000.00	\$36,000.00	\$24,000.00
SIA-00632	Norman & Marion Weisenburger	Weisenburger Revocable Trust	\$10,000.00	\$14,200.00	\$10,000.00
SIA-00649	Carol Dutcher		\$15,000.00	\$30,000.00	\$15,000.00
SIA-00663	William J. Hughes, Jr		\$50,000.00	\$100,000.00	\$50,000.00
SIA-00675	Marie Rose Huval Frabblele		\$10,000.00	\$16,000.00	\$10,000.00
SIA-00676	Rose H. Frabblele		\$10,000.00	\$17,500.00	\$10,000.00
SIA-00689	Roger Penner		\$20,000.00	\$28,000.00	\$20,000.00
SIA-00698	Beity Jo Parsons		\$13,119.00	\$26,238.00	\$13,119.00
SIA-00704	Lorraine D. Machuta		\$40,000.00	\$40,000.00	\$40,000.00
SIA-00705	Lorraine D. Machuta		\$40,000.00	\$40,000.00	\$40,000.00
SIA-00786	Michael & Brenda Todd		\$5,000.00	\$9,000.00	\$5,000.00
76 claims for					<u>\$2,375,612.89</u>

Interest Claims

Claim	Investor	Company	Inv Amt	Claim Amt	Allowed	Comments
SIA-00254	John M. & Krystyna R. Malek, TTEEs	John & Krystyna Malek Family Trust	\$50,000.00	\$50,000.00	\$50,000.00	Remove + interest portion of claim
SIA-00415	Debra A Cannon		\$5,000.00	\$5,000.00	\$5,000.00	Remove + interest portion of claim
SIA-00417	Debra A Cannon		\$5,000.00	\$5,000.00	\$5,000.00	Remove + interest portion of claim
SIA-00421	Colleen Cannon (Winter)		\$5,000.00	\$5,000.00	\$5,000.00	Remove + interest portion of claim
SIA-00439	Brenda Hellekson, TTEE	Hellekson Family Trust	\$45,000.00	\$45,000.00	\$45,000.00	Remove + interest portion of claim
SIA-00440	Brenda Hellekson, TTEE	Hellekson Family Trust	\$47,248.28	\$47,248.28	\$47,248.28	Remove + interest portion of claim
SIA-00504	Anne V. Doan		\$12,712.26	\$12,712.26	\$12,712.26	Remove + interest portion of claim
SIA-00505	Anne V. Doan		\$10,000.00	\$10,000.00	\$10,000.00	Remove + interest portion of claim
SIA-00554	Joseph E. & Kliena Montgomery		\$10,000.00	\$10,000.00	\$10,000.00	Remove + interest portion of claim
SIA-00574	Arch & Claire Marjama		\$60,000.00	\$60,000.00	\$60,000.00	Remove + interest portion of claim
					10 claims for	<u>\$249,960.64</u>

Miscellaneous Claims

Claim	Investor	Company	Inv Amt	Claim Amt	Allowed	
SIA-00357	Michael Cowan		\$ 7,240.00	\$ 7,775.00	\$ 7,240.00	
SIA-00387	Stephen Bunge		\$ 22,529.51	\$ 23,000.00	\$ 22,529.51	
SIA-00516	Herbert Fink		\$ 76,882.53	\$ 76,882.53	\$ 47,000.00	
SIA-00525	Howard & Jeannie Mutcay		\$250,000.00	\$250,000.00	\$ 97,917.00	
SIA-00528	M. Dorothy Hunewill		\$ 30,027.21	\$ 30,027.21	\$ 29,375.00	
					5 claims for	<u>\$ 204,051.51</u>
			Totals	95 claims for	<u>\$ 2,828,634.94</u>	