

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JAMES L. DOUGLAS a/k/a JAMES L. COOPER,

Defendant.

Civil Action No. C82-29

Judge Jack Zouhary

**DECLARATION OF DANIEL MAROTTO**

1. My name is Daniel Marotto, and I submit this declaration (“Declaration”) in support the motion of the U.S. Securities and Exchange Commission’s (the “Commission”) to distribute the funds for this matter. I am over 21 years of age and am not a party to this action. I base this Declaration on my personal knowledge and reliable information, which my colleagues at Kurtzman Carson Consultants, LLC (“KCC”) as distribution agent (“Distribution Agent”), have provided to me.

2. I am employed as a Senior Vice President of Class Actions by KCC, the Court-appointed Distribution Agent per the Court’s Order dated June 15, 2015, located at 3301 Kerner Boulevard, San Rafael, California 94901. I have (among other things) overall responsibility for all aspects of the Distribution Fund<sup>1</sup> administration in the above-captioned litigation. I make this declaration to affirm compliance with the Court’s Order Approving Plan of Distribution, dated March 21, 2017.

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<sup>1</sup> All of the capitalized terms not defined herein shall have the same meanings as set forth in the Distribution Plan approved by this Court on March 21, 2017 (“Distribution Plan”).

### NOTICE TO INVESTORS

3. Pursuant to the Court Order, two distributions, totaling \$155,327.82, were made to 243 victims (“Eligible Recipients”) on October 18, 1985 and September 26, 1988 (collectively, the “First Distribution”).

4. KCC coordinated with the Commission staff to draft a Distribution Plan Notice and Certification Form (collectively, the “Notice Package”) to be sent to the Eligible Recipients.

5. On April 11, 2017, KCC sent the Notice Package to the Eligible Recipients. The Notice Package included: (1) a Distribution Plan Notice which included (a) a characterization of the distribution; (b) a link to the Distribution Plan posted on the Distribution Fund Website and instructions for how to request a copy of or download the Distribution Plan; (c) a record of the Eligible Recipient’s First Distribution Payment Amount; (d) a statement of the Eligible Recipient’s *pro rata* share of the Net Distribution Fund calculated pursuant to the methodology set forth in the Plan of Allocation; (e) a statement of the Eligible Recipient’s approximate Distribution Payment; (f) instructions for submitting to the Distribution Agent any Dispute to the First Distribution Payment Amount; (g) a notice of the requirement and time period allotted for the return of the Certification Form and the opportunity to respond with any Dispute; and (h) contact information for the Distribution Agent; and (2) a Certification Form which required the Eligible Recipients to provide a signature and tax identification information.

6. Pursuant to the Distribution Plan, KCC maintains a case-specific Distribution Fund Website, [www.JamesDouglasDistributionFund.com](http://www.JamesDouglasDistributionFund.com), toll-free number, (866) 680-6121, and electronic mailbox, [info@JamesDouglasDistributionFund.com](mailto:info@JamesDouglasDistributionFund.com).

7. Certification Forms and inquiries were also received at the case-specific mailing address, P.O. Box 43478, Providence, RI 02940-3478.

8. Due to the age of the Eligible Recipient data and the time that had passed since the First Distribution, KCC undertook extensive outreach and search efforts to locate Eligible Recipients or beneficiaries.

9. Prior to the initial mailing, all names and address were run against the USPS National Change of Address database to ensure any current address changes maintained by the postal service would be applied.

10. Any Notice Packages returned undeliverable with forwarding or updated address information were timely re-mailed.

11. For Notice Packages returned undeliverable with no forwarding or updated addresses, KCC utilized Accurint by LexisNexis to identify updated addresses.

12. Where Notice Packages were returned a second time as undeliverable, or where a Certification Form was not received, KCC coordinated with the Commission staff to conduct in-depth searches to identify additional address information, other contact information, such as an email address or phone number, deceased searches and research to identify potential family members or beneficiaries, as necessary. Included in these efforts were searches using such databases and search methods as: (a) CLEAR searches; (b) Advanced Person Search; (c) Phones Plus Search; (d) Address Search; (e) Relatives/Associated/Neighbors Search; (f) Business Filings search; (g) GenealogyBank.com Obituary and Media Archives Search; (h) Online Media Archives Search; (i) Online State Probate and Clerk of the Court Archives search; (j) Online Secretary of State Business Filings Search; (k) Legacy.com; (l) Google.com; (m) LinkedIn.com; and (n) social media searches.

13. Based on the results of the above outlined search efforts, the Commission staff and KCC both conducted outreach via mail and email to locate unresponsive Eligible Recipients.

14. KCC and the Commission staff conducted a phone campaign where phone numbers were identified in order to confirm address information for additional mailings.

15. Additionally, where an address was not able to be confirmed, notices with cover letters were sent to presumed relatives of living and deceased claimants to confirm the proper parties and/or addresses for mailing.

16. Re-mails of the Notice Package were conducted on a rolling basis as new address information was confirmed for Eligible Recipients or potential relatives.

### **CERTIFICATION FORM SUBMISSIONS**

17. To date, Certification Forms for 156 Eligible Recipients have been submitted and approved for payment.

18. The forms were reviewed for Disputes (as defined in Paragraph 7.c. of the Distribution Plan) and changes to Eligible Recipient payee information due to name changes. Where a request by a surviving beneficiary or alternate payee of a deceased Eligible Recipient was requested, KCC reviewed for proper documentation validating their identity and status as the lawful beneficiary of the Eligible Recipient. If applicable, additional documentation was requested to establish identity and make a determination regarding the requestor's eligibility.

19. It has been determined that 156 Eligible Recipients are eligible for inclusion in the distribution; however, 162 Distribution Payments will be made, because six payments are being split between two beneficiaries.

20. As the remaining Eligible Recipients failed to respond to the contact efforts and submit a Certification Form, KCC, after consultation with the Commission staff, has determined they will not be included in the distribution and their allocated amounts will be distributed on a *pro rata* basis to the 156 Eligible Recipients, pursuant to Paragraph 18 of the Distribution Plan.

### **DISPUTES**

21. In response to the Notice Packages, we received no Disputes to the First Distribution Payment Amounts.

### **DISTRIBUTION**

22. In consultation with the Commission staff, the Distribution Agent has determined that the amount of \$1,770,483.88 is available to be distributed on a *pro rata* basis among the Eligible Recipients.

23. A Payment File, including payee names, addresses, and provided Social Security or Tax Identification Numbers and payment amounts, has been generated and provided to the Commission staff based on the Certification Form submissions.

24. Upon approval of the Motion for an Order to Disburse and the receipt of funds, the Distribution Agent will coordinate the disbursement of funds to approved Eligible Recipients in the *pro rata* amounts set forth in the Payment File.

### **RESERVE FOR FUTURE FUND ADMINISTRATION**

#### **AND TAX ADMINISTRATION COSTS**

25. KCC will retain a prudent reserve of \$18,111.50 for the estimated administration fees and expenses to be incurred through the completion of distribution, as well as \$11,601.65 for estimated applicable taxes, tax compliance fees and expenses for the court-appointed Tax Administrator.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed this 4th day of April, 2019, in San Rafael, California.

  
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DANIEL J. MAROTTO