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5 Receiver  
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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION  
10

11 SECURITIES AND EXCHANGE ) Case No. ED CV 05-00351 AG  
12 COMMISSION, )  
13 vs. ) Plaintiff, ) ASSIGNED JUDGE: HON. ANDREW  
14 ) ) GUILFORD  
15 ) )

16 TRI ENERGY, INC., H & J ENERGY ) **ORDER:**  
17 COMPANY, INC., MARINA ) (1) APPROVING FOURTH REPORT  
18 INVESTORS GROUP, INC., LOWELL ) AND THIRD ACCOUNT OF  
19 DECKER, ROBERT JENNINGS, HENRY ) RECEIVER;  
20 JONES, and ARTHUR SIMBURG, ) (2) APPROVING AND DENYING  
21 ) ) INVESTORS' CLAIMS;  
22 ) ) (3) APPROVING LOSS RECOVERY  
23 ) ) METHODOLOGY;  
24 ) ) (4) AUTHORIZING RECEIVER TO  
25 ) ) PAY APPROVED INVESTORS' AND  
26 ) ) BUSINESS CREDITORS' CLAIMS;  
27 ) ) (5) DIRECTING CLERK OF COURT  
28 ) ) TO DISBURSE FUNDS TO  
 ) ) RECEIVER;  
 ) ) (6) ESTABLISHING A RESERVE  
 ) ) ACCOUNT FOR FEES AND  
 ) ) EXPENSES TO IMPLEMENT THE  
 ) ) APPROVED DISTRIBUTION PLAN  
 ) ) AND FOR CLOSING TAX RETURNS  
 ) ) AND RELATED SERVICES; AND  
 ) ) (7) FOR FURTHER INSTRUCTIONS  
 ) ) TO RECEIVER

18 Defendants.

19 and

20 LA VIE D'ARGENT, R.P.J.  
21 INVESTMENT GROUP, INC., T.M.A.  
22 INVESTMENT ENTERPRISES, and  
23 THOMAS AVERY, ADRIENNE LAU,  
ET AL

24 Relief Defendants.  
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) HEARING DATE: JUNE 23, 2014  
) TIME: 10:00 a.m.  
) COURTROOM: 10D  
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Before the Court is the Receiver's Motion for Orders: (1) Approving Receiver's Fourth Report and Third Account; (2) Approving and Denying Investors' Claims; (3) Approving Loss Recovery Methodology; (4) Authorizing Receiver To Pay Approved Investors' and Approved Business Creditors' Claims; (5) Directing Clerk of Court to Disburse Funds to Receiver; (6) Establishing a Reserve For Fees and Expenses to Implement the Approved Distribution Plan and For Closing Tax Returns and Related Services; And (7) For Further Instructions to Receiver ("Fourth Report Motion"). The Fourth Report and Third Account of Receiver and its exhibits were filed contemporaneously with the Fourth Report Motion. At the hearing on the Fourth Report Motion, appearances were made by Plaintiff, Securities and Exchange Commission, telephonically through its counsel of record, Nancy Burton; by the Receiver, Richard Weissman, pro se. All papers filed in support of and in response to the Fourth Report Motion have been considered. The matter having been argued and submitted, and good cause appearing therefor,

**IT IS HEREBY ORDERED** that:

1. The Receiver's Fourth Report and Third Account ("Fourth Report"), covering the period of September 1, 2008 through March 31, 2014 ("Fourth Reporting

1 Period"), relating to the design and implementation of the Distribution Plan and Claims  
 2 Procedure, and the proposed disbursement of funds, and interim and cumulative accounting of  
 3 Receivership operations, are approved in their entirety;

4 2. The Rising Tide Method of calculating the losses of investors is approved.

5 3. The Receiver's request for reserves for distribution fees and expenses,  
 6 income tax return preparation and related accounting fees and expenses, and court fees  
 7 (Fourth Report, ¶¶ 83-85, 87) in the sum of \$52,025.00 ("Distribution Reserve"), are  
 8 approved and authorized as follows:

9	A. Receiver's Distribution Fees/Expenses:	\$39,025
10	B. Tax Administrator's Fees/Expenses:	\$11,500
11	C. Court Costs (CRIS Accounts)	\$ 1,500
12	Total:	<u>\$52,025</u>

13 The Receiver and Tax Administrator shall render their monthly billing  
 14 statements for the above distribution and tax preparation fees and expenses to the  
 15 Securities and Exchange Commission ("Commission") for its review and approval. Upon  
 16 approval, the Receiver may disburse the approved amounts to himself and to the Tax  
 17 Administrator on account of their respective fees and expenses without further formal  
 18 court review and order.

19 4. As part of the Receiver's Distribution Reserve, he is authorized to expend  
 20 up to \$3,000 for electronic copying of the Defendants' and other documents and records  
 21 the Receiver now holds in storage; he is authorized to expend up to \$3,000 for the cost of  
 22 monthly storage, at the rate of \$500 per month, pending the electronic copying of said  
 23 records. It is further ordered the Receiver is to hold the electronic copies for a period of  
 24 one year following entry of a final order terminating the Receivership, at which time he  
 25 will transfer the electronic data to the Commission, in such manner as it may direct. The  
 26 Tax Administrator reports there are no income taxes now due or to become due. The  
 27 Receiver is to pay the Court's costs of administering the CRIS Accounts, if such fees are  
 28 not deducted from the Clerk's remittance to him of the CRIS Account Funds.

1           5.       The Receiver reports that, as of May 2, 2014, an aggregate of  
2 \$1,076,998.88 was held by the Receiver (\$722,576.88) and by the Court in the Court  
3 Registry (CRIS Accounts) (\$354,421.90) (Fourth Report, ¶¶38, 40). Pursuant to a  
4 separate Order filed herewith, the Court has approved and awarded interim Receiver's  
5 fees and expenses for the Fourth Reporting Period, in the amount of \$320,455.00. Such  
6 fees and expenses are now payable from the funds held by the Receiver. The funds on  
7 deposit in the CRIS Accounts are to be added to the Receivership Funds to constitute the  
8 "Distribution Fund," subject to the foregoing approved fees and expenses of the  
9 Receiver, and the Distribution Reserve for the Receiver and Tax Administrator. The  
10 Distribution Fund will be in an amount of \$700,000.00.

11           6.       It is further ordered the Clerk of the Court shall disburse from the CRIS  
12 Accounts related to this action (DCAC505CV000351) all funds currently on deposit on  
13 behalf of Nga Wing Lau a.k.a. Adrienne Lau, Daniel J Merriman and Thomas Avery to  
14 the Receiver, Richard Weissman, by overnight mail, addressed as Richard Weissman,  
15 Receiver for Tri Energy, Inc., et al., at 1875 Century Park East, Suite 2200, Los Angeles,  
16 CA 90067. The Receiver is to inform the Clerk of his overnight mail account number and  
17 any tax identification information the Clerk may require for transmittal of the funds to  
18 him.

19           7.       The Objections by Claimants, Assigned Claim Numbers 121 and 277 to the  
20 Receiver's initial Claims Distribution Report (Fourth Report, ¶¶76, 77) denying portions  
21 of their claims (\$19,000 and \$90,000, respectively) are hereby overruled on the ground  
22 the Distribution Plan requires their claims to be based on investments occurring prior to  
23 May 2, 2005. On May 2, 2005, the Court entered its Temporary Restraining Order (Doc.  
24 No. 14) ("TRO Date") enjoining Defendants' further solicitation of investments.  
25 Objectors' foregoing investments occurred significantly after the TRO Date and therefore  
26 are outside the investment term within which a valid claim may be predicated.

27           8.       Claimant No. 352 (Fourth Report, ¶78) has objected to the Receiver's denial  
28 of the entire claim, in the sum of \$328,982. This objection is overruled, with prejudice,

1 on the grounds Objector is an acknowledged "conduit" and failed to provide the Receiver  
2 with adequate bank records showing all: (a) cash transfers from investors to his accounts;  
3 (b) all of his personal and "Transferring Investors" remittances to or on behalf of the  
4 Defendants; (c) accounts showing sufficient independent personal funds to support his  
5 claims of personal investments and losses; (d) the ultimate disposition of Transferring  
6 Investors' funds he received and transferred to his personal accounts; and (e) cash  
7 transfers from the Defendants (ROI) to Objector's accounts. (Fourth Report, ¶78)

8 9. The Receiver reports the originally filed claims of loss are in the sum of  
9 \$19,859,662. Some of these claims were reduced on the grounds the claims were  
10 unproven or based on investments made after the TRO Date. The resulting "Adjusted  
11 Gross Approved Principal Claims" aggregated to \$14,662,430, before further adjustments  
12 by the Receiver. Additional adjustments reduced the "Adjusted Gross Approved  
13 Principal Claim" aggregate to \$12,376,637. The computations of losses and percentages  
14 of distributive shares in the Distribution Fund are based on the foregoing sums. (Fourth  
15 Report, ¶¶71, 80)

16 10. It is further ordered the recommendations of the Receiver for approval  
17 (Eligible Claimants) and partial or full denial of investors' and business creditors' claims,  
18 as set forth in the Revised Claims Distribution Report (Exhibit F to the Fourth Report),  
19 are hereby accepted and approved, and the respective claims are approved and denied as  
20 set forth hereinbelow.

21 11. Any residual or undistributed funds held by the Receiver at the conclusion  
22 of the Receivership, or thereafter coming into his possession, including money received  
23 in connection with the sale of Defendant Jones's Rolls Royce now in the possession of  
24 Charles Agapiou, Ltd, and from any other sources, are to be remitted to the Commission  
25 (SEC).

26 12. The Receiver is authorized and directed to disburse the Distribution Fund  
27 of \$700,000.00 to the Eligible Claimants identified by their Assigned Claim Number, as  
28 referenced in the Receiver's Revised Claims Distribution Report, in the prorated amounts

1 adjacent to their names (Exhibit F to Fourth Report), as set forth hereinbelow. The  
 2 disbursal shall be made as soon as practicable after this order becomes final. The Eligible  
 3 Claimants are as follows:

4 **TRI ENERGY/MIG ELIGIBLE INVESTORS**

<b><u>ASSIGNED CLAIM NO.</u></b>	<b><u>DISTRIBUTION AMOUNT</u></b>
1	3,036.35
2	15,606.86
3	3,279.26
4	2,671.99
6	2,125.45
7	91.09
8	1,518.18
9	3,036.35
10	2,732.72
11	303.64
12	2,003.99
13	1,032.36
15	607.27
16	303.64
17	303.64
18	4,554.53
19	607.27
20	1,244.91
21	1,214.54
22	6,072.71
23	3,339.99

1	24	3,036.35
2	25	607.27
3	26	151.82
4	27	3,036.35
5	28	303.64
6	29	303.64
7	31	607.27
8	32	303.64
9	33	1,821.81
10	34	3,036.35
11	35	3,036.35
12	36	3,036.35
13	37	303.64
14	38	91.09
15	42	759.09
16	43	3,947.26
17	45	425.09
18	46	1,518.18
19	47	6,376.34
20	49	607.27
21	50	4,554.53
22	51	607.27
23	52	1,518.18
24	53	227.73
25	54	607.27
26	55	182.18
27		
28		

1	56	1,943.27
2	57	303.64
3	59	1,821.81
4	60	121.45
5	61	227.73
6	62	1,518.18
7	63	60.73
8	64	303.64
9	65	607.27
10	66	455.45
11	67	425.09
12	68	1,214.54
13	69	607.27
14	70	3,643.62
15	71	303.64
16	72	485.82
17	73	303.64
18	74	303.64
19	75	303.64
20	76	303.64
21	77	1,275.27
22	78	1,032.36
23	80	303.64
24	82	607.27
25	83	1,821.81
26	84	1,214.54
27		
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1	85	121.45
2	86	1,518.18
3	87	1,366.36
4	88	607.27
5	90	2,339.99
6	91	3,643.62
7	92	607.27
8	93	607.27
9	94	789.45
10	95	303.64
11	96	3,552.53
12	97	1,639.63
13	99	6,072.71
14	100	303.64
15	103	303.64
16	104	2,429.08
17	105	2,740.71
18	106	3,036.35
19	107	2,550.54
20	108	3,036.35
21	109	1,518.18
22	110	1,093.09
23	111	607.27
24	112	910.91
25	113	4,554.53
26	114	303.64
27		
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1	116	13,539.94
2	117	6,072.71
3	118	1,214.54
4	119	789.45
5	120	607.27
6	121	30,363.54
7	122	1,214.54
8	123	1,821.81
9	124	910.91
10	125	2,823.81
11	129	607.27
12	130	3,036.35
13	131	3,036.35
14	135	607.27
15	136	36,436.25
16	137	607.27
17	138	607.27
18	139	971.63
19	140	485.82
20	141	364.36
21	142	303.64
22	143	303.64
23	144	303.64
24	145	303.64
25	146	607.27
26	147	8,926.00
27		
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1	148	607.27
2	149	607.27
3	150	910.91
4	151	303.64
5	152	3,036.35
6	153	303.64
7	154	4,250.90
8	155	425.09
9	156	485.82
10	157	3,643.62
11	158	1,214.54
12	159	607.27
13	160	303.64
14	161	5,769.07
15	162	1,396.72
16	163	16,292.10
17	164	364.36
18	165	3,157.81
19	166	3,036.35
20	167	607.27
21	168	303.64
22	169	607.27
23	170	910.91
24	172	425.09
25	173	3,036.35
26	174	9,109.06
27		
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1	175	17,003.58
2	176	1,214.54
3	177	607.27
4	178	3,036.35
5	179	5,738.71
6	180	303.64
7	181	1,093.09
8	182	607.27
9	183	607.27
10	184	910.91
11	185	303.64
12	186	607.27
13	187	607.27
14	188	303.64
15	189	303.64
16	191	10,019.97
17	192	303.64
18	193	121.45
19	194	4,250.90
20	195	303.64
21	196	303.64
22	197	728.72
23	198	910.91
24	199	4,554.53
25	201	121.45
26	203	425.09
27		
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1	205	303.64
2	207	728.72
3	208	303.64
4	209	5,526.16
5	210	8,762.88
6	211	12,922.72
7	212	303.64
8	213	607.27
9	214	303.64
10	215	242.91
11	217	546.54
12	218	7,181.77
13	220	1,518.18
14	221	303.64
15	222	1,518.18
16	223	910.91
17	224	303.64
18	225	910.91
19	226	303.64
20	227	728.72
21	228	1,821.81
22	229	303.64
23	230	7,894.52
24	232	364.36
25	233	607.27
26	234	303.64
27		
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1	235	3,947.26
2	236	60.73
3	237	382.58
4	238	6,072.71
5	239	607.27
6	242	2,064.72
7	243	3,036.35
8	244	607.27
9	245	607.27
10	246	182.18
11	248	910.91
12	249	1,214.54
13	250	607.27
14	251	2,125.45
15	252	607.27
16	253	212.54
17	254	364.36
18	255	910.91
19	256	334
20	257	3,036.35
21	258	17,732.31
22	259	12,145.42
23	260	2,157.81
24	261	12,206.14
25	262	607.27
26	263	12,449.05
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1	264	607.27
2	265	2,125.45
3	266	3,643.62
4	267	1,518.18
5	268	607.27
6	270	1,214.54
7	271	607.27
8	273	3,036.35
9	274	2,429.08
10	275	17,641.22
11	276	5,161.80
12	277	21,861.75
13	278	18,218.12
14	279	303.64
15	280	607.27
16	281	607.27
17	283	607.27
18	284	1,002.00
19	285	17,428.67
20	286	850.18
21	287	4,250.90
22	288	303.64
23	289	910.91
24	290	303.64
25	291	303.64
26	292	8,198.16
27		
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1	294	1,214.54
2	295	1,821.81
3	296	303.64
4	297	303.64
5	298	1,821.81
6	299	607.27
7	300	910.91
8	301	3,036.35
9	304	3,036.35
10	307	182.18
11	309	303.64
12	310	910.91
13	312	3,157.81
14	313	3,036.35
15	315	910.91
16	316	607.27
17	317	303.64
18	318	1,518.18
19	319	1,518.18
20	320	303.64
21	320A	607.27
22	353	12,598.03
23	<b>SUB-TOTAL ELIGIBLE INVESTORS</b>	<u>12,598.03</u>
24	<b>(APPROVED-Prorated)</b>	<u><b>692,716.75</b></u>
25	<b>ELIGIBLE BUSINESS CREDITORS:</b>	
26		
27	322	89.57
28	323	80.39



1	324	246.62
2	326	30.58
3	328	36.68
4	329	67.56
5	333	303.64
6	334	5,161.80
7	335	40.5
8	336	51.01
9	338	100.2
10	339	133.6
11	340	194.33
12	341	200.4
13	342	327.93
14	347	218.62
15		<hr/>
16	<b>SUB-TOTAL ELIGIBLE BUSINESS CREDITORS</b>	
17	<b>(APPROVED-Prorated)</b>	<b>7,283.43</b>
18		<hr/> <hr/>
19	<b>TOTAL ELIGIBLE CLAIMS (APPROVED)</b>	<b>700,000.00</b>
20		<hr/> <hr/>

12. The claims of the investors and business creditors herein denied, with prejudice, are identified by their Assigned Claim Numbers in the amounts set forth adjacent thereto (Exhibit F, column A, to the Fourth Report) as follows:

24	<u>ASSIGNED CLAIM NO.</u>	<u>GROSS AMOUNT-DENIED</u>
25		
26	5	15,000
27	14	0
28	30	15,000

1	39	3,000
2	40	3,000
3	41	90,000
4	44	14,000
5	48	50,000
6	58	48,900
7	79	20,000
8	81	75,000
9	89	99,000
10	98	202,000
11	101	54,000
12	102	178,000
13	115	382,200
14	126	49,050
15	127	585,000
16	128	20,000
17	132	35,000
18	133	5,000
19	134	50,000
20	171	70,000
21	190	100,000
22	200	15,000
23	202	11,200
24	204	5,000
25	206	3,000
26	216	63,085
27		
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1	219	10,000
2	231	65,000
3	240	5,000
4	241	13,000
5	247	20,093
6	269	385,000
7	272	15,000
8	282	5,500
9	293	10,000
10	302	-
11	303	78,000
12	305	132,000
13	306	10,000
14	308	5,000
15	311	7,500
16	314	74,150
17	320B	68,000
18	321	987
19	325	73,613
20	327	743
21	330	2,500
22	331	3,500
23	332	5,000
24	337	1,400
25	343	9,600
26	344	23,892
27		
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1	345	2,250
2	346	6,900
3	348	126,000
4	349	1,600,000
5	350	360,000
6	351	487,496
7	352	328,982
8	354	<u>69,000</u>
9		
10	<b>TOTAL INELIGIBLE CLAIMS (DENIED)</b>	<b><u><u>6,265,541</u></u></b>

11 IT IS SO ORDERED.



13 DATED: July 03, 2014

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15 ANDREW J. GUILFORD  
16 U.S. DISTRICT COURT JUDGE  
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