

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**ANGELO HALIGIANNIS, STERLING
WATTERS GROUP LP, STERLING
WATTERS CAPITAL ADVISORS, LLC,
and STERLING WATTERS CAPITAL
MANAGEMENT, INC.,**

Defendants.

Civil Action No. 1:04-CV-6488-LAP

DISTRIBUTION PLAN

I. OVERVIEW

1. This Distribution Plan (the “Plan”) was developed by the Securities and Exchange Commission (the “Commission”) in accordance with practices and procedures customary in Distribution Fund administrations. This Plan provides for the distribution of a distribution fund (the “Distribution Fund”), comprised of disgorgement paid by Angelo Haligiannis, Sterling Watters Group LP, Sterling Watters Capital Advisors, LLC, Sterling Watters Capital Management, Inc. (collectively, the “Defendants”) in this proceeding.

2. As described more specifically below, the Plan seeks to compensate investors who were harmed, by the Defendants’ conduct alleged in the Complaint, in connection with a scheme to defraud investors who invested millions of dollars in a hedge fund, Sterling Watters. As calculated using the methodology detailed in the Plan of Allocation (attached as Exhibit A), investors will be compensated based on their losses on limited partnership interests of Sterling Watters LP (the “Securities”) purchased between December 31, 1995 and August 11, 2004, inclusive (the “Relevant Period”).

3. Based on information obtained by the Commission during its investigation and the review and analysis of applicable records, the Commission has reasonably concluded that it has all records necessary to calculate each investor’s harm. As a result, the Distribution Fund is not being distributed according to a claims-made process.

4. The Court has custody of the Distribution Fund and shall retain control of the assets of the Distribution Fund. The Court retains jurisdiction over its implementation.

II. BACKGROUND

5. On August 11, 2004, the Commission filed a Complaint against the Defendants. The Complaint alleged that, Defendant Haligiannis convinced a number of individuals to invest at least \$27 million in Sterling Watters hedge fund (the “Fund”) by grossly misrepresenting the Fund’s performance. The Defendants concealed substantial losses from investors by issuing phony customer accounts statements and making other material misrepresentations about the value of investors’ accounts. In fact, the Fund’s brokerage records show that the Fund is essentially worthless. *See* Dkt. No. 1.

6. On January 22, 2007, the Court entered a Final Judgment as to all Defendants, finding them each joint and severally liable for disgorgement in the amount of \$15,635,862, prejudgment interest in the amount of \$2,627,824.64 and per diem interest of \$10,281.20, and a civil penalty in the amount of \$15 million. *See* Dkt. No. 57.

7. Pursuant to further order of this Court, on February 21, 2007, \$681,289.58 of proceeds from the foreclosure of Defendant Haligiannis’ former residence was deposited with the Court Registry Investment System (“CRIS”), associated with this action (the “CRIS Account”). By Orders dated February 11, 2009, March 13, 2009 and April 3, 2009, the Court directed the Clerk of Court to make a number of disbursements to certain former lien holders on the residence from the funds in the CRIS Account. *See* Dkt. Nos. 95, 96, and 99. The Distribution Fund consists of the remaining funds in the CRIS Account that were paid in partial satisfaction of the Final Judgment and any additional funds collected pursuant to the Final Judgment will be added to the Distribution Fund. Any interest accrued will be added to the Distribution Fund.

8. On September 15, 2009, the Court appointed Damasco & Associates LLP¹ as tax administrator to fulfill the tax obligations of the Distribution Fund. *See* Dkt. No. 102.

9. The Distribution Fund currently holds approximately \$408,885.20.

III. DEFINITIONS

As used in this Plan, the following definitions will apply:

10. “**Administrative Costs**” shall mean any administrative costs and expenses, including without limitation tax obligations, the fees and expenses of the Tax Administrator and the Third-Party, and investment and banking costs.

11. “**Certification Form**” means the form that will be mailed to each Eligible Claimant in order to confirm the Recognized Loss amount, the name of the payee to which the Eligible Claimant’s check will be issued, and the mailing address for distribution. The Certification Form may be accompanied by other tax forms, as required, relating to the tax treatment of any distribution.

¹ Miller Kaplan Arase LLP has since acquired Damasco & Associates LLP.

12. **“Distribution Fund”** means the fund created for the benefit of investors harmed by Defendants’ violations alleged in the Complaint. Any additional funds collected from the Defendants, pursuant to the Final Judgment will be added to the Distribution Fund.

13. **“Distribution Payment”** means a payment from the Distribution Fund to a Payee in accordance with the terms of this Plan.

14. **“Eligible Claimant”** means a Preliminary Claimant, who is determined to have suffered a Recognized Loss, pursuant to the Plan of Allocation, and who is not an Excluded Party or an Unresponsive Preliminary Claimant.

15. **“Excluded Party”** shall mean: (a) the Defendants, and Defendants’ advisers, agents, nominees, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities; and (b) any purchaser or assignee of another Person’s right to obtain a recovery from the Distribution Fund for value; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance or devise.

16. **“Final Determination Notice”** means the written notice sent by the Distribution Agent to (a) any Preliminary Claimant who timely submitted a written dispute of his, her, or its calculated Recognized Loss notifying the Preliminary Claimant of her resolution of the dispute; and (b) those Preliminary Claimants who have not responded to the Plan Notice as described in paragraph 36, except for those whose Plan Notice were returned as “undeliverable,” notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. The Final Determination Notice will constitute the Distribution Agent’s final ruling regarding the status of the claim.

17. **“Net Available Distribution Fund”** means the Distribution Fund, plus any interest or earnings, less Administrative Costs.

18. **“Payee”** means an Eligible Claimant whose distribution amount is equal to or greater than \$10.00, as calculated in accordance with the Plan of Allocation, who will receive a Distribution Payment.

19. **“Person”** means natural individuals as well as legal entities such as corporations, partnerships, or limited liability companies.

20. **“Plan Notice”** means a written notice from the Third-Party to each Preliminary Claimant regarding the Court’s approval of the Plan, including, as appropriate: a statement characterizing the distribution; a link to the approved Plan posted on the Commission’s website and instructions for requesting a copy of the Plan; specification of any information needed from the Preliminary Claimant to prevent him, her, or it from being deemed an Unresponsive Preliminary Claimant; his, her, or its preliminary Recognized Loss; a description of the tax information reporting and other related tax matters; the procedure for the distribution as set forth in the Plan; and the name and contact information for the Distribution Agent as a resource for additional information or to contact with questions regarding the distribution.

21. **“Plan of Allocation”** means the methodology used by the Distribution Agent to determine if a Preliminary Claimant’s has suffered a Recognized Loss. The Plan of Allocation is attached as Exhibit A.

22. **“Preliminary Claimant”** means a Person, or their lawful successors, identified by the Distribution Agent based on her review and analysis of applicable records obtained by the Commission during its investigation, who may have suffered a loss as a result of transactions in the Securities during the Relevant Period.

23. **“Recognized Loss”** means the amount of loss calculated in accordance with the Plan of Allocation.

24. **“Relevant Period”** is between December 31, 1995 and August 11, 2004, inclusive.

25. **“Securities”** means limited partnership interests of Sterling Watters LP.

26. **“Third-Party”** means the third-party engaged by the Distribution Agent to perform some of the administrative tasks associated with implementing the Plan.

27. **“Unresponsive Preliminary Claimant”** means a Preliminary Claimant whose address the Distribution Agent has not been able to verify and/or who does not timely respond to the Distribution Agent’s attempts to obtain information, including any information sought in the Plan Notice. Unresponsive Preliminary Claimants will not be eligible for a distribution under the Plan.

IV. TAX COMPLIANCE

28. The Tax Administrator shall handle the tax obligations of the Distribution Fund. The Tax Administrator will be compensated for reasonable fees and expenses from the Distribution Fund.

29. The Distribution Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. The Tax Administrator is the administrator of such QSF for purposes of Treas. Reg. § 1.468B-2(k)(3)(I) and shall satisfy the tax-related administrative requirements imposed by Treas. Reg. § 1.468B-2, including, but not limited to:

- (a) Obtaining a taxpayer identification number;
- (b) Requesting funds necessary for the timely payment of all applicable taxes, the payment of taxes for which the Tax Administrator has received funds, and the filing of applicable returns; and
- (c) Fulfilling any information reporting or withholding requirements imposed on distributions from the Distribution Fund.

V. DISTRIBUTION AGENT

30. Jennifer Cardello will be the distribution agent for the Distribution Fund (“Distribution Agent”). As a Commission employee, the Distribution Agent shall receive no compensation, other than her regular salary as a Commission employee, for her services in administering the Distribution Fund.

31. The Distribution Agent will be responsible for administering the Distribution Fund in accordance with the Plan. This will include, among other things, taking reasonable steps to obtain accurate mailing information for Preliminary Claimants; address inquiries regarding the Plan; disseminating the Plan Notice; preparing accountings; cooperating with the Tax Administrator appointed by the Commission to satisfy any tax liabilities and to ensure compliance with income tax reporting requirements, including but not limited to Foreign Account Tax Compliance Act (FATCA); disbursing the Distribution Fund in accordance with this Plan, as ordered by the Court; and researching and reconciling errors and reissuing payments, when possible. The Distribution Agent will engage the Third-Party, Guidehouse Inc., Baker & Hostetler LLP, and PACE Claims Services LLC to perform some of the administrative tasks associated with implementing the Plan for a fixed fee of \$5,800. The Third-Party’s fees and expenses will be paid from the Distribution Fund as an Administrative Cost, pursuant to a cost proposal submitted to and approved by the Commission staff.

32. To carry out the purposes of this Plan, the Distribution Agent is authorized to make and implement immaterial changes to the Plan upon agreement of the Commission staff. If a change is deemed to be material by the Commission staff, Court approval is required prior to implementation by amending the Plan.

33. The Distribution Agent may extend any procedural deadline contained in the Plan for good cause shown, if agreed upon by the Commission staff.

VI. PLAN PROCEDURES

Specification of Preliminary Claimants

34. Using information obtained during its investigation, the Commission has identified the Preliminary Claimants. Preliminary Claimants are limited to only those Persons who may have suffered a loss as a result of purchasing Securities during the Relevant Period.

35. The Distribution Agent in her exclusive discretion may aggregate accounts held by the same person in determining Recognized Loss amounts and Distribution Payment amounts. The Recognized Loss will be the aggregate of all accounts held by a person and will include any entity accounts in which that person has a controlling interest, to the extent known by the Distribution Agent.

Procedures for Locating and Notifying Preliminary Claimants

36. Within thirty (30) days of Court approval of the Plan, the Third-Party will send the Plan Notice to each Preliminary Claimant's last known email address (if known) and/or mailing address.

Undeliverable Mail

37. If any mailing is returned as undeliverable, the Third-Party will make the best practicable efforts to ascertain a Preliminary Claimant's correct address. If another address is obtained, the Third-Party will then resend it the Preliminary Claimant's new address within ten (10) days of receipt of the returned mail. If the mailing is returned again, and the Third Party, despite best practicable efforts, is unable to find a Preliminary Claimant's correct address, the Distribution Agent, in consultation with the Third-Party, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

38. Any Preliminary Claimant who relocates or otherwise changes contact information after receipt of the Plan Notice must promptly communicate any change in address or contact information to the Distribution Agent.

Procedures to Request Plan Notice

39. Any Person who does not receive a Plan Notice, as described in paragraph 36, but who is aware of this Plan (e.g., through other Preliminary Claimants or on www.sec.gov) and believes they should be included as a Preliminary Claimant should contact the Distribution Agent within forty-five (45) days from the approval of the Plan to establish that they should be considered a Preliminary Claimant. The Distribution Agent will direct the Third-Party to send the Person a Plan Notice within fifteen (15) days of receiving the Person's documentation, if the Distribution Agent determines that the Person should have received a Plan Notice.

Certification Requirement by Preliminary Claimants and Failure to Respond to Plan Notice

40. In order to maintain classification as a Preliminary Claimant, the Certification Form must be signed by the Preliminary Claimant under penalty of perjury under the laws of the United States and returned to the Distribution Agent by the deadline stated in the Plan Notice. The Certification Form must be executed by the Preliminary Claimant, unless the Distribution Agent accepts such Certification Form from a successor, heir, administrator, or other Person authorized to act on the Preliminary Claimant's behalf. Those authorized to act on behalf of Preliminary Claimants will be eligible to participate in the distribution to the same extent the original investor would have been eligible under the terms of the Plan.

41. The Distribution Agent will review all Certification Forms. Each Preliminary Claimant will have the burden of proof to establish their identity as a Preliminary Claimant, or his, her, or its successor. The Distribution Agent will have the right to request, and the

Preliminary Claimant will have the burden of providing to the Distribution Agent, any additional information and/or documentation deemed relevant by the Distribution Agent.

42. If a Preliminary Claimant fails to respond within forty-five (45) days from the initial mailing of the Plan Notice, the Distribution Agent will make no fewer than two (2) attempts to contact the Preliminary Claimant by telephone or email, if known to the Distribution Agent. If a Preliminary Claimant fails to respond to the Distribution Agent's contact attempts as described in this paragraph, the Distribution Agent, in her discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

Dispute Process

43. Disputes will be limited to the amount of the Preliminary Claimant's calculated Recognized Loss. Within thirty (30) days of the initial mailing Plan Notice, the Distribution Agent must receive a written communication detailing any dispute along with any supporting documentation. The Distribution Agent will investigate the dispute, and such investigation will include a review of the written dispute as well as any supporting documentation.

Final Determination Notices

44. Within ninety (90) days of the initial mailing of the Plan Notices, the Distribution Agent in consultation with the Third Party will send a Final Determination Notice to (a) any Preliminary Claimant who timely submitted a written dispute as described in paragraph 43 above, notifying the Preliminary Claimant of her resolution of the dispute; and (b) those Preliminary Claimants who have not responded to the Plan Notice, as described in paragraphs 40-42 above, notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. Those Preliminary Claimants whose Plan Notices were returned as undeliverable will not receive a Final Determination Notice.

Distribution Methodology

45. The Distribution Agent will calculate each Preliminary Claimant's Recognized Loss in accordance with the Plan of Allocation. All Preliminary Claimants who are determined to have a Recognized Loss, and who are not deemed an Excluded Party or an Unresponsive Preliminary Claimant will be deemed an Eligible Claimant. All Eligible Claimants whose distribution amount is equal to or greater than \$10.00, as calculated in accordance with the Plan of Allocation, will be deemed a Payee and receive a Distribution Payment.

Establishment of a Reserve

46. Before determining the amount of funds available for distribution and calculating each Payee's Distribution Payment, the Distribution Agent, in conjunction with the Tax Administrator, will establish a reserve to pay Administrative Costs and to accommodate any unexpected expenditures (the "Reserve").

47. After all Distribution Payments are made and Administrative Costs paid, any

remaining amounts in the Reserve will become part of the Residual described in paragraph 62 below.

Preparation of the Payment File

48. Within one hundred fifty (150) days of Court approval of the Plan, the Third-Party will compile and send to the Distribution Agent and Commission staff the Payee information, including the name, address, calculated Recognized Loss, and the amount of the Distribution Payment for all Payees (the “Payee List”).

The Escrow Account

49. Prior to the disbursement of funds from the Net Available Distribution Fund, the Third-Party will establish an escrow account at a commercial bank not unacceptable to the Commission (the “Bank”), pursuant to an escrow agreement (the “Escrow Agreement”) provided by the Commission staff.

Distribution of the Distribution Fund

50. After preparation of the Payee List, the Commission will petition the Court for authority to disburse funds from the Net Available Distribution Fund to the Bank in accordance with the Payee List for distribution prepared by the Third-Party in accordance with the Plan. Pursuant to the order, the funds will be transferred to the Bank, and the Third-Party will be responsible for issuing Distribution Payments to Payees in accordance with the Payee List. For any electronic payment, the exact amount necessary to make a payment shall be transferred directly to the Payee’s bank account in accordance with written instructions provided to the Bank by the Third-Party.

51. All checks will bear a stale date of one hundred eighty (180) days from the date of issuance. Checks that are not negotiated by the stale date will be voided, and the Bank will be instructed to stop payment on those checks. A Payee’s claim will be extinguished if he, she, or it fails to negotiate his, her or its check by the stale date, and the funds will remain in the Distribution Fund, except as provided in paragraph 55.

52. All Distribution Payments will be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that the tax treatment of the distribution is the responsibility of each Payee and that the Payee should consult his, her or its tax advisor for advice regarding the tax treatment of the distribution; (c) a statement that checks will be void and cannot be reissued after one hundred eighty (180) days from the date the original check was issued; and (d) contact information for the Distribution Agent for questions regarding the Distribution Payment. The letter or other mailings to Payees characterizing a Distribution Payment will be prepared by the Tax Administrator in coordination with the Distribution Agent.

53. All Distribution Payments, either on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from the Distribution Fund established by the Court to compensate investors for harm as a result of securities law violations.

Post Distribution; Handing of Returned or Uncashed Checks; and Reissues

54. The Third-Party shall use its best efforts to make use of commercially available resources and other reasonably appropriate means to locate all Payees whose checks are returned to the Third-Party as “undeliverable.” If new address information becomes available, the Third-Party will repack the distribution check and send it to the new address. If new address information is not available after a diligent search (and in no event no later than one hundred eighty (180) days after the initial mailing of the original check) or if the distribution check is returned again, the check shall be voided and the Third-Party shall instruct the issuing financial institution to stop payment on such check. If the Third-Party is unable to find a Payee’s correct address, the Distribution Agent in consultation with the Third-Party may remove such Payee from the distribution and the allocated Distribution Payment will remain in the Distribution Fund for distribution, if feasible, to the remaining Payees.

55. The Distribution Agent will direct the Third-Party to reissue checks or electronic payments to Payees upon the receipt of a valid, written request from the Payee if prior to the initial stale date. In cases where a Payee is unable to endorse a Distribution Payment check as written (e.g., name changes, IRA custodian changes, or recipient is deceased) and the Payee or a lawful representative requests the reissuance of a Distribution Payment check in a different name, the Distribution Agent will request, and must receive, documentation to support the requested change. The Distribution Agent will review the documentation to determine the authenticity and propriety of the change request. If, in the discretion of the Distribution Agent, such change request is properly documented, the Distribution Agent will direct the Third-Party to issue an appropriately redrawn Distribution Payment to the requesting party. In no event will a check be reissued after the stale date of the original check without good cause found by the Distribution Agent.

56. The Third-Party will work with issuing financial institution and maintain information about uncashed checks and any returned items due to non-delivery, insufficient addresses, and/or other deficiencies. The Third-Party is responsible for researching and reconciling errors and reissuing payments when possible. The Third-Party is also responsible for accounting for all payments. The amount of all uncashed and undelivered payments will continue to be held in the Distribution Fund.

57. The Distribution Agent will make and document her best efforts to contact Payees to follow-up on the status of uncashed distribution checks over \$100 (other than those returned as “undeliverable”) and take appropriate action to follow-up on the status of uncashed checks at the request of Commission staff. The Distribution Agent may direct the Third-Party to reissue such checks, subject to the time limits detailed herein.

58. At the discretion of the Distribution Agent, certain costs that were not factored into the Reserve, such as bank fees for the return of a payment, may reduce the Payee’s

Distribution Payment. In such situations, the Distribution Agent will immediately notify the Tax Administrator of the reduction in the Distribution Payment.

Receipt of Additional Funds

59. Should any additional funds be received pursuant to Commission or Court order, agreement, or otherwise, prior to the Court's termination of the Distribution Fund, such funds will be added to the Distribution Fund and distributed, if feasible, in accordance with the Plan.

Disposition of Undistributed Funds

60. If funds remain following the initial distribution and payment of all Administrative Costs, the Distribution Agent may seek subsequent distribution(s) of any available remaining funds. All subsequent distributions shall be made in a manner that is consistent with this Plan and pursuant to a Court Order.

61. Upon completion of all distributions, the Third-Party will return any remaining funds disbursed to the Bank in paragraph 50 above, to the Commission to be included in the Residual, as defined below.

62. A residual will be established for any amounts remaining after the final disbursement to Payees from the Distribution Fund and the payment of all Administrative Costs (the "Residual"). The Residual may include funds from, among other things, amounts remaining in the Reserve, distribution checks that have not been cashed, checks or electronic payments that were not delivered or were returned to the Commission, and tax refunds for overpayment of taxes or for waiver of IRS penalties.

63. All funds remaining in the Residual that are infeasible to distribute to investors will be held pending a final accounting.

Administrative Costs

64. All Administrative Costs will be paid from the Distribution Fund, pursuant to a Court Order.

Filing of Reports and Accountings

65. Upon completion of all distributions to Payees, the Third-Party will submit to the Distribution Agent a final report (the "Third-Party's Final Report") that includes an accounting of all funds disbursed to the Bank. The Third-Party Report will include, at a minimum, the number and total amount of Distributions Payments sent to Payees, the number and total amount of Distribution Payments successfully disbursed (i.e., cashed or electronically transferred) to Payees, and the amount of funds returned to the Commission, pursuant to paragraph 61 above. The Third-Party's Report must be endorsed by a declaration executed by the Third-Party under penalty of perjury under the laws of the United States.

66. Upon receipt of the Third-Party's Final Report described above, the Distribution Agent shall arrange for the payment of any remaining Administrative Costs, pursuant to the procedures described above, and will prepare, in consultation with the Tax Administrator, a final accounting of the Distribution Fund on a Commission standardized form.

Termination of the Distribution Fund

67. Once the Commission staff has reviewed and accepted the final accounting, the Commission will petition the Court for an order, as appropriate, approving the final accounting, discharging the Distribution Agent, disposing of the Residual, and terminating the Distribution Fund. If distribution of the Residual to investors is infeasible, the Commission may recommend the transfer of the Residual to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act.²

68. The Distribution Fund will be eligible for termination and the Distribution Agent will be eligible for discharge after all of the following have occurred (a) a final accounting, in a standard accounting format, has been submitted by the Distribution Agent and approved by the Court; (b) all Administrative Costs have been paid; and (c) the Court has approved the Commission's recommendation as to the final disposition of the Residual consistent with Sections 21(d)(3),(5), and (7) of the Exchange Act, and *Liu v. SEC*, 140 S. Ct. 1936 (2020).³

69. Once the Distribution Fund has been terminated, no further claims will be allowed and no additional payments will be made whatsoever.

² Section 21F(g)(3) of the Exchange Act, 15 U.S.C. § 78u-6(g)(3), provides, in relevant part, that any monetary sanction of \$200 million or less collected by the SEC in any judicial action brought by the SEC under the securities laws that is not added to a disgorgement fund or Distribution Fund or otherwise distributed to victims, plus investment income, shall be deposited or credited into the SEC Investor Protection Fund.

³ 15 U.S.C. §§ 78u(d)(3), (5), and (7). Section 21(d)(7) was added to the Exchange Act by Section 6501(a) of the National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, enacted January 1, 2021. The relevant provisions of the NDAA apply "to any action or proceeding that is pending on, or commenced on or after, the date of" the NDAA's enactment. NDAA, Section 6501(b).

Exhibit A

PLAN OF ALLOCATION

This Plan of Allocation is designed to compensate investors based on their losses on limited partnership interests of Sterling Watters Group LP (the “Securities”) purchased between December 31, 1995 and August 11, 2004, inclusive (the “Relevant Period”). Based upon records obtained by the Commission during its investigation, the Commission has identified those investors, or their lawful successors, who may have suffered losses on the Securities during the Relevant Period due to the misconduct of the Defendants (the “Preliminary Claimants”). Investors who did not purchase the Securities during the Relevant Period are ineligible to recover under this Plan.

The Distribution Agent will use documents obtained by the Commission during its investigation to calculate each Preliminary Claimant’s loss (“Recognized Loss”) as follows:

Recognized Loss is equal to the sum of all contributions made by the Preliminary Claimant during the Relevant Period to Sterling Watters Group LP for the Securities, minus all distributions (return of investment or return on investment) made by Sterling Watters Group LP to the Preliminary Claimant for the Securities during the Relevant Period.

If the Recognized Loss calculates to a gain, then the Recognized Loss will be \$0.00.

Any Preliminary Claimant who suffered a Recognized Loss pursuant to this Plan of Allocation, and who is not an Excluded Party or an Unresponsive Preliminary Claimant, as defined in the Plan, will be deemed an Eligible Claimant.

Additional Provisions

Allocation of Funds: Because the Net Available Distribution Fund is less than the sum of the Recognized Losses of all Eligible Claimants, each Eligible Claimant’s distribution amount will equal his, her or its “*Pro Rata Share*” of the Net Available Distribution Fund, subject to the “Minimum Distribution Amount.”

Aggregation of Accounts: The Distribution Agent in her exclusive discretion may aggregate accounts held by the same person in determining Recognized Loss amounts and Distribution Payment amounts. The Recognized Loss will be the aggregate of all accounts held by a person and will include any entity accounts in which that person has a controlling interest, to the extent known by the Distribution Agent.

Pro Rata Share: A *Pro Rata Share* computation is intended to measure Eligible Claimants’ Recognized Losses against one another. The Distribution Agent shall determine each Eligible Claimant’s *Pro Rata Share* as the ratio of his, her or its Recognized Loss to the sum of Recognized Losses of all Eligible Claimants.

Minimum Distribution Amount: The Minimum Distribution Amount will be \$10.00. If an Eligible Claimant's distribution amount is less than the Minimum Distribution Amount, that Eligible Claimant will be deemed ineligible to receive a Distribution Payment and his, her or its distribution amount will be reallocated on a *pro-rata* basis to Eligible Claimants whose distribution amounts are greater than or equal to the Minimum Distribution Amount.

Payee: An Eligible Claimant whose distribution amount equals or exceeds the Minimum Distribution Amount will be deemed a Payee.

Distribution Payment: Each Payee will receive a Distribution Payment equal to his, her or its distribution amount.

Prior Recovery: To avoid payment of a windfall, the Distribution Payment will be no larger than the Payee's Recognized Loss minus the amount of any compensation for the loss that resulted from the conduct alleged in the Complaint that was received from another source including *Drenis et al. v. Haligiannis et al.*, 452 F. Supp. 2d. 418 (S.D.N.Y).