

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**KINETIC INVESTMENT GROUP, LLC and  
MICHAEL SCOTT WILLIAMS,**

**CASE NO.: 8:20-cv-394**

**Defendants, and**

**KINETIC FUNDS I, LLC,  
KCL SERVICES, LLC d/b/a LENDACY,  
SCPIO, LLC, LF 42, LLC, EL MORRO  
FINANCIAL GROUP, LLC, and KIH, INC.,  
f/k/a KINETIC INTERNATIONAL, LLC,  
Relief Defendants.**

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**RECEIVER'S AMENDED MOTION TO ESTABLISH AND APPROVE (i)  
PROCEDURE TO ADMINISTER AND DETERMINE CLAIMS; (ii) PROOF OF  
CLAIM FORM; and (iii) CLAIMS BAR DATE AND NOTICE PROCEDURES  
AND INCORPORATED MEMORANDUM OF LAW**

Mark A. Kornfeld, Esq., solely in his capacity as the court-appointed Receiver (the “Receiver”), respectfully requests that the Court approve his proposed procedure to begin returning funds to investors harmed by the alleged wrongdoing in this case. Although the Receiver anticipates some further recovery of funds, a significant portion of the Receivership Estate appears to have been collected, and the Receiver believes it is in the best interests of the Receivership Entities and the investors to begin the process of making an initial distribution to approved claimants. The Receiver now seeks Court approval for the procedures and framework of a claims process, which includes the use of the “net investment” method to determine claims, a claims bar date, a proof of claim form, and notice procedures. The Receiver states the following in support.

## **I. INTRODUCTION**

This case involves allegations that Defendants Michael Williams and Kinetic Investment Group, LLC operated a fraudulent securities offering that raised at least \$39 million from several dozen investors. Based on evidence presented by Plaintiff Securities and Exchange Commission (the “Commission”), the Court granted various relief, including an asset freeze and the appointment of a Receiver to marshal and safeguard assets for the benefit of defrauded investors. Docs. 33-34. The Receiver has made significant progress since his appointment, including taking possession of approximately \$21 million in frozen bank and brokerage accounts<sup>1</sup> and two parcels of real property previously purchased using approximately \$4.2 million of investor funds.

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<sup>1</sup> As further discussed in the Receiver’s Second Interim Report and other pleadings (Docs. 108, 111), this amount does not include (i) approximately \$10 million in securities and an approximately -\$4.4 million margin balance currently located in two brokerage sub-accounts

With the help of his forensic and legal professionals, the Receiver has identified 37 investors that invested roughly \$44.1 million with Relief Defendant Kinetic Funds I, LLC (“Kinetic Funds”) during the time period from January 1, 2013 to March 6, 2020 (the “Relevant Period”). All but four of those investors received or otherwise withdrew a portion of their total investment prior to institution of this Receivership, including at least 25 investors that received a loan from Receivership Entity KCL Services, LLC d/b/a Lendacy (“Lendacy”) based on their Kinetic Funds investment. In establishing a claims process for eventual distribution of recovered funds, the Receiver must account for and consider the most equitable and efficient way to maximize the distributions to the largest number of investors while also minimizing any costs incurred by the Receivership Estate.

Accordingly, and for the reasons described herein, the Receiver seeks Court approval for the framework and procedures of a claims process that, among other things, utilizes the net investment method (i.e., “cash in, cash out”) to determine investor claim amounts. The Receiver respectfully moves this Court for an Order (i) approving the Proof of Claim Form attached hereto as **Exhibit 1** and the procedure to administer and determine claims set forth herein, including the Claims Process Instructions attached hereto as **Exhibit 2**; (ii) establishing a deadline for filing any proof of claim against the Receivership; and (iii) permitting notice of the deadline by mail, by publication in specified newspapers, and on the Receiver’s website at [www.kineticreceivership.com](http://www.kineticreceivership.com) in the form attached hereto as **Exhibit 3**.

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that appear to have been separately managed for the benefit of two Kinetic Funds investors, and (ii) an independent margin balance of approximately -\$7.7 million. Whether the Receivership Entities are responsible for any portion of that latter margin balance is the subject of a pending motion filed by the Receiver (Doc. 108).

## II. BACKGROUND

### A. Procedural Background

On February 20, 2020, the Commission filed a complaint (the “Complaint”) (Doc. 1) in the United States District Court for the Middle District of Florida (the “Court”) against the Defendants Kinetic Investment Group and Williams and Relief Defendants, alleging that the Defendants violated the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940 by making false or materially misleading representations to investors and that over \$6 million of investor funds was misappropriated to fund other business ventures and pay for other unauthorized expenses. Doc. 1 ¶¶ 4, 28-38.

The Complaint alleged that the scheme involved securities offerings made on behalf of Relief Defendant Kinetic Funds, a purported hedge fund with a sub-fund structure managed by Kinetic Investment Group and Williams. *Id.* ¶ 2. Defendants represented to investors that the largest sub-fund, KF Yield (“KFYield” or the “KFYield Fund”), invested all of its assets in income-producing, U.S.-listed financial products hedged by listed options. *Id.* Potential investors were told that the KFYield Fund was a liquid investment that would “maintain 90% principle [sic] protection” and that an investor could redeem their principal investment “100% . . . without penalties” with a 30-day written notice. *Id.* ¶¶ 2, 28. Investors in the KFYield Fund, which attracted the near-entirety of funds invested with Kinetic Funds, regularly received documentation from Bloomberg’s reporting service representing that the KFYield Fund had achieved positive annual returns every year since inception. *Id.* ¶ 24. As the Commission alleged, these and other representations were false. *See, e.g.*, Docs. 2-3.

On March 6, 2020, the Court entered the Order Appointing Receiver which, in relevant part, directed the Receiver to “[t]o take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Defendants” and to “develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered and recoverable Receivership Property. Doc. 34 ¶¶ 7.B, 46.

**B. Overview of Investment Offerings And Relevant Receivership Entities**

**i. Kinetic Funds**

Kinetic Funds was the successor to Kinetic Strategic Trading (“KST”), with both entities offering potential investors the ability to pursue certain trading strategies through investments in various sub-funds.<sup>2</sup> A prospective investor in Kinetic Funds could invest by executing an Operating Agreement and selecting one or more of the five sub-funds offered by Kinetic Funds. Nearly all of the total funds invested with Kinetic Funds were invested in the KFYield Fund (previously named “Gemini” when offered by KST).

In various offering and marketing materials for the KFYield Fund, potential investors were told that the fund’s goal was to “maintain 90% principle [sic] protection” and that all products in the fund “are listed on the U.S. exchanges and all products have a yield component.” Doc. 1 ¶¶ 2, 28. The materials also provide that the “products are all in the listed market and liquid.” For example, the relevant exhibit to the Kinetic Funds Operating Agreement required to be signed by an investor provided that:

The Fund(s) will trade derivatives, but may also be invested in individual stocks, components of the indices, cash, and other exchange listed products in the sole

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<sup>2</sup> Of the existing investors to Kinetic Funds as of March 6, 2020, only a few appear to have initially invested through KST.

and absolute discretion of the Class A (and Managing) Member, in its sole and absolute discretion, from time to time and at any time.

Doc. 2 Exhs. 7, 42. Investors, both prospective and current, also received Bloomberg reports containing current information on the KFYield Fund including, among other things, the fund's net asset value ("NAV") and performance metrics. Doc. 1 ¶ 24.

## **ii. Lendacy**

One benefit offered to KFYield investors was the ability to obtain an unsecured and below-market-rate loan from Kinetic Funds' "partner" Lendacy. Prospective investors were told they could obtain a Lendacy loan up to a certain "loan-to-value" of their KFYield investment and that they could still maintain "100% of your capital working, generating dividends and interest with the opportunity for continued appreciation." Doc. 2 Ex. 43. A KFYield investor could also use the dividends purportedly generated on their investment to satisfy their monthly loan obligations rather than making an out-of-pocket payment.<sup>3</sup> During the Relevant Period, Lendacy extended over two-dozen loans of which a majority - but not all - were made to KFYield Fund investors.<sup>4</sup>

## **C. The Receivership Entities Commingled Accounts**

Kinetic Funds raised approximately \$44.1 million from investors during the relevant time period based on representations that those funds would be invested in Kinetic Funds' various sub-funds. Those funds - regardless of the sub-fund(s) indicated by the investor - were all deposited into a single bank account maintained by Kinetic Funds at BMO Harris Bank.

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<sup>3</sup> For further detail on Lendacy's operations and advertisements to investors, *see* the Receiver's Interim Report (Doc. 60) at pp. 18-20, 36-41.

<sup>4</sup> Several loans were made to employees and/or principals of Receivership Entities (the "Insiders") and at least one non-investor.

During the Relevant Period, about 25% of the total funds raised from investor were actually transferred to Interactive Brokers (where Kinetic Funds maintained brokerage accounts from June 2014 to the present). The remaining investor funds were commingled in Kinetic Funds' bank account where they were used as needed to, among other things:

- Extend more than two-dozen mostly-unsecured Lendacy loans to investors, Insiders, and at least one individual who was neither an Insider nor an Investor;
- Pay distributions and redemption requests to existing investors;
- Fund Williams' purchase of two multi-million dollar real estate parcels in Puerto Rico, including a luxury penthouse for Williams' personal residence; and
- Fund the business operations of several Receivership Entities in Puerto Rico.

Corporate formalities between the Receivership Entities were routinely ignored.

**D. Advertised And Actual Performances Of Kinetic Funds**

In Bloomberg printouts provided to potential and current investors, the KFYield Fund claimed to have assets of nearly \$40 million at its peak and a consistently-positive investment performance. These representations are inconsistent with Kinetic Funds' brokerage and banking statements. According to those brokerage statements and a forensic analysis, the KFYield Fund brokerage account's NAV never exceeded \$12 million, and the fund declined in value by over 25% from 2015 to May 2018.<sup>5</sup> Although the KFYield Fund did generate dividends (which typically involved the use of significant margin to purchase large positions in dividend-producing equities), those dividends were offset by associated interest charges, other fees, and trading losses. In the aggregate, the results generated by the KFYield Fund

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<sup>5</sup> The Receiver is not aware of, nor has he seen, any other brokerage accounts holding funds or securities belonging to KFYield investors.

were inconsistent - often significantly - with the results represented to investors. Doc. 60 pp. 21-28; Doc. 111 pp. 8-11. The consistent decline in Kinetic Funds' assets resulted in a large shortfall between advertised and actual assets on hand. As of March 6, 2020, it appears that Kinetic Funds lacked sufficient assets on hand to satisfy investor redemptions in full, and this shortfall has apparently existed since at least 2018.

### **III. CURRENT AND FUTURE SOURCES OF RECOVERY FOR DISTRIBUTION**

In addition to the significant amount of assets secured to date, the Receiver also anticipates that he will recover additional funds both by converting recovered assets to cash and pursuing additional funds from individuals and entities that the Receiver believes may have improperly received funds from the Receivership Entities. The vast majority of assets recovered to date generally fall into three categories: (1) funds recovered from bank and brokerage accounts; (2) real estate identified and secured by the Receiver; and (3) funds recovered from the liquidation of gold coins located in an office safe. The Receiver continues to analyze potential causes of action against third parties.

#### **A. Funds Recovered From Bank and Brokerage Accounts**

Nearly all funds currently on hand consist of bank and brokerage accounts that were frozen by the Receiver immediately after his appointment. As of July 30, 2020, the Receiver has transferred approximately \$8.17 million to his fiduciary bank accounts. The Receiver has also taken possession of various Kinetic Funds sub-accounts at Interactive Brokers, including two sub-accounts that were apparently separately managed for two Kinetic Funds investors. Excluding the approximately \$10 million in securities and approximately -\$4.4 million margin



balance<sup>6</sup> currently located in those two sub-accounts, the remaining sub-accounts contain \$13.2 million in liquidated cash proceeds and an off-setting margin balance of roughly -\$7.7 million. Based on his investigation, the Receiver believes that the Receivership Entities are not responsible for a significant portion of that outstanding margin debt balance, and a motion seeking Court approval of that determination is pending. *See* Doc. 108.<sup>7</sup>

**B. Recovery and Sale of Real Estate**

The Receiver's investigation showed that investor funds were used to purchase at least two parcels of real estate in San Juan, Puerto Rico: (i) a luxury apartment multiplex purchased in May 2017 using \$1.5 million in investor funds (the "Apartment"); and (ii) a historic bank building purchased in May 2018 using \$2.75 million in investor funds (the "Bank Building"). *See* Doc. 60 pp. 41-47. Both the Apartment and Bank Building were purchased at William's direction, with Williams using the Apartment as his primary residence for some time. The Receiver filed a motion seeking turnover of the Apartment on May 15, 2020 (Doc. 72), and subsequently reached an agreement with Defendant Williams' counsel as to a timeline to obtain title and possession of the Apartment.<sup>8</sup> The Receiver is prepared to move forward with listing and liquidating the Apartment pursuant to that agreement. The Receiver secured the Bank Building on March 8, 2020, and has since commenced efforts to market the building for sale. Two appraisals commissioned by the Receiver valued the building at \$1.86 million and

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<sup>6</sup> The Receiver continues to investigate the basis for this -\$4.4 million margin balance.

<sup>7</sup> Upon resolving the pending motion regarding repayment of the margin balance, the Receiver intends to transfer the remaining proceeds to his fiduciary accounts for future distributions.

<sup>8</sup> This agreement was set forth in the Joint Stipulation filed on July 6, 2020, and later adopted by the Court on July 8, 2020 (Doc. 105).

\$2.33 million, respectively, based on the building's current condition.<sup>9</sup> The Receiver has entered into a listing agreement with a real estate broker and will seek Court approval for any offer he deems appropriate to accept.

**C. Recovery and Sale Of Gold Coins**

During the process of securing the Sarasota Office, the Receiver discovered and took possession of a safe containing a significant number of gold coins. The Receiver subsequently marketed the gold coin holdings to various local and national purchasers. The Receiver received seven bids, consisting of offers to purchase the gold based on a percentage of the prevailing spot price, and ultimately selected the highest bid, which offered 100% of the current spot price. This resulted in net proceeds of \$223,877.75, which were received and deposited into the Receiver's fiduciary bank account.

**IV. DISCUSSION**

**A. Legal Standard**

The Court's power to supervise an equity receivership and determine the appropriate actions to be taken in its administration is extremely broad. *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). It is appropriate for a receiver to seek guidance from a court regarding a matter of such import and wide discretion as devising a claims process in an equity receivership. As has been noted, "[i]t is the court itself which has the care of the property in dispute ... [and the] receiver is but the creature of the court." *SEC v. Safety Finance Service*,

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<sup>9</sup> The building's condition referenced in each appraisal, with one observing that the building "requires a complete interior renovation" and the other noting that the "general physical condition of interior areas can be rate [sic] as poor." Williams also obtained an appraisal of the building in September 2019 valuing the building at \$2.9 million in "as-is" condition and \$5+ million if more than \$2 million in renovations were undertaken and completed.

*Inc.*, 674 F.2d 368, 373 (5th Cir. 1982). When approving a distribution plan, a district court sits in equity and has “the authority to approve any plan provided it is ‘fair and reasonable.’” *CFTC v. Barki*, 2009 WL 3839389, at \*3 (W.D.N.C. 2009).

In receivership proceedings, “[e]very person who has any claim or demand against the estate or property in the custody of the court through the receiver, . . . must assert such claim or demand in the court in which such receiver was appointed.” Ralph E. Clark, *Clark on Receivers* § 646, at 1132 (3rd ed. 1992). One way for claimants to assert a claim is for claimants to be authorized “under a general order of the appointing court [to file their] claim with the receiver.” *Id.* at 1132. The receiver may agree or disagree with the claim, which is ultimately decided by the court. *Id.*; see also *S.E.C. v. Founding Partners Capital Mgmt.*, 2014 WL 2993780, at \*1 (M.D. Fla. 2014) (agreeing with and adopting the receiver’s recommendations concerning investor claims). “The claims should be definite enough to enable the receiver to pass on their validity, fairness and legality and to place them in their proper and legal category of claims for preference, if any.” *Clark on Receivers* § 651, at 1142.

In addition to approving the proof of claim form, a court is often asked to approve relief regarding submission and notice of claims. This includes a “bar date” limiting the time within which claims must be presented. See *S.E.C. v. Onix Capital, LLC*, 2018 WL 1124435 (S.D. Fla. 2018) (“among these broad powers is the power to establish proof of claim procedures and set an effective claims bar date”) (citations omitted). An order limiting the time within which claims must be submitted has been deemed to be necessary to “lay the foundation for the court to order payments to creditors and distribution to those entitled to receive.” *Clark on Receivers* § 651, at 1142; see also *SEC v. Morriss*, 2014 WL 585395, at \*3

(E.D. Mo. 2014) (finding claimant forfeited his right to either claim or object to a distribution by failing to submit a claim). Furthermore, a court with jurisdiction over a receivership, by advertisement and by proper notices by mail, by publication and otherwise should take measures to notify interested parties affected by the receivership. *Clark on Receivers* § 652, at 1143; *see also SEC v. Tanner*, 2006 WL 897642, \*1 (D. Kan. 2006) (approving receiver's website notice and e-mail notice to investors of a claims process and claims bar date). This Court has previously approved similar distribution methods, procedures, proof of claim forms, and bar dates to those proposed in this motion. *See, e.g., SEC v. Nadel et. al.*, Case No. 8:09-cv-00087-RAL-TBM, Order Doc. 391 (M.D. Fla. Apr. 21, 2010); *SEC v. Nadel et. al.*, Case No. 8:09-cv-00087-RAL-TBM, Order Doc. 1241 (M.D. Fla. June 17, 2016); *SEC v. Oasis International Group, Limited et al.*, Case No. 8:19-cv-966-T-33SPF, Order Doc. 231 (M.D. Fla. Feb. 4, 2020).

**B. The Proposed Claims Process**

**i. Claim Bar Date**

The Receiver seeks entry of an order establishing a deadline by which all claimants holding a claim against a Receivership Entity arising out of the activities of the Receivership Entities (the "Claimants") must assert their claim (the "Claim Bar Date"). The Receiver proposes that the Claim Bar Date be set 90 days from the mailing of the Proof of Claim Form to known possible Claimants. This date will allow the Receiver sufficient time to arrange for and publish the proposed Notice and give potential Claimants sufficient time to file a claim with the Receiver. Claimants must file claims to participate in any distribution of Receivership assets. The Receiver proposes that any claim received after the Claim Bar Date be disallowed.

A Claim Bar Date is necessary to allow as many possible Claimants to participate in the claims process while also allowing the Receiver to obtain certainty in a reasonably prompt fashion of the total amount of potential claims to the Receivership assets. Such certainty is necessary to be able to determine the amount of money each Claimant with an allowed claim is entitled to receive and to facilitate a timely claims resolution and distribution process.

## ii. Claim Notice and Publication Procedures

Based on the Receiver's and his professionals' review and analysis of relevant documentation, the Receiver believes he has identified most (if not substantially all) of the Receivership Entities' investors. As to each of these known potential Claimants, the Receiver possesses last known mailing addresses. However, some of the last known mailing addresses may not be current. In addition, it is possible that some potential Claimants may be currently unknown.<sup>10</sup> As such, alternative forms of notice are advisable.

Based upon the documents reviewed and information gathered to date, it appears that the vast majority of investors and other potential creditors are located in Florida and Puerto Rico. Given the concentration of potential claimants in these two locations, as well as the significant expense associated with publishing notice in every city/state where potential Claimants or interested parties may reside and the relatively few (if any) interested parties who might benefit from such publication, the Receiver proposes publishing the Notice attached as **Exhibit 3** (the "**Notice**") in the national edition of The New York Times, the

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<sup>10</sup> The Receiver's knowledge is limited to documents and information he has obtained from the Receivership Entities, financial institutions, investors and others. It is possible that some Claimants may be currently unknown, and the identities of these potential Claimants are not reasonably ascertainable. As such, providing notice of the Claim Bar Date to all potential Claimants by direct mail (or email) alone is not possible.

Sarasota Herald-Tribune<sup>11</sup>, and the El Nuevo Dia newspaper in Puerto Rico for one day at least 45 days prior to the Claim Bar Date.<sup>12</sup> The Receiver further proposes to publish the Proof of Claim Form and Notice on his website at [www.kineticreceivership.com](http://www.kineticreceivership.com) and, as noted above, the Receiver also intends to communicate developments in the claims process to known investors through email communications.

Therefore, the Receiver seeks permission to provide the Notice attached as **Exhibit 3** of the Claim Bar Date to known potential Claimants by mail to their last known address and to unknown Claimants by publication in the national edition of The New York Times, The Sarasota Herald-Tribune, El Nuevo Dia, and on the Receiver's website. The Claim Bar Date will apply to all creditors and victims of the Kinetic Funds scheme. The Receiver believes that such notice is reasonably calculated to inform all interested parties of the Claim Bar Date.

### **iii. The Use Of The “Net Investment” Method As The Distribution Method**

Because he expects that investor claims will exceed the limited available assets, the Receiver has spent considerable time weighing the various distribution methods regularly utilized in these cases to determine which would be the most appropriate and equitable given the particular factual circumstances. Although the Receiver is guided by the “principle that equality is equity,”<sup>13</sup> the unfortunate reality is that formulating a distribution plan in such a

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<sup>11</sup> The Sarasota Herald-Tribune has been reporting on the scheme and the Receivership. Given that coverage of the scheme and the fact that Kinetic Funds had an office in Sarasota, the Receiver believes that potential Claimants located in the Sarasota area and those located outside the area may be following the coverage and would benefit from the publication.

<sup>12</sup> The cost of a one-day advertisement for the Notice in the national edition of The New York Times is approximately \$4,620, and the same advertisement in The Sarasota Herald-Tribune and El Nuevo Dia costs approximately \$132.00 and \$102.00, respectively.

<sup>13</sup> *Cunningham, Trustee of Ponzi v. Brown*, 265 1, 20 (1924).

case means that an investor who benefits from one potential distribution method does so at the expense of other investors. As one court has observed, “[a]n equitable plan is not necessarily a plan that everyone will like.” *SEC v. Credit Bancorp*, 2000 WL 1752979, at \*19 (S.D.N.Y. 2000); *see also Barki*, 2009 WL 3839389 at \*2 (“the court is painfully aware that no matter the method employed, the Investors will feel the sting of inequity”).<sup>14</sup>

#### 1. The Net Investment Method vs. The Rising Tide Method

The two most popular methods to distribute receivership funds to investors in similar cases are the “rising tide” method and the “net investment” (or “net loss”) method. “The fundamental difference between [the rising tide method and net investment method] is the way that prior payments are treated and accounted for in determining amounts to be distributed from the receivership estate to investor claimants.” *Parish*, 2010 WL 5394736 at p. 5. Under the net investment method, which is frequently employed both in Florida and nationwide,<sup>15</sup> an investor’s pre-receivership payments are subtracted from the investor’s total investment to arrive at the investor’s net claim amount. Under a Rising Tide method, an investor’s gross investment(s) is treated as their loss amount and any pre-receivership payments made to that investor are credited against any *pro rata* distributions made by the Receiver. The methods can be expressed by the following formulas:

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<sup>14</sup> *See also SEC v. Parish*, Case No. 2:07-cv-00919, 2010 WL 5394736 at p. 8 (D.S.C. Feb. 10, 2010) (“It is the task of this court to choose not is the ‘fairest’ distribution plan, but to choose the plan which is the least unfair.”).

<sup>15</sup> *See, e.g., Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 654 F.3d 229, 241 (2d Cir. 2011) (upholding approval of net investment method); *SEC v. Oasis*, Case No. 8:19-cv-966-T-33SPF, Order Doc. 231 (M.D. Fla. Feb. 4, 2020); *SEC v. Stanford International Bank, Ltd., et al.*, Case No. 09-cv-0298, Order Doc. 1877 (N.D. Tex. 2013); *SEC v. Nadel et al.*, Case No. 8:09-cv-00087-RAL-TBM, Order Doc. 391 (M.D. Fla. Apr. 21, 2010).

<b><u>Net Investment Method:</u></b>	<b><u>Rising Tide Method:</u></b>
$\frac{(\text{total investments and contributions}) - (\text{total withdrawals and distributions})}{\text{net gain/(loss)}}$	$\frac{(\text{Total withdrawals and distributions})}{(\text{Total Investment and Contributions})} = \text{Rising Tide Percentage}$
<p>An investor with a net loss would receive a <i>pro rata</i> distribution calculated by:</p> $\frac{(\text{Total Distribution})}{\text{x}} \times \frac{(\text{Investor's approved claim})}{(\text{all approved investor claims})} = \text{pro rata distribution}$	<p>Investor would only be entitled to receive a distribution if the <i>pro rata</i> distribution made to all investors exceeds that investor's Rising Tide percentage.</p>

To illustrate how the two methods conceptually work (and differ), consider the hypothetical cases of Investor #1 and Investor #2 who each invested \$10,000 in Kinetic Funds. Investor #1 received pre-receivership payments totaling \$5,000, and Investor #2 did not receive any pre-receivership payments. If the Receiver decided to make an interim *pro rata* distribution of 25% of each investor's claim amount, the distributions would be as follows under each distribution method:

<b><u>Net Investment Method</u></b>	<b><u>Rising Tide Method</u></b>
<ul style="list-style-type: none"> <li>Investor #1 would have an approved claim of <b>\$5,000</b> (\$10,000 investment - \$5,000 withdrawal) and receive a distribution of <b>\$1,250</b> (\$5,000 approved claim x 25%).</li> <li>Investor #2 would have an approved claim of <b>\$10,000</b> and receive a distribution of <b>\$2,500</b> (\$10,000 claim x 25%)</li> </ul>	<ul style="list-style-type: none"> <li>Investor #1 would not be entitled to receive any portion of a distribution because their Rising Tide percentage, 50%, exceeds the proposed 25% distribution.</li> <li>Investor #2 would have an approved claim of <b>\$10,000</b> and receive a distribution of <b>\$2,500</b> (\$10,000 claim x 25%)</li> </ul>

Thus, in the context of a claims process using a net investment method, all investors with a net loss claim would be entitled to participate in any distribution from inception; by



contrast, the use of the rising tide method would prohibit an investor from receiving a distribution if the *pro rata* distribution made by the Receiver exceeds that investor's pre-receivership *pro rata* distribution(s).

2. The Net Investment Method Is The Most Fair And Equitable Method For All Investors

In determining the most equitable distribution method in this case, the Receiver considered various factors, including (i) how many investors received pre-receivership distributions, (ii) the availability and amount of payouts to potential claimants, including their eligibility to receive an interim (or later) distribution, and (iii) the treatment of Lendacy loans made to a majority of investors. Courts give great weight to how the potential distribution methods would affect the anticipated claimant class as a whole in evaluating a receiver's recommended distribution plan. *See Byers*, 637 F. Supp. 2d at 182 (rejecting rising tide method when 45% of the investors would receive no additional compensation); *SEC v. AmeriFirst Funding, Inc.*, 2008 WL 919548, at \*6 (N.D. Tex. 2008) (noting difference between net investment and rising tide methods "on the whole is not great, but as the Receiver points out, the difference does have a significant impact on a few individuals who would not receive any distribution under a Plan B first interim partial distribution").

The Receiver's forensic analysis shows that nearly all investors received distributions prior to his appointment either by obtaining a Lendacy loan or partially withdrawing profits or principal. Only a handful of Kinetic Funds investors as of March 6, 2020 (the "Current Investors") did not receive any kind of pre-receivership withdrawal. Because the vast majority of investors received pre-receivership distributions (many through a Lendacy loan), a distribution method that limited eligibility based on pre-receivership distributions would

disadvantage the majority of eligible investors based on various hypothetical distributions illustrated by the below chart:

<b>Hypothetical Distribution Amount</b>	<b>% Of Investors Eligible For Any Distribution Under Rising Tide</b>	<b>% Of Investors Eligible For Any Distribution Under Net Investment</b>	<b>% of Investors That Receive Greater Benefit Under Net Investment</b>
\$5 million	52%	100%	67%
\$10 million	56%	100%	70%
\$15 million	56%	100%	67%
\$20 million	74%	100%	63%
\$25 million	93%	100%	56%

In other words, nearly half of investors with an approved claim would not receive **any payment** in an initial \$5 million distribution under the rising tide method (while all investors with an approved claim would receive a payment using the net investment method).

This chart supports the Receiver's conclusion that the Net Investment method is most equitable in this case as not only would all investors be immediately eligible to participate in the distribution process, but the majority of investors would also ultimately receive a greater benefit (i.e., larger payment(s)) from this method regardless of the potential distribution size. As the likely amount of the Receiver's proposed first distribution will be at the lowest end of this distribution threshold given the amount of currently-available and accessible funds, nearly half of the investors would be ineligible to receive any distribution under the rising tide method (while 100% would be eligible to participate under the net investment method). Accordingly, the Receiver believes that the collective interests of the Current Investors are best served by the use of the Net Investment method under the circumstances.

**ii. Treatment of Lendacy Loans And Reinvested “Dividends”**

A crucial factor guiding the Receiver’s determination of the appropriate distribution method in this case is the treatment of the Lendacy loans made to two-dozen Kinetic Funds investors (excluding Insiders such as Williams) and the purported use of dividends to repay those loans. The Receiver’s analysis shows that Lendacy, although touted as an independent “partner” of Kinetic Funds, used Kinetic Funds’ bank account as its funding source. Although several investors have repaid the balance of those loans, a majority of Kinetic Funds investors had an outstanding Lendacy loan balance as of March 6, 2020. The Receiver considered the following options concerning treatment of Lendacy loans.

One approach might be to treat Kinetic Funds investors who also received a Lendacy loan as a separate and distinct class that should be carved out or distinguished from those Kinetics Funds investors who did not receive any loan. Under this approach, the Receiver would be proceeding against Kinetic Funds investor/borrowers by first seeking (and likely litigating) any outstanding loan amounts owing to the Funds. The Receiver submits that such an approach would itself be wildly inefficient for the administration of the estate, would guarantee huge delays in getting any funds back to the largest group of total victims/investors, and would ultimately prove to be more burdensome and costly to victims and those with valid claims (as ALL investors would be bearing those costs and expenses).<sup>16</sup> Because the Receiver wishes to maximize Recovery and minimize cost, this approach is highly disfavored.

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<sup>16</sup> In the similar context of a Receiver seeking to ask investors to return profits they received in excess of their investment, courts view such a piece-meal approach as both inefficient and impractical. *See, e.g., CFTC v. Equity Financial Group LLC*, 2005 U.S. Dist. LEXIS 2001 \*78 (D.N.J. 2005) (rejecting option for receiver to pursue investors’ withdrawn profits for deposit into receivership and redistribution through claims process given efficiency and

By contrast, the better and more equitable approach for any Kinetic Funds investor who received a loan would be to have the loan amount still outstanding (and factoring in any out-of-pocket payments) be treated as a distribution back to them that would be offset against that investor's investment activity with Kinetic Funds. Under this approach, any Lendacy loan(s) received by an Investor would be included in the "total withdrawals and distributions" category, and any corresponding out-of-pocket loan payments made by that investor would be included in the "total investments and deposits" category. *See supra* at p. 16. For example, a hypothetical investor that invested \$10,000, received a \$7,000 Lendacy loan, and made \$1,000 of out-of-pocket repayments on that Lendacy loan would have a net loss of \$4,000:

<p><b>Total investments + deposits (\$11,000) - Total withdrawals + distributions (\$7,000) = \$4,000 net loss.</b></p>
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The Receiver believes that factoring in an investor's net Lendacy activity into any claim analysis is the most equitable option. In addition to the cost efficiencies and finality afforded by this method, it is also equitable given the fact that Kinetic Funds and Lendacy's operations were intertwined. Lendacy was entirely dependent on Kinetic Funds' investments to fund the purported independent loans to investors. Moreover, to the extent that an investor repaid their Lendacy loan, those proceeds were then sent back to Kinetic Funds' bank account.

The Receiver also believes it would be inequitable to factor in any purported dividends or appreciation generated by an investor's Kinetic Funds investment given the inconsistencies and questions surrounding KFYield's actual performance. For the same reasons that the

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collectability issues); *see also Barki*, 2009 WL 3839389 at \*2 (rejecting distribution method requiring investors to return withdrawn profits as "impracticable because it unrealistically would require some investors to return funds that they may no longer have on hand").

Receiver is using an investor's actual investment - and not the amount purportedly reflected on that investor's most recent monthly statement - to determine an investor's claim amount, the Receiver also believes it would be inequitable to factor in any dividends allegedly generated by an investor's KFYield investment and used to pay down that investor's Lendacy balance because those payments were not "out of pocket" payments made by the investor. Courts routinely reject the invitation to treat an investor's statement amount (factoring in any appreciation and/or reinvestment) as their investment for claims purposes for these reasons.<sup>17</sup>

#### **iv. Procedures For The Administration And Determination Of Claims**

The Receiver has developed a proposed procedure and Proof of Claim Form to efficiently and equitably identify potential Claimants and the amount and validity of any claim. This proposed procedure will ensure certainty as to the total number and amount of claims against the Receivership Estate to allow for an equitable distribution among Claimants. The Receiver's proposed procedure also will lessen the burden on many known Claimants.

Based on the review and analysis of voluminous documents retrieved and secured by the Receiver and his professionals, and assuming the Court approves his decision to utilize the net investment method distribution method, the Receiver has determined what he believes is each investor's "Net Investment Amount" based on that investor's Kinetic Funds (and if applicable Lendacy) activity. To facilitate an investor's preparation and submission of a claim,

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<sup>17</sup> See, e.g., *In re Bernard L. Madoff Inv. Sec. LLC*, 654 F.3d 229, 235 (2d Cir. 2011) (Rejecting arguments by various customers that their claims should be based on the amounts listed in their last account statement, observing that reliance on Madoff's false statements to determine net equity "would have the absurd effect of treating fictitious and arbitrarily assigned paper profits as real and would give legal effect to Madoff's machinations." Instead, the court upheld the determination that net equity should be calculated by the amount that a customer deposited into his or her account, less any amount that he or she withdrew from the account.).

the Receiver proposes to mail a Proof of Claim Form to each known investor and interested party. The Receiver will include Claims Process Instructions in the form attached as **Exhibit 2**. Further, if the Receiver has sufficient reliable information to determine the Net Investment Amount for an investor, the Receiver proposes to include the calculated Net Investment Amount with the Proof of Claim Form for the pertinent investor. If the investor receives a Net Investment Amount and agrees with the amount identified, then the investor does not need to provide any further documentation supporting his or her claim. However, the investor must still complete and sign the Proof of Claim Form under penalty of perjury and return it to the Receiver before the Claim Bar Date, as specified above.

If the investor disagrees with the Net Investment Amount or if the Receiver determines to not include a Net Investment Amount, then the investor must provide the amount he, she, or it contends is correct and legible copies of all documents on which the claim is based or, if documents are not available, an explanation as to why the documents are not available. If an investor invested through an IRA or jointly with another individual and also individually, the Receiver will send the investor multiple Proof of Claim Forms. The investor must complete and return each Proof of Claim Form to preserve all claims.

If the Receiver later discovers that the Net Investment Amount provided on an attachment to the Proof of Claim Form is not accurate, he will amend the Net Investment Amount and provide notice of the amendment to the investor. The investor will then have the later of either the Claim Bar Date or thirty (30) days from the date the amendment was sent to return an amended Proof of Claim Form to preserve his or her claims. Similarly, subject to the Receiver's discretion to be exercised in an equitable manner and in the best interests of the

Receivership, the Receiver may send notice of a deficiency in a submitted Proof of Claim Form to the submitting Claimant. The Claimant will then have the later of either the Claim Bar Date or thirty (30) days from the date the notice of deficiency was mailed to correct the deficiency as directed by the Receiver to preserve his or her claim. The Receiver also may request additional information from a Claimant. A Claimant's failure to cure a deficiency or provide additional information may result in denial of the claim.

The Receiver proposes that creditors holding claims against the Receivership be provided with a similar written notice of the amount the Receiver calculates is owed to the creditor based on the records of the receivership. The Receiver is aware of two non-investor creditors at this time holding potential claims. The Receiver proposes that creditors shall similarly be required to complete and return the Proof of Claim Form to the Receiver by the Claim Bar Date. If the Receiver receives a timely objection to any proposed claim amount, the Receiver will attempt to resolve the claim dispute through negotiation. If the parties are unable to resolve the dispute through negotiation, the Receiver will file a motion with this Court to seek resolution of the disputed claim.

It is unlikely that the Receiver will recover sufficient funds to pay all allowed claims in full. In receiverships, Claimants with allowed claims generally recover a percentage of their loss. As such, the Net Investment Amount will serve as the basis for determining the recipients and amounts of Distributions for victim-investors. The identification of a Net Investment Amount does not mean that the investor has a valid claim. The Receiver reserves the right to object to the validity of any claim notwithstanding the identification of any such amount.

Each Proof of Claim Form submitted must conform substantially to and must contain all of the information sought in the Proof of Claim Form approved by the Court. The Receiver reserves the right to reject any altered Proof of Claim Form. A rejection will be treated as a deficiency, and the Claimant will have the time indicated above within which to submit an acceptable Proof of Claim Form. Each Proof of Claim Form must be signed by the Claimant or, if the Claimant is not an individual, by an authorized agent of the Claimant. The Claimant must attest under penalty of perjury that any information provided to, or by, the Receiver, is true and correct. Each Proof of Claim Form must be legible, written in English, and denominated in United States currency. The submission of a claim will subject the Claimant to the jurisdiction of the United States District Court for the Middle District of Florida.

All Proof of Claim Forms must be sent so as to be received on or before the Claim Bar Date at the following address:

Mark A. Kornfeld, Receiver  
c/o Jordan D. Maglich, Esq.  
Quarles & Brady LLP  
101 E. Kennedy Blvd., Suite 3400  
Tampa, FL 33602

Facsimile and email copies of Proof of Claim Forms will be accepted only if received on or before the Claim Bar Date and the original executed Proof of Claim Form is received no later than three (3) calendar days after transmission of the facsimile and/or email. Failure to provide an original executed Proof of Claim Form within the time specified may result in denial of the claim. Facsimile copies must be sent to (813) 387-1800 to the attention of Mark A. Kornfeld, Receiver c/o Jordan D. Maglich, and email copies must be sent to [Rebecca.wilt@quarles.com](mailto:Rebecca.wilt@quarles.com).



It is each Claimant's responsibility to ensure any Proof of Claim Forms are delivered to the Receiver.

The Receiver will file a separate motion to recommend to the Court that any properly completed and timely filed claim be considered allowed if it is established that: (i) the claim arises from or in connection with the fraudulent investment scheme set forth in the complaint filed by the Commission in this action; (ii) losses recognized by law resulted from such activities; (iii) any alleged claim and losses are supported by appropriate documentation and are consistent with the books and records available to the Receiver; and (iv) no ground exists for denying the claim. After the Claim Bar Date expires and the Receiver has evaluated all submitted claims, he will seek approval from this Court regarding: (i) allowed claim amounts; (ii) priority of claims; (iii) a process for the resolution of objections to claim determinations and priorities reached by the Receiver; and (iv) if needed, the establishment of reserves for administration of the Receivership, for litigation, and for disputed claims and priorities (until such time as the disputes are resolved).

At the appropriate time, as determined by the Receiver, he will file a motion for a proposed plan of distribution. The motion will identify the total assets in the Receivership Estate at that time and the total amount of allowed claims. After Court approval, any Distribution to the Claimants will be made in an equitable manner and in accordance with the appropriate priority, and no Claimant shall receive more than his or her respective allowed amount. The Receiver intends to seek Court approval to make interim Distributions so that defrauded investors who suffered losses receive Distributions as soon as possible.

All administrative expenses, including attorneys' and other professionals' fees and costs, litigation expenses, and other administrative costs, such as expenses for publishing notice will be paid from the Receivership Estate or reserved before making any Distribution. The Receiver has not made any prior request for the requested relief to this or any other Court.

**V. CONCLUSION**

The Receiver requests that the Court (i) approve the Proof of Claim Form attached as **Exhibit 1** and the claims administration procedures set forth in this motion, including the Claims Process Instructions attached as **Exhibit 2**; (ii) establish a deadline for receipt of claims that is 90 days from the mailing of the Proof of Claim Form to known possible Claimants (the Claim Bar Date); and (iii) permit notice of the deadline in the form attached as **Exhibit 3** by (a) first class U.S. mail to the last known addresses of all known potential Claimants, (b) publication in the New York Times national edition, the Sarasota Herald-Tribune, and El Nuevo Dia, and (c) publication on the Receiver's website as described above. For the Court's convenience, a proposed order granting this motion is attached as **Exhibit 4**.

**LOCAL RULE 3.01(g) CERTIFICATION**

Pursuant to Local Rule 3.01(g), the undersigned certifies that counsel for the Receiver conferred with counsel for the Commission and Defendant Williams prior to filing this Motion. Counsel for the Commission has indicated the Commission will advise of its position on the requested relief after the investors have been allowed the opportunity to weigh in on the distribution method proposed by the motion. Counsel for Defendant Williams has indicated Defendant Williams does not oppose the requested relief.

QUARLES & BRADY LLP

/s/ Jordan D. Maglich

Jordan D. Maglich, Esq.  
Florida Bar No. 0086106  
Zachary S. Foster, Esq.  
Florida Bar No. 111980  
101 E. Kennedy Blvd., Ste. 3400  
Tampa, FL 33602  
Phone: (813) 387-0300  
jordan.maglich@quarles.com  
zachary.foster@quarles.com  
*Attorneys for the Receiver,*  
*Mark A. Kornfeld*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20th day of August, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to the following counsel of record:

Christine Nestor, Esq.  
Stephanie N. Moot, Esq.  
John T. Houchin, Esq.  
Barbara Viniegra, Esq.  
Securities and Exchange Commission  
801 Brickell Avenue, Suite 1950  
Miami, FL 33131  
nestorc@sec.gov  
moots@sec.gov  
houchinj@sec.gov  
viniegrab@sec.gov  
*Counsel for Plaintiff*

Timothy W. Schulz, Esq.  
Timothy W. Schulz, P.A.  
224 Datura Street, Suite 815  
West Palm Beach, FL 33401  
e-service@twslegal.com

and

Jon A. Jacobson, Esq.  
Jacobson Law, P.A.  
224 Datura Street, Suite 812  
West Palm Beach, FL 33401  
jjacobson@jlpa.com  
e-service@jlpa.com  
*Counsel for Defendant Michael Williams*

/s/ Jordan D. Maglich

Jordan D. Maglich

# EXHIBIT 1

## PROOF OF CLAIM FORM

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

KINETIC INVESTMENT GROUP, LLC and MICHAEL  
SCOTT WILLIAMS,

Defendants;

and

KINETIC FUNDS I, LLC, KCL SERVICES, LLC d/b/a  
LENDACY, SCPIO, LLC, LF42, LLC, EL MORRO  
FINANCIAL GROUP, LLC, and KIH, INC., f/k/a KINETIC  
INTERNATIONAL, LLC,

Relief Defendants.

Case Number: 8:20-cv-394

U.S. District Court Middle District of Florida (Tampa Division)

Name and address of Claimant  
(Please print or type):

**ATTENTION:** The Honorable Mary S. Scriven of the United States District Court, Middle District of Florida, entered an order appointing Mark A. Kornfeld as Receiver over the assets of the above-captioned Defendant Kinetic Investment Group, LLC and relief defendants (individually, a “**Receivership Entity**,” and collectively, “**Receivership Entities**”). On \_\_\_\_\_, the Court issued an order establishing a Claim Bar Date for all claims and approving this Proof of Claim Form and the basic procedures to administer any claims. To be eligible to receive a distribution from the Receivership Entities’ assets, you must complete and return this Proof of Claim Form and, if applicable, provide the requested documentation, so that it is received on or before \_\_, to **Mark A. Kornfeld, as Receiver, c/o Jordan D. Maglich, Esquire, Quarles & Brady LLP, 101 East Kennedy Blvd., Suite 3400, Tampa, Florida 33602.** *The proper filing of this completed claim form may entitle you to receive a distribution from the Receivership. Altered forms will not be accepted.*

The information provided in this Proof of Claim Form will be used to determine your distribution, if any, from the Receivership. The Receiver has the right to dispute and/or verify any information you have provided to determine the proper distribution amount, if any, to which you may be entitled. The Receiver further has the right to amend any information he may have provided as to your Net Investment Amount. **By identifying and providing a Net Investment Amount for an investor the Receiver does not waive any right to (1) deny, contest the validity of, or otherwise object to a claim or (2) if warranted, amend the provided Net Investment Amount.**

### IMPORTANT INFORMATION TO READ PRIOR TO SUBMITTING THIS FORM

ANY PERSON OR ENTITY SUBMITTING THIS PROOF OF CLAIM FORM SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE ABOVE-CAPTIONED COURT FOR ALL PURPOSES, INCLUDING, WITHOUT LIMITATION, AS TO ANY CLAIMS, OBJECTIONS, DEFENSES, OR COUNTERCLAIMS THAT COULD BE OR HAVE BEEN ASSERTED BY THE RECEIVER AGAINST SUCH CLAIMANT OR THE HOLDER OF SUCH CLAIM IN CONNECTION WITH THIS RECEIVERSHIP, INCLUDING, THOSE ARISING OUT OF (1) ANY DEALING OR BUSINESS TRANSACTED BY OR WITH ANY RECEIVERSHIP ENTITY AND/OR (2) ANY DEALING OR BUSINESS TRANSACTED THAT RELATES IN ANY WAY TO ANY RECEIVERSHIP PROPERTY. CLAIMANT FURTHER AGREES BY MAKING THIS SUBMISSION TO WAIVE ANY RIGHT TO A JURY TRIAL WITH RESPECT TO SUCH CLAIMS, OBJECTIONS, DEFENSES, AND COUNTERCLAIMS.

IF THIS COMPLETED FORM, SIGNED UNDER PENALTY OF PERJURY, IS NOT RECEIVED BY THE RECEIVER AT THE ABOVE-REFERENCED ADDRESS BY \_\_\_\_\_, YOU WILL BE FOREVER BARRED FROM ASSERTING ANY CLAIM AGAINST THE RECEIVERSHIP ENTITIES' ASSETS AND YOU WILL NOT BE ELIGIBLE TO RECEIVE ANY DISTRIBUTIONS FROM THE RECEIVER.

**General Instructions:**

You **must** answer each and every question on the following pages. If you are an investor, however, you do not need to answer questions 17-19, which are specific to Non-Investor Claimants. Similarly, Non-Investor Claimants do not need to answer questions 8-16, which are specific to Investor Claimants. Please answer each question applicable to you as fully as possible. If you need additional space to complete an answer, please attach a separate sheet of paper and indicate the number of the question for which you are providing the additional information. If the question does not apply to you, please write "not applicable." If the answer to the question is "no" or "none," please answer as such.

1. Full name of the Claimant (the person or entity making this claim to Receivership assets). \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
2. If this form is being completed by a person other than the Claimant or on behalf of an entity, please provide the full name, address, telephone number, and email address of the person completing this form and the basis for that person's authority to act on the Claimant's behalf. **If you are a power of attorney, trustee, or other fiduciary completing this form on behalf of the Claimant in question 1, you must provide documentation with this Proof of Claim Form reflecting your legal authority to do so.**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
3. If this form is being completed on behalf of an entity, please provide the full names of the entity's officers, directors, trustees, managing agents, shareholders, partners, beneficiaries, and any other party with an interest in the entity. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
4. Provide **one** mailing address where the Claimant authorizes the receipt of all future communications relating to this claim, including any possible distribution payment the Claimant may receive. It is the Claimant's sole responsibility to advise the Receiver of any change to this address after the submission of this form.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
5. Provide **one** email address for the Claimant where the Claimant authorizes the receipt of all future electronic communications relating to this claim. It is the Claimant's sole responsibility to advise the Receiver of any change to this email address after the submission of this form.  
 \_\_\_\_\_

Do you consent to the receipt of electronic communications from the Receiver in lieu of mailed communications where feasible and in the Receiver's discretion? Yes \_\_\_\_\_ No \_\_\_\_\_

6. Provide **one** telephone number for the Claimant. It is the Claimant's sole responsibility to advise the Receiver of any change to this telephone number after the submission of this form. \_\_\_\_\_
7. Provide the basis for your claim (please check applicable boxes):

- ☐ Investor
- ☐ Provided Goods or Services to a Receivership Entity
- ☐ Other (specify basis) \_\_\_\_\_

**If you are not an investor, write "Not Applicable" to questions 8 through 16. If you are an investor, write "Not Applicable" to questions 17 through 19. All Claimants must answer questions 1-7 and question 20.**

**Questions Specific to Investors**

8. Please refer to Exhibit A attached to this document. If sufficient information is available, this Exhibit provides the following information: (1) the total amount invested; (2) the total payments, loans, and/or distributions received; and (3) the Net Investment Amount. Do the amounts listed in the Exhibit accurately represent the total amount of your investment and all funds you received related to this investment? Failure to respond to this question will mean that you agree with the amounts listed in the Exhibit.

\_\_\_\_\_ Yes, I agree with the amounts listed. \_\_\_\_\_ No, I do not agree with the amounts listed.

**If you answered yes, you do not have to respond to questions 9, 10, and 11. If you answered no, you must answer questions 9, 10, and 11 and provide copies of the documents requested.**

9. Please provide the following information regarding your investment in or with, or interest in, any Receivership Entity, and attach copies of all checks, bank or other financial account statements, invoices, wire transfer confirmations, and other documents relating to your answer.

1<sup>st</sup> investment in or with the Receivership Entities:

totaled \$ \_\_\_\_\_ and was made on \_\_\_\_\_ (date); through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (identify financial institution).

If applicable, 2<sup>nd</sup> investment in or with the Receivership Entities:

totaled \$ \_\_\_\_\_ and was made on \_\_\_\_\_ (date); through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (identify financial institution).

If additional investments were made, please attach a separate sheet identifying (1) those amounts, (2) the dates on which they were made, (3) the payee of the check (or recipient of the wire transfer), and (4) the account number and financial institution on which the check was drawn or the wire transfer initiated.

**Total amount you are claiming you invested with the Receivership Entities: \$**\_\_\_\_\_

10. Have you ever received any money from a Receivership Entity, including as a "loan" or "credit facility" from Receivership Entity KCL Services, LLC d/b/a Lendacy, an "interest" payment, "return of principal," or "referral fee" relating to your investment or for any other reason? \_\_\_\_ Yes\_\_\_\_\_ No. If yes, please provide the following information for each amount received, and attach copies of all checks, bank or other financial account statements, wire transfer confirmations, and other documents relating to your answers.

	<u>Date</u>	<u>Amount</u>	<u>Payor/Payee of check/wire</u>
A.	_____	_____	_____
B.	_____	_____	_____
C.	_____	_____	_____

If any additional amounts were received from any Receivership Entity, please attach a separate sheet identifying those amounts, the dates on which they were received, and the payor and payee of the check(s) or wire transfers.

**Total amount you are claiming you received from the Receivership Entities: \$**\_\_\_\_\_

11. **State the total amount of your claim (this is the amount that you are claiming you are owed from the Receivership): \$**\_\_\_\_\_

12. Did you receive any other funds or anything of value other than money (for example, a car or shares of stock) from any Receivership Entity or anyone acting on their behalf? Yes\_\_\_ No\_\_\_ . If yes, please identify how much or what you received, from whom, and the date it was received. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

13. Provide the name of the person or persons who solicited your investment in or with the Receivership Entities. \_\_\_\_\_  
 \_\_\_\_\_

14. Please explain the way in which you came to learn about Kinetic Funds I, LLC and/or Kinetic Investment , Group, LLC and thereafter invest in or with them, including the person who introduced you to these entities, the statements made by that person, any documents provided by that person, meetings you had with the representative(s) of those entities, information that you relied on, and any other information. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

15. Are you related by blood or marriage to any of the individual defendants or relief defendants? \_\_\_\_ Yes\_\_\_ No. If yes, to whom are you related and what is the relationship. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

16. Did you receive any commissions, referral fees, compensation for the referral of clients, or any other



compensation of any nature from any Receivership Entity? \_\_\_\_ Yes \_\_\_\_ No. If yes, please identify how much or what you received, from whom, and the date it was received. \_\_\_\_\_

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**Questions Specific To Non-Investor Claimants**

17. If you were not an investor, state with specificity how you claim an interest in any distribution by the Receivership Entities (for example, you provided goods or services to a Receivership Entity for which you have not been paid). \_\_\_\_\_

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18. State the amount you claim you are owed by any Receivership Entity. \$ \_\_\_\_\_  
 Attach copies of all documents relating to your claim (for example, copies of all invoices submitted to a Receivership Entity and copies of records of all payments received from same). If you delivered goods to a Receivership Entity, include a copy of the document confirming receipt by a representative of the Receivership Entity.

19. Identify your contact person or persons at the Receivership Entities. \_\_\_\_\_

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**Question for all Claimants:**

20. Have you sued, threatened suit, or otherwise commenced any lawsuits, arbitrations, actions, or other proceedings, or made any demands against any person or entity relating in any way to your claim and/or any Receivership entity? \_\_\_\_ Yes \_\_\_\_ No. If yes, identify the nature and status of any such action, the date the action was initiated, the name of the attorney who commenced the action, and the amount of any money you received in connection with any such action. \_\_\_\_\_

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Send this completed and signed, under penalty of perjury, Proof of Claim Form and legible copies of any documentation requested in this form to **Mark A. Kornfeld, as Receiver, c/o Jordan D. Maglich, Esquire, Quarles & Brady LLP, 101 East Kennedy Blvd., Suite 3400, Tampa, Florida 33602, SO THAT IT IS RECEIVED NO LATER THAN** \_\_\_\_\_.

IF YOU DO NOT AGREE WITH ANY AMOUNTS PROVIDED ON EXHIBIT A OR NO AMOUNTS WERE PROVIDED ON EXHIBIT A, YOU MUST PROVIDE COPIES OF ALL DOCUMENTS OR OTHER MATERIALS THAT ARE RELATED IN ANY WAY TO YOUR INVESTMENT IN THE RECEIVERSHIP ENTITIES, OR, IF YOU ARE NOT AN INVESTOR, TO YOUR CLAIM AGAINST A RECEIVERSHIP ENTITY, INCLUDING COPIES OF YOUR CANCELLED CHECKS, BANK OR OTHER FINANCIAL ACCOUNT STATEMENTS SHOWING ALL TRANSFERS OF FUNDS BETWEEN (OR FOR THE BENEFIT OF) YOU AND THE RECEIVERSHIP ENTITIES, STATEMENTS FROM THE RECEIVERSHIP ENTITIES, WIRE TRANSFER CONFIRMATIONS, AND ANY OTHER DOCUMENTS REGARDING YOUR CLAIM.

**By signing below, I certify under penalty of perjury pursuant to Florida law that the information provided in this form is true and correct. If this claim is being submitted by more than one person, all persons submitting the claim must sign below certifying under penalty of perjury that the information provide is true and correct.**

Signature of Claimant:\_\_\_\_\_

Print Name:\_\_\_\_\_

Date:\_\_\_\_\_

Title (if any):\_\_\_\_\_

**EXHIBIT A**

**Investor Name:** \_\_\_\_\_

**Amount Invested:** \$ \_\_\_\_\_

**Total Payments/Loans/Distributions:** \$ \_\_\_\_\_

**Net Investment Amount:** \$ \_\_\_\_\_

THE RECEIVER HAS PROVIDED THE ABOVE INFORMATION BASED UPON DOCUMENTS AVAILABLE TO HIM. THESE FIGURES ARE BELIEVED TO BE ACCURATE AND REASONABLE CONCLUSIONS. PLEASE CAREFULLY REVIEW THE ABOVE AMOUNTS. IF THE NUMBERS PROVIDED ARE NOT CONSISTENT WITH YOUR RECORDS, IT IS YOUR OBLIGATION TO PROVIDE TRUE AND CORRECT INFORMATION TO THE RECEIVER. IF YOU CONFIRM THAT THE ABOVE AMOUNTS ACCURATELY REPRESENT THE AMOUNT YOU INVESTED, ALL AMOUNTS YOU RECEIVED RELATING TO THIS INVESTMENT, AND ANY OTHER FUNDS YOU RECEIVED FROM THE RECEIVERSHIP ENTITIES, YOU ARE DOING SO UNDER PENALTY OF PERJURY.

BY IDENTIFYING AND PROVIDING THE ABOVE FIGURES, THE RECEIVER DOES NOT WAIVE ANY RIGHT TO (1) DENY, CONTEST THE VALIDITY OF, OR OTHERWISE OBJECT TO A CLAIM OR, (2) IF WARRANTED, AMEND ANY OF THE PROVIDED FIGURES.

## EXHIBIT 2

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

KINETIC INVESTMENT GROUP, LLC and  
MICHAEL SCOTT WILLIAMS,

CASE NO.: 8:20-cv-394

Defendants, and

KINETIC FUNDS I, LLC,  
KCL SERVICES, LLC d/b/a LENDACY,  
SCIPIO, LLC, LF 42, LLC, EL MORRO  
FINANCIAL GROUP, LLC, and KIH, INC.,  
f/k/a KINETIC INTERNATIONAL, LLC,

Relief Defendants.

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**CLAIMS PROCESS INSTRUCTIONS**

TO ALL PERSONS AND ENTITIES WITH CLAIMS AGAINST THE DEFENDANTS  
AND/OR RELIEF DEFENDANTS:

On February 20, 2020, the Securities and Exchange Commission (“SEC”) initiated this action against the Defendants and Relief Defendants seeking emergency relief to stop a fraudulent securities offering and requested that the Court appoint a Receiver. As a result of this action, the Court appointed Mark A. Kornfeld as Receiver over the assets of Defendant Kinetic Investment Group, LLC and Relief Defendants (collectively, the “**Receivership Entities**”).

The Receiver and his professionals have spent considerable time and resources examining voluminous documents relating to the Receivership Entities. Based on this examination and to the extent possible, the Receiver has determined a “**Net Investment Amount**” for substantially all of the known investors. The Net Investment Amount for an investor is calculated by adding all amounts contributed by the pertinent investor and subtracting all payments made to that investor and/or in connection with that investment, regardless of whether those payments were characterized as “interest,” “earnings,” “returns or redemptions of principal,” “incentive fees,” “referral fees,” or any other terminology. This calculation also factors in an investor’s receipt of, and any out-of-pocket payments made towards, any loan from Relief Defendant KCL Services, LLC d/b/a Lendacy. For example, an investor who invested total funds of \$100,000, received a Lendacy loan of \$60,000, and received \$10,000 in distributions in connection with that investment would have a Net Investment Amount of \$30,000. If an investor made multiple investments over time, those investments and any and all transfers to that investor related to

those investments would be combined in one Net Investment Amount. For example, an investor who invested \$10,000 in January 2016, received “interest” payments in the total amount of \$2,000 on this investment and also invested \$40,000 in November 2016 and received “interest” payments in the total amount of \$8,000 on that investment would have a total investment amount of \$50,000 and total payments of \$10,000 for a resulting Net Investment Amount of \$40,000.

The Net Investment Amount will serve as the basis for determining the recipients and amounts of distributions for victim investors. **By identifying and providing a Net Investment Amount (as may be provided in the Proof of Claim Forms mailed to investors where the Receiver has determined to do so), the Receiver does not waive any right to (1) deny, contest the validity of, or otherwise object to a claim or (2) if warranted, amend the provided Net Investment Amount.** If amendment of a Net Investment Amount is warranted, the Receiver will provide notice of the amendment to the affected investor and give the investor an opportunity to respond.

On \_\_\_\_\_, the Court entered an Order establishing \_\_\_\_\_ (the “**Claim Bar Date**”) as the last date for each person or entity (including individuals, partnerships, corporations, joint venturers, estates, trusts, and governmental units) to submit a claim against the Receivership Entities.

Any person or entity that submits a claim submits to the exclusive jurisdiction of the United States District Court for the Middle District of Florida for all purposes, including, without limitation, as to any claims, objections, defenses, or counterclaims that could be or have been asserted by the Receiver against such Claimant or the holder of such claim in connection with this Receivership, including those arising out of (1) any dealing or business transacted by or with any Receivership Entity or (2) any dealing or business transacted that relates in any way to any Receivership property. Further, Claimants waive any right to a jury trial with respect to such claims, objections, defenses, and counterclaims.

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The Claim Bar Date and the procedures set forth below for filing a claim apply to all creditors and victims of the Kinetic Funds scheme.

## 1. WHO MUST FILE A PROOF OF CLAIM FORM

If you think that you are owed money by any of the Receivership Entities or that you may otherwise have a claim against them, you **MUST** file a Proof of Claim Form to share in distributions from the Receivership. A claim based on acts or omissions of any Receivership Entity must be filed on or before the Claim Bar Date, even if such claim is not now mature, fixed, liquidated, or certain, or does not become mature, fixed, liquidated, or certain before the Claim Bar Date.

## 2. WHAT TO FILE

To make the process less burdensome for investors, the Court authorized the Receiver to provide a Net Investment Amount on an attachment to the Proof of Claim Form for each investor for whom the Receiver has sufficient reliable information to do so. If you were provided a Net Investment Amount on the attachment to the Proof of Claim Form you received and you agree with the amounts identified, then you do not need to provide to the Receiver any documentation supporting your claim. However, you **must** still complete and sign the Proof of Claim Form under penalty of perjury and return it to the Receiver so that it is **received** on or before the Claim Bar Date, as specified in section 3 below.

If you disagree with the Net Investment Amount provided on the attachment to the Proof of Claim Form that you received or no Net Investment Amount was identified on the attachment to the Proof of Claim Form, you must provide to the Receiver by the Claim Bar Date (1) the amounts you contend are the correct amounts you invested in and received from any Receivership Entity and (2) legible copies of all documents on which you base your claim or, if documents are not available, a detailed explanation as to why the documents are not available.

If you were not an investor but believe you are or may be a creditor of one or more of the Receivership Entities, you must provide to the Receiver by the Claim Bar Date (1) the amount you contend you are owed from any Receivership Entity; (2) any amounts received from any Receivership Entity; and (3) legible copies of all documents on which you base your claim (i.e., all invoices for goods or services provided, loan documents, etc., as applicable) or, if documents are not available, a detailed explanation as to why the documents are not available.

If you invested in your individual name and also in the name of your individual retirement account ("IRA") or jointly with another individual, you will receive multiple Proof of Claim Forms. You **must** complete, sign, and return each Proof of Claim Form you receive to preserve all of your claims. Failure to timely return a completed and signed Proof of Claim Form for a claim will forever bar any claim related to that investment.

If the Receiver discovers that the Net Investment Amount provided on an attachment to the Proof of Claim Form is not accurate, the Receiver will amend the Net Investment Amount and provide notice of the amendment to the investor. The investor then will have the later of either (1) the Claim Bar Date or (2) thirty (30) days from the date the notice was provided to the investor to return an amended Proof of Claim Form to the Receiver. Failure to timely return a completed and signed amended Proof of Claim Form for a claim will forever bar any claim

related to that investment.

Similarly, subject to the Receiver's discretion, the Receiver may send notice of a deficiency in a submitted Proof of Claim Form to you. You will then have the later of either the Claim Bar Date or thirty (30) days from the date the notice of deficiency was provided to you to correct the deficiency as directed by the Receiver. The Receiver also reserves the right to request additional information from any Claimant. If you receive a request for additional information, you will have the same amount of time as is allowed for curing a deficiency to provide the additional information requested. Failure to cure a deficiency or provide additional information may result in denial of your claim.

Each Proof of Claim Form submitted **must** conform substantially to the Proof of Claim Form approved by the Court and provide responses to all of the questions in the Proof of Claim Form that either (1) was mailed to you along with these Instructions or (2), if you have not received one by mail, was posted on the Receiver's website at [www.kineticreceivership.com](http://www.kineticreceivership.com). A copy of a Proof of Claim Form also may be obtained from Rebecca Wilt, Quarles & Brady LLP, 101 East Kennedy Blvd., Suite 3400, Tampa, FL 33602, (813) 387-0277.

Each Proof of Claim Form submitted **must** be signed under penalty of perjury by the Claimant or, if the Claimant is not an individual, by an authorized agent of the Claimant. By signing the Proof of Claim Form the Claimant attests that all information, including any information provided by the Receiver is true and correct. Each Proof of Claim Form **must** be legible, written in English, and denominated in United States currency.

It is your sole responsibility to advise the Receiver of any change to your mailing address, email address, and telephone number after you submit a claim to ensure that you receive any and all future communications regarding your claim, including any possible distribution payment you may be entitled to receive.

The Receiver will recommend to the Court that any properly completed and timely filed claim be considered allowed if it is established that: (1) the claim arises from or in connection with the fraudulent investment scheme set forth in the complaint filed by the SEC in this action; (2) losses recognized by law resulted from such activities; (3) any alleged claim and losses are supported by appropriate documentation and are consistent with the books and records available to the Receiver; and (4) no ground exists for denying the claim.

### **3. WHEN AND WHERE TO FILE**

Except as provided for herein, original Proof of Claim Forms must be delivered by mail or otherwise so as to be **received on or before** \_\_\_\_\_ at the following address:

Mark A. Kornfeld, as Receiver  
c/o Jordan D. Maglich, Esq.  
Quarles & Brady LLP  
101 East Kennedy Blvd., Suite 3400  
Tampa, FL 33602



DO NOT SEND YOUR PROOF OF CLAIM FORM TO THE COURT OR JUDGE PRESIDING OVER THIS CASE.

Facsimile and email copies of Proof of Claim Forms will be accepted only if received by the Receiver on or before the Claim Bar Date and the original executed Proof of Claim Form is received by the Receiver no later than three (3) days after transmission of the facsimile and/or email. Failure to provide an original executed Proof of Claim Form within the time specified may result in denial of the claim. Facsimile copies must be sent to (813) 387-1800 to the attention of Mark A. Kornfeld, Receiver c/o Jordan D. Maglich, and email copies must be sent to [rebecca.wilt@quarles.com](mailto:rebecca.wilt@quarles.com). It is the Claimant's responsibility to ensure that Proof of Claim Forms are delivered to the Receiver.

#### **4. CONSEQUENCES OF FAILURE TO FILE A CLAIM BY THE BAR DATE**

ANY HOLDER OF A CLAIM OR POTENTIAL CLAIM THAT FAILS TO FILE A PROOF OF CLAIM FORM (1) THAT FULLY COMPLIES WITH ALL REQUIREMENTS SET FORTH HEREIN **AND** (2) BY THE CLAIM BAR DATE WILL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH CLAIM AGAINST THE RECEIVERSHIP ENTITIES, THEIR SUCCESSORS, THEIR RESPECTIVE PROPERTY, THE RECEIVER, OR THE RECEIVERSHIP, AND FROM PARTICIPATING IN ANY DISTRIBUTION FROM THIS RECEIVERSHIP.

**A holder of a claim or potential claim against a Receivership Entity may wish to consult an attorney regarding this claims process. The firm of Quarles & Brady LLP acts as attorneys for the Receiver and its lawyers cannot give personal legal or other advice to Claimants.**

Dated\_\_\_\_\_, Tampa, Florida.

## EXHIBIT 3

**NOTICE OF DEADLINE REQUIRING FILING OF  
PROOF OF CLAIM FORMS ON OR BEFORE \_\_\_\_\_**

**TO ALL PERSONS AND ENTITIES WITH CLAIMS AGAINST ANY OF THE  
DEFENDANTS AND/OR RELIEF DEFENDANTS** (the “Receivership Entities”) in connection  
with the matter:

**Securities and Exchange Commission v. Defendants Kinetic Investment Group, LLC and  
Michael Scott Williams; and Relief Defendants Kinetic Funds I, LLC, KCL Services, LLC  
d/b/a Lendacy, Scipio, LLC, LF42, LLC, El Morro Financial Group, LLC, and KIH, Inc.,  
f/k/a Kinetic International, LLC, Case No. 8:20-cv-394 (M.D. Fla.).**

Notice is hereby given that, on \_\_\_\_\_, the Honorable Mary S. Scriven of the United States District Court, Middle District of Florida, issued an order establishing a claims process for the submission of claims to the assets of the Receivership Entities. The order establishes a Claim Bar Date of \_\_\_\_\_, as the last date for each person or entity (including individuals, partnerships, corporations, joint venturers, estates, trusts, and governmental units) to submit a claim against the Receivership Entities. Failure to timely submit a completed and signed Proof of Claim Form by the Claim Bar Date will forever bar any claim you may have. Information concerning the claims process and all related documents and the Proof of Claim Form necessary to submit a claim may be obtained from the Receiver’s website at [www.kineticreceivership.com](http://www.kineticreceivership.com), or by requesting a copy from the Receiver by email to [Rebecca.wilt@quarles.com](mailto:Rebecca.wilt@quarles.com) or by telephone call to Rebecca Wilt at (813)387-0277.

## EXHIBIT 4

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**KINETIC INVESTMENT GROUP, LLC and  
MICHAEL SCOTT WILLIAMS,**

**CASE NO.: 8:20-cv-394**

**Defendants, and**

**KINETIC FUNDS I, LLC,  
KCL SERVICES, LLC d/b/a LENDACY,  
SCIPIO, LLC, LF 42, LLC, EL MORRO  
FINANCIAL GROUP, LLC, and KIH, INC.,  
f/k/a KINETIC INTERNATIONAL, LLC,**

**Relief Defendants.**

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**ORDER GRANTING RECEIVER'S MOTION TO ESTABLISH AND APPROVE (1)  
PROCEDURE TO ADMINISTER AND DETERMINE CLAIMS; (ii) PROOF OF  
CLAIM FORM; and (iii) CLAIMS BAR DATE AND NOTICE PROCEDURES  
AND INCORPORATED MEMORANDUM OF LAW**

This cause comes before the Court for consideration of the Receiver's Motion to Establish and Approve (i) Procedure to Administer and Determine Claims; (ii) Proof of Claim Form; and (iii) Claims Bar Date and Notice Procedures and Incorporated Memorandum of Law (the "Motion") (Doc. \_\_\_\_).

Having considered the Motion, and being otherwise fully advised, it is **ORDERED AND ADJUDGED** that:

1. The Motion is **GRANTED**.
2. Each person or entity that asserts a claim against the Receivership arising out of or related in any way to the acts, conduct, or activities of the Receivership Entities and the fraudulent investment scheme set forth in the complaint filed by the Securities and Exchange Commission in this action must submit an original, written Proof of Claim Form, as attached to the Motion as Exhibit A, to the Receiver, Mark A. Kornfeld, c/o Jordan D. Maglich, Esq., Quarles & Brady LLP, 101 East Kennedy Blvd., Suite 3400, Tampa, Florida 33602, **to be received on or before 90 days from the mailing of the Proof of Claim Form to known possible Claimants** (the "**Claim Bar Date**"). Any person or entity that fails to submit a claim to the Receiver on or before the Claim Bar Date (*i.e.*, fails to take the necessary steps to ensure that the Proof of Claim Form is received by the Receiver on or before the Claim Bar Date), shall be forever barred and precluded from asserting any claim against any Receivership Entity or the Receivership. The Claim Bar Date will apply to all creditors and victims of the Kinetic Funds scheme.

3. The notice procedures for the Claim Bar Date provided in the Motion shall be sufficient and reasonably calculated to provide notice to all creditors if made by (a) first class U.S. mail to the last known addresses of known potential Claimants, (b) by publication on one day in the national edition of The New York Times, the El Nuevo Dia, and on one day in the local edition

of The Sarasota Herald-Tribune, and (c) by publication on the Receiver's website at [www.kineticreceivership.com](http://www.kineticreceivership.com). The Notice shall be in substantially the form attached to the Motion as Exhibit C. The Court hereby authorizes that the costs of publication be paid directly from Receivership assets.

4. The Proof of Claim Form attached to the Motion as Exhibit A and the claims administration procedures set forth in the Motion as well as the Claims Process Instructions attached as Exhibit B to the Motion are approved.

DONE AND ORDERED at Tampa, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2020.

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**UNITED STATES DISTRICT COURT JUDGE**