

1 ANDRÉ BIROTTE JR.
United States Attorney
2 ROBERT E. DUGDALE
Assistant United States Attorney
3 Chief, Criminal Division
STEVEN R. WELK
4 Assistant United States Attorney
Chief, Asset Forfeiture Section
5 MONICA E. TAIT
Assistant United States Attorney
6 California Bar No. 157311
1400 United States Courthouse
7 312 North Spring Street
Los Angeles, California 90012
8 Telephone: (213)894-2931
Facsimile: (213)894-7177
9 E-Mail: Monica.Tait@usdoj.gov

10 Attorneys for Plaintiff
United States of America

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

14 UNITED STATES OF AMERICA,) NO. CV 09-2398 RGK (RZx)
15)
16 Plaintiff,) (Proposed)
17) ORDER: INTERIM DISTRIBUTION
v.) PLAN FOR SEIZED LIQUID ASSETS
18)
\$6,874,561.25 IN FUNDS FROM SIX)
19 WELLS FARGO BANK ACCOUNTS, et)
al.,)
20 Defendants.)

21 The Court, having reviewed the government's Motion for an
22 Order Approving Interim Distribution of a Portion of the
23 Defendant Seized Assets on a Pro-rata Basis and its supporting
24 documents, and having reviewed any opposing papers or replies
25 thereto that may have been filed, hereby ORDERS as follows:

26
27
28

RECEIVED BUT NOT FILED
FEB - 2 2011
CLERK, U.S. DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA BY _____ DEPUTY

1 1. The government has demonstrated to the Court's
2 satisfaction that it is in the interests of justice for this
3 Court to approve the release of \$9,216,851.32 to the 1,826 Best
4 Diamond Funding investors whose losses are final (as described in
5 in the chart on p. 4 of the government's motion) in the exercise
6 of this Court's *in rem* jurisdiction over the defendant assets.

7 2. The United States Marshals Service ("USMS") shall pay
8 to each person or entity whose contract numbers are listed on the
9 attached 70-page Exhibit the amounts listed under the column "*1st*
10 *Distribution Amount (32.65%)*" from a portion of the defendant
11 assets in this case (the "Interim payment"). USMS shall make the
12 required payments from among the following defendant assets in
13 this case:

14 a. The defendant \$6,874,561.25 in Funds from Six
15 Wells Fargo Bank Accounts, seized on or about October 31, 2008;

16 b. The defendant \$1,147,051.51 in Funds from Six Bank
17 of America Accounts, seized on or about October 31, 2008;

18 c. The defendant \$3,978,403.00 U.S. Currency seized
19 on October 29, 2008 during the execution of a federal search
20 warrant at Best Diamond Funding and Libreria del Exito Mundial,
21 6422 Pacific Blvd., Huntington Park, California;

22 d. The defendant \$22,840.00 in U.S. Currency
23 ("defendant \$22,840") seized on December 16, 2008; and/or

24 e. The defendant \$6,400 in proceeds from 64 AMEX
25 Travelers Checks valued at \$100 each.

26 The government shall have complete discretion to choose the
27 source of each Interim payment from any or all of the defendant
28 assets above.

1 3. The government has separately filed under seal, on the
2 same day its motion was filed, a document stating the full name,
3 address, and other identifying information for all of the
4 investors listed on the 70-page Exhibit attached hereto (the
5 "Sealed Interim Distribution List"). Counsel for the government
6 is hereby authorized to provide copies of the Sealed Interim
7 Distribution List to USMS, to the Special Master and his staff,
8 and to the United States Probation Office (in connection with
9 criminal restitution owed by Milton Retana).

10 4. The USMS shall pay the Interim payments by a paper
11 check payable to the investor to whom the contract number on the
12 attached Exhibit corresponds. The USMS shall mail the checks to
13 the addresses listed on the Sealed Interim Distribution List.
14 *Provided*, should the Special Master appointed in this action or
15 counsel for the government learn that the address of a particular
16 investor has changed, the USMS shall mail the Interim payment
17 check to the changed address as directed by counsel for the
18 government. The Interim payments shall be made as soon as
19 practicable in light of the logistics involved in ordering,
20 approving, and issuing 1,826 checks.

21 5. The Sealed Interim Distribution List sets forth the
22 Social Security Numbers ("SSNs") of as many of the investors
23 receiving an Interim payment as currently known to counsel for
24 the government. USMS must make the Interim payment to each of
25 the listed investors regardless of whether the SSN for a given
26 investor is stated on the Sealed Interim Distribution List.

27 6. USMS shall pay the investors the interest actually
28 accrued since the time of seizure on the assets released pursuant

1 to this Order. The USMS may pay the interest separately from the
2 Interim payment. If the defendant assets being used to pay the
3 Interim payments have accrued interest at different rates, the
4 USMS has the discretion to aggregate the total amount of interest
5 earned and divide it among the investors according to the amounts
6 of their Interim payments. *Provided*, if USMS or counsel for the
7 government concludes that paying interest in an interim
8 distribution would be unfair to the interests of the
9 approximately 400 unresolved investors, interest payments may be
10 deferred until the final distribution in this matter.

11 7. USMS shall track the success and failure of the Interim
12 payments. If USMS learns that any checks paid pursuant to this
13 Order are returned to the government, the USMS shall pay those
14 funds again to the designated investor upon direction of counsel
15 for the government at any time before the government moves for a
16 final distribution in this matter.

17 8. The defendant assets comprising each Interim payment
18 are provisionally dismissed from this case upon entry of this
19 Order, pursuant to Fed. R. Civ. P. 41(a). *Provided*, if
20 government counsel certifies to the Court that USMS has been
21 unable to locate and pay particular investors listed on the
22 attached Exhibit, the court may restore the amounts of their
23 corresponding Interim payments to the defendant assets in this

24 //

25 //

26 //

27 //

28 //

1 case so that those funds may be part of a future distribution or
2 forfeiture.

3 IT IS SO ORDERED.

4 DATED: _____

The Honorable R. Gary Klausner
UNITED STATES DISTRICT JUDGE

6 PRESENTED BY:

7 ANDRÉ BIROTTE JR.
8 United States Attorney

9 /s/ Monica E. Tait
10 MONICA E. TAIT
11 Assistant United States Attorney
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28