

distribution basis according to their contributions (less any payments received). At the hearing, Plaintiff Rollar and the government expressly consented to this method of distribution. There is no opposition to the motion from any claimant.

The "use of a pro rata distribution has been deemed especially appropriate for fraud victims of a 'Ponzi scheme,'" as claimants are here. *SEC v. Credit Bancorp, ltd.* 290 F. 3d 80, 88 (2nd Cir. 2002). Further, the claimants are "similarly situated" in that every claimant's funds were deposited into the tainted accounts prior to the seizure, eliminating the need to trace, and fully refund, any portion of the funds. *U.S. v. Vanguard*, 6 F. 3d 222, 226 (4th Cir. 1993); *Anderson v. Stephens*, 875 F. 2d 76 (4th Cir. 1989); *SEC v. Forex*, 242 F. 3d 325 (5th Cir. 2001).

After considering the arguments of the Receiver, the government, and Plaintiff Rollar in support of a pro rata or equitable distribution, the undersigned finds that such distribution is appropriate in this case. Accordingly **IT IS HEREBY ORDERED THAT** the Receiver's amended motion is **GRANTED**; and the Receiver's original motion is **DENIED AS MOOT**.

IT IS SO ORDERED, this 10th day of October, 2002.



H. BRENT MCKNIGHT
UNITED STATES MAGISTRATE JUDGE