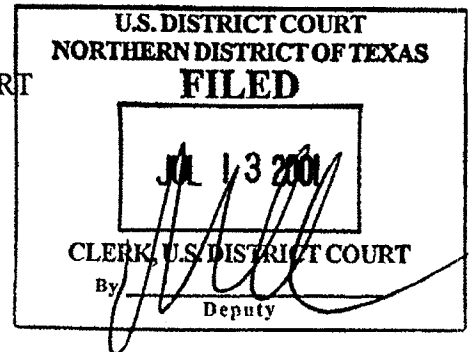


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



SECURITIES AND EXCHANGE
COMMISSION

Plaintiff,

VS.

FUNDING RESOURCE GROUP
a/k/a FRG TRUST, ET AL.

Defendants.

NO. 3-98-CV-2689-M



**FINDINGS AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

Michael J. Quilling, as Receiver for Howe Financial Trust, has filed a motion to establish procedures for the resolution of objections and payment of claims. The motion has been referred to United States Magistrate Judge Jeff Kaplan for recommendation pursuant to 28 U.S.C. § 636(b) and a standing order of reference dated June 16, 2000.

I.

This is a civil action brought by the SEC against 16 defendants and 13 equity relief defendants arising out of the sale of non-existent "prime bank" securities. The SEC alleges that defendants raised more than \$14 million from unwitting investors by making false representations about the use and safety of investor proceeds and the expected rate of return on their investments. This conduct, if proved, constitutes a violation of the federal securities laws.¹

¹ The SEC alleges violations of Sections 5(a), (c) & 17(a) of the Securities Act of 1933, 15 U.S.C. §§ 77e(a), (c) & 77q(a), Section 10(b) of the Securities and Exchange Act of 1934, 15 U.S.C. § 78j(b), and Securities and Exchange Commission Rule 10b-5, 17 C.F.R. § 240.10b-5. (Plf. Third Am. Compl. ¶ 3).

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Howe Financial Trust is an equity relief defendant in this case. On November 13, 1998, Michael J. Quilling was appointed as Receiver for all defendants and equity relief defendants. The order of appointment provides, in relevant part:

The Temporary Receiver shall take custody, possession and control of any and all assets, monies, securities and properties, real and personal, tangible and intangible, of whatever kinds and description, and wherever situated, belonging to [Howe] . . . (hereinafter referred to as "Receivership Assets"), as well as any documents relating to the Receivership Assets.

ORDER APP. TEMP. RECEIVER, 11/13/98 at 2-3. To date, the Receiver has recovered approximately \$1.5 million in assets traceable to Howe Financial Trust. He now seeks an order establishing procedures for the resolution of objections and payment of claims to defrauded investors.

The Receiver was previously ordered to send court-approved claim forms to all known potential claimants of the Howe Financial Trust Estate. *See* ORDER, 1/12/01. These forms were to be completed and returned to the Receiver by March 31, 2001. A total of 21 claims were filed. Of these claims, the Receiver has objected to Josephine Meidlinger's claim in the amount of \$25,000. Six potential claimants did not return claim forms and five others waived any claims against the Estate.² Two other claimants, Joseph and Hazel Studzinski, could not be located. A final hearing was held on July 13, 2001. Prior to the hearing, Meidlinger abandoned her claim. The only remaining issue involves the Studzinskis.

² Eagle Enterprises, Craig Wakefield, Steve Gaby, Julie Griggs, Rodger Griggs, and Art Edelman did not return claim forms. Walter Gregory, Patrick Flynn/Legacy Trust, Jean Wallis, Claude Jack Griggs, and Lenard Bieber waived any claims against Howe Financial Trust.

II.

The following claims have been allowed by the Receiver and should be approved by the

Court:

<u>Claimant</u>	<u>Amount of Claim</u>
Keith Abbott	\$ 107,750.00
Beverly J. Bakke	\$ 7,875.00
Delores and Edward Branka	\$ 44,258.34
Thomas Cardosi	\$ 90,000.00
Angelo L. Clementi	\$ 65,000.00
Michael P. Flick	\$ 250,000.00
Bertha Anne Godette	\$ 19,750.00
William T. Hock	\$ 37,510.92
Richard Iwanski	\$ 36,667.00
Johnny Mark	\$ 6,000.00
Kiran and Nisha Patel	\$ 500,000.00
Rudolph Rueff	\$ 27,500.00
Ann and Joseph Saele	\$ 70,000.00
Wayne and Mary Silvey	\$ 363,159.67
Wallace Simpson	\$ 15,000.00
Nancy Sims	\$ 100,000.00
Premier Investment Club	\$ 419,000.00
Martha Todd	\$ 9,875.00

John V. Tuidar	\$ 9,875.00
Howard Warber	\$ 67,381.25
	<hr/>
Total:	\$2,246,602.18

III.

The records of Howe Financial Trust indicate that Joseph and Hazel Studzinski have potential claims against the Estate. When this lawsuit was filed, the Studzinskis were residents of a nursing home in Savanna, Illinois. Hazel Studzinski has since passed away. Despite diligent efforts, the Receiver has been unable to locate Joseph Studzinski. The Receiver has learned that Joseph was removed from the nursing home by his daughter, Linda Setinc. Efforts to locate Setinc and her father through an internet search and other means have proved unsuccessful.

On May 4, 1999, the Studzinskis received an emergency distribution of \$25,000. Although they may have an additional claim against the Howe Financial Trust Estate, the amount of any such claim cannot be ascertained. The Court therefore recommends that the Studzinski's claim be extinguished by virtue of the \$25,000 previously distributed to them.

RECOMMENDATION

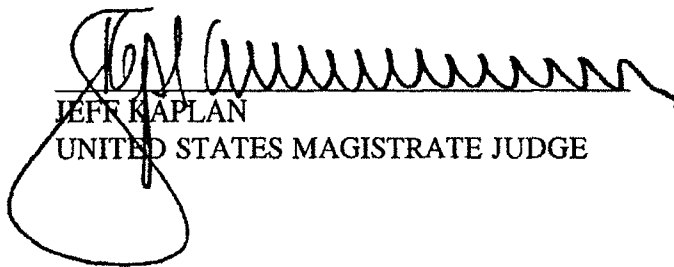
The Court should approve \$2,246,602.18 in claims allowed by the Receiver as set forth in Paragraph II of this report and recommendation. Any potential claim filed by or on behalf of Joseph and Hazel Studzinski should be extinguished by virtue of the \$25,000 previously distributed to them.

The Receiver is ordered to post a copy of this report and recommendation on his website, WWW.SEC_RECEIVER.COM. Any claimant or interested party may file written objections to this recommendation by **July 27, 2001**. The failure to file written objections shall bar the aggrieved

party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error or manifest injustice.

See Douglass v. United Services Automobile Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996).

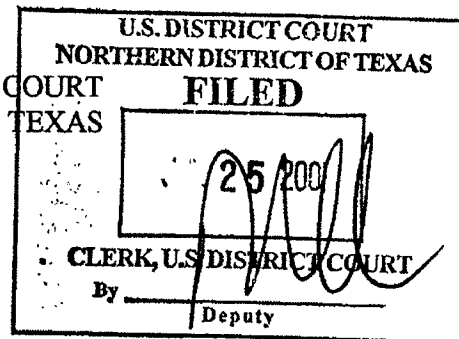
DATED: July 13, 2001.



JEFF KAPLAN
UNITED STATES MAGISTRATE JUDGE

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

VS.

FUNDING RESOURCE GROUP, a/k/a FRG Trust, et al,

Defendants,

and

HOWE FINANCIAL TRUST, an Indiana corporation,
et al,

Defendants Solely for Purposes
of Equitable Relief.

CIVIL ACTION NO.
3:98-CV-2689-M



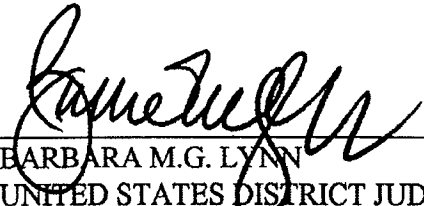
**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

On July 13, 2001, United States Magistrate Judge Jeff Kaplan made Findings and a Recommendation relating to the claims in the Howe Financial Trust Receivership Estate. On July 20, 2001, the Receiver filed a limited Objection so as to address an investor who he had not previously been able to locate. No other objections were filed. The Court thus reviews the Findings and Recommendation for plain error. Based on the Objection the Court hereby modifies the Findings and Recommendation to allow a claim in the name of Joseph Studzinski in the amount of \$163,641.90 and to provide that it has not been extinguished by virtue of the Receiver's interim

7/23

distribution to Mr. Studzinski. With that modification, the Findings and Recommendation are accepted.

SIGNED this 25 day of July, 2001.


BARBARA M.G. LYNN
UNITED STATES DISTRICT JUDGE

After Entry, Return to:

Michael J. Quilling, Esq.
Quilling, Selander, Cummiskey
& Lownds, P.C.
2001 Bryan Tower, Suite 1800
Dallas, Texas 75201-4240

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
AUG 15 2001
CLERK, U.S. DISTRICT COURT
By _____ Deputy

By _____
Deputy

CIVIL ACTION NO.
3:98-CV-2689-M


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3

## DISTRIBUTION PLAN

### (STATE)

DATE JUDGE:

his Interim Report and  
ceivership Estate and in

Exchange Commission  
 the appointment of a  
 J. Quilling as Receiver



and he has functioned in that capacity since that time. As set forth in the Receivership Order ("Receivership Order"), the receivership applies to Howe Financial Trust.

2. On March 9, 2001, the Receiver filed his Unopposed Motion to Designate Receivership Estates. By Order entered March 13, 2001, the Court established four different receivership estates with respect to these proceedings. One of those established is the Howe Financial Trust Receivership Estate. It is comprised of the assets and claims with respect to Howe Financial Trust.

3. On January 12, 2001, the Receiver filed his Unopposed Motion to Establish Claim Procedures and to Approve Claim Form. By Order entered January 17, 2001, the Court approved an official claim form to be used in these proceedings and established procedures by which claims would be processed by the Receiver. The deadline for submitting the claim form to the Receiver was established as March 31, 2001.

4. On June 6, 2001, the Receiver filed his Statement of Allowed Claims filed against the Howe Financial Trust Receivership Estate and his Objections to Claims (Howe Financial Trust Receivership Estate). After the hearing held on July 13, 2001 to consider the Receiver's Objections to Claims, on July 13, 2001 Judge Kaplan issued Findings of Fact and Recommendations which were adopted by the Court by Order dated July 25, 2001. By virtue of these rulings, all allowed claims against the Howe Financial Trust Receivership Estate have now been established.

#### **Assets Liquidated and Liabilities Paid**

5. Since his appointment, the Receiver has taken possession of all known physical assets belonging to Howe Financial Trust and has liquidated most of them to cash. The only two physical assets not yet liquidated are a house at 1725 Main Street in Elkhart, Indiana and a house at 58100

Pottawatomie, Osceola, Indiana. Each of the properties are currently for sale. As part of the liquidation process, the Receiver has also paid all known bills and obligations relating to the assets. The only ongoing expenses relate to maintenance of the two houses which are for sale.

6. Attached hereto as Exhibit "1" and incorporated herein by reference is a Summary of Cash Receipts and Disbursements into and out of the Howe Financial Trust Receivership Estate through July 31, 2001. Attached hereto as Exhibit "2" and incorporated herein by reference is a Detail of Cash Receipts and Disbursements which is a detailed statement of the categories identified on Exhibit "1". As indicated on Exhibit "1" and as discussed below there are legal fees outstanding to the Receiver's law firm.

#### **Litigation Prosecuted and Concluded**

7. In addition to liquidation of assets, the Receiver has initiated and prosecuted litigation against James Conway (Civil Action No. 3:00-CV-2401-M) which was settled, as approved by this Court, in the amount of \$25,000.00. The settlement recovery is reflected in Exhibit "2" hereto. All legal fees relating to the lawsuit have been approved by the Court and paid. Those approved fees are included within the amounts stated in Exhibit "2". There is no other pending litigation or unpaid litigation costs involving the Howe Financial Trust Receivership Estate.

#### **Remaining Funds to be Collected**

8. As indicated above, the Receiver still has two houses for sale. As to the Pottawatomie property, the Receiver hopes to net at least \$325,000.00 from a sale. As to the Main Street property, the Receiver hopes to net enough funds to pay the \$57,000.00 claim of Nancy Sims against the property. In the interim, the Receiver will continue to collect monthly rent of \$644.79 on the Main Street property. In addition, the Receiver is in the process of consummating a sale of

a vehicle (per Order of April 13, 2001) pursuant to which he will receive \$5,000.00. Finally, when the case is ready for final distribution, the Receiver will cause the Hammersmith Trust Receivership Estate to pay \$250,049.18 to the Howe Financial Trust Receivership Estate<sup>1</sup>.

**Pending and Unpaid Legal Fees**

9. As ordered by this Court, no legal fees have been paid to the Receiver and his law firm, QSCL, since December 1, 2000<sup>2</sup>. Since that date through July 31, 2001, there are legal fees and expenses in the amount of \$72,881.28 outstanding which have not yet been considered or approved by the Court. Those fees and expenses are as follows:

| <u>Month</u>                | <u>Fees</u> | <u>Expenses</u> |
|-----------------------------|-------------|-----------------|
| December, 2000 <sup>3</sup> | \$ 2,862.50 | \$ 0.00         |
| January, 2001 <sup>3</sup>  | 3,192.50    | 0.00            |
| February, 2001              | 18,205.00   | 0.00            |
| March, 2001                 | 18,086.50   | 0.00            |

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<sup>1</sup>On April 13, 2001, the Court issued its Order approving the allocation of attorney's fees and accounting fees between the four receivership estates. Pursuant to the Order, the Hammersmith Trust Receivership Estate owes the Howe Financial Receivership Estate \$250,049.18.

<sup>2</sup>On March 15, 2001, the Receiver filed his Unopposed Motion to Allow Reimbursement of Expenses covering the time period from December 1, 2000 through February 28, 2001. On April 12, 2001, the Court entered its Order Approving Reimbursement of Expenses, of which \$265.43 of expenses related to the Howe Financial Trust Receivership Estate. On June 4, 2001, the Receiver filed his Unopposed Motion to Allow Reimbursement of Expenses covering the time period from March 1, 2001 through May 31, 2001. On July 16, 2001, the Court entered its Order Approving Reimbursement of Expenses, of which \$11,243.80 of expenses related to the Howe Financial Trust Receivership Estate. These amounts are included in the figures on Exhibit "1" and "2."

<sup>3</sup>Prior to February 2001, the billing statements of QSCL were not separated by the four receivership estates. However, as part of the Receiver's allocation of fees to each estate as approved by the Court by Order dated April 13, 2001, a breakdown of the fees has been prepared. A copy of the allocation is attached to both the December 2000 and the January 2001 fee statements.

|             |                 |              |
|-------------|-----------------|--------------|
| April, 2001 | 12,996.50       | 0.00         |
| May, 2001   | 8,690.00        | 0.00         |
| June, 2001  | 5,310.00        | 317.56       |
| July, 2001  | <u>3,165.00</u> | <u>55.72</u> |
| Totals:     | \$ 72,508.00    | \$ 373.28    |

Copies of the invoices which reflect these fees and expenses are collectively attached as Exhibit "3."

As part of this report, the Receiver requests that the Court consider and authorize payment of such legal fees and expenses.

#### **Issues Relating to Nancy Sims**

10. Nancy Sims is an elderly investor residing in Chicago, Illinois. The Receiver has allowed and the Court has approved her claim of \$100,000.00. Based upon the records available to the Receiver, \$57,000.00 of her funds were used to purchase the Main Street property described above which is still for sale. At the time of the purchase, title to the house was put in the name of Nancy Sims Trust and Howe Financial Trust jointly. Joint title currently impairs the ability of the Receiver to sell the property. The Receiver has offered to convey the property to Ms. Sims in satisfaction of \$57,000.00 of her total \$100,000.00 claim. However, she does not possess the expertise or resources to handle the property. Accordingly, subject to approval by this Court which will be sought by the Receiver through a separate motion, the Receiver has agreed to continue efforts to market the property for sale. Ms. Sims will convey her interest in the property to the Receiver. In the event of a sale, all net proceeds up to \$57,000.00 will be paid to Ms. Sims. All net proceeds in excess of \$57,000.00 will be retained by the Howe Financial Trust Receivership Estate. In the event the net sales proceeds are less than \$57,000.00, Ms. Sims' \$57,000.00 claim will be completely

extinguished by that amount, regardless of the amount. The balance of her \$100,000.00 claim (\$43,000.00) will be treated just like all other investor claims and will be paid on a pro-rata basis. The proposed distribution analysis set forth below assumes that the foregoing treatment of Ms. Sims' claim will be approved.

#### **Proposed Interim Distribution Amount**

11. In light of the fact that there are remaining assets to be sold and additional funds to be collected, it is not yet possible to make a final distribution to holders of allowed claims. However, the Receiver believes that it is appropriate to make an interim distribution of funds now. As reflected on Exhibits 1 and 2, through July 31, 2001 the Receiver has \$845,542.03 of cash currently available for distribution (\$1,525,688.69 total receipts less \$680,146.66 total disbursements). If the request to pay legal fees set forth in this Report is granted then the amount is reduced to \$772,660.75. However, for a number of reasons, it is not appropriate to distribute all of the funds at this time. For example, there are ongoing expenses relating to the houses which must be paid as incurred. There will also be fees owed in the future for preparation of final tax returns and for legal fees. Accordingly, the Receiver proposes that \$750,000.00 be distributed now. This will leave a reserve of \$22,660.75 to cover future expenses.

#### **Proposed Distribution Plan and Procedures**

12. Assuming that each of the pending requests set forth in this report are approved (attorney's fees and reserve), the Receiver will have \$750,000.00 available to make an interim distribution to all persons/entities which hold an allowed claim against the Howe Financial Trust Receivership Estate. On July 25, 2001, the Court entered its Order Approving the Findings and Recommendations of Judge Kaplan regarding claims, as a result of which claims totaling

\$2,410,244.08<sup>4</sup> were approved. Accordingly, the percentage amount to be paid to each holder of an allowed claim on an interim basis is calculated as follows:

$$\frac{\text{Cash Available to Distribute}}{\text{Total Allowed Claims}} = \text{Distribution Percentage}$$

$$\frac{\$ 750,000.00}{\$2,353,244.08} = 31.87\%^5$$

Attached hereto as Exhibit "4" is a schedule which sets forth the amount to be paid to each holder of an allowed claim against the Howe Financial Trust Receivership Estate if the Court approves the foregoing interim distribution analysis. As soon as the distribution percentage and amount is approved, the Receiver is ready to begin the issuance of interim distribution checks immediately.

13. In connection with making distributions, the Receiver proposes that each distribution check issued by the Receiver will state on its face that it is void unless cashed within forty-five (45) days from the date issued. In light of the extensive claims approval/disapproval process, the Receiver believes that the proper address for each claimant is known and that no checks will be returned. Therefore, forty-five (45) days should be more than adequate to allow claimants to receive and cash their checks. The Receiver also requests authority to send a letter along with each check to the holders of allowed claims in the form attached hereto as Exhibit "5."

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<sup>4</sup>This amount is reduced to \$2,353,244.08 if the Receiver's proposed treatment of the Nancy Sims claim is approved (\$2,410,244.08-\$57,000.00).

<sup>5</sup>Because of the emergency distribution of \$25,000.00 to Joseph/Hazel Studinski, this percentage is actually increased to 32.93% as set forth on Exhibit "4."

**Summary**

14. Since his appointment, the Receiver has taken possession of and administered cash and other assets totaling \$1,525,688.69. The cost of administration totals \$502,978.76.<sup>6</sup> Each claimant with an allowed claim will receive 32.93% of their claim by virtue of the Receiver's proposed interim distribution.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY & LOWNDS, P.C.

BY: \_\_\_\_\_

Michael J. Quilling  
State Bar No. 16432300

2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
(214) 871-2100 (Telephone)  
(214) 871-2111 (Telefax)

ATTORNEYS FOR RECEIVER

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<sup>6</sup>Assuming all attorney's fees requested herein are approved. This number is also net of the \$250,049.18 owed by and to be repaid by the Hammersmith Trust Receivership Estate.

### CERTIFICATE OF SERVICE

I hereby certify that on the 15<sup>th</sup> day of August, 2001, a true and correct copy of the foregoing document was served via first class mail, postage pre-paid, on the persons set forth below and upon each of the persons/entities on the service list attached hereto.

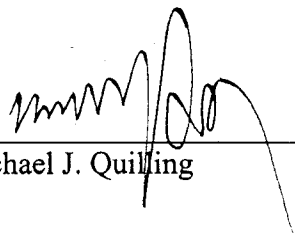
Robert B. Brunig  
Securities & Exchange Commission  
801 Cherry Street, 19<sup>th</sup> Floor  
Fort Worth, Texas 76102

Deborah Goodall  
Goodall & Sooter  
12830 Hillcrest Rd., Suite 111  
Dallas, Texas 75230

Wendell A. Odom, Jr.  
440 Louisiana, Suite 800  
Houston, Texas 77002

Dan R. Waller  
Secore & Waller, LLC  
13355 Noel Road, Suite 2290  
Dallas, Texas 75240

Raymond Parr  
8524 Hwy. 6 North  
Suite 340  
Houston, Texas 77095

  
\_\_\_\_\_  
Michael J. Quilling



Keith Abbott  
3853 E 30th Road  
Sheridan, IL 60551

Beverly J Bakke  
550 75th St #205  
Downers Grove, IL 60516

Delores J Branka  
351 Constance Lane  
Chicago Heights, IL 60411

Thomas Cardosi  
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Park Hills, KY 41011

Angelo L Clementi  
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Hillside, IL 60162

Michael P Flick  
2570 Hwy 120 North  
Lakegeneva, WI 53147

Bertha Anne Godette  
17721 S 67th Court  
Tinley Park, IL 60477

William T Hock  
6930 W Touhy Ave  
Niles, IL 60714

Richard Iwanski, SR  
C/O Ronald Iwanski  
2210 E Sand Lake Road  
Lindenhurst, IL 60046

Johnny Mark  
56761 Raider Dr  
Elkhart, IN 46516

Kiran & Nisha Patel  
2030 Hgwy 41 North  
Henderson, KY 42420

Rudolph A Rueff  
2400 S Finley Rd #138  
Lombard, IL 60148

Ann Saele  
C/O Sandra Saele - Markvart  
197 Tuma Road  
Yorkville, IL 60560

Wayne & Mary Silvey  
16 Donna Dr  
Normal, IL 61761

Wallace D Simpson  
127 E Lasalle Ave  
Mishawaka, IN 46545

Nancy Sims  
9049 S Sacramento  
Evergreen Pk, IL 60805

Joseph Studzinski  
939 Stratford Court  
Grayslake, IL 60030

Tim Taylor  
215 W Sycamore St  
Kokomo, IL 46903

Martha A Todd  
410 Westgate  
Park Forest, IL 60466

John V Tuider  
5529 Fairmont Ave  
Downers Grove, IL 60516

Howard L Warber  
412 Kishwaukee Dr  
Sycamore, IL 60178

**CIVIL ACTION NO. 3:98-CV-2689-M**  
**FUNDING RESOURCE GROUP, ET AL**

**HOWE FINANCIAL TRUST RECEIVERSHIP ESTATE**

**Summary of Cash Receipts and Disbursements**  
(thru 7/31/01)

**RECEIPTS:**

|                            |                      |
|----------------------------|----------------------|
| Asset Sales                | \$ 56,240.56         |
| Account closures           | 66.42                |
| Refunds                    | 240.38               |
| Settlements                | 25,000.00            |
| Miscellaneous              | 9,232.56             |
| Hammersmith Trust Payments | 1,320,000.00         |
| Rental Income              | 5,096.47             |
| Interest through 07/31/01  | <u>\$ 109,812.30</u> |

\$ 1,525,688.69

**DISBURSEMENTS:**

|                             |                         |
|-----------------------------|-------------------------|
| Receivership Asset Expenses | 31,553.43               |
| Legal Fees                  | 475,740.38 <sup>1</sup> |
| Accounting Fees             | 139,662.83 <sup>1</sup> |
| Miscellaneous               | 32,923.38               |
| Bank Charges                | <u>266.64</u>           |

<680,146.66>

**CASH ON HAND:**

Less administrative expenses:

|                                |                  |
|--------------------------------|------------------|
| Quilling, Selander (requested) | 72,881.28        |
| Reserve (requested)            | <u>22,660.75</u> |

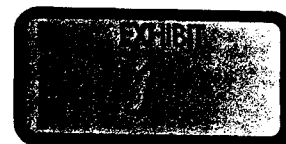
<95,542.03>

**TOTAL CASH AVAILABLE FOR DISTRIBUTION**

**\$ 750,000.00**

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<sup>1</sup>On April 13, 2001, the Court issued its Order approving the allocation of attorney's fees and accounting fees between the four receivership estates. Pursuant to the Order, the Hammersmith Trust Receivership Estate owes the Howe Financial Trust Receivership Estate \$250,049.18 (\$210,230.86 attorney's fees; \$39,818.32 accounting fees). Accordingly, the net amount of attorney's fees paid by the Howe Financial Trust Receivership Estate through July 31, 2001 is \$265,509.52 and the net amount of accounting fees paid by the Howe Financial Trust Receivership Estate through July 31, 2001 is \$99,844.51.



**CIVIL ACTION NO. 3:98-CV-2689-M**  
**FUNDING RESOURCE GROUP, ET AL**

**Detail of Cash Receipts and Disbursements (7/31/01)**

**RECEIPTS:**

**Asset Sales:**

|                       |               |
|-----------------------|---------------|
| Creekwood Property    | \$ 55,740.56  |
| Desks at Pottawatomie | <u>500.00</u> |

\$ 56,240.56

**Account Closures:**

|                     |              |
|---------------------|--------------|
| Spectrum Securities | <u>66.42</u> |
|---------------------|--------------|

66.42

**Miscellaneous:**

|                         |               |
|-------------------------|---------------|
| Foley & Lardner payment | 8,940.00      |
| Hammersmith Trust       | <u>292.56</u> |

9,232.56

**Settlement:**

|              |                  |
|--------------|------------------|
| James Conway | <u>25,000.00</u> |
|--------------|------------------|

25,000.00

**Rental Income:**

|                   |               |
|-------------------|---------------|
| Jennifer Ernhardt | 583.00        |
| Jimmy Zayas       | 644.76        |
| Jimmy Zayas       | 644.79        |
| Jimmy Zayas       | 644.79        |
| Jimmy Zayas       | 644.79        |
| Jimmy Zayas       | 644.79        |
| Jimmy Zayas       | 644.79        |
| Jimmy Zayas       | <u>644.76</u> |

5,096.47

**Refunds:**

|               |      |
|---------------|------|
| Comerica Bank | 8.09 |
| Comerica Bank | 8.00 |



|               |              |
|---------------|--------------|
| Comerica Bank | 3.00         |
| Comerica Bank | 13.00        |
| Comerica Bank | 13.00        |
| Comerica Bank | 26.00        |
| Comerica Bank | 13.00        |
| NIPSO         | 100.44       |
| Pitney Bowes  | <u>55.85</u> |

240.38

**Hammersmith Trust Payments:**

|                   |
|-------------------|
| 270,000.00        |
| 500,000.00        |
| 350,000.00        |
| <u>200,000.00</u> |

1,320,000.00

**Interest:**

|                       |                  |
|-----------------------|------------------|
| Merrill Lynch Account | 27,065.15        |
| Goldman Sachs Account | 53,330.71        |
| Money Market Account  | <u>29,416.44</u> |

109,812.30

**Total Receipts:**

**\$ 1,525,688.69**

**DISBURSEMENTS:**

**Receivership Asset Expenses:**

|                         |          |
|-------------------------|----------|
| American Electric Power | 29.43    |
| American Electric Power | 124.62   |
| American Electric Power | 97.37    |
| American Electric Power | 9.80     |
| American Electric Power | 113.12   |
| American Electric Power | 34.04    |
| American Electric Power | 25.67    |
| American Electric Power | 92.66    |
| Bontrager Pools         | 248.89   |
| Bontrager Pools         | 2,000.00 |
| Bontrager Pools         | 132.66   |
| Bontrager Pools         | 328.84   |
| Cornerstone Flooring    | 3,369.38 |
| Cornerstone Flooring    | 2,000.00 |

|                           |              |
|---------------------------|--------------|
| Don's Lawn Care           | 500.00       |
| Don's Lawn Care           | 850.00       |
| Elkhardt County Treasurer | 2,616.74     |
| Elkhardt County Treasurer | 10,580.35    |
| Ezzell Appraisers         | 275.00       |
| Ezzell Appraisers         | 275.00       |
| John Austin               | 2,381.00     |
| John Austin               | 264.00       |
| John Austin               | 2,000.00     |
| NIPSCO                    | 196.94       |
| NIPSCO                    | 12.60        |
| NIPSCO                    | 1,305.00     |
| NIPSCO                    | 144.62       |
| NIPSCO                    | 334.70       |
| Richard Gaddis            | 275.00       |
| Richard Gaddis            | 275.00       |
| Robert Huddleston         | 500.00       |
| Shreiner & Sons           | 85.00        |
| Tom Weinkauff             | <u>76.00</u> |

31,553.43

**Accounting Fees:**

|                |                  |
|----------------|------------------|
| Litzler Segner | 83,900.33        |
| Litzler Segner | <u>55,762.50</u> |

139,662.83<sup>1</sup>

**Bank Charges:**

|               |       |
|---------------|-------|
| Comerica Bank | 9.00  |
| Comerica Bank | 4.00  |
| Comerica Bank | 8.09  |
| Comerica Bank | 8.00  |
| Comerica Bank | 3.00  |
| Comerica Bank | 21.25 |
| Comerica Bank | 13.00 |
| Comerica Bank | 13.00 |
| Comerica Bank | 13.00 |
| Comerica Bank | 13.00 |
| Comerica Bank | 13.00 |
| Comerica Bank | 13.00 |
| Comerica Bank | 13.00 |

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<sup>1</sup>On April 13, 2001, the Court issued its Order approving the allocation of attorney's fees and accounting fees between the four receivership estates. Pursuant to the Order, the Hammersmith Trust Receivership Estate owes the Howe Financial Trust Receivership Estate \$250,049.18 (\$210,230.86 attorney's fees; \$39,818.32 accounting fees). Accordingly, the net amount of accounting fees paid by the Howe Financial Trust Receivership Estate through July 31, 2001 is \$99,844.51.

|               |              |
|---------------|--------------|
| Comerica Bank | 11.10        |
| Merrill Lynch | 80.15        |
| Merrill Lynch | .15          |
| Merrill Lynch | .45          |
| Merrill Lynch | .15          |
| Merrill Lynch | .30          |
| Merrill Lynch | 10.00        |
| Merrill Lynch | <u>20.00</u> |

266.64

**Miscellaneous:**

|                        |                 |
|------------------------|-----------------|
| A-Legal Copy           | 4,786.00        |
| Interfor               | 1,338.47        |
| Ron Chambers           | 160.00          |
| Shalimar Yacht Basin   | 292.56          |
| Studinski Distribution | 25,000.00       |
| Tax Withholding        | <u>1,346.35</u> |

32,923.38

**Legal Fees:**

|                           |               |
|---------------------------|---------------|
| Glenn Rasmussen & Fogarty | 11,194.99     |
| Quilling Selander         | 45,000.00     |
| Quilling Selander         | 70,000.00     |
| Quilling Selander         | 35,000.00     |
| Quilling Selander         | 102,727.26    |
| Quilling Selander         | 106,855.43    |
| Quilling Selander         | 25,980.00     |
| Quilling Selander         | 851.69        |
| Quilling Selander         | 64,188.02     |
| Quilling Selander         | 801.51        |
| Quilling Selander         | 265.43        |
| Quilling Selander         | 697.22        |
| Quilling Selander         | 11,243.80     |
| Quilling Selander         | <u>935.03</u> |

475,740.38<sup>2</sup>

**Total Disbursements:**

**\$ 680,146.66**

<sup>2</sup>On April 13, 2001, the Court issued its Order approving the allocation of attorney's fees and accounting fees between the four receivership estates. Pursuant to the Order, the Hammersmith Trust Receivership Estate owes the Howe Financial Trust Receivership Estate \$250,049.18 (\$210,230.86 attorney's fees; \$39,818.32 accounting fees). Accordingly, the net amount of attorney's fees paid by the Howe Financial Trust Receivership Estate through July 31, 2001 is \$265,509.52.

## Howe Investor Claims and Interim Distribution

| Last Name   | First Name                   | Agreed Claim  | Interim Distribution Amount |
|-------------|------------------------------|---------------|-----------------------------|
| Abbott      | Keith                        | \$ 107,750.00 | \$ 35,485.59                |
| Bakke       | Beverly J                    | \$ 7,875.00   | \$ 2,593.49                 |
| Branka      | Delores J & Edward(Deceased) | \$ 44,258.34  | \$ 14,575.71                |
| Cardosi     | Thomas                       | \$ 90,000.00  | \$ 29,639.93                |
| Clementi    | Angelo L                     | \$ 65,000.00  | \$ 21,406.62                |
| Flick       | Michael P                    | \$ 100,000.00 | \$ 32,933.26                |
| Flick       | Michael P                    | \$ 150,000.00 | \$ 49,399.89                |
| Godette     | Bertha Anne                  | \$ 19,750.00  | \$ 6,504.32                 |
| Hock        | William T                    | \$ 37,510.92  | \$ 12,353.57                |
| Iwanski, SR | Richard(Deceased)            | \$ 36,667.00  | \$ 12,075.64                |
| Mark        | Johnny                       | \$ 6,000.00   | \$ 1,976.00                 |
| Patel       | Kiran & Nisha                | \$ 500,000.00 | \$ 164,666.30               |
| Rueff       | Rudolph A                    | \$ 27,500.00  | \$ 9,056.65                 |
| Saele       | Ann & Joseph(Deceased)       | \$ 70,000.00  | \$ 23,053.28                |
| Silvey      | Wayne&Mary                   | \$ 363,159.67 | \$ 119,600.32               |
| Simpson     | Wallace D                    | \$ 15,000.00  | \$ 4,939.99                 |
| Sims        | Nancy                        | \$ 43,000.00  | \$ 14,161.30                |
| Studzinski  | Joseph&Hazel                 | \$ 163,641.90 | \$ 53,892.61 *              |
| Taylor      | Tim                          | \$ 49,000.00  | \$ 16,137.30                |
| Taylor      | Tim                          | \$ 200,000.00 | \$ 65,866.52                |
| Taylor      | Tim                          | \$ 170,000.00 | \$ 55,986.54                |
| Todd        | Martha A                     | \$ 9,875.00   | \$ 3,252.16                 |
| Tuider      | John V                       | \$ 9,875.00   | \$ 3,252.16                 |
| Warber      | Howard L                     | \$ 67,381.25  | \$ 22,190.84                |

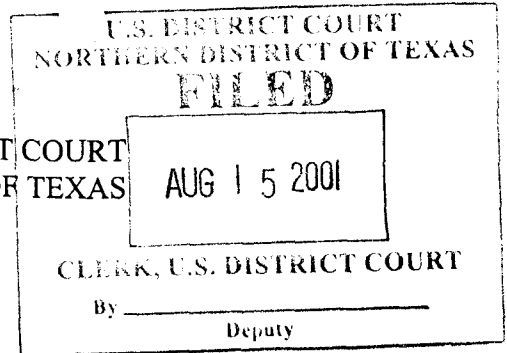
|                            |                         |                      |
|----------------------------|-------------------------|----------------------|
| <b>Total</b>               | <b>\$ 2,353,244.08</b>  | <b>\$ 775,000.00</b> |
| <b>Distribution Amount</b> | <b>\$ 775,000.00 **</b> |                      |
| <b>Distribution %</b>      | <b>32.9332603%</b>      |                      |

\*The Studzinski's received an emergency distribution of \$25,000.00 in May 1999. Actual distribution will be \$28,892.61.

\*\*Distribution amount of \$775,000.00 includes the emergency distribution amount of \$25,000.00 given to Joseph and Hazel Studzinski in May 1999. Actual cash out equals \$750,000.00



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

VS.

FUNDING RESOURCE GROUP, a/k/a FRG Trust, et al,

Defendants,

and

HOWE FINANCIAL TRUST, an Indiana corporation,  
et al,

Defendants Solely for Purposes  
of Equitable Relief.

CIVIL ACTION NO.  
3:98-CV-2689-M

**RECEIVER'S UNOPPOSED MOTION TO APPROVE TREATMENT OF SIMS'  
CLAIM AGAINST HOWE FINANCIAL TRUST RECEIVERSHIP ESTATE**

TO THE HONORABLE JEFF KAPLAN, UNITED STATES MAGISTRATE JUDGE:

COMES NOW, Michael J. Quilling ("Receiver") and files this his Unopposed Motion to Approve Treatment of Sims' Claim and in support of such would show unto the Court as follows:

**Background Facts**

1. On November 13, 1998, the United States Securities and Exchange Commission ("SEC") initiated these proceedings and, in connection therewith, sought the appointment of a receiver. By Order dated November 13, 1998, the Court appointed Michael J. Quilling as Receiver and he has functioned in that capacity since that time. As set forth in the Receiver Order ("Receivership Order"), the receivership applies to Howe Financial Trust ("Howe").

2. On March 9, 2001, the Receiver filed his Unopposed Motion to Designate



Receivership Estates. By Order entered March 13, 2001, the Court established four different receivership estates with respect to these proceedings. One of those established is the Howe Financial Trust Receivership Estate. It is comprised of the assets and claims with respect to Howe.

3. On January 12, 2001, the Receiver filed his Unopposed Motion to Establish Claim Procedures and to Approve Claim Form. By Order entered January 17, 2001, the Court approved an official claim form to be used in these proceedings and established procedures by which claims would be processed by the Receiver. The deadline for submitting the claim form to the Receiver was established as March 31, 2001.

4. On June 6, 2001, the Receiver filed his Statement of Allowed Claims filed against the Howe Financial Trust Receivership Estate and his Objections to Claims. After the hearing held on July 13, 2001 to consider the Receiver's Objections to Claims, on July 13, 2001 Judge Kaplan issued Findings of Fact and Recommendations which were adopted by the Court by Order dated July 25, 2001. By virtue of these rulings, all allowed claims against the Howe Financial Trust Receivership Estate have now been established.

5. One of the allowed claims was in favor of Nancy Sims ("Sims"), in the amount of \$100,000.00.

#### **Nancy Sims' Claim**

6. Sims made two investments with Howe. The first investment was in the amount of \$57,000.00 and was used to purchase certain real property. The real property, commonly described as 1721 South Main Street, Elkhart, Elkhart County, Indiana (the "Property"), was purchased jointly with Howe with title vested in the name of Howe and Nancy Sims Trust. The real property is one of the properties that the Receiver has taken control over as part of his duties.

7. The second investment was in the amount of \$43,000.00 in the form of a check made payable to Howe.

**Resolution of Sims' Claim**

8. Sims is an elderly investor residing in Chicago, Illinois. The Receiver has allowed and the Court has approved her claim of \$100,000.00.

9. The Receiver has offered to convey the property to Sims in satisfaction of \$57,000.00 of her total \$100,000.00 claim. However, she does not possess the expertise or resources to maintain and/or sell the property.

10. After numerous discussions, Sims and the Receiver have agreed, subject to Court approval, to treat her claim in two portions. First, the Receiver will continue to market the Property for sale and Sims will convey her interest in the Property to the Receiver. In the event of a sale, all net proceeds up to \$57,000.00 will be paid to Sims.<sup>1</sup> All net proceeds in excess of \$57,000.00 will be retained by the Howe Financial Trust Receivership Estate. In the event the net sales proceeds are less than \$57,000.00, Sims' \$57,000.00 claim will be completely extinguished by that amount, regardless of the net sales price. Second, the balance of her \$100,000.00 claim (\$43,000.00) will be treated just like all other investor claims and will be paid on a pro-rata basis. Attached hereto as Exhibit "1" and incorporated by reference is a true and correct copy of the letter acknowledging the agreement between the Receiver and Sims.

11. Court approval of this agreement will allow for an expedited distribution to the investors/creditors of Howe. The Receiver has filed separately his Interim Report and Proposed Interim Distribution Plan which is contingent upon this Court's approval of the treatment of Sims'

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<sup>1</sup>Net proceeds shall be equal to the gross sales price of the Property less any maintenance, marketing, closing and or legal costs associated with the sale.

claim. Should the Court deny the proposed treatment, Sims' claim will be contingent upon the sale of the Property and her claim to share pro rata with the rest of the investors/creditors will be unknown, effectively preventing any distribution to investors until the Property is sold.

**Conclusion**

12. WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final hearing and consideration of this motion that the Court authorize the Receiver to treat Sims' claim in two portions. First, Sims be allowed a claim not to exceed \$57,000.00 against the net proceeds of the sale of the Property. Second, Sims be allowed a claim in the amount of \$43,000.00 against the Howe Financial Trust Receivership Estate to be paid on a pro rata basis with the rest of the investors/creditors. In addition, the Receiver prays for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY  
& LOWNDS, P.C.

By: 


Michael J. Quilling  
State Bar No. 16432300  
D. Dee Raibourn, III  
State Bar No. 24009495

2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
(214) 871-2100 (Telephone)  
(214) 871-2111 (Fax)

ATTORNEYS FOR THE RECEIVER

### CERTIFICATE OF CONFERENCE

I certify that prior to filing this Motion I conferred with Robert Brunig of the SEC and he does not oppose the Motion. None of the Defendants represented by counsel are affected by the Motion and it is presumed that they do not oppose it. Accordingly, the Motion is presented as unopposed. In an effort to save estate resources, the Receiver has not contacted each investor holding an allowed claim against the Howe Financial Trust Receivership Estate, but, as indicated below, each claimant is being served with a copy of this Motion.

  
D. Dee Raibourn, III

### CERTIFICATE OF SERVICE

I hereby certify that on the 15<sup>th</sup> day of August, 2001 a true and correct copy of the foregoing document was served via first class mail, postage pre-paid, to the following parties:

Robert B. Brunig  
Securities & Exchange Commission  
801 Cherry Street, 19th Floor  
Fort Worth, Texas 76102

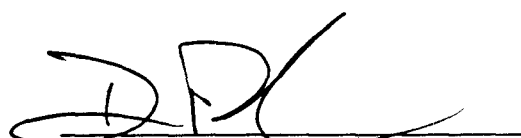
Wendell A. Odom, Jr.  
440 Louisiana, Suite 800  
Houston, Texas 77002

Raymond Parr  
8524 Hwy 6 North  
Suite 340  
Houston, Texas 77095

Deborah Goodall  
Goodall & Sooter  
12830 Hillcrest Rd., Suite 111  
Dallas, Texas 75230

Dan R. Waller  
Secore & Waller, LLC  
13355 Noel Road, Suite 2290  
Dallas, Texas 75240

And each investor on the attached list.

  
D. Dee Raibourn, III

Keith Abbott  
3853 E 30th Road  
Sheridan, IL 60551

Beverly J Bakke  
550 75th St #205  
Downers Grove, IL 60516

Delores J Branka  
351 Constance Lane  
Chicago Heights, IL 60411

Thomas Cardosi  
1131 Coram St  
Park Hills, KY 41011

Angelo L Clementi  
13 N Irving Ave  
Hillside, IL 60162

Michael P Flick  
2570 Hwy 120 North  
Lakegeneva, WI 53147

Bertha Anne Godette  
17721 S 67th Court  
Tinley Park, IL 60477

William T Hock  
6930 W Touhy Ave  
Niles, IL 60714

Richard Iwanski, SR  
C/O Ronald Iwanski  
2210 E Sand Lake Road  
Lindenhurst, IL 60046

Johnny Mark  
56761 Raider Dr  
Elkhart, IN 46516

Kiran & Nisha Patel  
2030 Hgwy 41 North  
Henderson, KY 42420

Rudolph A Rueff  
2400 S Finley Rd #138  
Lombard, IL 60148

Ann Saele  
C/O Sandra Saele - Markvart  
197 Tuma Road  
Yorkville, IL 60560

Wayne & Mary Silvey  
16 Donna Dr  
Normal, IL 61761

Wallace D Simpson  
127 E Lasalle Ave  
Mishawaka, IN 46545

Nancy Sims  
9049 S Sacramento  
Evergreen Pk, IL 60805

Joseph Studzinski  
939 Stratford Court  
Grayslake, IL 60030

Tim Taylor  
215 W Sycamore St  
Kokomo, IL 46903

Martha A Todd  
410 Westgate  
Park Forest, IL 60466

John V Tuider  
5529 Fairmont Ave  
Downers Grove, IL 60516

Howard L Warber  
412 Kishwaukee Dr  
Sycamore, IL 60178

**QUILLING, SELANDER, CUMMISKEY & LOWNDS**

A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS

BRYAN TOWER  
2001 BRYAN STREET, SUITE 1800  
DALLAS, TEXAS 75201

D. DEE RAIBOURN, III  
[DRAIBOURN@OSCLPC.COM](mailto:DRAIBOURN@OSCLPC.COM)

TELEPHONE: (214) 871-2100  
TELECOPIER: (214) 871-2111

August 6, 2001

**VIA FACSIMILE AND**  
**FIRST CLASS MAIL**

Ms. Nancy Sims  
9049 South Sacramento  
Evergreen Park, Illinois 60805

Re: Civil Action No. 3-98CV2689-M; *Securities and Exchange Commission vs. Funding Resource Group, et al* (N. D. Tex.)

Dear Ms. Sims:

This letter will confirm our agreement regarding your claim against the Howe Financial Trust receivership estate. We have agreed to the following terms:

- 1) You will have a general claim against the estate in the amount of \$43,000.
- 2) You have a claim against the net proceeds from the sale of real property located at 1725 South Main Street, Elkhart, Indiana up to a maximum of \$57,000. Should the net proceeds be more than this amount, the difference will be placed into the receivership estate. Should the net proceeds be less than \$57,000, the entire proceeds will be distributed to you.
- 3) The net proceeds is defined as the gross sales price of the property less any commissions, marketing costs, closing costs, insurance, maintenance, and attorney fees that are incurred during the course of marketing and selling the property.
- 4) You have agreed to undertake reasonable efforts to aid in the sale of the property. This includes completing the necessary documents to transfer ownership of the property.
- 5) This agreement is subject to court approval.

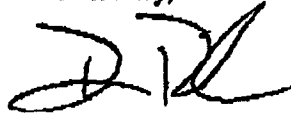
I believe that this accurately reflects our agreement. Should you disagree with any of the foregoing, please notify me immediately so that we may discuss the issue(s). Alternatively, please sign below acknowledging your agreement.



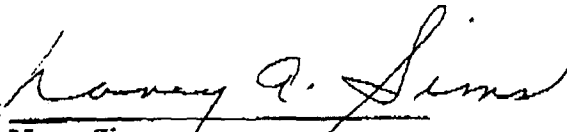
August 6, 2001  
Ms. Nancy Sims  
Page 2

For clarification, your general claim against the estate (Item 1), will be paid on a pro rata distribution based on the total amount available for distribution divided by the amount of allowed claims. Should you have any questions, please do not hesitate to contact me.

Sincerely,



D. Dee Raibourn, III

Agreed to:   
Nancy Sims

DDR/dh

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ENTERED  
AUG 21 2001  
U.S.D.C.

**Defendants.**

2025

**ORDER SETTING HEARING**

A hearing on the Receiver's final report and proposed distribution plan is set for September 21, 2001 at 9:00 a.m. in the courtroom of Magistrate Judge Jeff Kaplan, 1100

<sup>2</sup> This amount would be reduced to \$2,353,244.08 if the Court grants the Receiver's motion to treat the \$100,000.00 claim filed by Nancy Sims in two portions. Under this proposal, Sims would receive \$57,000.00 from proceeds realized from the sale of certain real property in Elkart, Indiana which she jointly owns with the Howe Financial Trust. This would reduce her claim to \$43,000.00.

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Commerce Street, 16th Floor, Dallas, Texas. Written objections to the plan must be filed by September 11, 2001. Defendants and interested parties will be given an opportunity to present their objections at the hearing.

The Receiver is ordered to post a copy of his interim report and proposed distribution plan and this Order on his website, SECRECEIVER.COM. Appropriate links to the court's docket sheet shall also be provided on the website.

SO ORDERED.

DATED: August 20, 2001.



JEFF KAPLAN  
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED  
AUG 20 2007  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy

SECURITIES AND EXCHANGE  
COMMISSION

**Plaintiff,**

VS.

**FUNDING RESOURCE GROUP  
a/k/a FRG TRUST, ET AL.**

**Defendants.**

NO. 3-98-CV-2689-M



## ORDER SETTING HEARING

Michael J. Quilling, as Receiver for Howe Financial Trust, has filed a motion to treat the \$100,000 claim filed by Nancy Sims in two portions. Sims, who together with Howe Financial Trust owns certain real property located at 1721 South Main Street, Elkhart, Indiana, has agreed to convey her interest in the property to the Receiver. In the event of a sale, all net proceeds up to \$57,000 would be paid to Sims with the remainder paid to the Howe Financial Trust Estate. If the net sales proceeds are less than \$57,000, those proceeds would be paid to Sims in satisfaction of her \$57,000 claim against the Estate. The remaining portion of her \$100,000 claim, or \$43,000, would be treated just like all other investor claims and paid on a *pro rata* basis.

A hearing on this motion is set for **September 21, 2001** at **9:00 a.m.** in the courtroom of Magistrate Judge Jeff Kaplan, 1100 Commerce Street, 16th Floor, Dallas, Texas. Written objections must be filed by **September 11, 2001**. Defendants and interested parties will be given an opportunity to present their objections at the hearing.

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The Receiver is ordered to post a copy of his interim report and proposed distribution plan and this Order on his website, SECRECEIVER.COM. Appropriate links to the court's docket sheet shall also be provided on the website.

SO ORDERED.

DATED: August 20, 2001.



JEFF KAPLAN  
UNITED STATES MAGISTRATE JUDGE