

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|   |   |                                   |
|---|---|-----------------------------------|
| <b>COMMODITY FUTURES TRADING</b>          | ) |                                   |
| <b>COMMISSION,</b>                        | ) |                                   |
|   | ) |                                   |
| Plaintiff,                                | ) |                                   |
|   | ) |                                   |
| v.  | ) | Case No. 22-cv-2465               |
|   | ) |                                   |
| <b>SAM IKKURTY A/K/A SERENIVAS I RAO,</b> | ) | Honorable Mary M. Rowland         |
| <b>RAVISHANKAR AVADHANAM, AND</b>         | ) |                                   |
| <b>JAFIA, LLC,</b>                        | ) | Magistrate Judge Jeffrey Cummings |
|   | ) |                                   |
| Defendants,                               | ) |                                   |
|   | ) |                                   |
| <b>IKKURTY CAPITAL, LLC D/B/A ROSE</b>    | ) |                                   |
| <b>CITY INCOME FUND, ROSE CITY</b>        | ) |                                   |
| <b>INCOME FUND II LP, AND SENECA</b>      | ) |                                   |
| <b>VENTURES, LLC,</b>                     | ) |                                   |
|   | ) |                                   |
| Relief Defendants.                        | ) |                                   |

**RECEIVER JAMES L. KOPECKY’S MOTION TO: (I) ESTABLISH BAR  
DATE FOR CLAIMS; (II) APPROVE FORM AND MANNER OF NOTICE; (III)  
APPROVE CLAIM FORM; (IV) APPROVE CLAIM SUBMISSION AND  
ADMINISTRATION PROCEDURES; AND (V) ALLOW THE RECEIVER TO POOL  
ASSETS AND LIABILITIES OF THE RECEIVERSHIP ESTATE**

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James L. Kopecky, not individually, but solely as the Court-appointed Receiver (the “Receiver”) for the Receivership Estate, as defined by the Order Appointing Temporary Receiver dated May 11, 2022 (Dkt. 18) (“Receivership Order”), submits this Motion To: (I) Establish Bar Date for Claims; (II) Approve Form and Manner of Notice; (III) Approve Claim Form; (IV) Approve Submission and Administration Procedures; and (V) Allow the Receiver to Pool the Assets and Liabilities of the Receivership Estate (the “Motion”).

## **I. STATEMENT OF FACTS**

### **A. Appointment of the Receiver**

On May 10, 2022, the Commodity Futures Trading Commission (“CFTC”) filed a Complaint (Dkt. 1) against Sam Ikkurty a/k/a Sreenivas I Rao, Ravishankar Avadhanam, and Jafia, LLC (“Defendants”) and Ikkurty Capital, LLC d/b/a Rose City Income Fund, I LP, Rose City Income Fund II, LP, and Seneca Ventures, LLC (“Relief Defendants”)<sup>1</sup> alleging that Defendants fraudulently solicited and accepted over forty million dollars from at least 170 investors.

At the same time, the CFTC filed a Motion for an *ex parte* Statutory Restraining Order (Dkt. 6), a Motion for a Preliminary Injunction (Dkt. 8), and a Motion to Appoint Receiver (Dkt. 7), seeking to, among other things, freeze the assets of the Defendants and Relief Defendants and to appoint a Receiver and create a Receivership Estate to preserve and protect the assets and to help maximize restitution to investors. This Court granted the *ex parte* Motion for a Statutory Restraining Order and on May 11, 2022, entered an order appointing the Temporary Receiver. (Dkt. 16) On July 18, 2022, the Court entered a preliminary injunction against the Receivership

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<sup>1</sup> Defendants and Relief Defendants are collectively referred to as “Receivership Defendants.”

Defendants. (Dkt 37, p. 10) That same Order appointed the Temporary Receiver as Receiver over the Receivership Defendants and Receivership Estate. *Id.*

The Receiver filed his first status report with the Court on July 11, 2022 (ECF 36), his second status report on October 31, 2022 (ECF 75), his third status report on January 31, 2023 (ECF 109), and his fourth status report on May 1, 2023 (ECF 157). The reports provide information regarding the administration of the Receivership Estate and asset recovery efforts. The Receiver maintains a website at [www.rosecityfundreceivership.com](http://www.rosecityfundreceivership.com), which provides information regarding the Receivership and significant filings.

The Receiver filed a motion seeking to employ Stretto, Inc. (ECF 149) as the claims agent (“Claims Agent”) to assist with the claims administration process, and the Court has granted that motion. (ECF 151).

### **B. The CFTC’s Allegations**

The CFTC alleged that between at least January 2021 and April 2022 (the “Relevant Period”), Defendants Sam Ikkurty a/k/a Sreenivas I Rao (“Ikkurty”), Ravishankar Avadhanam (“Avadhanam”) and Jafia, LLC (“Jafia”) fraudulently solicited and accepted over \$40 million from at least 170 members of the general public to participate in several investment funds, Ikkurty Capital LLC d/b/a Rose City Income Fund (“Fund I”) Rose City Income Fund II LP (“Fund II”),<sup>2</sup> and Seneca Ventures LLC (“Seneca”). (Dkt. 1, ¶1) The purpose of the Funds was to purchase, hold, and trade digital assets, commodities, derivatives, swaps and commodity futures contracts. *Id.* The CFTC alleged Defendants misappropriated investor proceeds by distributing those funds to other participants in a manner akin to a Ponzi scheme, and/or transferring funds to

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<sup>2</sup> Fund I and Fund II will be collectively referred to as the “Funds”.

accounts controlled by or for the benefit of the Defendants. (Dkt. 1, ¶2) Of the more than \$44 million Defendants accepted from participants during the Relevant Period, Defendants transferred more than half to other participants and to entities they own and control. (Dkt. 1, ¶20)

The CFTC alleged that Defendants' conduct violated the Commodity Exchange Act, 7 U.S.C. §§1-26. (Dkt. 1, ¶3) The CFTC further alleged that Defendants acted as a commodity pool operator without the benefit of registration with the CFTC, thereby escaping regulatory scrutiny into their activities in violation of 7 U.S.C. §6m(1). (Dkt. 1, ¶4) The CFTC also alleged that Defendants engaged in, or were about to engage in, manipulative and deceptive acts with respect to the sale of a commodity in interstate commerce, in violation of 7 U.S.C. §9(1) and 17 C.F.R. §180.1(a)(1)-(3). (Dkt. 1, ¶5)

## **II. RELIEF REQUESTED**

The Receiver brings this Motion to address issues relating generally to the claims process. Specifically, the Receiver seeks an Order (i) establishing a bar date for investors and creditors of the Receivership Defendants and the Receivership Estate to assert an interest, claim, a potential or claimed right to payment, or a potential claim of any nature on the date that is 120 days after entry of the Order implementing a claims bar date (the "Bar Date Order"), (ii) approving the form and manner of notice to investors and creditors; (iii) approving the proof of claim form; (iv) approving the claim submission and administration procedures; and (v) allowing the Receiver to pool the assets and liabilities of the Receivership Estate as part of the claims and distribution process (the "Claims Procedures"). The proposed Claims Procedures will apply to all claims against the Receivership Entities regardless of the time period in which the claim

occurred, except that the bar date will not apply to the Receiver and professionals employed by the Receivership Estate, or to any administrative claims incurred after May 10, 2022.<sup>3</sup>

**A. Claims and Claimants Subject to Bar Date Order**

For purposes of this Motion a “Claim” is defined as: (a) a right to payment or claim of any nature, whether or not such right is reduced to judgment, liquidated, fixed or contingent, mature, disputed, legal, equitable, or secured, against one or more of the Receivership Entities that arose from the beginning of time through the present date; or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed or contingent, mature, disputed, legal, equitable, or secured, against one or more of the Receivership Entities that arose from the beginning of time through the present date.

For purposes of this Motion, “Claimant” is defined as: any person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and governmental units) that holds a Claim. Without limiting the generality of the foregoing, the definition of Claimant includes, but is not limited to, any person or entity holding: (a) a Claim based on any investment in a Receivership Entity, or (b) a Claim of any kind whatsoever against any Receivership Entity or Party, including, without limitation, a Claim based on: the provision of goods or services to any Receivership Entity that has not been paid in whole or in part; money loaned to any Receivership Entity that has not been paid in whole or in part including carbon offset notes and crypto savings notes; unpaid wages, compensation or other employment

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<sup>3</sup> The Order appointing temporary Receiver (ECF 18) and the Order appointing Permanent Receiver (ECF 37)(collectively, the “Receivership Order”), require the Receiver and professionals employed by the Receiver to submit requests for compensation to the Court, and the Court exercises its discretion to approve or disallow those requests.

benefits; tax liabilities, including those held by federal and state governments; primary, secondary, direct, indirect, secured, unsecured or contingent liability; or contract, tort, indemnity, reimbursement, subrogation theories or other legal or equitable theory. For purposes of this Motion, the definition of Claimant does not include professionals employed by the Receivership Estate.

**B. Proposed Bar Date, Proof of Claim Form and Notice, and Claims Submission and Allowance Procedures**

The Receiver proposes the following Claims bar date, proof of claim form and notice, and Claims submission and allowance procedures:

1. **Bar Date**. The Receiver requests that this Court establish 5:00 p.m. (prevailing Central Time) on the date that is 120 days after entry of the Bar Date Order as the deadline for Claimants to submit proofs of claim against the Receivership Entities (the “Bar Date”).

2. **Eligibility to Submit Proofs of Claim**. Proofs of claim shall be submitted by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and governmental units) that are Claimants and believe that they are owed any money by, or have a right to distribution from, any of the Receivership Entities, regardless of whether the Claim at issue has been acknowledged by the Receiver or whether the Claim at issue is held with or through any person or entity or based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability.

3. **Professional Claims**. Professionals hired by the receivership estate will not be required to submit proofs of claim on or before the Bar Date and will not be subject to the Bar

Date. All claims of the Receiver and the professionals he employs will be addressed in accordance with the Receivership Order and other applicable orders of the Court.

4. **Notice**. The Receiver believes that the following efforts will ensure broad notice to Claimants:

**a. Notice by Electronic Mail**. Where potential Claimants have provided an email address to the Receiver by: sending an email directed to the Receiver's email address [rosecityfundreceivership@ksrlaw.com](mailto:rosecityfundreceivership@ksrlaw.com), or (ii) submitting their email address through the Investor Website ([www.rosecityfundreceivership.com](http://www.rosecityfundreceivership.com)), the Receiver proposes to serve on such potential Claimants via the email address provided by them, within 14 days of the entry of the Bar Date Order: a notice of Bar Date and Claims Procedures, substantially in the form of the notice attached hereto as **Exhibit A** and incorporated herein by reference (the "Bar Date Notice"), and a proof of claim form substantially in the form of the document attached hereto as **Exhibit B** and incorporated herein by reference (the "Proof of Claim Form").

**b. Notice by Mail**. The Receiver proposes to serve by mail, within 14 days of entry of the Bar Date Order, the Bar Date Notice, and Proof of Claim Form on: (i) all companies that have filed a lien against the Receivership Entities, (ii) all companies that initiated a lawsuit against any Receivership Entity, (iii) Claimants who have submitted their information through the Investor Website but provided a physical address only and did not provide an email address; and (iv) potential Claimants whose addresses have been identified through the Receiver's review of the Receivership Entities' books and records. With respect to the Claimants that meet the above requirements for notice by mail and do

not meet the requirements set forth in subsection (a) above for notice by electronic mail, the Receiver proposes to serve: (i) those located within the United States by United States first class mail, and (ii) those located outside the United States by any method he deems reasonable. The Bar Date Notice and the Proof of Claim Form provide clear notice and instructions concerning the Claims Procedures.

c. **Notice Upon Inquiry.** The Claims Agent will promptly provide the Bar Date Notice and the Proof of Claim Form to any Claimant who makes a written request for such documents to the e-mail address [RoseCityInquiries@stretto.com](mailto:RoseCityInquiries@stretto.com), or the physical address Rose City Inquiries c/o Stretto 410 Exchange, Ste. 100, Irvine, CA 92602.

5. **Procedure for Submitting Proof of Claim Form.** Except as otherwise ordered by this Court or provided below, each Claimant must submit a completed and signed Proof of Claim Form, together with all supporting documentation, to the Claims Agent so that such Proof of Claim Form is actually received on or before the Bar Date by: (a) electronic submission via <https://cases.stretto.com/RoseCity/fileclaim>, or (b) courier service, hand delivery, or mail addressed to Rose City Claims Processing c/o Stretto, 410 Exchange, Ste. 100, Irvine, CA 92602. Proof of Claim Forms should not be filed with the Court, and any Proof of Claim Forms so filed will not be considered properly submitted.

6. **Supporting Documentation for Proof of Claim.** Each Claimant should attach to each Proof of Claim Form copies of all documents available to the Claimant that could support such Claim. Such documentation may include, but is not limited to: (a) copies of personal checks, cashier's checks, wire-transfer advices, cash receipts, and other documents evidencing the

investment of funds; (b) copies of each signed investment contract; (c) a chronological accounting of all money and other assets received by the Claimant, directly or indirectly, from any Receivership Entity, whether such monies are denominated as the return of principal, interest, commissions, referral fees, affiliate payments, or otherwise; (d) copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien; and (e) other documents evidencing the amount and basis of the Claim. If such supporting documentation is not available, the Claimant must attach to the Proof of Claim Form an explanation of why the documentation is unavailable.

7. **Effect of Failure to Submit Proof of Claim Form Before Bar Date.** Any Claimant who is required to submit a Proof of Claim Form, but fails to do so in a timely manner or in the proper form: (a) shall be forever barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receivership Entities and their respective property and estates; (b) shall not be permitted to object to any distribution and liquidation plan proposed by the Receiver on account of such Claim; (c) shall be denied any distributions under any distribution and liquidation plan implemented by the Receiver on account of such Claim; and (d) shall not receive any further notices on account of such Claim. Further, the Receivership Entities and their respective property and estates will be discharged from any and all indebtedness or liability with respect to such Claim. The proposed Bar Date and Proof of Claim Form are not unduly burdensome or uncommon in matters of this nature. It is important to the efficient and orderly administration of the receivership that Claimants timely file their proofs of claim and that late-filed proofs of claim be disallowed. Establishment of the Bar Date is

necessary in order for the Receiver to determine which persons are entitled to share in distributions under a liquidation plan.

8. **Reservation of Rights.** Nothing herein shall prejudice any right of the Receiver to dispute or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise against any amounts asserted in any proof of claim. Nothing contained herein is intended to preclude the Receiver from objecting to any Proof of Claim Form on any grounds.

9. **No Involvement in Fraud.** Each Claimant will be required to establish the proof of claim to the satisfaction of the Receiver through documentation and/or sworn statements that:

a. such Claimant transferred funds or provided goods or services directly or indirectly to any Receivership Entity, or otherwise possesses a legally enforceable obligation payable by the Receivership Entities;

b. such Claimant (i) was not a board member, officer, director, owner, manager, team lead, account representative, or other insider of any Receivership Entity or affiliate of any Receivership Entity, (ii) did not knowingly assist any Receivership Entity or affiliate of any Receivership Entity effectuate, perpetuate or promote the fraud, and (iii) did not have knowledge of the fraudulent nature of any Receivership Entity or affiliate of any Receivership Entity at the time funds were transferred to, or a debt was incurred by such entity; and

c. the total amount of funds such Claimant transferred to the Receivership Entities or their affiliates exceeds the total amount of funds the Receivership Entities and their affiliates transferred to such Claimant, or the total value of the goods or services that the Claimant provided to the Receivership Entities exceeds the total amount of funds the Receivership Entities paid to such Claimant for such goods and services.

If a Claimant cannot prove the foregoing factors set forth in subsections (a) through (c) of this paragraph, the Proof of Claim Form may be disallowed (subject to the procedures described below). The Receiver may consider, however, other factors in determining whether a Proof of Claim Form should be an allowed Claim, and notwithstanding the foregoing factors, the Receiver will analyze each Claim individually and the circumstances surrounding each Claimant's transactions with and the relationship to the Receivership Entities and/or their

affiliates. The Receiver reserves the right to object to and seek to disallow any Proof of Claim, allow late filed proof of claim, or conduct further investigation into any particular Claim.<sup>4</sup>

10. **Claims Determination Process.** Following the Bar Date, the Receiver will approve or reject, in whole or in part, all proofs of claim submitted by the Bar Date.

- a. In the event the Receiver rejects any proof of claim, in whole or in part, the Receiver will apprise the Claimant via first class mail and/or email of the rejection of the proof of claim, the basis for the rejection, and the process for appealing such rejection (the “Rejection Notice”).
- b. Within 60 days after service of the Rejection Notice (the “Reconsideration Deadline”), any Claimant whose proof of claim is rejected by the Receiver, in whole or in part, may request that the Receiver reconsider that denial by sending the Receiver a letter seeking reconsideration of the Rejection Notice that states the basis of the Claim and response to the Rejection Notice (the “Reconsideration Letter”). The Reconsideration Letter must be actually delivered to the Claims Agent by the Reconsideration Deadline by: (i) courier service, hand delivery, or mail addressed to Rose City Reconsideration Processing c/o Stretto, 410 Exchange, Ste. 100, Irvine, CA 92602, or (ii) electronic mail, as an attachment in portable document format (.pdf), to [RoseCityReconsideration@stretto.com](mailto:RoseCityReconsideration@stretto.com).
- c. The Receiver shall have 90 days after receipt of a timely Reconsideration Letter to reconsider any request by any Claimant whose proof of claim was initially rejected by the Receiver (the “Reconsideration Period”), and within 14 days of the end of the Reconsideration Period to apprise the Claimant via first class mail and/or email of the reconsideration or rejection of the Claim (the “Final Determination Notice”).
- d. Within 30 days of service of the Final Determination Notice (the “Appeal Deadline”) any Claimant whose proof of claim was finally rejected by a Final Determination Notice may appeal (the “Final Determination Appeal”) the Receiver’s rejection of the Claim to the Court by timely filing with the Court an Appeal of Final Determination Notice which must state the basis of the Claim and the Claimant’s response to the Final Determination Notice.
- e. The Receiver’s Response to an appeal filed with the Court shall be due within 30 days after such Final Determination Appeal is filed. Following the time for the Receiver’s response, the Court may make a final determination or may set the matter for hearing. A final determination by the Court is final for all purposes.

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<sup>4</sup> To the extent a Claimant received transfers from Receivership Entities and/or affiliates in excess of Claimant’s total transfers to those entities, or received transfers from the Receivership Entities in excess of the value of the goods or services they provided, such that Claimant profited from the wrongdoing, the Receiver reserves any and all rights to pursue claims against such Claimant for the return of the profits received and any other appropriate relief.

Any Claimant who receives a Rejection Notice or Final Determination Notice, but fails to file in a timely manner or in a proper form a Reconsideration Letter by the Reconsideration Deadline or a Final Determination Appeal by the Appeal Deadline: (a) shall be forever barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receivership Entities and their respective property or estates; (b) shall not be permitted to object to any distribution and liquidation plan proposed by the Receiver on account of such Claim; (c) shall be denied any distributions under any distribution and liquidation plan implemented by the Receiver on account of such Claim; and (d) shall not receive any further notices on account of such Claim. Further, the Receivership Entities and their respective property or estates will be discharged from any and all indebtedness or liability with respect to such Claim.

11. **Distribution of Receivership Assets to Claimants.** The Receiver intends to make distributions to Claimants using a rising tide distribution method. A rising tide distribution method allows investors to keep distributions made to them (up to the amount of their investments) but the distributions are credited against their calculated pro rata share, dollar for dollar. The Receiver believes the rising tide method of distribution is the most equitable method for claims distribution.

**C. Order Allowing the Receiver to Pool the Assets and Liabilities of the Receivership Estate**

The Receiver also moves the Court for an Order allowing the Receiver to pool the assets and liabilities of the Receivership Entities because the Individual Defendants operated them as a single, unified scheme. Indeed, Defendants enticed investors to make an investment based on the

cryptocurrency strategy they touted, as opposed to any distinction between the various vehicles Defendants utilized to carry out that strategy. The Receiver is not seeking to merge the Receivership Entities into a single corporation or other legal entity. To the contrary, the Receiver ultimately intends to wind down the various entities in the Receivership Estate and distribute those assets to investors pursuant to a procedure to be approved by the Court. The Receiver is therefore requesting Court approval to pool the assets and liabilities of the Receivership Estate for the administration and liquidation of assets, and the distribution of those assets to Claimants pursuant to the above-described Claims Procedures.

Causes of action held by the Receivership Entities, if any, would not be substantially affected by the relief sought in this motion. Currently, the Receiver satisfies expenses of the Receivership Estate from a qualified settlement fund (the “QSF”). The same would be true for eventual distributions to approved Claimants – the Receiver would make distributions from the QSF based upon a rising tide distribution method that disregards the specific investment vehicle and any distinction between equity and debt holders.

### **III. LEGAL ARGUMENT**

#### **A. The Court Has The Power to Order The Relief the Receiver Requests**

Rule 56 of the Federal Rules of Civil Procedure gives the district court summary jurisdiction over all the receivership proceedings and allows the district court to disregard the Federal Rules. *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). Thus, district courts have broad powers and wide discretion to determine relief in an equity receivership. *Id.* This discretion derives from the inherent powers of an equity court to fashion relief. *Id.*; *S.E.C. v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982), citing *S.E.C. v. Wencke*, 622 F.2d

1363, 1369 (9<sup>th</sup> Cir. 1980) (“The power of a district court to impose a receivership or grant other forms of ancillary relief does not in the first instance depend on a statutory grant of power from the securities laws. Rather, the authority derives from the inherent power of a court of equity to fashion effective relief.”). As such, a court imposing a receivership assumes custody and control of all assets and property of the receivership, and has broad equitable authority to issue all orders necessary for the proper administration of the receivership estate. *See S.E.C. v. Credit Bancorp Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002); *S.E.C. v. Wencke*, 622 F.2d 1363, 1370 (9th Cir. 1980). The inherent powers of a court of equity allow the court to protect its control of the res in its custody. *Wencke*, 622 F.2d 1363, 1370 (9th Cir. 1980). Indeed, “it is a recognized principle of law that the district court has broad powers and wide discretion to determine the appropriate relief in an equity receivership.” *S.E.C. v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982), citing to *S.E.C. v. Lincoln Thrift Association*, 577 F.2d 600, 606 (9th Cir. 1978). Therefore, any action by a trial court in supervising an equity receivership is committed to his sound discretion and will not be disturbed unless there is a clear showing of abuse. *Id.* citing *S.E.C. v. Arkansas Loan & Thrift Corp.*, 427 F.2d 1171, 1172 (8th Cir. 1970).

“A ‘district court has broad powers and wide discretion to determine relief in an equity receivership.’” *S.E.C. v. Wells Fargo Bank, N.A.*, 848 F.3d 1339, 1343-44 (11th Cir. 2017) (quoting *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992)); *see also S.E.C. v. Homeland Commc'ns Corp.*, 2010 WL 2035326, at \*1-\*2 (S.D. Fla. 2010) (“In equity receiverships resulting from SEC enforcement actions, district court have very broad powers and wide discretion to fashion remedies and determine to whom and how the assets of the Receivership Estate will be distributed.”). This discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566 (citing *S.E.C. v. Safety*

*Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982)). [A]ny action by a trial court in supervising an equity receivership is committed to his sound discretion and will not be disturbed unless there is a clear showing of abuse.” *S.E.C. v. Pension Fund of Am. L.C.*, 377 F. App'x 957, 961 (11th Cir. 2010) (quotations omitted).

“[A]mong these broad powers is the power to establish proof of claim procedures and set an effective claims bar date.” *S.E.C. v. Wells Fargo*, 848 F.3d at 1344 (citing *S.E.C. v. Tipco, Inc.*, 554 F.2d 710, 711 (5th Cir. 1977)). A receiver has discretion to construct and propose a claims administration process in order to effectuate her duties and submit a liquidation plan. The court should approve such process if it is fair and equitable under the circumstances. *See S.E.C. v. Onix Cap., LLC*, No. 16-24678-CIV, 2018 WL 1124435, at \*2 (S.D. Fla. Feb. 23, 2018) (approving receiver’s proposed claims administration process and stating, “I find it to be fair and equitable.”).

In receivership proceedings, “any 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). Although there are many ways in which a claimant can assert a claim, one such way is for claimants to be authorized “under a general order of the appointing court [to file their] claim(s) with the receiver . . . and if the receiver allow(s) the claim it must be approved or disapproved by the appointing court, in which event the action of the appointing court is equivalent to a judgment or a decree determining the existence and amount of the indebtedness . . . . *Id.* Claims should be presented in a formal way following generally the practice of presenting sworn proofs of claim in bankruptcy.” *Id.* at § 651, at 1142. “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.” *Id.*

In addition to approving the proof of claim form, courts with jurisdiction over a receivership will enter an order limiting the time within which claims are presented. *See id.* at § 652, at 1142 (citing *Chicago Title & Trust Co. v. Fox Theatres Corp.*, 91 F.2d 907 (2d Cir. 1937); *People of New York v. Hopkins*, 18 F.2d 731 (2d Cir. 1927)). Such an order limiting the time within which claims are to be presented has been deemed to be necessary to “lay the foundation for the court to order payment to creditors and distribution to those entitled to receive.” *Id.* §651, at 1142. “When it comes to fashioning a claims process,” no specific scheme is mandated so long as the plan is fair and equitable.” *S.E.C. v. Homeland Commc’ns Corp.*, 201 WL 2035326, at \*1-\*2.

The Court should exercise its discretion to approve the relief requested in this motion. In exercising his duties, the Receiver has determined that the proposed bar date, proof of claim form, and related procedures described above are fair, necessary and appropriate under the circumstances. The relief sought by the Receiver falls squarely within the Court’s inherent powers as a court of equity to fashion relief, and consistent with the Receiver’s duties as set forth in the Receivership Order.

**B. Entry of an Order Allowing The Receiver to Pool the Assets and Liabilities of the Receivership Estate Is Warranted.**

The Individual Defendants conducted the Receivership Entities as a common operation. For claims calculation and distribution purposes, the separation between Receivership Entities is a distinction without a difference. The various Receivership Entities are different facets of one common scheme that the Individual Defendants used to raise money and deceive investors.

Under such circumstances, courts routinely allow receivers to consolidate or “pool” receivership entities and assets into a single receivership estate for administrative purposes. As explained below, the power to pool the assets of the Receivership Entities is well within the Court’s equitable discretion. Pooling is appropriate here because it will conserve both judicial and Receivership resources, ultimately resulting in a greater recovery for the Receivership Estate and its creditors, and promote an equitable distribution of the assets to the creditors.

Absent pooling, these circumstances could create competing claims among the Receivership Entities. Pooling will avoid these problems by ignoring transfers of assets and funds between entities, and therefore avoiding “the absurdity of making A pay B when B owes A.” *Studley v. Boylston Nat. Bank of Boston*, 229 U.S. 523, 528 (1913). Pooling will allow investors to equitably make a claim for the *net* amount of their investment regardless of the entity or promissory note in which they are invested, or the amount of reinvested redemption proceeds. The Receiver intends to make decisions relating to investor claims based on each investor’s net investment (i.e., the cash they put into the Receivership Entities less any cash they received from the Receivership Entities).

Pooling the Receivership Entities’ assets and liabilities will eliminate these complications by creating a unified Receivership Estate. It will also minimize the expense of administering the claim and distribution process, maximizing the funds available for return to investors. Thus, the Receiver respectfully asks the Court to enter an order granting this motion.

Under the equitable principles governing receiverships, courts may authorize a receiver, upon good cause shown, to treat various receivership entities as one substantively pooled estate for the purpose of distribution to allowed claimants. Under the “good cause” test for pooling, courts have examined a number of different facts, including whether: (1) a unified scheme to

defraud existed among the receivership entities; (2) the investors across the various receivership entities are similarly situated; and (3) funds were commingled among the receivership entities.

*S.E.C. v. Founding Partners Capital Mgmt.*, 2014 WL 2993780, at \*6 (M.D. Fla. July 3, 2014);

*S.E.C. v. Amerifirst Funding, Inc.*, 2008 WL 919546, \*4 (N.D. Tex. Mar. 13, 2008) (pooling

receivership entities because they were all involved in a unified scheme to defraud investors,

even where there was no comingling of funds); *C.F.T.C. v. Walsh*, 712 F.3d 735, 749 (2nd Cir.

2013) (upholding district court's finding that investors were similarly situated for purposes of a

pro rata distribution plan when they are similarly situated in relationship to the fraud, in

relationship to the losses, in relationship to the fraudsters, and in relationship to the nature of

their investments); *C.F.T.C. v. Eustace*, No. 05-2973, 2008 WL 471574, \*3 (E.D. Penn. Feb. 19,

2008) (approving pooling of assets and pro rata distribution in light of evidence of joint

marketing of receivership entities and comingling of funds). Generally, a pooled distribution of

funds, even from separate legal entities, is equitable when the separate entities were involved in a

unified scheme to defraud. *S.E.C. v. Amerifirst Funding, Inc.* 2008 WL 919546, \*4 (N.D. Tex.

Mar. 13, 2008). Further, even funds from separate legal entities should be consolidated together

equitably where those entities were all involved in the allegations underlying the lawsuit.

*Amerifirst Funding, Inc.*, 2008 WL 919546, \*4 (N.D. Tex. Mar. 13, 2008).

Courts routinely exercise this discretion by pooling assets of receivership assets. *See e.g.*,

*Elliott*, 953 F.2d at 1584 (approving district court's decision to treat three companies as single

entity); *S.E.C. v. Basic Energy & Affiliated Res., Inc.*, 273 F.3d 657, 663 (6th Cir. 2001) (“[T]he

district court's decision to treat the Escrow Investors in the same manner as all other swindled

BEAR investors makes a great deal of sense. *C.F.T.C. v. Eustace*, 2008 WL 471574, \*5 (E.D.

Pa. Feb. 19, 2008) (approving the receiver's *pro rata* distribution plan and comparing an equity

receiver's power to administer the estate by pooling and consolidating assets with the principle of substantive consolidation in bankruptcy proceedings).

#### IV. CONCLUSION

For the foregoing reasons, the Receiver requests that the Court grant this Motion and enter the proposed order submitted to the Court's proposed order email address contemporaneously herewith.

Respectfully submitted,

|  |  |
|--|--|
| <p>Daryl M. Schumacher (6244815)<br/>Kopecky Schumacher Rosenburg LLC<br/>120 N. LaSalle St., Suite 2000<br/>Chicago, IL 60602<br/>Telephone: (312) 380-6552</p> | <p><u>/s/ Daryl M. Schumacher</u><br/><i>Counsel to James L. Kopecky, Receiver for<br/>Defendants Jafia, LLC, Sam Ikkurty a/k/a<br/>Sreenivas I Rao, Ikkurty Capital LLC d/b/a/<br/>Rose City Income Fund I, Rose City Income<br/>Fund II, LP and Seneca Ventures, LLC</i></p> |
|--|--|

**CERTIFICATE OF SERVICE**

I hereby certify that on July 31, 2023, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will provide electronic notice and an electronic link to this document to all counsel of record.

DATED: July 31, 2023

/s/ Daryl M. Schumacher

**EXHIBIT A**

**NOTICE: YOU MAY HAVE A CLAIM FOR  
PAYMENT OF MONEY FROM A LAWSUIT**

**IF YOU SUFFERED LOSSES AS A RESULT OF INVESTMENTS WITH ANY OF THE RECEIVERSHIP ENTITIES YOU MAY BE ENTITLED TO RECEIVE PAYMENT FROM FUNDS RECOVERED IN THIS CFTC ENFORCEMENT ACTION.**

**DEADLINE FOR ALL INVESTORS AND CREDITORS TO SUBMIT CLAIMS TO THE RECEIVER: [TO BE PROVIDED] 2023.**

To learn more, read the “Legal Notice” section below.

**Deadline to submit your claim: [INSERT], 2023.**

**If you don't submit your claim by [INSERT], 2023, you will not be able to get money from the lawsuit.**

**How to Submit a Claim:**

To be eligible to receive a distribution from the Receivership Distribution Fund you must complete and return this Proof of Claim and provide supporting documentation to the Receiver’s noticing and claims agent, Stretto, by: (a) electronic submission, or (b) courier service, hand delivery, or first- class mail addressed to Rose City Claims, c/o Stretto, 410 Exchange, Suite 100, Irvine, CA 92602

**For Electronic Claims:**

1. Click >>here<< or copy and paste this URL into your browser: [INSERT].
2. Fill out your Proof of Claim Form, Upload Supporting Documentation, and click “Submit.”

**For Claims Submitted by Hard Copy:**

For your convenience, enclosed with the notice is a Proof of Claim Form. A copy of the Proof of Claim Form is also available on the Receiver’s website for this case at <https://rosecityfundreceivership.com>.

1. Complete and sign the proof of claim and include any supporting documentation.
  2. Submit to the Receiver’s Noticing and Claims Agent by courier service, hand delivery or mail addressed to Rose City Claims c/o Stretto, 410 Exchange, Suite 100, Irvine, CA 92602.
-

## **LEGAL NOTICE OF CLAIMS ADMINISTRATION PROCESS**

*Commodity Futures Trading Commission v. Sam Ikkurty a/k/a Serenivas I Rao, Ravisankar Avadhanam, and Jafia, LLC (the “Defendants”) and Ikkurty Capital, LLC d/b/a Rose City Income Fund, Rose City Income Fund II LP, and Seneca Ventures, LLC (the “Relief Defendants”)*

Case No. 22-CV-2465-MMR (N.D. IL.)

**What Happened in the Lawsuit?** On May 11, 2022, the Court appointed James L. Kopecky as the Court-appointed Receiver for the Defendants and Relief Defendants (together, the “Receivership Entities”). The above-referenced lawsuit is a civil action brought by the Commodity Futures Trading Commission (“CFTC”) to enjoin the Defendants from engaging certain trading activity, and to disgorge all benefits received in connection with the activity described in the CFTC’s Complaint. [The Court approved the Receiver’s proposed Claims Process and Distribution Plan, which will allow potential claimants to file a Proof of Claim Form and receive a distribution from the Receiver’s Distribution Fund if deemed to have an Allowed Claim.]

**What Do I Have to Do?** To have an Allowed Claim, you must fill out and submit the Proof of Claim Form. When you fill out the Proof of Claim Form, you must promise under oath that these three things are true:

1. You transferred funds to one or more of the Receivership Entities,
2. You are not affiliated with any of the Receivership Entities, and
3. You have not already received a return of funds exceeding the amounts you invested with the Receivership Entities.

If you do not meet these three requirements, DO NOT submit a Proof of Claim Form.

**You must submit the Proof of Claim Form by [INSERT], 2023. If you do not submit it by the deadline, you will not receive any money from this lawsuit.**

### **How Do I Submit the Proof of Claim Form?**

1. Click [>here<<](#) or copy and paste this URL into your browser: [\[INSERT\]](#).
2. Fill out your **Proof of Claim Form**, upload supporting documentation such as credit card statements and bank statements showing each transfer of funds to the Receivership Entities and disclose any disbursement of funds you received related to those investments from any of the Receivership Entities.
3. Click "Submit."

### **What Happens if I Submit a Proof of Claim Form?**

1. The Receiver will calculate how much money you may be entitled to from the lawsuit based on the amount of money you invested less any amounts you received from the Receivership Entities. That will be your Allowed Claim amount.
2. The Receiver will determine any distribution to you based on a rising tide distribution method. Any distribution will be paid to you from the Receiver’s distribution fund.
3. You will receive the money in the way you selected on the Proof of Claim Form using the payment information you gave on that form.

**Technical Support:** For technical support in filling out the online Proof of Claim Form or submitting supporting documentation, please click [here](#) for Frequently Asked Questions or contact the Receiver's Noticing and Claims Agent at [rosecityinquiries@stretto.com](mailto:rosecityinquiries@stretto.com).

You may also obtain information regarding this claims process by:

- Visiting the website for this Receivership: <https://rosecityfundreceivership.com>.
- Submitting questions by mail to the Receiver at James L. Kopecky, Receiver, 120 N LaSalle Street, Suite 2000, Chicago, IL 60602.
- Sending an email to the Receiver at [rosescityfundreceivership@ksrlaw.com](mailto:rosescityfundreceivership@ksrlaw.com).

## **EXHIBIT B**

**PROOF OF CLAIM IS TO BE FILED WITH RECEIVER -- DO NOT FILE WITH COURT**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|  |   |                                   |
|--|---|-----------------------------------|
| <b>COMMODITY FUTURES TRADING</b>       | ) |                                   |
| <b>COMMISSION,</b>                     | ) |                                   |
|  | ) |                                   |
| Plaintiff,                             | ) |                                   |
|  | ) |                                   |
| v.                                     | ) | Case No. 22-cv-2465               |
|  | ) |                                   |
| <b>SAM IKKURTY A/K/A SERENIVAS I</b>   | ) | Honorable Mary M. Rowland         |
| <b>RAO, RAVISHANKAR AVADHANAM,</b>     | ) |                                   |
| <b>AND JAFIA, LLC,</b>                 | ) | Magistrate Judge Jeffrey Cummings |
|  | ) |                                   |
| Defendants,                            | ) |                                   |
|  | ) |                                   |
| <b>IKKURTY CAPITAL, LLC D/B/A ROSE</b> | ) |                                   |
| <b>CITY INCOME FUND, ROSE CITY</b>     | ) |                                   |
| <b>INCOME FUND II LP, AND SENECA</b>   | ) |                                   |
| <b>VENTURES, LLC,</b>                  | ) |                                   |
|  | ) |                                   |
| Relief Defendants.                     | ) |                                   |

**PROOF OF CLAIM FORM**

**Please use the fillable pdf to type information directly into the form. Alternatively, you may fill out the form in blue or black ink, scan the document as a .pdf file, and submit the completed form to the receiver as indicated in the directions at the end of the form.**

To be eligible to receive a distribution from the Receivership Entities (as defined below), you must complete and return this Proof of Claim and provide supporting documentation to the Receiver's claims agent, Stretto, so that it is actually received on or before [\_\_\_\_], 2023 at 11:59 p.m. (prevailing Eastern Time) by: (a) electronic submission via [ADD STRETTO WEBSITE ADDRESS FOR ONLINE CLAIM FILING PORTAL OF ROSE CITY CLAIMS], or (b) courier service, hand delivery, or mail addressed to Rose City Claims, c/o Stretto, 410 Exchange, Suite 100, Irvine, CA 92602.

**PART I – CLAIMANT IDENTIFICATION**

**Name of individual (last, first) or entity submitting the claim:**

\_\_\_\_\_

**If entity, name of individual (last, first) completing form on behalf of entity:**

\_\_\_\_\_

\_\_\_\_\_

**Street address:**

\_\_\_\_\_

**City**

**State**

**Zip Code**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Foreign Province**

**Foreign Postal Code**

**Foreign Country Name**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Telephone number**

**Alternate Telephone Number**

**Email address**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please indicate if the address above differs from the address to which this form was mailed.

**PART II – CLAIM**

Please identify, by checking the appropriate box(es) below, the entity or entities (collectively, the "Receivership Entities") against whom this claim is asserted:

**IKKURTY CAPITAL, LLC D/B/A ROSE CITY INCOME FUND  
ROSE CITY INCOME FUND II LP**

**SENECA VENTURES, LLC**

**PART II(a): INVESTOR CLAIM QUESTIONS:**

**For each investment in a Receivership Entity list the date, principal amount of your investment, and the entity in which you invested. Use separate lines for each investment. If you made more than 5 separate investments, please attach a list of those investments to your claim form using the format below.**

| Date of Investment | Principal Amount Invested | Entity In Which You Invested | Check Number / Wire Detail Information |
|--------------------|---------------------------|------------------------------|--|
| _____              | _____                     | _____                        | _____                                  |
| _____              | _____                     | _____                        | _____                                  |
| _____              | _____                     | _____                        | _____                                  |
| _____              | _____                     | _____                        | _____                                  |
| _____              | _____                     | _____                        | _____                                  |

**For each disbursement you received from a Receivership Entity list the date, amount of the disbursement, and the entity that provided the disbursement. Use separate lines for each disbursement. If you received more than 5 separate disbursements, please attach a list of those disbursements to your claim form using the format below.**

| Date of Disbursement | Amount of Disbursement | Entity that Provided the Disbursement | Check Number / Wire Detail Information |
|----------------------|------------------------|---------------------------------------|--|
| _____                | _____                  | _____                                 | _____                                  |
| _____                | _____                  | _____                                 | _____                                  |
| _____                | _____                  | _____                                 | _____                                  |
| _____                | _____                  | _____                                 | _____                                  |
| _____                | _____                  | _____                                 | _____                                  |

If you received a referral fee from anyone in connection with your investment or otherwise, please identify the referral fee below:

| Date of Referral Fee | Amount of Referral Fee | Entity that Provided the Referral Fee |
|----------------------|------------------------|---------------------------------------|
| _____                | _____                  | _____                                 |
| _____                | _____                  | _____                                 |
| _____                | _____                  | _____                                 |

**PART II(b): NON-INVESTOR CLAIM QUESTIONS:**

If you are not an investor in any of the Receivership Entities, please state with specificity the basis of your claim against the Receivership Entities (e.g., goods or services provided for which you have not been paid):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

State the amount of your claim: \$ \_\_\_\_\_

If you contend that your claim is secured, please complete this section:

Assessed value of collateral: \$ \_\_\_\_\_

Description of collateral: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Explain the basis for your contention that your claim is secured: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART II(c): QUESTIONS FOR ALL CLAIMANTS:**

If this Claim Form amends, supersedes or replaces a previously filed claim form, please indicate the specifics in the space below:

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**If you are aware of another person or entity filing a Proof of Claim Form on your behalf or that otherwise incorporates the claim asserted in this form, please identify the person / entity filing such a Proof of Claim Form with contact information (if available) below:**

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**YOU MUST READ AND SIGN THE CERTIFICATION OF TRUTHFULNESS AT THE END OF THIS CLAIM FORM. FAILURE TO SIGN THE CERTIFICATION OF TRUTHFULNESS MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.**

**SUPPORTING DOCUMENTATION:** Please attach to your Proof of Claim Form only documents (including copies of emails and other electronic data) that support your Proof of Claim Form. Such documentation may include, but is not limited to: (1) **for Investors:** copies of personal checks, cashier's checks, wire transfer advices; account statements and other documents evidencing the investment or payment of funds; any written contract or agreement made in connection with any investment in or with any Receivership Entity; a chronological accounting of all money received by the Claimant from any Receivership Entity or the Receiver, whether such payments are denominated as the return of principal, interest, commissions, finder's fees, sponsor payments, or otherwise; copies of all documentation and records reflecting or regarding any withdrawals ever made by or payments received by the Claimant from any Receivership Entity or the Receiver; and (2) **for Non-Investors:** copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, or evidence of perfection of lien; and other documents evidencing the amount and basis of the Claim. **DO NOT SEND ORIGINAL DOCUMENTS.** If such documentation is not available, please attach an explanation of why the documents are not available.

Please do **not** submit the following types of materials with a Proof of Claim Form unless requested by the Receiver: (1) marketing brochures and other marketing materials received from the Receivership Entities; (2) routine or form correspondence received from the Receivership Entities; (3) copies of pleadings on file in any case involving the Receiver or the Receivership Entities; and (4) other documents received from Receivership Entities that do not reflect Claimant specific information concerning the existence or value of a Claim.

**VERIFICATION OF CLAIMS:** All Proof of Claim Forms submitted are subject to verification by the Receiver and approval by the Court. It is important to provide complete and accurate information to facilitate this effort. Claimants must be willing to submit to an interview and may be asked to supply additional information to complete the claims process.

**CONSENT TO JURISDICTION:** By submitting your Proof of Claim Form, you consent to the jurisdiction of the United States District Court for the Northern District of Illinois for all purposes and agree to be bound by its decisions, including, without limitation, a determination as to the validity and amount of any Claims asserted against the Receivership Entities. In submitting your Proof of Claim Form, you agree to be bound by the actions of the United States District Court for the Northern District of Illinois even if that means your Claim is limited or denied.

**CERTIFICATE OF TRUTHFULNESS:** Pursuant to 28 U.S.C. § 1746, I, the undersigned, hereby certify, under penalty of perjury under the laws of the United States of America, that all of the information provided in this Proof of Claim Form, including all Schedules and attachments to the Proof of Claim, is true and correct and that the undersigned is authorized to make this Claim.

---

Type or print your name here

---

Signature

---

Capacity of person(s) signing

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

**Reminder Checklist:**

1. Please sign the above declaration.
2. Remember to attach supporting documentation, if available.
3. Keep a copy of your claim form and all supporting documentation for your records.
4. If your contact information changes, please send the Receiver updated information.

## INSTRUCTIONS

Submit your Proof of Claim Form and supporting documentation to the Receiver's claims agent, Stretto: (1) by electronic submission via [[ADD STRETTO WEBSITE ADDRESS FOR ONLINE CLAIM FILING PORTAL OF ROSE CITY CLAIMS](#)], or (b) courier service, hand delivery, or mail addressed to Rose City Claims, c/o Stretto, 410 Exchange, Suite 100, Irvine, CA 92602.