

## Exhibit H

**First Proposed Distribution Plan**  
  
**for**  
  
**Community Action of Minneapolis**

**March 3, 2015**

**Prepared by:**

**ALLIANCE**  
M A N A G E M E N T

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## **I. Introduction and Key Facts Summary**

### **A. Receiver's Role**

On November 18, 2014, Michael Knight of Alliance Management (the "Receiver") was appointed by the Ramsey County District Court (the "Court") as limited receiver over the assets of Community Action of Minneapolis ("CAM") to perform, among other things, the following duties:

- (1) provide an accounting of CAM's assets and liabilities;
- (2) review expenditures made by CAM and determine which expenditures were improper under the Minnesota Department of Human Services ("DHS") and Minnesota Department of Commerce ("DOC") grants; and
- (3) recommend a distribution plan to the court to pay legitimate creditors, including reimbursing DHS and DOC for any expenditures improperly charged by CAM to the DHS and DOC grants.

In furtherance of these objectives, as well as to maximize the value of the Receivership Estate, the Receiver sought and obtained pursuant to this Court's December 23, 2014 *Order on Receiver's First and Second Request For Instructions* (the "Amended Receiver Order"), specific powers from the Court including the authority to terminate employees, sell CAM's assets, terminate leases, and pursue claims on behalf of CAM, among other things.

### **B. Tasks Completed**

While some of this work is ongoing (as described below), the Receiver believes it has sufficient information at this time to provide the following:

1. a current accounting of CAM's assets and liabilities;
2. a discussion and comments regarding the viability of CAM;
3. a status report regarding the Receiver's review and assessment of possible improper expenditures under certain DHS and DOC grants as alleged in the August 7, 2014 DHS audit report (the "DHS Audit");<sup>1</sup>
4. a report concerning additional allegations of improper financial transactions; and
5. Receiver's proposed initial distribution plan.

The Receiver's remaining work includes completing the review of the expenditures made under certain grants administered by the DHS and the DOC (and the claims associated therewith), reviewing and attempting to resolve the claim of CAM's former CEO William Davis ("Mr. Davis") against CAM, and completing its review of other claims of the estate for possible reimbursement or other recoveries based upon improper expenditures.

### **C. Proposed Partial Distribution**

The Receiver believes that it is in the best interest of the creditors of the receivership estate to implement a partial distribution at this time. A key element in implementing a payment to the creditors is the consent of the DHS and DOC to subordinate their claims for reimbursement to

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<sup>1</sup>At the time of this report, the DOC had not completed its audit or investigation. Although the Receiver is familiar with the DOC grants, it was deemed more efficient and financially prudent to wait for the completion of the DOC's work before commenting on any allegedly improper expenditures of DOC grant money.

the general unsecured creditors of the receivership estate, as described more specifically below. Based upon its preliminary review, and *subject to any additional, substantial contested/unresolved claims that arise through the final, Court-approved claims reconciliation process that is underway*, the Receiver believes that (a) the only potentially significant remaining unresolved claims are the anticipated claims of the DHS, the DOC and Mr. Davis, (b) based upon the State of Minnesota's agreement to subordinate, the estate has sufficient funds to pay all of the other general unsecured creditors as set forth herein as well as the receivership estate's ongoing administrative expenses, and (c) a decision *not* to pay the rest of the creditors at this time would pose an unnecessary and undue hardship on third parties who provided services, labor, material and other things of value in good faith and should, at this time, be paid.

## **II. General Background**

CAM is a 501(c)(3) non-profit organization formed in 1994 by the City of Minneapolis. CAM was expected to utilize community action grants to assist in the reduction of poverty, to revitalize low-income communities, and to empower low-income families to become self-sufficient.

### **A. Programs**

In recent years, CAM's primary programs included the following:

1. Energy Assistance Program – provides financial assistance to low-income families to help with the cost of home heating in the winter.
2. Home Electric Savings Program – provides home energy conservation education and energy-saving light bulbs as well as new Energy Star certified appliances to low-income families.
3. Weatherization Program – provides weatherization services to low-income residents.
4. Civic Engagement and Community Leadership Program – provides community members with opportunities and resources to become actively engaged in their communities.
5. Children & Family Development Division – including the GROW program, provides free life-coaching sessions, SNAP Outreach and Application assistance to provide food to lower income families, and Power Workshops on a variety of subjects.

### **B. Sources of Funding**

CAM's principal sources of funding included state and federal grants (approximately 70%) and, until recently, contracts with utility companies (approximately 30%) such as CenterPoint and Xcel Energy.

Certain federal and state grants are managed by the DOC. These include the Low-Income Energy Assistance Program Grant ("LIHEAP Grant Contract") and the Weatherization Assistance Program Grant Contract ("WAP Grant Contract").

The DHS manages other federal and state grants including the Community Services Block Grant ("CSBG") and the Community Action Grant ("CAG").

**C. Allegations Prompting the Appointment of the Receiver**

One of the precipitating causes of this receivership was the August, 2014 DHS audit. The DHS had been prompted to audit CAM based upon discussion between DHS staff members and employees of CAM. The DHS audit report contends that CAM had engaged in a variety of financial irregularities, improper allocations of excessive overhead, and violations of the rules governing the use of State grant money. Although CAM contested many of the findings of the DHS audit, it admitted others. From the perspective of the DHS (and the DOC, which has similar regulatory standards governing the use of grant money), the concerns raised in the DHS audit warranted a termination of CAM's working relationship with DHS and demand for return of certain grant funds awarded in 2012 and 2013.

**D. DHS Decertification Proceedings**

On September 26, 2014, CAM was decertified by the DHS as a Community Action Agency and its funding was terminated for cause pursuant to Minn. Stat. 9571.0060. This, in turn, impacted various state grants, including the SNAP Outreach Grant, the CSBG, and the CAG. CAM appealed the decertification in the Office of Administrative Hearings for the Department of Human Services, as case number OAH 84-1800-31983. Chief Administrative Judge Tammy L. Pust presiding.

On December 16, 2014, CAM, represented by Lee Hutton, III of Zelle Hofmann Voelbel & Mason LLP, moved for a stay of the administrative proceedings, which the DHS opposed. In addition, on January 15, 2015, the DHS moved to dismiss CAM's appeal of the DHS decertification of CAM as community action agency under Minnesota law.

On February 19, 2015, Judge Pust entered an order that denied the DHS's motion to dismiss CAM's appeal. CAM's motion to stay the proceedings was held under advisement pending supplementation of the record to indicate whether the Receiver would provide CAM's representatives access to CAM's books and records, and a further prehearing conference is scheduled for March 5, 2015.

The Receiver, by and through its counsel, sent a letter Judge Pust on February 27, 2015 in response to a letter submitted by CAM's counsel to the Judge regarding the Court's request for supplementation of the record. The Receiver confirmed that it had received no request to review records from CAM or its counsel and that the Receiver would make the records in its possession available to CAM. Aside from this accommodation, the Receiver is not otherwise involved in the appeal process.

**E. DOC Grant Termination**

On September 26, 2014, the DOC terminated its contracts with CAM, specifically the LIHEAP Grant Contract and the WAP Grant Contract. As a result of these terminations, the DOC contends that CAM is required to turn over State property and client files to the DOC.

**F. Activities at CAM Following Decertification and Prior to Appointment of Receiver**

After CAM was decertified by the DHS and the DOC grants were terminated, CAM laid off or terminated approximately 37 employees, leaving a staff of 10. During this time, CAM's contracts with utility companies were also terminated, and CAM began to wind-down the work it had contracted to do prior to November. As a result of these actions, CAM had no ongoing source of operating funds, nor any work to perform.

**G. The Receiver's Investigation**

The findings of the DHS audit provided both a starting point for the Receiver's assessment work and a framework for an investigation of the specific issues that the Receiver has been charged with resolving. From the beginning, it was apparent that there are limited resources with which to conduct an investigation, and that spending more than is necessary would only impair the creditors of the receivership estate. Therefore, the Receiver, in exercising its best good-faith judgment, began by investigating the issues raised by the DHS audit and other matters disclosed or revealed to the Receiver through its investigation and interviews of CAM's former employees. The Receiver also expects to review and assess the results of the upcoming DOC audit upon its completion.

The Receiver's work has included the following: (1) review of allegedly improper expenditures; (2) review of allegations of non-compliance with grant rules and regulations; (3) review of the CAM's general ledger, financial records, credit card statements, accounts receivable and accounts payable of CAM; (4) validating the amounts due and owing to creditors; (5) attempting to collect all outstanding monies owed to CAM; (6) review of the auditor's work papers and files of CAM, DHS and Wipfli (CAM's CPA); (7) consideration of alternative cost allocation methodologies; (8) consideration of whether any creditors have direct claims to certain proceeds; (9) consideration of whether claims may be brought against former employees, board members or third parties for return of improper benefits or distributions; and, (10) interviews with former employees and board members, which are on-going. In addition, the Receiver has had meetings and telephone discussions with employees of the DHS audit team, the DOC, the DOC's investigative staff, Wipfli, the FBI and the IRS. However, the Receiver has not conducted a forensic audit of all of CAM's financial records, nor did the investigation include a review of all records and files held by CAM, which are voluminous.

As of the date of this *First Proposed Distribution Plan*, the Receiver's investigation is ongoing. The Receiver has been attempting to schedule additional interviews with former employees and board members, but this process is taking longer than originally anticipated due to the scheduling issues with certain board members, their counsel, or both. Any delays in these efforts should not, however, postpone implementation of this Distribution Plan. To the extent that the planned interviews of CAM's board members reveal financial irregularities or other issues of concern which could potentially yield a recovery to the receivership estate, the Receiver will advise the parties and the Court and make a recommendation to the Court regarding further investigation.

### III. Viability

Early in this case at the December 19, 2015 at the hearing on the *Receiver's First Request for Instructions*, the Receiver requested the opportunity to evaluate the viability of CAM and the potential of maximizing value through continuing operations. The Receiver has assessed CAM's predicament and does not believe that the organization is currently viable (nor has it been since the appointment of the Receiver).

A number of serious issues impair CAM's ability to continue in business, including the following:

1. The City of Minneapolis, a key sponsor needed in order to make an effective re-start of the business, has assigned CAM's work to others.
2. The DHS and the DOC are not supportive of CAM continuing in business.
3. Restarting CAM would be a long process, and upon satisfaction of CAM's debts and the State's demand for repayment of grant money, there may be no cash on hand to fund operations.
4. The organization may be insolvent and would likely have challenges raising additional capital, and it is not within Receiver's scope to seek new sources of financing for CAM.
5. The organization would, in our opinion, need to completely reconstitute the board and find new management – especially in the wake of the allegations made against the current governing regime at CAM. Properly executed, this effort would take a substantial period of time.
6. Prior to the Receiver's appointment, the majority of CAM's employees had been terminated due to the agency's lack of revenue. With no revenue and a depleting cash base to satisfy creditor claims, the Receiver terminated the remaining 9 employees in December, 2014 and January, 2015. Although there may be a desire by the board to continue operations, any effort to reconstitute is likely to take many months (if it's possible at all), and with the tenured staff gone, CAM would need to rehire and train capable employees.
7. There are ongoing investigations by the FBI, the IRS and the DOC that are draining time and resources from what's left of CAM. While these investigations may or may not result in findings that are serious impediments to CAM's continued operations, the stigma associated with some of the revelations in the DHS audit and associated press coverage will, in the Receiver's opinion, make it extremely challenging to reconstitute CAM in the near future.
8. Other critical issues that would need to be addressed in an effort to reconstitute (and which the Receiver is not in a position to answer) include:
  - a. The DHS and DOC will not waive their claims for reimbursement. How will these (likely deficiency claims) be paid?
  - b. Can the sponsors of this initiative demonstrate, based upon a new financial and operations plan, that it has a likelihood of success?

For these reasons, the Receiver does not believe that CAM is viable or that reconstituting CAM is a viable option at this time. Based upon its best business judgment, and in order to fulfill its obligation to the Court, the Receiver is proposing the wind-down of CAM and the sale of CAM's remaining assets to satisfy its debts.

#### IV. Assets of CAM

The assets of CAM are currently valued as follows:

Asset Description	Value
Cash (2/28/15)*	\$1,206,905
Accounts Receivable (2/28/15)	\$262,135
Real Estate**	\$400,000
Personal Property***	\$2,500
Claims for Recovery	Unknown
<b>Total:</b>	<b>\$1,871,540</b>

\*Cash includes the actual cash balances as of 2/28/15 in CAM's bank accounts, as well as \$200.00 in petty cash onsite at CAM.

\*\*The estimated value of the building at 2104 Park Avenue is net of transactional expenses and is based upon a recent market analysis by a broker with local submarket experience.

\*\*\*Personal property includes remaining furniture, computers, miscellaneous office supplies, etc.

##### A. Cash

The Receivership estate began with cash on hand of \$659,007.62. As reflected in the Receiver's monthly reports to the Court, cash has been *reduced* through the payment of Administrative Expenses of the receivership estate, including employee wages and benefits, severance, utilities, other operating expenses, legal fees and the Receiver's fees. Cash has been *increased* through the sale of office furniture and four vehicles, and the collection of accounts receivable. As a result of all of these activities, cash has increased during the receivership to \$1,147,917 as of February 17, 2015 (the last day of the most recent reporting period).

##### B. Accounts Receivable

Since the Receiver's appointment, the Receiver has collected over \$700,000 in outstanding accounts receivable, the greatest portion of which was from CenterPoint Energy and Xcel Energy. Prior to anticipated demands for reimbursement of grant money, the DOC owes CAM (according to CAM's books and records) approximately \$237,000, the largest remaining receivable. The Receiver has requested payment of these funds.

The accounts receivable also include a claims against Mr. Davis and another former employee for repayment of personal auto loans. The Receiver has made a demand for repayment of amounts due and will continue to pursue recovery efforts.

There may be other claims for reimbursement as a result of the Receiver's continuing investigation.

##### C. Real Estate

The Receiver is proposing to sell the property owned at 2104 Park Avenue in order to satisfy the claims of the receivership estate. The Receiver has contacted four commercial real estate brokers in connection with selling the Park Avenue building, which is owned is free and clear by CAM. The Receiver met with three of these brokers and obtained marketing plans and sale proposals from each. Contingent upon court approval and final negotiations over the commission and other terms of the engagement, the Receiver would enter into a listing



agreement as soon as practicable. The Receiver anticipates that a sale will take between 6 and 12 months.

**D. Personal Property: Sale of Office Furniture, Automobiles and IT Equipment**

Approximately 30 companies and individuals were approached to bid on CAM's office furniture, Information Technology ("IT", including printers, copiers, computers, and tablets), and the four vehicles titled in CAM's name. Most parties either declined or proposed to charge CAM to remove the furniture. However, the Receiver was able to obtain \$2,000 for the office furniture located at 505 East Grant Street and avoid additional fees and costs which would have been incurred by the receivership estate if the office furniture had been abandoned. The Receiver also obtained an offer of an additional \$1,000 for certain office furniture located in the Park Avenue building from the same buyer. These represented the highest and best offers for these assets. The Receiver has decided to retain the Park Avenue furniture for the time being based upon the possibility that the furnishings may make the building a more attractive purchase.

The Receiver also solicited bids on the four vehicles owned by CAM from a variety of used-car dealerships and concluded a sale to the high bidder. Because there are federal and/or state agencies that may assert a claim with respect to at least one of these vehicles, the Receiver is retaining the proceeds of sale from these assets until any attendant claims are resolved.

Although the Receiver received bids on CAM's IT, it has not sold any computer hard drives as they may contain information requested by federal and state investigators. These items may be stored or turned over to the custody of an investigative agency such as the Department of Justice or the FBI upon termination of the Receivership. The remaining personal property is believed to be of minimal value.

**E. Additional Receivership Assets**

The Receiver, in consultation with its attorney, is evaluating potential claims for recovery that can be brought against Mr. Davis, former and current board members, and others (referred to as "Recovery Actions").

The Receiver did not conduct an exhaustive financial probe into every aspect of CAM's operations; however, a variety of allegations of improper use of CAM's funds have been provided to the Receiver since his appointment. All of the matters set forth below are allegations. These issues are deemed worthy of additional investigation as they were based upon statements made by one or more CAM employees to the Receiver. Except where the claim is admitted, further substantiation is needed on almost all of the items listed here.

These claims may include improper expenditures such as:

1. Senior management using CAM funds to pay for the medical bills and personal expenses of friends who were non-CAM employees;
2. Employees purchasing CAM vehicles for less than market value;
3. Approving travel expense of senior management without receipts or demonstration of a business purpose;
4. Use of both a CAM gas card and mileage reimbursement;

5. Employees using both per diem payments and expense reimbursements for the same business purpose;
6. Close friends of senior management being paid as contractors without substantiating their work;
7. Excessive gift-giving to board members, and from vendors;
8. Senior management using CAM staff to perform work for outside interests and/or businesses of senior managers;
9. Diversion of CAM money in the form of "wages" to family members and close friends of senior management who performed no/minimal work or services for the money received; and
10. Paying the personal credit card bills of friends of senior management.

The Receiver is continuing to investigate these claims, and their estimated value is unknown. The purpose or objective of any such investigation would be to (a) determine if DOC or DHS grant funds were used improperly and/or (b) determine if any funds should be returned to CAM. As with any wind down, claims for damages or the return of funds would be considered assets of the receivership estate, recoverable for the payment of creditor claims.

**V. Liabilities of CAM**

The liabilities of CAM are currently valued as follows:

Description of Liabilities	Value
First Priority Claims: Administrative Expenses*	\$265,433
Second Priority Claims: General Unsecured Creditors	
• Contractor Claims	\$477,828
• Community Action Agency Claims	\$109,593
• Lease Termination Claim	\$80,000
• Other Unsecured Creditor Claims	\$70,177
<b>Total:</b>	<b>\$737,598</b>
Third Priority Claim of the DHS **	\$871,153+
Third Priority Claim of the DOC**	TBD
Fourth Priority Claim of William Davis**	\$370,346
<b>Total:</b>	<b>\$2,244,530</b>

\*These administrative claims are managed and paid per the operating cash flow and budget, which is updated periodically by Receiver. Date of estimate is 3/1/15 and includes a reserve for future Administrative Expenses.

\*\*Contingent upon settlement or adjudication. DOC claim has not yet been submitted.

**A. Claims Process**

To ascertain the claims against CAM, the Receiver reviewed CAM's books and records, including the underlying invoices, to substantiate the amounts owed. After the Receiver completed his background investigation, letters were sent to all individuals and companies who appeared to have a claim against CAM, as well as to individuals or companies who had been paid money by CAM in the last 12 months, but did not show a current balance owing by CAM. This letter requested that the claimant fill out a proof of claim form and submit supporting documentation if the amount listed in the letter was incorrect. The Receiver completed this preliminary claims analysis by then reviewing all proof of claim forms that were submitted to verify the claimed amount due and the basis of each such claim.

In addition to the informal claims process outlined above, the Receiver sought and received Court approval for a formal claims process, which has been initiated and is currently underway. The interim distribution proposed in this report is subject to the completion of this process.

**B. Summary of Claims Against CAM**

The Receiver determined that the claims fall broadly into three categories: administrative, general unsecured creditors, and disputed or contested claims. The proposed distribution plan recognizes the same distinction in prioritizing payment, as set forth below:

**1. First Priority Claims: Administrative Expenses**

Administrative claims against CAM include employee expenses, general overhead, fees of the receiver and legal fees incurred through the pendency of the receivership. These claims are first priority expenses and, per the Order Appointing Receiver, Minnesota law and the Amended Receiver Order, the First Priority Claims shall be paid first.

2. ***Second Priority Claims: General Unsecured Creditors***

This include claims verified by the Receiver and approved by the Court.

- ***Contractor Claims.*** A significant portion of CAM's business involved the utilization of contractors to perform weatherization services. These contractors billed CAM for services upon completion of work.
- ***Community Action Agency Claims.*** CAM contracted with various other Community Action Agencies (collectively, the "CAAs") within the state to handle invoicing on their behalf. The CAAs claims include funds due to these CAAs that were invoiced by CAM on behalf of the CAAs and paid to CAM.
- ***Lease Termination Claim.*** CAM's lease for the 505 East Grant Street property was terminated on December 30, 2014 as a result of an eviction proceeding brought by the landlord for non-payment of rent. The court in that action determined that CAM was obligated for rental payments through October 31, 2015, and the landlord recently received a judgment against CAM for over \$120,000. The Receiver settled this claim for \$80,000 to be paid contemporaneously with the other Second Priority Claims.
- ***Other Unsecured Claims.*** Other unsecured claims include claims for pre-receivership obligations of CAM which do not fall into another category, such as charges for terminated services and catering costs.

3. ***Third Priority Claims: Contested Claims***

- ***DHS and DOC Claims.*** These claims include the requests for reimbursement as set forth in the DHS Audit, as well as any potential claim that may be raised by the DOC.

4. ***Fourth Priority Claims: Other Disputed or Unresolved Claims.***

There is currently one other disputed claim known at this time – a claim for deferred compensation (and possibly other consideration) by Mr. Davis. The Receiver is proposing that this claim be paid last, as Mr. Davis is an insider.

**C. Review of CAM's Compliance with the DHS and DOC Grants**

As noted, the Court directed the Receiver to "review expenditures made by CAM and determine which expenditures were improper under the DHS and DOC grants." As of the date of this Distribution Plan, the claims of the DHS and the DOC remain unresolved.

After reviewing both the DHS audit and CAM's detailed response, the Receiver prepared an analysis of issues raised by the DHS. The Receiver agreed with some, but not all of the findings of the DHS. The Receiver has subsequently held meetings and discussions with the DHS audit team, shared the Receiver's analysis and sought to reconcile the various positions as well as the interpretations of applicable regulations. The DHS is currently considering the feedback provided by the Receiver. Once the DHS response is received, the Receiver will consider how best to bring the DHS grant reimbursement claims to closure. In the interest of economy and efficiency, the Receiver is proposing to resolve the DHS claim in the same fashion that a receiver often manages disputed claims against a receivership estate – through negotiation. However, to the extent these claims cannot be resolved by the parties, the Receiver would propose that both

the DHS and the Receiver present the evidence and testimony to the Court at a hearing for final disposition.

The DOC claims, if any, are unknown at this time. Although the DOC has initiated an investigation, it has yet to begin its audit. Upon information and belief, the DOC is currently in the process of selecting an independent auditor to review CAM financial activities and compliance with DOC rules and regulations. Until this work is complete – which could take several months – the Receiver believes it would be premature to attempt to resolve the State's claims.

The Receiver is therefore proposing that upon completion of the DOC's audit, the Receiver shall review and render his own findings regarding any claims made by the DOC. Thereafter, the Receiver proposes that the DOC claim be resolved in the same manner as the DHS claim – that is, through negotiation or a hearing before this Court.

The DHS and the DOC have requested extensions of time from the Receiver to complete their additional analysis and audit work before submitting final claims, and the Receiver has agreed to allow these two claimants additional time beyond the deadlines imposed by the approved claims process.

**D. Resolution of the Claim of William Davis**

Although the Receiver has yet to receive a written proof of claim from Mr. Davis, the Receiver is aware that he is alleging a claim for deferred compensation and possibly other consideration including salary and vacation pay. The Receiver does not expect to recommend the payment of said claim. The Receiver questions whether Mr. Davis has an enforceable employment agreement. Further, the Receiver is aware of a variety of potential claims against Mr. Davis that could, if proven true, be considered either good faith set-offs or breaches of Mr. Davis's fiduciary duty such that a court may set aside his claim. Mr. Davis may contest this position. Therefore, if it is not otherwise settled, the Receiver is proposing to resolve the claim of Mr. Davis through an adjudication by the receivership Court. In the meantime, Mr. Davis's claim is listed in an amount calculated by the Receiver based upon a review of the purported agreement and the books and records of CAM.

## **VI. Implementation of Receiver's First Proposed Distribution Plan**

The Receiver's First Proposed Distribution Plan is designed to provide immediate relief to contractors who worked at the request of CAM (and, in some instances, at the request of the DHS and the DOC), other CAAs, and other unsecured creditors, while the Receiver pursues resolution of the remaining claims for and against CAM.

The Receiver is seeking the Court's approval to proceed as follows:

### **A. Conduct At Least Two Distributions**

There will be at least two distribution dates under the Receiver's proposed distribution plan. The first distribution shall be to creditors and parties holding First and Second Priority Claims, and it is anticipated that these claims will be satisfied through the use of the estate's current cash on hand. After setting aside a reserve for the payment of Second Priority Claims and \$190,000 for future administrative expenses, the Receiver believes that there may not be sufficient cash available to pay all of the outstanding Third Priority claims. The second distribution would be to the Third Priority (and possibly Fourth Priority) Claims after the sale of CAM's remaining physical assets and the resolution of any claims that result in cash being paid into the receivership estate (such as claims against officers for improper expenditures).

### **B. Issue Payment on First and Second Priority Claims**

As of March 1, 2015, the estate had approximately \$1,154,383 in cash on hand. Upon Court approval of the Receiver's distribution plan and after ensuring the payment of First Priority Claims/Administrative Expenses, the Receiver intends to promptly remit payments to the persons and entities holding Second Priority Claims as identified on the books and records of CAM and specified on a payment distribution schedule approved by the Court. In return, the Receiver will require full releases and, where appropriate, lien waivers. The Receiver proposes to make these payments as soon as the Court-approved claims process is completed.

### **C. Subordinate the DOC and DHS Claims**

Currently, the DHS maintains that its claim alone is over \$870,000. As stated, the DOC may be asserting a claim as well. To the extent the DHS asserted a right to be paid on a pro rata basis with the other allowed claims, there would likely be insufficient funds to pay the contractors and general unsecured creditors in full. Consequently, the Receiver requested that both the DHS and the DOC consent to subordinate the payment of any claims they may assert to the payment of First and Second Priority Claims. These consents have been obtained.

### **D. Resolve the Claim of William Davis**

The Receiver is proposing to manage the various potential outcomes of Mr. Davis's claim as follows:

1. Mr. Davis was provided with notice of the claims process established by the Court. The claims process order will govern how the amount of Mr. Davis's claim will be determined.
2. If Mr. Davis's claim is allowed in part or in full by the Court, then the Receiver proposes that Mr. Davis shall be paid as a Fourth Priority Claim, after the other creditors of the estate. The Receiver believes that this position is warranted by virtue of the fact that Mr. Davis is an insider. This belief is based upon the Court's power to fashion equitable remedies and the likelihood that a bankruptcy

court (in an analogous situation) would hold that the creditors of the estate are entitled to receive a recovery prior to an insider.

3. If Mr. Davis's claim is denied in full, then no claim will be allowed or paid by the Receiver.
4. The Receiver is proposing that the DHS and DOC should be paid after the creditors and other recognized claims of CAM, and prior to the claim of Mr. Davis.

**E. Sell the Real Estate to Help Satisfy CAM's Remaining Obligations**

Although the Third Priority claims have not yet been resolved, the Receiver believes that there may be insufficient cash on hand in the receivership estate to satisfy all the claims that should be paid. This opinion is based in part on the fact that the Receiver believes that the DHS claim is at least partially valid as alleged, and a refund of grant money will likely be owed to the DHS. Believing that the estate may currently lack the cash sufficient to pay all the anticipated claims, the Receiver is hereby seeking the Court's permission to begin marketing the CAM-owned real estate for sale subject to Court approval of any proposed transaction. The sale of the 2014 Park Avenue building, its furnishings (mostly office furniture) and the IT (copiers, printers and computers not otherwise preserved for the FBI or other state or federal agencies) would complete the disposition of CAM's physical assets. The claims of the DHS, the DOC (if any) and Mr. Davis (if proven) would be paid, to the extent possible, from the proceeds received on the sale of these remaining assets, in the order of priority set forth above.

**F. Evaluate Bringing Claims to Augment the Recovery**

To the best of the Receiver's knowledge, the only assets remaining after the sale of the real estate and equipment may be potential causes of action against third parties, including possible Recovery Actions. The Receiver may pursue such Recovery Actions to the extent his investigation suggests that such an effort is in the best interest of the receivership estate. For example, if (a) further investigation suggests there are meritorious claims which could generate additional funds to help satisfy the CAM's repayment obligation to the DHS and DOC, and (b) the Receiver believes the cost of such Recovery Actions appears to be justified by the potential recovery, then such Recovery Actions may be pursued. Such Recovery Actions may be satisfied in part through a recovery against CAM's D&O insurance. In the meantime, the Receiver's investigation and review of these claims is ongoing.

**G. Final Satisfaction of Third Priority Claims**

Potential final outcomes of the Receiver's proposed distribution plan include the following:

1. It is unclear this point whether the Third and Fourth Priority Claims can be satisfied through the available cash and sale of assets. For example, if the claims of the DHS, DOC and Mr. Davis are settled and resolved for a relatively modest sum, then there may be cash remaining after all known claims are paid.
2. In the event that all claims are paid in full and excess proceeds remain, the Receiver will seek the Court's guidance as to how to distribute any excess funds held by the Receivership Estate. Possible options include (a) returning of grant money to appropriate state and federal agencies, (b) making a State-supervised donation to other community action agencies, or (c) allowing a properly approved sponsor to attempt to reconstitute CAM. Given the Receiver's assessment and investigation to date, however, this outcome is considered unlikely and the Receiver believes that there is likely to be a deficiency.

3. If the DHS and the DOC suffer a deficiency, the Receiver proposes an assignment of the proceeds, if any, arising from the Recovery Actions (including D&O insurance proceeds, if any) to the DHS and DOC.
4. To the extent that the proceeds from all assets and Recovery Actions are insufficient to cover both the DHS and DOC claims, the Receiver proposes that these two state agencies distribute the proceeds on a pro rata basis in proportion to their claims.

#### **H. Timing of Subsequent Distributions**

The Receiver proposes that the second distribution to the Third Priority Claims occur approximately 30 days following the sale of the Park Avenue Building, which the Receiver anticipates will occur in the next 6 – 12 months, provided the Court approves a real estate sale transaction. To the extent Recovery Actions are initiated and are successful, an additional distribution may be required.

#### **I. Interim Claims Management Work of Receiver After First Distribution**

While the Park Avenue building is being marketed for sale, and prior to the second distribution, the Receiver anticipates that the following activities will be completed:

1. The DOC will complete its audit and possibly submit a claim for reimbursement, which the Receiver will review and attempt to resolve.
2. Mr. Davis's claim will be settled or adjudicated as part of the claims process ordered by the Court.
3. The Receiver may pursue Recovery Actions to the extent such actions are in the best interest of the receivership estate in that they are reasonably expected to generate additional funds to satisfy the CAM's obligations to its creditors.

#### **J. Final Distribution and Receivership Termination**

At the conclusion of the claims management process (including the resolution of any Recovery Actions), the Receiver shall submit a final accounting of his work to the Court for review and approval. Upon the final distribution, the Receiver expects to request that he be discharged and that the receivership terminated. Unless otherwise ordered by the Court, the Receiver would leave any issues relative to the dissolution of CAM to its current board and legal counsel.

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