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6 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

7
8 **SECURITIES AND EXCHANGE**
COMMISSION,
9 **Plaintiff,**
10 **v.**
11 **EDWIN YOSHIHIRO FUJINAGA, et al.,**
Defendants,
12 **and**
13 **JUNE FUJINAGA,**
14 **CSA SERVICE CENTER, LLC,**
15 **THE FACTORING CO., and**
THE YUNJU TRUST,
16 **Relief Defendants.**

Case No.: 2:13-cv-1658-JCM-CWH

17 **(PROPOSED) ORDER APPROVING A DISTRIBUTION PLAN**

18 The Court having reviewed the Motion of Plaintiff Securities and Exchange Commission
19 (the “SEC”) for an Order approving the SEC’s proposed distribution plan to distribute the funds
20 under this Court’s jurisdiction in this matter, the accompanying Memorandum in Support of
21 Distribution Plan, and the proposed distribution plan attached hereto as Exhibit 1 (the “Plan”);

22 **AND** having considered all arguments presented and for good cause shown;

23 1. The Plan is hereby approved; and
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1 2. The Distribution Plan shall govern the administration and distribution of the funds
2 under this Court’s jurisdiction in this matter.

3 **IT IS SO ORDERED.**

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5 Dated: _____, 2023

6 _____
James C. Mahan
U.S. District Judge

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8 Exhibit 1 (Plan)

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EXHIBIT 1
(Proposed Plan)

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1 CATHERINE E. PAPPAS
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6 **UNITED STATES DISTRICT COURT**
 7 **DISTRICT OF NEVADA**

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Distribution Plan

18 **INTRODUCTION**

19 1. This Distribution Plan (the “Plan”) was developed by the Securities and
 20 Exchange Commission (the “SEC”) in accordance with practices and procedures customary
 21 in distribution fund administrations. This Plan provides for the distribution of funds collected
 22 by the Court-appointed receiver and paid to the SEC in partial satisfaction of its judgments in
 23 the captioned action against defendants Edward Yoshihiro Fujinaga and MRI International,
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1 Inc. (“MRI”) (collectively, the Defendants”) and relief defendants June Fujinaga and The
2 Yunju Trust (collectively, the “Relief Defendants”) (the “Distribution Fund”). See ECF Nos.
3 189, 317, and 590.

4 2. The Plan seeks to compensate investors who were harmed by the Defendants’
5 conduct alleged in the Complaint and more specifically, as a result of the Ponzi scheme
6 perpetrated by the Defendants. As calculated using the methodology detailed in the Plan of
7 Allocation attached as Exhibit A, investors will be compensated for their losses on
8 investments in MRI the (“Security”) initially made, or reinvested, from July 5, 2008 and July
9 5, 2013, inclusive (the “Relevant Period”). Based on information obtained by the Court-
10 appointed Distribution Agent in its role as Claims Administrator in the related class action,
11 *Shige Takiguchi, et al. v. MRI International, Inc., et al.*, 2:13-cv-01183-GMN-VCF (D. Nev.)
12 (the “Related Class Action”), the SEC has concluded that it has all records necessary to
13 calculate each investor’s harm. As a result, the Distribution Fund is not being distributed
14 according to a claims-made process.

15 3. The SEC has custody of the Distribution Fund and shall retain control of the
16 assets of the Distribution Fund. The Court retains jurisdiction over the implementation of the
17 Plan.

18 **BACKGROUND**

19 **The SEC Action**

20 4. On September 11, 2013, the SEC commenced its action (the “SEC Action”)
21 against the Defendants and the Relief Defendants. ECF No. 2. In its amended complaint
22 filed on July 24, 2014, the SEC alleged that the Defendants perpetrated a Ponzi scheme that
23 victimized thousands of investors. ECF No. 118 at ¶¶ 1, 6. As part of the alleged scheme,
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1 the Defendants misrepresented to investors that MRI would use investors' money to buy
2 medical accounts receivables from medical providers at a discount ("MARs") and seek to
3 recover the full receivable from insurance companies. *Id.* at ¶ 5. In fact, the Defendants used
4 investor money to pay principal and interest to earlier investors, operating expenses of MRI
5 and related entities, and for personal expenses. *Id.* at ¶ 6. The SEC alleged that MRI stopped
6 buying MARS from independent healthcare facilities in 2008; that as early as 2008, MRI was
7 insolvent and as of December 2008, MRI had a retained earnings deficit; that, from 2008
8 through 2013, the Defendants sent false quarterly account statements to existing investors;
9 and that by 2011, MRI was in default on the payments that it was obligated to pay investors.
10 *Id.* at ¶¶ 7, 22, 26-30.

11 5. On January 27, 2015, the Court entered final judgment against the Defendants,
12 ordering them jointly and severally to pay disgorgement and prejudgment interest of
13 \$544,359,364.08, and each to pay a civil penalty of \$20,000,000, for a total monetary
14 judgment of \$584,359,364.08. ECF No. 189.

15 6. On May 15, 2015, the Court appointed Robb Evans & Associates LLC as the
16 full equitable receiver (the "Receiver") for all assets owned or controlled by the Defendants
17 and Relief Defendants (the "Estate"). ECF No. 226.

18 7. On March 14, 2016, the Court entered an amended final judgment against the
19 Relief Defendants, ordering them to disgorge, jointly and severally, \$2,333,382.18 to the
20 Receiver, and requiring June Fujinaga to disgorge to the Receiver all of her legal, beneficial,
21 and equitable interest in The Yunju Trust. ECF No. 317.

22 8. By Order entered March 18, 2019, the Court appointed Heffler Claims Group
23 ("HCG"), the claims administrator in the Related Class Action, as the distribution agent
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1 (“Distribution Agent”) for the Distribution Fund and HCG’s then-related entity Heffler,
2 Radetich & Saitta LLP (“HRS”), a certified public accounting firm, as tax administrator
3 (“Tax Administrator”) for the Distribution Fund.¹ ECF No. 509 (the “Appointment Order”).

4 9. By Order entered October 5, 2022, this Court, in relevant part, entered an
5 order that terminated the Estate and directed the Receiver to turn over the balance of the
6 Estate’s settlement fund to the SEC in partial satisfaction of the SEC’s judgments against the
7 Defendants and the Relief Defendants (the “Discharge Order”). ECF No. 590.

8 10. Pursuant to the Discharge Order, the Receiver transmitted \$32,842,802.82 to
9 the SEC, then comprising the Distribution Fund.

10 **The Related Class Action**

11 11. The misconduct underlying the SEC Action is the same as that underlying the
12 Related Class Action -- MRI’s operation of a Ponzi scheme in which MRI purported to
13 operate a legitimate business dealing in MARS when, in fact, MRI used investor money to
14 pay off earlier investors and fund its principals’ lavish lifestyle. Class Action Docket (“C.A.
15 Dkt.”) No. 6, ¶¶ 1, 2.

16 12. By Order dated June 13, 2017, the Court presiding over the Related Class
17 Action (McKibben, J.) appointed HCG as the Claims Administrator for the Related Class
18 Action. C.A. Dkt. No. 704.

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21 _____
22 ¹ At the time of the Court’s appointment of the Distribution Agent and the Tax Administrator,
23 HCG and HRS were affiliates. In July 2019, HCG was indirectly acquired by Duff & Phelps,
24 LLC (n/k/a Kroll, LLC). Upon acquisition, HCG’s name was changed to Claims Acquisition,
25 LLC, and it was later further changed to Kroll Settlement Administration LLC. HRS, while no
longer affiliated with Kroll, will continue as the Tax Administrator.

1 to the ordered disgorgement, then civil penalty, then prejudgment interest, and finally to post-
2 judgment interest.

3 **DEFINITIONS**

4 18. In addition to words defined elsewhere in this Plan, the following definitions
5 shall apply:

6 a. “Administrative Costs” means any costs and expenses of the
7 distribution, including without limitation tax obligations, the fees and expenses of the Tax
8 Administrator and the Distribution Agent, and investment and banking costs.

9 b. “Distribution Fund” means the fund for the benefit of investors harmed
10 by the misconduct described in the Complaint. Additional receipts from the Receivership
11 Estate, if any; amounts directed to this Court for inclusion in the Distribution Fund by Court
12 order, agreement, or otherwise; and accrued interest and earnings; will be added to, and
13 become a part of, the Distribution Fund.

14 c. “Distribution Payment” means a payment from the Distribution Fund
15 to a Payee in accordance with the terms of this Plan.

16 d. “Eligible Claimant” means a Preliminary Claimant who is determined
17 to have suffered a Recognized Loss pursuant to the Plan of Allocation and who is not an
18 Unresponsive Preliminary Claimant.

19 e. “Excluded Parties” means:

- 20 (1) the Defendants and Relief Defendants and the defendants to the
21 Related Class Action, and the agents, nominees, assigns, heirs,
22 successors-in interest, spouses, parents, children, and controlled
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1 entities of the Defendants, Relief Defendants and the defendants to the
2 Related Class Action;

3 (2) to the extent known to the Distribution Agent at the time of
4 distribution, Preliminary Claimants who failed to negotiate a check
5 issued in the Related Class Action prior to its stale date or to whom an
6 electronic or other payment issued in the Related Class Action could
7 not be delivered despite commercially reasonable efforts by the
8 Distribution Agent, acting as claims administrator in the Related Class
9 Action, to do so, and who have failed to provide updated information
10 to the Distribution Agent prior to distribution calculations under this
11 Plan;

12 (3) the Distribution Agent, its employees, and those persons assisting
13 the Distribution Agent in its role as Distribution Agent; and

14 (4) Any purchaser or assignee of another person's eligibility for a
15 recovery from the Distribution Fund for value; provided, however, that
16 this provision shall not be construed to exclude those persons who
17 obtained such a right by gift, inheritance, devise or operation of law.

18 All Excluded Parties will be deemed ineligible to participate in the distribution of the
19 Distribution Fund.

20 f. "Investment" means the Preliminary Claimant's aggregate out-of-
21 pocket money paid during the Relevant Period for the Security, and aggregate out-of-pocket
22 money paid prior to the Relevant Period for the Security that was reinvested during the
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1 Relevant Period. Investment does not include any purported interest, dividend, or unrealized
2 profit.

3 g. “MRI” refers to MRI International, Inc., a defendant in this action.

4 h. “Net Available Distribution Fund” means the Distribution Fund less
5 Administrative Costs.

6 i. “Opt-Out Investor” means Persons who opted out of the Related Class
7 Action, including the individuals or entities identified in the Related Class Action Plan of
8 Allocation, pp. 4-5, as “plaintiffs in the pending litigation against the defendants in Japan.”
9 *See* C.A. Dkt. No. 863. Opt-Out Investors may be eligible for a distribution under the Plan.

10 j. “Payee” means an Eligible Claimant whose Recognized Loss,
11 calculated in accordance with the Plan of Allocation, results in a distribution amount equal to
12 or greater than \$20.00, and who will receive a Distribution Payment.

13 k. “Person” means natural individuals, as well as legal entities such as
14 corporations, partnerships, or limited liability companies.

15 l. “Plan Notice” means a written notice from the Distribution Agent to
16 each Preliminary Claimant regarding the Court’s approval of the Plan, including, as
17 appropriate: a statement characterizing the distribution and differentiating the Distribution
18 Fund under the Plan from the distribution in the Related Class Action; a description of the
19 criteria for eligibility under the Plan, including that Preliminary Claimants will be identified
20 and claims evaluated from the claims and opt-out process in the Related Class Action (the
21 “Class Action Claims Process”) and not through an independent claims process; a link to the
22 approved Plan posted on the SEC’s website and instructions for requesting a copy of the
23 Plan; specification of any information needed from the Preliminary Claimant to prevent him,
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1 her, or it from being deemed an Unresponsive Preliminary Claimant, including any tax forms;
2 his, her, or its preliminary Recognized Loss under the Plan; a description of the tax
3 information reporting and other related tax matters; the procedure for the distribution as set
4 forth in the Plan; and the name and contact information for the Distribution Agent as a
5 resource for additional information or to contact with questions regarding the distribution.

6 m. “Plan of Allocation” means the methodology by which a Preliminary
7 Claimant’s Recognized Loss is calculated. The Plan of Allocation is attached as Exhibit A.

8 n. “Preliminary Claimant” means a Person identified by the Distribution
9 Agent through its access to the claims process in the Related Class Action and who may have
10 suffered losses on investments in the Security that were initially made or reinvested during
11 the Relevant Period. Preliminary Claimant includes Persons who filed their claims untimely
12 in the Related Class Action but submitted their claim in sufficient time to be considered
13 under this Plan, and Opt-Out Investors.

14 o. “Recognized Loss” means the amount of loss calculated for a
15 Preliminary Claimant in accordance with the Plan of Allocation.

16 p. “Recovery” refers to the aggregate amount of their Investment
17 recovered by a Preliminary Claimant during or after the Relevant Period and that is known to
18 the Distribution Agent, including but not limited to payments of interest, dividends,
19 distributions, repayments of Investments, and distribution(s) in the Related Class Action.

20 q. “Related Class Action” refers to the case captioned *Shige Takiguchi, et*
21 *al. v. MRI International, Inc., et al.*, 2:13-cv-01183-GMN-VCF (D. Nev.).

22 r. “Relevant Period” means July 5, 2008 through July 5, 2013, inclusive.

23 s. “Security” means an investment in MRI.
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DISTRIBUTION AGENT

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2 21. The Distribution Agent will be responsible for administering the Distribution
3 Fund in accordance with the Plan. This will include, among other things, taking reasonable
4 steps to obtain accurate contact information for Preliminary Claimants; developing a database
5 of Preliminary Claimants and their contact and payment information; disseminating the Plan
6 Notice; advising Preliminary Claimants of deficiencies in their responses (if any) to the Plan
7 Notice and/or their ineligibility based on their response(s); providing an opportunity for
8 Preliminary Claimants to cure any defects; responding to disputes concerning eligibility and
9 Recognized Loss amounts; establishing a website and staffing a call center to address
10 inquiries regarding the Plan; preparing accountings; cooperating with the Tax Administrator
11 to satisfy any tax liabilities and to ensure compliance with income tax reporting requirements,
12 including but not limited to Foreign Account Tax Compliance Act (FATCA); disbursing the
13 Distribution Fund in accordance with the Plan, as ordered by the Court; and researching and
14 reconciling errors and reissuing payments, when possible.

15 22. To carry out the purposes of the Plan, the Distribution Agent is authorized to
16 make and implement immaterial changes to the Plan upon agreement of the SEC staff. If a
17 change is deemed to be material by SEC staff, Court approval is required prior to
18 implementation by amending the Plan.

19 23. The Distribution Agent may extend any procedural deadline contained in the
20 Plan for good cause shown, if agreed upon by the SEC staff.

21 24. The Distribution Agent is entitled to rely on all outstanding rules of law and
22 Court orders. The Distribution Agent will not be liable to anyone except the SEC, on behalf
23 of the Distribution Fund, for a pecuniary loss to the Distribution Fund or for any action taken
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1 or omitted by the Distribution Agent in connection with the Plan. Preliminary Claimants will
2 have no claims against the Distribution Agent, its employees, agents, and attorneys in
3 connection with the Plan and the administration of the Distribution Fund, and will be deemed
4 enjoined from prosecuting or asserting any such claims except upon a finding by this Court
5 of gross negligence or reckless disregard of duty under this Plan.

6 25. The Distribution Agent is authorized to enter into agreements with third-
7 parties as may be appropriate or necessary in the administration of the Distribution Fund,
8 provided such third-parties are not excluded pursuant to other provisions of this Plan. In
9 connection with such agreements, the third-parties shall be deemed to be agents of the
10 Distribution Agent under this Plan.

11 26. The Distribution Agent will be entitled to payment from the Distribution Fund
12 of reasonable fees and expense incurred in the performance of its duties (including any such
13 fees and expenses incurred by agents, consultants or third-parties retained by the Distribution
14 Agent in furtherance of its duties), as further set forth in the Appointment Order.

15 **PLAN PROCEDURES**

16 **Specification of Preliminary Claimants**

17 27. Preliminary Claimants are Persons identified by the Distribution Agent
18 through its access to the claims process in the Related Class Action who may have suffered
19 losses on investments in the Security that were initially made or reinvested during the
20 Relevant Period, including Persons who filed their claims untimely in the Related Class
21 Action but submitted their claim in sufficient time to be considered under this Plan, and Opt-
22 Out Investors,

1 28. The Distribution Agent will, as necessary, conduct additional outreach and
2 make commercially reasonable efforts to obtain claim and payment information from the
3 Opt-Out Investors and the filers of untimely claims in the Related Class Action in order to
4 determine their eligibility and Distribution Payments, if any, under the Plan.

5 **Procedures for Locating and Notifying Preliminary Claimants**

6 29. Within forty-five (45) days of Court approval of the Plan, the Distribution
7 Agent will:

8 a. Establish and maintain a case specific database of all Preliminary
9 Claimants based upon information provided to and obtained by the Distribution Agent from
10 the Related Class Action or otherwise, including their last known physical and email
11 addresses, as available.

12 b. Establish and maintain a website devoted solely to the Distribution
13 Fund. The Distribution Fund's website, located at www.SECFujinagaDistributionFund.com,
14 will be in both English and Japanese, and will make available a copy of the approved Plan,
15 the Plan Notice, and related materials in downloadable form, and such other information that
16 the Distribution Agent believes will be beneficial to Preliminary Claimants.

17 c. Establish and maintain a toll-free telephone number for Preliminary
18 Claimants to call and speak to a live representative of the Distribution Agent during its
19 regular business hours, 8:30 a.m.-5:00 p.m., Eastern Standard Time, in English or Japanese;
20 and hear pre-recorded information about the Distribution Fund in both English and Japanese
21 outside of 8:30 a.m. to 5:00 p.m.

1 d. Establish and maintain a traditional mailing address and an email
2 address which will be listed on all correspondence from the Distribution Agent to
3 Preliminary Claimants as well as on the Distribution Fund’s website.

4 e. Before commencing any mailing, run a National Change of Address on
5 all U.S. addresses to retrieve updated addresses for all records in the database, thereby
6 ensuring the mailing information for domestic Preliminary Claimants is up-to-date; and

7 f. Send a Plan Notice to each Preliminary Claimant’s last known email
8 address (if known) and/or mailing address.

9 30. The SEC staff retains the right to review and approve any material posted on
10 the Distribution Fund’s website and any communication with Preliminary Claimants,
11 including any scripts used in connection with communications with Preliminary Claimants.

12 **Undeliverable Mail**

13 31. The Distribution Agent will attempt to locate any Preliminary Claimant whose
14 traditional or electronic mailing is returned as undeliverable, including an advanced address
15 search using commercially available resources, if feasible, and will document all such efforts.
16 If another address is obtained, the Distribution Agent will then resend it the Preliminary
17 Claimant’s new address within fifteen (15) days of receipt of the undeliverable mail. If the
18 mailing is returned again, and the Distribution Agent, despite best practicable efforts, is
19 unable to find a Preliminary Claimant’s correct address, the Distribution Agent, in its
20 discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

21 32. The Distribution Agent, with SEC staff approval, may engage a third-party
22 search firm to conduct more rigorous searches for Persons whose mailings are returned as
23 undeliverable.

1 **Procedures to Request Plan Notice**

2 33. Any Person who does not receive a Plan Notice, as described in paragraph
3 29(f), but who is aware of this Plan (e.g., through other Preliminary Claimants or on
4 www.sec.gov) and believes they should be included as a Preliminary Claimant should contact
5 the Distribution Agent within sixty (60) days from the approval of the Plan to establish that
6 they should be considered a Preliminary Claimant. The Distribution Agent will send the
7 Person a Plan Notice within thirty (30) days of receiving the Person’s documentation, if the
8 Distribution Agent determines that the Person should have received a Plan Notice.

9 **Failure to Respond to Plan Notice**

10 34. If a Preliminary Claimant is requested to respond and fails to respond within
11 seventy (70) days from the last mailing of the Plan Notice, the Distribution Agent will make
12 no fewer than two additional attempts to contact the Preliminary Claimant by telephone or
13 email. The second attempt will in no event take place more than eighty-five (85) days from
14 the initial mailing of the Plan Notice to that Preliminary Claimant. If a Preliminary Claimant
15 fails to respond to the Distribution Agent’s contact attempts as described in this paragraph,
16 the Distribution Agent, in its discretion, may deem such Preliminary Claimant an
17 Unresponsive Preliminary Claimant.

18 **Distribution Methodology**

19 35. The Distribution Agent will calculate each Preliminary Claimant’s
20 Recognized Loss in accordance with the Plan of Allocation. All Preliminary Claimants who
21 are determined to have a Recognized Loss, and who are not deemed an Unresponsive
22 Preliminary Claimant, will be deemed an Eligible Claimant. All Eligible Claimants whose
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1 Recognized Loss, calculated in accordance with the Plan of Allocation, results in a
2 Distribution Payment equal to or greater than \$20.00, will be deemed a Payee.

3 **Establishment of a Reserve**

4 36. Before determining the amount of funds available for distribution and
5 calculating each Payee's Distribution Payment, the Distribution Agent, in conjunction with
6 the Tax Administrator, will establish a reserve to pay Administrative Costs and to
7 accommodate any unexpected expenditures (the "Reserve").

8 37. After all Distribution Payments are made and Administrative Costs paid, any
9 remaining amounts in the Reserve will become part of the Residual described in ¶ 59.

10 **Preparation of the Payment File**

11 38. Within two hundred fifty (250) days of Court approval of the Plan, the
12 Distribution Agent will compile and send to the SEC staff the Payee information, including
13 the name, address, calculated Recognized Loss, tax withholding amount (if any), and the
14 amount of the Distribution Payment for all Payees (the "Payee List"). The Distribution
15 Agent will also provide a Declaration to the SEC staff in a form acceptable to the SEC staff
16 that will include a representation that the Payee List provides all information necessary to
17 make a payment to each Payee and (a) was compiled in accordance with the approved Plan;
18 and (b) is accurate as to Payees' names, addresses, Recognized Losses, Distribution Payment
19 amounts, and tax withholding amounts (if any). The Declaration will also include the
20 number of Payees compensated; the *pro-rata* rate applied, if applicable; the percentage of
21 Recognized Loss being compensated by the Distribution Fund; and the total amount being
22 distributed.

1 **The Escrow Account**

2 39. Prior to the disbursement of funds from the Net Available Distribution Fund,
3 the Distribution Agent will establish an escrow account (the “Escrow Account”) with a
4 United States commercial bank that is a well-capitalized financial institution as defined by
5 the Federal Reserve Act, Subpart D, 12 C.F.R. 208.43 and that is not unacceptable to the SEC
6 (the “Bank”), pursuant to an escrow agreement (the “Escrow Agreement”) to be provided by
7 SEC staff.

8 40. The Distribution Agent, pursuant to the Escrow Agreement, shall also
9 establish with the Bank a separate deposit account (*e.g.* controlled distribution account,
10 managed distribution account, linked checking and investment account) (the “Distribution
11 Account”), insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the
12 guaranteed FDIC pass through limit. The Distribution Account shall be linked with the
13 Escrow Account and shall be named, and records maintained, in accordance with the Escrow
14 Agreement.

15 41. During the term of the Escrow Agreement, the portions of the Distribution
16 Fund transferred to the Escrow Account (the “Escrow Property”) shall be invested and
17 reinvested in short-term U.S. Treasury securities backed by the full faith and credit of the
18 United States Government or an agency thereof. The investment shall be of a type and term
19 necessary to meet the cash liquidity requirements for payments to Payees and Administrative
20 Costs, including investment or reinvestment in a bank account insured by the FDIC up to the
21 guaranteed FDIC limit, or in money market mutual funds registered under the Investment
22 Company Act of 1940 that invest 100% of their assets in direct obligations of the United
23 States Government.

1 42. The Distribution Agent shall provide duplicate original bank and/or
2 investment statements on any accounts established by the Distribution Agent to the Tax
3 Administrator on a monthly basis and shall assist the Tax Administrator in obtaining mid-
4 cycle statements, as necessary.

5 43. The Distribution Agent, in consultation with the SEC staff, shall work with the
6 Bank on an ongoing basis to deposit or invest funds in the Escrow and Distribution Accounts
7 so as to result in the maximum reasonable net return, taking into account the safety of such
8 deposits or investments and tax implications; and to determine an allocation of funds between
9 the Escrow and Distribution Account.

10 44. All interest, dividends, and/or income earned by the Escrow Property will
11 accrue for the benefit of the Escrow Property. All Administrative Costs associated with the
12 Escrow and Distribution Accounts will be the responsibility of the Distribution Agent, who
13 may be reimbursed for said costs as provided in this Plan. No such Administrative Costs
14 may be paid to the Bank, its agents, and/or its affiliates from the Escrow Property.

15 **Distribution of the Distribution Fund**

16 45. Upon the SEC's staff's receipt, review, and acceptance of the Payee List and
17 Declaration from the Distribution Agent, the SEC will petition the Court for authority to
18 disburse funds from the Net Available Distribution Fund to the Bank in accordance with the
19 Payee List for distribution by the Distribution Agent in accordance with the Plan. The Payee
20 List shall, upon request, be made available to the Court under seal. All disbursements will be
21 made pursuant to a Court Order.

22 46. Upon issuance of an order to disburse by this Court, the SEC staff will direct
23 the transfer of funds in accordance with the Payee List to the Bank. The Distribution Agent
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1 will then use its best efforts to commence mailing Distribution Payment checks and/or effect
2 electronic or other payments within twenty (20) business days of the release of the funds into
3 the Escrow Account. All efforts will be coordinated to limit the time between the Escrow
4 Account's receipt of the funds and the issuance of Distribution Payments.

5 47. All checks will be issued by the Distribution Agent from the Distribution
6 Account. All checks will bear a stale date of one hundred twenty (120) days from the date of
7 issuance. Checks that are not negotiated by the stale date will be voided, and the Bank will
8 be instructed to stop payment on those checks. A Payee's claim will be extinguished if he,
9 she, or it fails to negotiate his, her or its check by the stale date, and the funds will remain in
10 the Distribution Fund, except as provided in ¶ 53.

11 48. Distribution Payments must be made by check, electronic payment, or other
12 payment method with the approval of the SEC staff. Distribution Payments will be made
13 directly to the Payee (the beneficial account owner) and not to counsel, an entity that filed a
14 claim on behalf of the Payee, or someone other than the Payee, unless, at the discretion of the
15 Distribution Agent, sufficient documentation has been provided by or with respect to the
16 Payee to demonstrate that the full payment will be applied to the benefit of the Payee, and not
17 to pay attorney fees or otherwise to benefit someone other than the Payee. Electronic and
18 payment methods other than by check will be made only upon the Payee's provision of the
19 necessary information, and the Distribution Agent will confirm the correct entry of that
20 information prior to authorizing the electronic payment. For such payments over \$10,000, if
21 the payment directions differ from that underlying a successful payment to the Payee in
22 connection with the Class Action, the Distribution Agent will first send a test payment to
23 ensure that the Distribution Payment will be properly directed.

1 49. All Distribution Payments will be preceded or accompanied by a
2 communication that includes, as appropriate: (a) a statement characterizing the distribution
3 and differentiating it from the Related Class Action payments; (b) a statement that the tax
4 treatment of the distribution is the responsibility of each Payee and that the Payee should
5 consult his, her or its tax advisor for advice regarding the tax treatment of the distribution; (c)
6 a statement that checks will be void and cannot be reissued after one hundred and twenty
7 (120) days from the date the original check was issued; and (d) contact information for the
8 Distribution Agent for questions regarding the Distribution Payment. The letter or other
9 mailings to Payees characterizing a Distribution Payment will be submitted to the Tax
10 Administrator and SEC staff for review and approval.

11 50. All Distribution Payments, either on their face or in the accompanying
12 mailing, will clearly indicate that the money is being distributed from the Distribution Fund
13 established by the Court to compensate investors for harm as a result of securities law
14 violations in the captioned action.

15 51. Determinations as to the nomenclature used on distributions made directly to
16 Investors in connection with the Related Class Action will be honored unless, at the
17 discretion of the Distribution Agent, sufficient additional documentation has been provided
18 such that the nomenclature may be disregarded and the Tax Administrator can properly report
19 if and as required by the change requested. If a Payee was not eligible for a payment in the
20 Related Class Action and is a Payee under the Plan, different account nominations, to the
21 extent they have different taxpayer identification numbers, will be deemed separate Persons
22 under the Plan and all Distribution Payments shall respect the manner in which an account is
23 nominated, e.g. Jane Doe, Jane Doe IRA unless, at the discretion of the Distribution Agent,
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1 sufficient documentation has been provided such that the nomenclature may be disregarded
2 and the Tax Administrator can properly withhold and report if and as required by the change.

3 **Post Distribution; Handing of Returned or Uncashed Checks; and Reissues**

4 52. The Distribution Agent shall use its best efforts to make use of commercially
5 available resources and other reasonably appropriate means to locate all Payees whose checks
6 are returned to the Distribution Agent as “undeliverable” or whose payments are not
7 completed. If new address and/or payment information becomes available, the Distribution
8 Agent will repackage the distribution check (if applicable) and send it, or other payment, in
9 accordance with the new information. If new address or payment information is not available
10 after a diligent search (and in no event no later than one hundred and twenty (120) days after
11 the initial mailing of the original check) or if the distribution check is returned again or
12 payment is not otherwise completed, the check shall be voided and the Distribution Agent
13 shall instruct the issuing financial institution to stop payment on such check or payment. If
14 the Distribution Agent is unable to find a Payee’s correct address and/or payment
15 information, or if despite best efforts, payment is impractical due to geopolitical conditions
16 including but not limited to federal sanctions, war, natural or manmade disasters, the
17 Distribution Agent, in consultation with the SEC staff, may remove such Payee from the
18 distribution and the allocated Distribution Payment will remain in the Distribution Fund for
19 distribution, if feasible, to the remaining Payees.

20 53. The Distribution Agent will reissue checks, electronic, or other payments to
21 Payees upon the receipt of a valid, written request from the Payee if prior to the initial stale
22 date. In cases where a Payee is unable to endorse a Distribution Payment check as written
23 (e.g., name changes, IRA custodian changes, or recipient is deceased) and the Payee or a
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1 lawful representative requests the reissuance of a Distribution Payment check in a different
2 name, the Distribution Agent will request, and must receive, documentation to support the
3 requested change. The Distribution Agent will review the documentation to determine the
4 authenticity and propriety of the change request. If, in the discretion of the Distribution
5 Agent, such change request is properly documented, the Distribution Agent will issue an
6 appropriately redrawn Distribution Payment to the requesting party. Reissued checks will be
7 void at the later of one hundred and twenty (120) days from issuance of the original check or
8 sixty (60) days from the reissuance, and in no event will a check be reissued after one
9 hundred and twenty (120) days from the date of the original issuance without the approval of
10 SEC staff.

11 54. The Distribution Agent will work with the issuing financial institution and
12 maintain information about uncashed checks and any returned items due to non-delivery,
13 insufficient addresses, and/or other deficiencies. The Distribution Agent is responsible for
14 researching and reconciling errors and reissuing payments when possible. The Distribution
15 Agent is also responsible for accounting for all payments. The amount of all uncashed and
16 undelivered payments will continue to be held in the Distribution Fund.

17 55. The Distribution Agent will make and document its best efforts to contact
18 Payees to follow-up on the status of uncashed distribution checks and undelivered payments
19 over \$100 (other than those returned as “undeliverable”) and take appropriate action to
20 follow-up on the status of uncashed checks and other undelivered payments at the request of
21 SEC staff. The Distribution Agent may reissue such checks or payments, subject to the time
22 limits detailed herein.

1 56. At the discretion of the Distribution Agent, costs of issue and reissue that were
2 not factored into the Reserve, such as bank fees offset upon the return of a payment and
3 unanticipated currency conversion, may reduce a Payee’s Distribution Payment. In such
4 situations, the Distribution Agent will immediately notify the Tax Administrator of the
5 reduction in Distribution Payment.

6 **Receipt of Additional Funds**

7 57. Should any additional funds be received from the Receivership Estate
8 pursuant to SEC or Court order, agreement, or otherwise, prior to the Court’s termination of
9 the Distribution Fund, such funds will be added to, and become a part of, the Distribution
10 Fund and distributed, if feasible, in accordance with the Plan.

11 **Disposition of Undistributed Funds**

12 58. If funds remain following the initial distribution, the Distribution Agent, in
13 consultation with the SEC staff, may seek subsequent distribution(s) of any remaining funds.
14 All subsequent distributions shall be made consistent with this Plan and pursuant to Court
15 order.

16 59. A residual will be established for any amounts remaining after the final
17 disbursement to Payees from the Distribution Fund and the payment of all Administrative
18 Costs (the “Residual”). The Residual may include funds from, among other things, amounts
19 remaining in the Reserve, distribution checks that have not been cashed, checks that were not
20 delivered or were returned to the SEC, and tax refunds received due to the Distribution
21 Fund’s overpayment of taxes or for waiver of IRS penalties.

22 60. Once the Distribution Agent, in consultation with the SEC staff, deems further
23 distribution of the Distribution Fund to investors infeasible, the Distribution Agent will direct
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1 any uncashed Distribution Payments to be voided, and return any funds remaining in the
2 Escrow and Deposit Accounts to the SEC to become part of the Residual.

3 61. All funds remaining in the Residual that are infeasible to distribute to
4 investors will be held by the SEC pending a final accounting. Upon completion of the final
5 accounting, the SEC staff will file a motion with this Court to approve the final accounting,
6 which will include a recommendation as to the final disposition of the Residual, consistent
7 with Sections 21(d)(3), (5), and (7) and *Liu v. SEC*, 140 S. Ct. 1936 (2020).³ If distribution of
8 the Residual to investors is infeasible, the SEC staff may recommend the transfer of the
9 Residual to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the
10 Exchange Act.⁴

11 **Administrative Costs**

12 62. All Administrative Costs will be paid from the Distribution Fund.

13 **Filing of Reports and Accountings**

14 63. In accordance with the Appointment Order, the Distribution Agent shall file
15 with the Court or provide to SEC's counsel of record to file with the Court, a progress report,
16 within forty-five (45) days of Court approval of this Plan, and shall provide additional
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19 ³ 15 U.S.C. §§ 78u(d)(3), (5), and (7). Section 21(d)(7) was added to the Exchange Act by
20 Section 6501(a) of the National Defense Authorization Act for Fiscal Year 2021, Pub. L. No.
21 116-283, enacted January 1, 2021. The relevant provisions of the NDAA apply "to any action or
proceeding that is pending on, or commenced on or after, the date of" the NDAA's enactment.
NDAA, Section 6501(b).

22 ⁴ Section 21F(g)(3) of the Exchange Act, 15 U.S.C. § 78u-6(g)(3), provides, in relevant part,
23 that any monetary sanction of \$200 million or less collected by the SEC in any judicial action
24 brought by the SEC under the securities laws that is not added to a disgorgement fund or
Distribution Fund or otherwise distributed to victims, plus investment income, shall be deposited
or credited into the SEC Investor Protection Fund.

1 progress reports within thirty (30) days after the end of every quarter thereafter, and a final
2 report when its duties are completed.

3 64. Upon completion of all distributions to Payees and payment of all
4 Administrative Costs pursuant to the procedures described above and in the Appointment
5 Order, the Distribution Agent will submit to the SEC staff a final accounting, on a
6 standardized form provided by the SEC counsel of record. The Distribution Agent will also
7 submit a report to the SEC staff containing the final distribution statistics regarding
8 distributions to individuals and entities, and such other information requested by the SEC
9 staff.

10 **Wind-down and Document Retention**

11 65. The Distribution Agent will shut down the website, P.O. Box and customer
12 service telephone line(s) established specifically for the administration of the Distribution
13 Fund six (6) months after the transfer of any remaining funds to the SEC, or at such earlier
14 time as the Distribution Agent determines with the concurrence of the SEC staff.

15 66. The Distribution Agent will retain all materials submitted by Preliminary
16 Claimants in either paper or electronic form for a period of six (6) years from the date of
17 approval of a final accounting. Materials maintained in electronic form must be accessible
18 and readable for the duration of retention. Pursuant to the SEC staff's direction, the
19 Distribution Agent will either turn over to the SEC or destroy all materials, including
20 documents in any media, upon expiration of this period.

21 **Termination of the Distribution Fund**

22 67. The Distribution Fund will be eligible for termination and the Distribution
23 Agent will be eligible for discharge after all of the following have occurred:
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1 a. A final report and accounting has been submitted to and approved by
2 the Court;

3 b. All Administrative Costs have been paid; and

4 c. The Court has approved the SEC staff's recommendation as to the
5 final disposition of the Residual consistent with Sections 21(d)(3), (5), and (7) and *Liu v.*
6 *SEC*, 140 S. Ct. 1936 (2020).

7 68. Once the SEC staff has reviewed and accepted the final accounting, the SEC
8 will petition the Court for an order, as appropriate, approving the final accounting,
9 discharging the Distribution Agent, disposing of the Residual, and terminating the
10 Distribution Fund.

11 69. Once the Distribution Fund has been terminated, no further claims will be
12 allowed and no additional payments will be made whatsoever.
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1 **Exhibit A**

2 PLAN OF ALLOCATION

3 This Plan of Allocation is designed to compensate investors for their losses on
 4 investments in MRI (the “Security”) that were initially made or reinvested from July 5, 2008
 5 through July 13, 2013 inclusive (the “Relevant Period”). Investors who did not invest or reinvest
 6 in the Security during the Relevant Period are ineligible to recover under this Plan. Based on
 7 information obtained by the Distribution Agent from the related class action, *Shige Takiguchi, et*
 8 *al. v. MRI International, Inc., et al.*, 2:13-cv-01183-GMN-VCF (D. Nev.) (the “Related Class
 Action”), the Distribution Agent has identified those investors, or their lawful successors, who
 may have suffered losses on investments in the Security that were initially made or reinvested
 during the Relevant Period, including Persons who filed their claims untimely in the Related
 Class Action but submitted their claim in sufficient time to be considered under this Plan, and
 Opt-Out Investors (the “Preliminary Claimants”).

9 The Distribution Agent will calculate each Preliminary Claimant’s loss (“Recognized
 10 Loss”) as follows:

- 11 a. The Distribution Agent will remove from its list of Preliminary Claimants all
 Excluded Parties;
- 12 b. Based on the information obtained by the Distribution Agent from the Related
 13 Class Action or otherwise, the Distribution Agent will calculate each
 Preliminary Claimant’s Investment and Recovery;
- 14 c. The Distribution Agent will calculate each Preliminary Claimant’s
 15 Recognized Loss as the difference between that Preliminary Claimant’s
 Investment and Recovery.

16 If the Preliminary Claimant’s Recognized Loss calculates to a gain, then that Recognized
 17 Loss will be \$0.00.

18 Any Preliminary Claimant who suffered a Recognized Loss pursuant to this Plan of
 19 Allocation, and who is not an Unresponsive Preliminary Claimant as defined in the Plan, will be
 deemed an Eligible Claimant.

20 **Additional Provisions**

21 Allocation of Funds: If the Net Available Distribution Fund, as defined in the Plan, is
 22 equal to or exceeds the sum of Recognized Losses of all Eligible Claimants, each Eligible
 Claimant’s distribution amount will equal his, her or its Recognized Loss, plus “Reasonable
 23 Interest” if applicable. If the Net Available Distribution Fund is less than the sum of the
 Recognized Losses of all Eligible Claimants, each Eligible Claimant’s distribution amount will
 24 equal his, her or its “*Pro Rata Percent*” of the Net Available Distribution. In either case, the
 distribution amount will be subject to the “Minimum Distribution Amount.”

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Pro Rata Percent: A *Pro Rata* Percent computation is intended to measure Eligible Claimants' Recognized Losses against one another. The Distribution Agent shall determine each Eligible Claimant's *Pro Rata* Percent as the ratio of his, her, or its Recognized Loss to the sum of Recognized Losses of all Eligible Claimants.

Minimum Distribution Amount: The Minimum Distribution Amount will be \$20.00 (inclusive of Reasonable Interest, if any). If an Eligible Claimant's distribution amount is less than the Minimum Distribution Amount, that Eligible Claimant will be deemed ineligible to receive a Distribution Payment and his, her, or its distribution amount will be reallocated on a *pro-rata* basis to Eligible Claimants whose distribution amounts are greater than or equal to the Minimum Distribution Amount.

Payee: An Eligible Claimant whose distribution amount equals or exceeds the Minimum Distribution Amount will be deemed a Payee and receive a Distribution Payment equal to his, her, or its calculated distribution amount. In no event will a Payee receive from the Distribution Fund more than his, her, or its Recognized Loss, plus Reasonable Interest, if applicable.

Currency: Claims presented in currencies other than the U.S. dollar, e.g. Yen, will be converted to U.S. Dollars as of the date of the transaction, i.e. the contract date stated on the investment contract and quarterly statements. In general, Distribution Payments will be made in U.S. Dollars. However, the Distribution Agent, in consultation with the Bank, will determine the currency in which particular forms of payment should be made in order to make those payments negotiable by the recipient. If payments by check to the Payees are more likely to be honored by the banks available to the Payees if paid in a currency other than U.S. Dollars, the Distribution Agent may issue the payment in a currency other than U.S. Dollars.