

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

**ABNER ALEJANDRO TINOCO, and
KIKIT & MESS INVESTMENTS, LLC,**

Defendants.

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EP-21-CV-00237-DCG

**ORDER OVERRULING OBJECTIONS
AND APPROVING CLAIMS REPORTS**

On January 12, 2023, the Court held a hearing to consider all objections to the Receiver’s “Claims Report” (ECF No. 62) and “Amended Claims Report” (ECF No. 110). After carefully considering the objections raised by certain investors,¹ the Court overruled those objections, finding the Receiver’s interim distribution plan fair and reasonable.² In this Order, the Court states again that it **OVERRULES** all the objections to the Receiver’s “Claims Report” (ECF No.

¹ The Receiver provided the Court with a description of the objections raised by certain investors and creditors. *See generally* Report Regarding Objections, ECF No. 82; Appx. Report Regarding Objections, ECF No. 82-1. One investor, Mr. Jorge Antonio Rodriguez Arzola, also appeared at the hearing to raise his objection. Separately, as explained by the Receiver at the hearing, Ms. Laura Avila Chavez, the one creditor to raise an objection, withdrew her objection prior to the hearing.

² When deciding whether to approve a receiver’s distribution plan, a district court acts “pursuant to its inherent equitable powers.” *SEC v. Forex Asset Mgmt.*, 242 F.3d 325, 331 (5th Cir. 2001) (quotation omitted). A district court has “broad discretionary power” in making its determinations regarding the distribution of receivership assets. *Id.* (quoting *In re Quenzer v. United States*, 19 F.3d 163, 165 (5th Cir. 1993)). A district court’s “‘primary job’ in reviewing a receiver’s distribution plan ‘is to ensure that the proposed plan of distribution is fair and reasonable.’” *SEC v. Harris*, No. 3:09-CV-1809-B, 2016 WL 1555773, at *3 (N.D. Tex. Apr. 18, 2016) (quoting *SEC v. Wealth Mgmt. LLC*, 628 F.3d 323, 332 (7th Cir. 2010)). Indeed, a district court is not bound by any particular distribution method; rather, it may “use[] its discretion in a logical way to divide the money.” *Forex Asset*, 242 F.3d at 331 (quotation omitted); *see also Harris*, 2016 WL 1555773, at *3.

62) and “Amended Claims Report” (ECF No. 110) and **APPROVES** both. The Receiver may make his partial interim distribution accordingly.

So ORDERED and SIGNED this 18th day of January 2023.

A handwritten signature in black ink, appearing to read "David C. Guaderrama", written over a horizontal line.

DAVID C. GUADERRAMA
UNITED STATES DISTRICT JUDGE