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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

MERRILL SCOTT & ASSOCIATES, LTD.,
MERRILL SCOTT & ASSOCIATES, INC.,
PHOENIX OVERSEAS ADVISERS, LTD.,
PATRICK M. BRODY, DAVID E. ROSS II,
AND MICHAEL G. LICOPANTIS,

Defendants.

**NOTICE OF CONCURRENCE WITH
THE RECEIVER'S REPLY TO
OPPOSITION TO MOTION FOR
APPROVAL OF RECEIVER'S THIRD
INTERIM DISTRIBUTION FILED BY
JOSEPH P. FIRMAGE**

Case No. 2:02-CV-0039

Judge Tena Campbell

Magistrate Judge David Nuffer

Joseph P. Firmage ("Mr. Firmage") hereby acknowledges that a meeting of the minds has occurred between Mr. Firmage and the Receiver regarding the Receiver's proposed third interim distribution. Mr. Firmage has no objection to rounding down the distribution percentage from

11% to 10%. Mr. Firmage waives any objection to the resulting adjustment of distribution amounts therefrom. Mr. Firmage does not request a hearing on this matter.

DATED this 2nd day of December, 2009.

SNOW, CHRISTENSEN & MARTINEAU

/s/ Tammy B. Georgelas
David W. Slaughter
Tammy B. Georgelas
Attorneys for Joseph P. Firmage

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of December, 2009, I caused a true and correct copy of Joseph P. Firmage's **NOTICE OF CONCURRENCE WITH THE RECEIVER'S REPLY TO OPPOSITION TO MOTION FOR APPROVAL OF RECEIVER'S THIRD INTERIM DISTRIBUTION FILED BY JOSEPH P. FIRMAGE** to be served electronically via CM/ECF on the following:

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