

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

H. THAYNE DAVIS,	:	
Plaintiff,	:	Case No. 3:04cv00059
vs.	:	Chief Magistrate Judge Sharon L. Ovington
LIFETIME CAPITAL, INC.,	:	
Defendant.	:	

ORDER

This case is presently before the Court upon the Receiver's Combined Motion to Allow and Disallow Certain Claims and/or to Release Escrowed Funds (Doc. #1386), and the record as a whole.

On March 30, 2010, the Receiver filed a motion requesting the Court disallow the claims of LifeTime Investors who failed or otherwise refused to comply with the established claims process. (Doc. #1111, *PageID#* 12208-12228). In his motion, the Receiver indicated that as of late 2008 there were approximately 450 LifeTime Investors' claims that were not yet resolved. (Doc. #1111, *PageID#* 12212). After the Receiver prepared and issued final written notices to the Investors or next-of-kin for whom no claim had been submitted or with respect to which claim forms remained deficient, the Receiver represented to the Court that the "the amount of the remaining unresolved claims has been further reduced and now stands at 60." (*Id.*, *PageID#* 12214). The

Receiver filed, under seal, a list of the remaining LifeTime Investors with outstanding and/or unresolved claims. (Doc. #1111-3).

On November 10, 2011, the Court issued an Order granting the Receiver's motion and disallowed the claims of any LifeTime Investor who had not yet filed or properly completed a claim. (Doc. #1207, *PageID#* 12956-58). Prior to granting the Receiver's motion and disallowing these claims, the Court noted that final notices were sent to LifeTime Investors, a fairness hearing was held on August 29, 2010 regarding the matter, and information was also posted on the Receiver's website at www.lifetimereceiver.com. (*Id.*).

In his present motion, the Receiver indicates that since the November 10, 2011 Order, he "has identified several remaining LifeTime Investors' potential claims" (Doc. #1386, *PageID#* 14646). The Receiver filed, under seal, a list of such claims and the identification of such investors. (Doc. #1399-1). Although the Receiver requests an Order allowing or disallowing these LifeTime Investors' claims or potential claims, the Court finds that its previous Order from November 10, 2011 has already addressed this issue. The Court declines to otherwise revisit the matter it decided nearly three years earlier. Accordingly, as previously Ordered, the claim of any LifeTime Investor is disallowed if it was not filed by November 10, 2011, or otherwise remained deficient as of that date. (Doc. #1207).

The Receiver shall deem a claim to have been properly completed only if all documentation necessary to substantiate and pay the claim was received by the

Receivership on or before November 10, 2011. A review of the account notes submitted by the Receiver appears to indicate that the referenced accounts remained deficient in at least one way after November 10, 2011, and therefore have already been disallowed pursuant to the Court's previous Order. *See* Doc. #1207. Escrowed funds from such accounts should therefore be released and deposited into the general Receivership fund, awaiting further direction from the Court. Investors who may contact the Receiver regarding claims they contend were not deficient as of November 10, 2011 – but for which they believe remain unpaid – should be directed by the Receiver to file a motion and all supporting documentation directly with the Court for its consideration.

IT IS THEREFORE ORDERED THAT:

The Receiver's Combined Motion to Allow and Disallow Certain Claims and/or to Release Escrowed Funds (Doc. #1386) is GRANTED in part and DENIED in part as set forth in this Order.

March 31, 2015

s/Sharon L. Ovington
Sharon L. Ovington
Chief United States Magistrate Judge