

**Preliminary Investor Response Form**

Re: SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

v.

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

Defendants,

Case No. 2:02CV-0039C  
Judge Tena Campbell  
United States District Court  
District of Utah, Central Division

David K. Broadbent, Receiver  
Holland & Hart LLP  
[www.merrillscott.com](http://www.merrillscott.com)  
60 East South Temple, Suite 2000  
Salt Lake City, Utah 84111  
Telephone No. (801) 595-7834  
Fax No. (801) 364-9124

**Guidelines for Completing This Form:**

1. If you wish to notify the Receiver of your claim, complete and submit this form to the Receiver.
2. If a particular item does not apply to you specifically, write “not applicable.” If you do not know the answer to a particular item, write “not known.” ***Do not leave a question blank.***
3. **THE FIRM OF HOLLAND & HART LLP IS A LEGAL FIRM FOR THE RECEIVER AND CANNOT GIVE YOU PERSONAL LEGAL ADVICE CONCERNING YOUR OWN CLAIM, SUCH ADVICE MUST COME FROM *YOUR OWN* ATTORNEY OR OTHER ADVISOR. LIKEWISE, INFORMATION COMMUNICATED BY YOU TO HOLLAND & HART LLP IS NOT CONFIDENTIAL AND WILL BE UTILIZED BY THE RECEIVER IN ADMINISTERING THE RECEIVERSHIP ESTATE, INCLUDING THE RESOLUTION OF YOUR CLAIM. IN THE INTEREST OF REDUCING EXPENSE TO THE RECEIVERSHIP ESTATE SO THAT DISTRIBUTIONS TO THE INVESTORS CAN BE MAXIMIZED, ALL SUCH COMMUNICATIONS SHOULD BE IN WRITING.**
4. The Receiver reserves the right to request additional information from you.
5. Remember, ***this Response Form is submitted by you under penalties of perjury!*** If you have any questions concerning how to complete this form, consult your own attorney or other independent advisor. ***The Receiver recommends that you secure such independent advice.***

First Investor: \_\_\_\_\_  
(First Name) (Last Name)  
Soc. Sec. #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_  
Email: \_\_\_\_\_

Second Investor: \_\_\_\_\_  
(First Name) (Last Name)  
Soc. Sec. #: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_  
Email: \_\_\_\_\_

Type:  Individual  Corporation  General Partnership  
 Limited Partnership  Other

\_\_\_\_\_ (explain)

Attorney Information:

Name: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email: \_\_\_\_\_

### Investment Information

1. I/We have invested in the following programs, projects, entities and affiliates:

Name of Program/ Project/Entity	Investment		Bank Details	
	Date	Amount	Bank	Account Name and Number
Total Investment				

Please indicate method of payment  check  cash  wire transfer  other  
 If other, please explain:

Please name payee on check or recipient of wire transfer or other payment

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2. a. If more than one person invested in a program, how is the investment held (i.e. joint ownership with rights of survivorship, tenants in common)? \_\_\_\_\_

b. If ownership is tenants in common, what is the percentage of ownership of each investor? \_\_\_\_\_

c. If ownership is tenants in common, have you named a beneficiary for the investment in any documentation? \_\_\_\_\_ if so, who? \_\_\_\_\_

3. a. Please indicate the individual(s) who sold investment(s) to you:

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b. If the salesperson worked for a company, please indicate which company the salesperson worked for: \_\_\_\_\_

4. If you received a return, in what form was the return?

check  wire transfer  other

If other, please explain \_\_\_\_\_

Name of Program/ Project/Entity	Return		Interest Payments Received	Return of Principal Received	Commissions Received	Rollovers
	Date	Amount				
Total Received						

5. If you received a return other than an interest payment, return of principal, commission or rollover, please explain the nature of the return and the amount

\_\_\_\_\_  
 \_\_\_\_\_

6. a. Did you directly sell any investment?  Yes  No

If Yes, to whom? \_\_\_\_\_

Did you receive any commissions and if so, how much? \_\_\_\_\_

b. Did you indirectly sell any investment, such as refer anyone to a salesperson, provide a list of names of possible investors to a salesperson, etc.?  Yes  No

If Yes, who did you refer? \_\_\_\_\_

To whom did you refer them? \_\_\_\_\_

Did you receive any money or other compensation of any nature (such as a referral fee or a finders fee or credit on an investment) and, if so, how much? \_\_\_\_\_

7. Are you related<sup>1</sup> to any of the named defendants (see case caption on first page) in this matter or any salesperson of Merrill Scott?  Yes  No

If Yes, to whom and what is the relationship? \_\_\_\_\_

Have you ever occupied the same residence as this person?  Yes  No

Have you ever received from or given financial support of any type, including loans, gifts of property, or financial assistance of any type to this person?  Yes  No

If Yes, please provide details \_\_\_\_\_

Did this person provide any portion of your investment, directly or indirectly, including by loan or other financial assistance?  Yes  No

If Yes, please provide details \_\_\_\_\_

If such defendant or salesperson is an entity other than a natural person, are you an officer, director, manager, partner, shareholder or other equity holder, employee, consultant, advisor or controlling person of such entity?  Yes  No

If yes, please provide details \_\_\_\_\_

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<sup>1</sup> A related party would include: Family members (blood or marriage); Entities such as corporations, trusts, and partnerships in which you (or any of your family members) were officers, directors, general partners, trustees, beneficiaries, equity owners, otherwise place a significant role or held a significant position; and if you, yourself, are a "legal entity" (corporation, trust, partnership, etc.) rather than a "natural person", your related parties would include your own officers, directors, general partners, trustees/beneficiaries, equity owners, etc.

8. If you are an entity other than a natural person (e.g., a corporation, general or limited partnership, limited liability company, etc.):

a. List your officers, directors, managing partners, managers, key employees, consultants, advisors, and controlling persons:

Name	Position

b. List your shareholders, partners, members and other direct and indirect equity owners, including any beneficial interest owners, and the percentage ownership of each:

Name	Ownership

**By Signing My/Our Name Below, I/We Acknowledge and Affirm that:**

**I/we will supplement this Response Form if any information given later becomes inaccurate or incomplete.**

**I/we acknowledge that I/we am/are an Investor in or client of Merrill Scott and/or one of the entities named in the Receivership.**

**I/we hereby affirm that the answers provided herein are truthful.**

**I/we understand that this Response Form is submitted under penalties of perjury.**

**Date:** \_\_\_\_\_ **Print Name:** \_\_\_\_\_  
*(First Investor)*

**Date:** \_\_\_\_\_ **Print Name:** \_\_\_\_\_  
*(Second Investor)*