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7  
8 **IN THE UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 IN RE: SOUTHWEST EXCHANGE, INC.,  
INTERNAL REVENUE SERVICE SECTION  
11 1031 TAX DEFERRED EXCHANGE  
LITIGATION,

Case No. MDL No. 1878  
Case No. 2:07-cv-01394-RCJ-LRL

12  
13 **ORDER GRANTING**  
14 **PETITION OF RECEIVER FOR APPROVAL OF**  
15 **THE INTERCREDITOR AGREEMENT AMONG**  
**SETTLEMENT CLASS AND STATE COURT PLAINTIFFS**

16 Larry L. Bertsch, Receiver (the "Receiver") petitioned this Court for Approval of the  
17 Intercreditor Agreement, among Settlement Class and State Court Plaintiffs ("Petition") on  
18 November 24, 2010. Dkt. 275. Pursuant to Local Rule 7-2(b), oppositions to the Petition were due  
19 on or before December 13, 2010. No party in interest filed an opposition. Pursuant to Local Rule 7-  
20 2(d), failure to file an opposition is a consent to the granting of the Petition. The Petition is ripe for  
21 adjudication.

22 **IT IS ORDERED** that,

- 23 1. The Petition of Receiver for Approval of the Intercreditor Agreement among  
24 Settlement Class and State Court Plaintiffs is granted in its entirety.
- 25 2. The Intercreditor Agreement, attached to the Petition, is approved in its entirety.
- 26 3. The following parties are bound by the Intercreditor Agreement:
- 27 a) Southwest Exchange, Inc., Qualified Exchange Services, Inc., Capital Reef  
28 Management Corp. and all other entities which were the subject of a Receivership (the

1           Receivership Entities”) in *In Re: Receivership of Southwest Exchange, Inc. and Consolidated*  
2           *Litigation*, Case No. 07-A-535439-B in the Eighth Judicial District Court of the State of  
3           Nevada in and for the County of Clark (the “State Court Action”).

4           b)     All plaintiffs in the State Court Action, who are not members of the  
5           Settlement Class (the “State Court Plaintiffs”).

6           c)     The Settlement Class as defined in *In Re: Internal Revenue Service § 1031*  
7           *Tax Deferred Exchange Litigation*, MDL Docket No. 1878, Case No. 2:07-cv-01394-RCJ-  
8           (LRL), pending in the United States District Court for the District of Nevada (the “Federal  
9           Class Action”).

10          4.     The State Court Plaintiffs and the Settlement Class are hereby ordered to exercise  
11          their best efforts at all times to:

12                 a)    Cooperate with each other and the Receiver in their collection efforts on the  
13                 State Court Judgment and the Class Action Judgment.

14                 b)    Coordinate the use of post judgment remedies so that both the State Court  
15                 Plaintiffs and the Settlement Class may take the same advantage of the selected remedy at the  
16                 same time, whether by recordation in a foreign jurisdiction, execution, judgment debtor  
17                 examination, appointment of a receiver, or otherwise, and neither gains an advantage by way  
18                 of time or priority over the other.

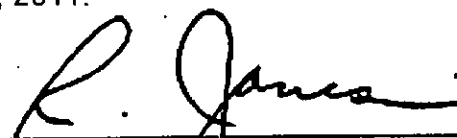
19                 c)    Deposit all collections and recoveries derived from any source from post  
20                 judgment remedies or similar collection efforts into the Southwest Exchange Qualified  
21                 Settlement Fund.

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1 5. The Court retains jurisdiction over disputes arising out of the Intercreditor  
2 Agreement.

3 6. The Court retains jurisdiction over disputes involving the Intercreditor Agreement.

4 DATED this 4th day of February, 2011.

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6 \_\_\_\_\_  
7 THE HONORABLE ROBERT C. JONES  
8 UNITED STATES DISTRICT COURT JUDGE

9 Submitted by:

10 ANTHONY A. ZMAILA LIMITED PLLC

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