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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11
12 FEDERAL TRADE COMMISSION,

13
14 Plaintiff,

15
16 v.

17
18 ASCEND CAPVENTURES INC., et al.,

19
20 Defendants.

Case No. 2:24-CV-07660-SPG-JPR

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION OF RECEIVER, STEPHEN
J. DONELL, FOR ORDER:
(1) APPROVING FINAL REPORT
AND ACCOUNTING;
(2) AUTHORIZING PAYMENT OF
FINAL FEE APPLICATION OF
RECEIVER AND PROFESSIONALS;
(3) ESTABLISHING RESERVE FOR
CLOSING RECEIVERSHIP;
(4) AUTHORIZING TRANSFER OF
RECEIVERSHIP ASSETS TO
PLAINTIFF FEDERAL TRADE
COMMISSION; (5) AUTHORIZING
ABANDONMENT OR
DESTRUCTION OF RECORDS; AND
(6) CLOSING RECEIVERSHIP AND
DISCHARGING AND RELEASING
RECEIVER**

[Notice of Motion and Motion;
Declaration of Stephen J. Donell; Final
Report and Accounting; Final Fee
Application; and [Proposed] Order
submitted concurrently herewith]

Date: February 25, 2026
Time: 1:30 p.m.
Ctrm: 5C
Judge Hon. Sherilyn Peace Garnett

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 Stephen J. Donell (the "Receiver") was appointed as the receiver for
4 defendants Ascend Capventures Inc., Ascend Ecom LLC, ACV, ACV Partners,
5 Accelerated Ecommerce Ventures; Ascend Distribution LLC (California), Ethix
6 Capital, ACV Nexus, Ascend Ecommerce Inc., Ascend Administration Inc., Ascend
7 Distribution LLC (Texas), and their collective dbas, subsidiaries, and affiliates,
8 including Global Marketing Development, Inc., Eaglemont Capital, Paradyme
9 Capital Inc., and AC Ventures Global Inc. (collectively, the "Receivership Entities"
10 or "Entities") pursuant to this Court's September 13, 2024 *Order on Plaintiff's Ex*
11 *Parte Application For (1) Temporary Restraining Order and Order to Show Cause*
12 *Why a Preliminary Injunction Should Not Issue; (2) Waiver of Notice Requirement;*
13 *(3) Appointment of a Temporary Receiver, Freezing of Assets; and other Equitable*
14 *Relief* (the "Initial Appointment Order") [ECF No. 30], as reaffirmed by the Court's
15 December 3, 2024 *Order Granting Stipulation for Court to Enter Preliminary*
16 *Injunction* (the "Preliminary Injunction") [ECF No. 82].

17 Pursuant to the Initial Appointment Order, Preliminary Injunction, the Court's
18 subsequent orders regarding the Receiver's administration of the estate of the
19 Receivership Entities (the "Estate"), and law governing federal equity receivers, the
20 Receiver's most significant responsibilities during the pendency of the instant
21 receivership included:

- 22 1. Obtaining records relevant to the business and financial activities of the
23 Receivership Entities and their personnel, and performing an accounting of the
24 Receivership Entities' financial activities and condition;
- 25 2. Assuming control and authority over the Entities' assets (the
26 "Receivership Assets" or "Assets");
- 27 3. Investigating, locating, and recovering Receivership Assets, including
28 Assets unlawfully diverted to or for the benefit of third parties;

1 4. Marshaling and monetizing available Receivership Assets to maximize
2 their value for the benefit and administration of the Estate;

3 5. Engaging with allegedly injured consumers and mitigating future harm
4 arising from or in connection with the operations of the Receivership Entities; and

5 6. Preparing periodic updates and reports to the Court regarding his
6 efforts and the status of the receivership.

7 The specific tasks undertaken by and accomplishments of the Receiver, some
8 of which are addressed herein, are presented in more detail in the Receiver's
9 concurrently submitted *Final Report and Accounting of Receiver, Stephen J. Donell*
10 (the "Final Report"). For the purposes of this Motion, and by way of summary, the
11 Receiver believes he has diligently and appropriately discharged those duties and
12 obligations assigned to him by the Court. As of the date of this Motion, the
13 Receiver believes that he has, with the assistance of his professionals, including lead
14 receivership counsel, Allen Matkins Leck Gamble Mallory & Natsis, LLP ("Allen
15 Matkins"), satisfied his responsibilities to the fullest extent possible.

16 As detailed further herein, and in the Final Report, the Receiver has
17 determined that it is now appropriate to bring the instant receivership to a close, pay
18 outstanding fees and costs, and discharge and release the Receiver. The Receiver
19 therefore respectfully requests that this Court enter an Order: (1) approving the
20 Receiver's Final Report and the actions taken by the Receiver during the pendency
21 of his appointment; (2) authorizing the payment of the fees and expenses presented
22 in the Receiver's and his professionals' concurrently submitted *Final Application for*
23 *Payment of Fees and Reimbursement of Expenses of Receiver, Stephen J. Donell,*
24 *and his Professionals* (the "Final Fee Application"); (3) authorizing the Receiver to
25 establish and set aside a reserve in the amount of not more than \$13,000 (the
26 "Reserve") to cover the anticipated fees and expenses associated with winding down
27 and terminating the receivership; (4) authorizing the Receiver to transfer all Estate
28 funds remaining after the payment of administrative fees and costs (the

1 "Remittance") to the plaintiff Federal Trade Commission (the "FTC");
2 (5) authorizing the Receiver to abandon or destroy, as appropriate, all Receivership
3 Entity records in his possession, within 91 days after his discharge as receiver; and
4 (6) authorizing the Receiver to undertake and complete those tasks necessary to
5 wind-down and close the receivership, as detailed further below, and thereafter
6 discharging and releasing the Receiver.

7 As is customary in similar federal receivership matters, the Receiver will
8 submit a Declaration to the Court certifying the completion of all closing tasks
9 described herein (the "Final Declaration"), and respectfully requests that the
10 receivership be deemed terminated, without further Court order, upon the Receiver's
11 submission of the Final Declaration.

12 **II. RELEVANT FACTUAL BACKGROUND.**

13 A full recitation of the procedural history of this matter is unnecessary for the
14 purposes of this Motion, particularly given that the Receiver's Final Report, which
15 summarizes the Receiver's actions during the pendency of this matter in greater
16 detail, has been submitted concurrently herewith. The facts relevant to the Motion
17 are as follows:

18 On September 9, 2024, the FTC filed a complaint against numerous entity and
19 individual defendants, commencing the above-captioned civil action. *See* ECF
20 No. 1. The FTC's complaint alleged that the defendants engaged in a fraudulent
21 scheme to lure consumers into investing large sums in purported e-commerce
22 business opportunities, using false promises of substantial passive income from
23 online stores administered by the defendants. (*See id.*) On the basis of their
24 allegations, the FTC petitioned this Court for injunctive relief, and for the
25 appointment of a receiver to assume authority and control over the entity
26 defendants. (*See* ECF Nos. 4, 5.)

27 On September 13, 2024, the Court entered the Initial Appointment Order. *See*
28 ECF No. 30. The Receiver's authority under the Initial Appointment Order was

1 extended by subsequent orders of this Court;¹ critically including the Court's
2 December 3, 2024 Preliminary Injunction, which reaffirmed the Receiver's duties
3 and authority. Pursuant to the terms of the Initial Appointment Order and
4 Preliminary Injunction, the Receiver was charged with, among other things,
5 assuming control of the Receivership Entities, marshaling Receivership Assets,
6 performing an analysis and accounting relating to the business and financial
7 activities of the Receivership Entities, preparing reports for the Court, and otherwise
8 administering the Receivership Entities. (*Id.*)

9 Since his appointment, the Receiver has administered the Estate and all
10 identified Receivership Assets in accordance with this Court's instructions,
11 including specifically: (1) marshaling, preserving, and liquidating Receivership
12 Assets; (2) mitigating ongoing consumer harm and preventing improper consumer
13 solicitations from third parties apparently associated with the Individual Defendants
14 (as defined in the Preliminary Injunction) or the Receivership Entities; (3) obtaining
15 documents critical to the Receiver's investigation via formal and informal document
16 requests, including via the issuance of numerous subpoenas; (4) performing an
17 accounting and analysis of the Receivership Entities' operations (or lack thereof),
18 financial activities, and condition; and (5) preparing periodic reports to this Court.
19 (*See* concurrently filed Declaration of Stephen J. Donell ["Donell Decl."] ¶ 3.) The
20 specific actions undertaken during the course of the Receiver's appointment have
21 been detailed in the Receiver's interim reports, one supplemental report, and the
22 concurrently submitted Final Report. By way of short summary, the Receiver's
23 most significant efforts and achievements included:

- 24 • Substantially confirming some of the FTC's allegations regarding the
25 alleged consumer fraud operated through the Entities, and determining
26 that the Entities could not continue as a viable going concern;

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¹ *See* ECF Nos. 42, 55, 70.

- 1 • Completing an extensive document recovery and review process,
2 resulting in the recovery of tens of thousands of pages of documents,
3 and undertaking a review of such documents in order to complete an
4 appropriate analysis and accounting;
- 5 • Identifying and designating four (4) additional Receivership Entities,
6 Global Marketing Development, Inc., Eaglemont Capital, Paradyme
7 Capital Inc., and AC Ventures Global Inc., which were associated with
8 the Entities and to which millions in Estate Assets were diverted;
- 9 • Taking possession of Receivership Assets, including hundreds of
10 thousands of dollars in escrowed funds relating to the Individual
11 Defendants' unauthorized, post-receivership sale of a real property
12 Asset, and ultimately overseeing the sale of another real property Asset
13 purchased with funds diverted from the Entities; and
- 14 • Issuing cease-and-desist letters and otherwise deterring unidentified
15 third-parties and apparent Entity affiliates from soliciting payments
16 from consumers to perpetuate the Entities' deceptive marketing scheme,
17 and notifying consumers of the impropriety of such solicitations.

18 The Receiver, having recently administered the two remaining real properties
19 subject to his authority and control, has determined, in his reasonable business
20 judgment, that he has exhausted all appropriate and reasonable efforts to recover and
21 monetize those Estate Assets which could justifiably be pursued given the cost-
22 benefit calculus applicable to the Receiver's efforts. Accordingly, the Receiver
23 respectfully recommends that the receivership be wound down and terminated, and
24 the Receiver discharged and released.

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1 **III. RECOMMENDED CLOSING AND DISCHARGE PROCEDURES.**

2 **A. Receivership Wind-Down And Final Closing Tasks.**

3 By this Motion, the Receiver respectfully requests Court approval of, and
4 authorization to complete, the final closing tasks detailed below in connection with
5 closing the instant receivership and securing the Receiver's discharge and release:

6 1. Approval of the Receiver's Final Report and Accounting.

7 The Receiver's Final Report has been submitted to this Court concurrently
8 with this Motion. The Final Report details the efforts undertaken by the Receiver
9 during the pendency of the receivership, including his document review and
10 analysis, accounting, Asset preservation and recovery, and reporting to this Court.
11 The Receiver's final accounting, appended to the Final Report as **Exhibit 1**, reflects
12 the Estate's receipts and disbursements through November 30, 2025. The Receiver
13 respectfully requests that the Court approve his Final Report and the final
14 accounting appended thereto.

15 2. Payment of Fees and Expenses of Receiver and his Professionals.

16 Concurrently with this Motion, the Receiver, Allen Matkins, his forensic
17 accounting firm, SLBiggs, a division of Singer Lewak ("SLBiggs"), and his local
18 Texas counsel Ross & Smith, PC ("RS", and collectively with Allen Matkins,
19 SLBiggs, and the Receiver, the "Applicants") have submitted their collective Final
20 Fee Application, requesting approval of fees earned and costs incurred by the
21 Applicants during the period from November 1, 2024 through November 30, 2025.
22 The total amount requested in the Final Fee Application is \$508,457.61, and
23 includes the application of an additional 5% discount from all (already discounted)
24 fees, arrived at in coordination with and at the behest of the FTC. Detailed narrative
25 summaries of and billing invoices for the work performed by the Applicants are set
26 forth in the Final Fee Application. The Receiver requests authorization to pay the
27 Applicants out of the Assets presently on hand.

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1 3. Transmittal of the Remittance to the FTC.

2 Based on his discussions with the FTC regarding the best means of making
3 recovered funds available for equitable relief, the Receiver has concluded that the
4 most cost-effective method of ensuring that recovered Assets are optimally deployed
5 is to turn over the Assets to the FTC concurrent with the wind-down and termination
6 of the receivership. In the Receiver's reasonable business judgment, and under the
7 facts of this case, such a course of action would be superior, on a cost-benefit basis,
8 to the alternative of a Receiver-administered claims and distribution process, with its
9 attendant additional expense.²

10 Therefore, the Receiver respectfully requests that the Court authorize him to
11 transfer the Remittance, reflecting all Receivership Assets, less the fees and
12 expenses requested in the Final Fee Application, and less the Reserve, to the FTC, in
13 accordance with whatever turnover instructions they may provide. At present, the
14 Receiver estimates that the Remittance will be in an amount no less than \$50,000.

15 4. Establishment of the Reserve.

16 The Receiver, Allen Matkins, and SLBiggs will have incurred additional fees
17 and expenses beyond those requested in the Final Fee Application, after
18 November 30, 2025 and through the end of the receivership, as they attend to the
19 wind-down tasks necessary to bring the receivership to a close after the submission
20 of the instant Motion, Final Report, and Final Application. The Receiver
21 recommends that the Court authorize him to set aside an amount not to exceed
22 \$13,000 (again, the "Reserve") to cover such fees and expenses, to be paid without
23 further order of the Court. Of course, the Receiver, Allen Matkins, and SLBiggs
24 will endeavor to minimize their respective fees and expenses and, any portion of the
25 Reserve remaining after all closing tasks have been completed will be turned over to

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28 ² In the Receiver's reasonable business judgment, the Estate can ill afford the expense and delay associated with a receiver-administered claims process.

1 the FTC, as part of the Remittance, in accordance with whatever turnover
2 instructions the FTC ultimately provides the Receiver.

3 5. Abandonment or Destruction of Records.

4 The Receiver is in possession of records obtained during his administration of
5 the Estate, either at the outset of the receivership or recovered from third parties
6 during his investigation into the affairs of the Receivership Entities, some of which
7 are maintained in paper form. Many of these documents contain personal financial
8 information, or other sensitive information. Accordingly, the Receiver proposes
9 that, within 91 days after the entry of an order granting this Motion, the Receiver be
10 authorized to destroy any documents containing private information, and further that
11 he be authorized to abandon or destroy the balance of the records in his possession
12 relating to the Receivership Entities and the present receivership.

13 6. Completing Outstanding Closing Tasks for the Receivership and
14 Discharging and Releasing Receiver.

15 The Receiver respectfully requests that, once he has completed the above-
16 identified closing tasks, this Court thereafter close the present receivership case and
17 discharge and release the Receiver, effective upon the Receiver's submission of the
18 Final Declaration.

19 **IV. ARGUMENT.**

20 **A. The Proposed Final Closing Tasks Should Be Authorized And The**
21 **Receiver Discharged And Released.**

22 A court's power to administer an equity receivership is extremely broad. *SEC*
23 *v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986); *SEC v. Forex Asset Mgmt., LLC*, 242
24 F.3d 325, 331 (5th Cir. 2001); *SEC v. Basic Energy & Affiliated Res.*, 273 F.3d 657,
25 668 (6th Cir. 2001); *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *SEC v.*
26 *Wang*, 944 F.2d 80, 85 (2d Cir. 1991). In the absence of controlling authority, and
27 where applicable, district courts supervising equity receiverships routinely look to
28 bankruptcy law for guidance. *SEC v. Am. Capital Invs.*, 98 F.3d 1133, 1140 (9th

1 Cir. 1996); *CFTC v. Topworth Int'l*, 205 F.3d 1107, 1116 (9th Cir. 1999) (Central
2 District local rules, for instance, "direct receivers, unless otherwise ordered ... to
3 'administer the estate as nearly as possible in accordance with ... the administration
4 of estates in bankruptcy."); *Fleet Nat'l Bank v. H&D Entm't*, 926 F.Supp. 226, 240
5 n. 56 (D. Mass. 1996) ("[W]hat is permitted under the Bankruptcy Code, generally
6 is, *a fortiori*, permissible under receivership law.").

7 In the fiduciary estate administration context, courts are deferential to the
8 business judgment of bankruptcy trustees, receivers, and similar estate custodians.
9 *See, e.g., Bennett v. Williams*, 892 F.2d 822, 824 (9th Cir. 1989) ("[W]e are
10 deferential to the business management decisions of a bankruptcy trustee."); *Sw.*
11 *Media, Inc. v. Rau*, 708 F.2d 419, 425 (9th Cir. 1983) ("The decision concerning the
12 form of ... [estate administration] ... rested with the business judgment of the
13 trustee."); *see also SEC v. Health Maint. Ctrs., Inc.*, 2002 WL 34388014 (W.D.
14 Wash. 2002) (Equating bankruptcy trustees with receivers and finding that "the
15 courts have overwhelmingly applied a 'business judgment' test" to estate
16 administration.); *In re Thinking Machs. Corp.*, 182 B.R. 365, 368 (D. Mass. 1995)
17 ("The application of the business judgment rule ... and the high degree of deference
18 usually afforded purely economic decisions of trustees, makes court refusal
19 unlikely.") (rev'd on other grounds, 67 F.3d 1021 (1st Cir. 1995)).

20 As reported herein and in the concurrently submitted Final Report, the
21 Receiver has made all reasonable and necessary efforts to recover, review, and
22 analyze Receivership Entity business records, provide an accounting of the
23 Receivership Entities' financial activities, recover available Receivership Assets,
24 and monetize such assets so as to create a pool of funds for the administration of the
25 Estate. The Receiver's conclusion that it is now appropriate to close the receivership
26 and discharge and release the Receiver has only been reached after a number of
27 successful Asset recovery efforts and a comprehensive investigation of the
28 operational and financial activities of the Receivership Entities and subsequent

1 reporting. The Receiver's recommendation that the receivership should now be
2 wound down and the Receiver discharged and released should be afforded great
3 deference ordinarily accorded to the business judgment of bankruptcy trustees,
4 receivers, and similar estate custodians.

5 **B. The Final Fee Application Is Reasonable And Appropriate, And**
6 **Payment Of All Outstanding Fees and Expenses Should Be**
7 **Authorized At This Time.**

8 It is a fundamental principle of receivership law that the administrative and
9 professional fees and expenses of a receiver and his supporting professionals
10 constitute priority expenses for which compensation should be paid from the assets
11 of the receivership. As reflected in the leading treatise, *Clark on Receivers*:

12 The obligations and expense which the court creates in its
13 administration of the [receivership estate] are necessarily
14 burdens on the [estate] ... The appointing court pledges its good
15 faith that all duly authorized obligations incurred during the
16 receivership shall be paid.

17 2 Clark, Ralph Ewing, *A Treatise on the Law and Practice of Receivers* § 637,
18 p. 1052 (3d ed. Rev. 1992).

19 Put another way, "[a]s a general rule, the expenses and fees of a receivership
20 are a charge upon the property administered[,]" and, where "a receiver reasonably
21 and diligently discharges his duties, he is entitled to compensation." *Gaskill v.*
22 *Gordon*, 27 F.3d 248, 25, 2531 (7th Cir. 1994); *see also SEC v. Byers*, 590
23 F.Supp.2d 637, 644 (S.D.N.Y. 2008) ("A receiver appointed by a court who
24 reasonably and diligently discharges his duties is entitled to be fairly compensated
25 for services rendered[.]"). Moreover, full allowance of such compensation is
26 warranted even where the fees and expenses comprise a significant portion of the
27 estate's assets. *See Fed. Trade Comm'n v. E.M. Sys. & Servs., LLC*,
28 2018 WL 1801214, at *4 n.1 (M.D. Fla. Jan. 22, 2018) (approving the full amount

1 of fees and expenses requested by the receiver and his professionals as reasonable
2 notwithstanding that such fees exceeded the value of assets in the estate); *see also*
3 *Fed. Trade Comm'n v. GDP Network LLC*, 2022 WL 17851632 (M.D. Fla.
4 Sept. 26, 2022). The fees and expenses of a receivership include the fees and
5 expenses incurred by the receiver, in addition to those fees and expenses incurred by
6 the receiver's professionals in rendering services to the receiver. *See Drilling &*
7 *Expl. Corp. v. Webster*, 69 F.2d 416, 418 (9th Cir. 1934). Decisions regarding the
8 amount and timing of an award of receivership fees and expenses are committed to
9 the sound discretion of the district court. *See SEC v. Elliott*, 953 F.2d 1560, 1577
10 (11th Cir. 1992). While a district court has "broad powers and wide discretion in
11 crafting relief," including in "distributing receivership assets" (*Quilling v. Trade*
12 *Partners, Inc.*, 572 F.3d 293, 301 (6th Cir. 2009)), because of the nature of the
13 services provided by a receiver and his professionals, the benefit a receiver confers
14 upon a given estate cannot be determined solely on the basis of the increase or
15 decrease in value of property in the receiver's possession. *Elliott*, 953 F.2d at 1577
16 ("[I]t is sometimes difficult to ascertain what type of benefits a receiver has
17 bestowed ... Even though a receiver may not have increased, or prevented a
18 decrease in, the value of the collateral, if a receiver reasonably and diligently
19 discharges his duties, he is entitled to compensation.") (citations omitted);
20 *Byers*, 590 F.Supp.2d at 644 ("While the results obtained by a receiver clearly are
21 important, the benefits to a receivership estate may take 'more subtle forms than a
22 bare increase in monetary value'") (citations omitted).

23 1. The Fees and Expenses Requested in the Final Fee Application
24 are Reasonable.

25 The fees of a receiver and his professionals must be reasonable. (*See San*
26 *Vicente Med. Partners, Ltd. v. Orr (In re San Vicente Med. Partners, Ltd.)*, 962 F.2d
27 1402, 1409 (9th Cir. 1992).) In determining the reasonableness of the fees requested
28 in connection with a receivership, a court should consider the time records

1 presented, the quality of the work performed, the complexity of the problems faced,
2 and the benefit of the services rendered to the receivership estate. (*See SEC v. Fifth*
3 *Ave. Coach Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973).) In a practical
4 sense, once it has determined that an applicant's services were reasonable, the court
5 simply multiplies the number of hours expended by the applicant's hourly rate. (*Cf.*
6 *Sw. Media, Inc. v. Rau*, 708 F.2d 419, 427 (9th Cir. 1983) (Bankruptcy Act case),
7 *superseded in part by statute*, Bankruptcy Reform Act of 1978, Pub. L. No. 95-598,
8 92 Stat. 2549, *as recognized in U.S. Tr. v. Tamm (In re Hokulani Square, Inc.)*, 460
9 B.R. 763 (B.A.P. 9th Cir. 2011).)

10 Here, the Final Fee Application describes the nature of the services that have
11 been rendered by the Applicants and, where appropriate, the identity and billing rate
12 of the individual performing each specific task. To properly contextualize the
13 Applicants' request, the Final Fee Application covers approximately a year's worth
14 of work,³ whereas the Receiver's first fee application in this matter spanned roughly
15 six weeks.

16 On a simple *pro rata*, month-to-month comparison, the average monthly fees
17 reflected here (approximately \$39,112/month over thirteen months) are
18 approximately 20% of the average monthly fees reflected in the *Amended First*
19 *Interim Application for Payment of Fees of Receiver, Stephen J. Donell, and His*
20 *Professionals* [ECF No. 93-1 *et seq.*] (the "First Amended Fee Application")
21 (approximately \$191,700/month). The Applicants have endeavored to staff matters
22 as efficiently as possible in light of the level of experience required and the
23

24 ³ The Receiver and his professionals originally intended to submit at least one
25 additional interim application in late 2025. However, the Receiver is committed
26 to meeting and conferring with the plaintiff regulators before submitting any fee
27 application to ensure that his and his professionals' fees and expenses are
28 consistent with their evaluation of the nature and quality of the services rendered,
and therefore unlikely to draw an objection. Because the federal government
shutdown in late 2025 delayed the Receiver's ability to meet and confer with the
FTC, the Receiver could not file an additional interim application consistent with
that commitment. In light of the resulting delay, the Receiver determined that
proceeding with a final fee application was the most efficient course of action.

1 complexity of the issues presented, and in order to ensure that expenses to the Estate
2 were minimized to the extent possible. The Final Fee Application reflects that the
3 Applicants generally billed at rates substantially discounted from their respective
4 customary billing rates for comparable services in other matters; many of those rates
5 incorporated significant discounts and other reductions specific to the instant
6 receivership as an accommodation to the Estate, as identified in the Final Fee
7 Application. As further indicated in the concurrently submitted Final Fee
8 Application, the Receiver and Allen Matkins applied across-the-board discounts of
9 10% to the hourly rates of all timekeepers in this matter, in addition to applying an
10 additional 5% discount to the fees requested in the Final Fee Application (indeed,
11 Allen Matkins has discounted its rates by nearly 36% for certain timekeepers, as
12 compared to its national rates, and applied significant additional write-offs to the
13 fees requested in the Final Fee Application, as an accommodation to the Estate).

14 The Receiver has reviewed the Final Fee Application and, in his reasonable
15 business judgment, believes the fees requested by the Applicants to be fair and
16 reasonable and an accurate representation of the work performed. *See* Donell Decl.
17 ¶ 7. The Receiver likewise believes that the Receivership Estate has benefited from
18 the services identified in the Final Fee Application. (*Id.*)

19 2. The Applicants Are Highly Experienced Practitioners And Their
20 Hourly Rates Are Appropriate.

21 As reflected in the Final Fee Application, each of the Applicants is highly
22 qualified, with years of experience in fiduciary matters, including receiverships.
23 (*See* Donell Decl. ¶ 8; First Amended Fee Application-4 ¶ 2, 4; First Amended Fee
24 Application-5 ¶¶ 2, 3; First Amended Fee Application-6 ¶¶ 2, 3; First Amended Fee
25 Application-7 ¶¶ 2, 3.) In addition, each Applicant is familiar with the prevailing
26 rates for similarly qualified practitioners in their areas, and has determined that their
27 rates are consistent with, or below, rates charged by similarly qualified professionals
28 on similar matters. (*See* Donell Decl. ¶ 9; First Amended Fee Application-4 ¶ 5;

1 First Amended Fee Application-5 ¶ 5; First Amended Fee Application-6 ¶ 4; First
2 Amended Fee Application-7 ¶ 4.)

3 3. The Fees and Expenses Requested in the Final Fee Application
4 Have Been Submitted to the FTC for Review and Comment,
5 Without Opposition.

6 With respect to compensation requests made by a receiver in a federal
7 enforcement action, courts give great weight to the judgment and experience of the
8 government agency prosecuting the underlying action. As one court has noted in a
9 bankruptcy case in which the Securities and Exchange Commission (the "SEC")
10 participated, "it is proper to [keep] in mind that the [SEC] is about the only wholly
11 disinterested party in [this] proceeding and that . . . its experience has made it
12 thoroughly familiar with the general attitude of the Courts and the amounts of
13 allowances made in scores of comparable proceedings." *In re Phila. & Reading*
14 *Coal & Iron Co.*, 61 F. Supp. 120, 124 (E.D. Pa. 1945) (Bankruptcy Act case).
15 Indeed, the government agency's positions are not "mere casual conjectures, but are
16 recommendations based on closer study than a district judge could ordinarily give to
17 such matters." *Finn v. Childs Co.*, 181 F.2d 431, 438 (2d Cir. 1950) (citation
18 omitted) (internal quotation marks omitted) (Bankruptcy Act case). And such
19 "recommendations as to fees of the [government agency] may be the only solution
20 to the very undesirable subjectivity with variations according to the particular judge
21 under particular circumstances which has made the fixing of fees seem often to be
22 upon nothing more than an ipse dixit basis." *Id.* (citation omitted) (internal
23 quotation marks omitted). Thus, the government agency's position on a fee request
24 should be "given great weight." *Fifth Ave. Coach Lines*, 364 F. Supp. at 1222.

25 Here, in order to ensure that the fees and expenses requested in the Final Fee
26 Application are reasonable and appropriate, the Applicants submitted a draft of the
27 Final Fee Application, along with their respective invoices, to the FTC for review
28 and comment prior to filing. After a review of the Final Fee Application and a

1 discussion with the Receiver's office and Allen Matkins, and after the Applicants
2 agreed to a further 5% reduction of all of their fees, the FTC confirmed that it does
3 not oppose the Final Fee Application. The FTC is likely in the best position to
4 measure the fees and expenses requested in the instant receivership against those
5 incurred in other, similar proceedings and cases of similar complexity, *see Phila. &*
6 *Reading Coal & Iron*, 61 F. Supp. at 124, and a decision on their part not to object
7 to the Final Fee Application merits significant deference. *Id.* Accordingly, the
8 Applicants respectfully request that the Court approve the fees and expenses as
9 sought in the Final Fee Application.

10 4. The Receiver should Be Authorized to Pay all Approved Fees
11 from Cash On-Hand.

12 As reflected in the Final Fee Application, the Applicants have requested that
13 the Court authorize the payment of their requested fees and expenses for the period
14 from November 1, 2024 through November 30, 2025 in the amount of \$508,457.61.
15 The Receiver presently holds nearly \$600,000 for the administration of the Estate,
16 and he respectfully requests that the Court permit him to make payment of the fees
17 and expenses requested in the Final Fee Application from cash on hand.

18 **V. CONCLUSION.**

19 Based on the Receiver's cumulative findings and the fulfillment of his duties
20 under the Appointment Order and other Court orders in this receivership case, the
21 Receiver respectfully requests that this Court enter an order:

- 22 1. Approving the Final Report and Accounting, along with the actions
23 taken by the Receiver during the pendency of his appointment;
- 24 2. Authorizing the payment of the Final Fee Application in the aggregate
25 amount of \$508,457.61;
- 26 3. Authorizing the Receiver to establish a Reserve in the amount of
27 \$13,000;

28

1 4. Authorizing the Receiver, after the payment of authorized costs, fees
2 and expenses, to make the Remittance to the FTC;

3 5. Authorizing the Receiver to abandon or destroy, as appropriate, all
4 Receivership Entity records in his possession, within 91 days after his discharge as
5 receiver; and

6 6. Authorizing the Receiver to undertake and complete those tasks
7 necessary to wind-down and close the receivership, as detailed further below, and
8 thereafter closing the instant receivership and discharging and releasing the
9 Receiver, effective upon receipt of a Declaration from the Receiver confirming the
10 completion of all closing tasks.

11
12 Dated: January 27, 2026

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