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8 STEPHEN J. DONELL

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11
12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 v.

15 ROBERT YANG, et al.
16 Defendants,

17 AND

18 YANROB'S MEDICAL, INC., et al.
19 Relief Defendants,

Case No. 5:15-cv-02387-SVW (KKx)

DECLARATION OF RECEIVER,
STEPHEN J. DONELL, IN SUPPORT
RECEIVER'S OMNIBUS MOTION FOR
ORDER: (1) APPROVING RECEIVER'S
RECOMMENDED TREATMENT OF
CLAIMS; AND (2) AUTHORIZING
RECOMMENDED DISTRIBUTION ON
ALLOWED CLAIMS

[Omnibus Motion and [Proposed] Order
submitted concurrently herewith]

Date: November 13, 2017
Time: 1:30 p.m.
Ctrm: 10A
Judge: Stephen V. Wilson

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21
22 **DECLARATION OF STEPHEN J. DONELL**

23 I, Stephen J. Donell, declare as follows:

24 1. I am the Court-appointed receiver for Defendants Suncor Fontana, LLC,
25 Suncor Hesperia, LLC, Suncor Care Lynwood, LLC, and their respective subsidiaries and
26 affiliates (collectively, the "Receivership Entities") in the above-entitled action. I make
27 this Declaration in support of the concurrently Omnibus Motion of Receiver for Order: (1)
28 Approving Receiver's Recommended Treatment of Claims; and (2) Authorizing

1 Recommended Distribution on Allowed Claims (the "Omnibus Motion"). I have personal
2 knowledge of the facts set forth in this Declaration and, if called as a witness, could and
3 would testify competently to such facts under oath.

4 2. In connection with this Court's December 22, 2016 Order Granting Receiver
5 Stephen J. Donell's Motion for Order: (1) Approving Claim Form; (2) Setting Claims Bar
6 Date; and (3) Establishing Summary Claims Procedures, I established a claims bar date of
7 May 16, 2017 for the submission of all claim against the Receivership Entities. Notice of
8 the bar date was published in the Los Angeles Times and San Bernardino Sun, as well as
9 on my website, www.fedreceiver.com, and provided to those investors and creditors for
10 whom my office had contact information. Court-approved claim forms were also provided
11 to prospective claimants or available for download via my website.

12 3. Ultimately, 51 timely claims were submitted by the claims bar date.
13 Thereafter, I and my staff commenced an initial review of claims intended to ensure that
14 claims were complete, not duplicative of claims submitted by other persons or entities, and
15 supported by documentation appropriate to the nature of the claim.

16 4. Having completed my claims processing, I have compiled my
17 recommendation for the treatment each all claims received in the Claims Summary
18 attached hereto as **Exhibit 1**. The Claims Summary identifies:

- 19 • Each claimant;
- 20 • The amount of each claim;
- 21 • My recommended treatment of each claim, and the claim amount
22 recommended for approval, and;
- 23 • The Receivership Entity against which the claim was submitted, if
24 known; and
- 25 • Any information uniquely relevant to each claim or my recommended
26 treatment of each claim.

27 5. As provided for in my prior claims-related submissions to the Court,
28 overseas investor claims, whether formally submitted or not, were deemed to be accurate

1 and complete up to the amount of each investor's \$500,000 principal investment. As such,
2 overseas investors were not required to submit claims. Nonetheless, a handful of overseas
3 investors submitted claims seeking amounts in excess of their principal investment,
4 including requests for attorneys', administrative, and other fees. Overseas investor claims
5 for more than the amount of an investor's confirmed principal investment amount were
6 compared to the Receivership Entities' records for that investor, and the basis for claimed
7 amounts in excess of investment principal, including documentation provided by claimant
8 investors, were reviewed to determine whether an allowance of a greater claim amount was
9 justified or appropriate. As reflected below, and in my Omnibus Motion, I recommend
10 allowing overseas investor claims only in the amounts of actual principal invested
11 (\$500,000 each), and denying those portions claims that request reimbursement of
12 administrative or other fees paid to third parties, or consequential damages.

13 6. As reflected in previous submissions to the Court, I previously
14 confirmed that the Receivership Entities had a single domestic investor, who
15 invested a principal amount of \$1 million in exchange for a 10% ownership interest
16 in a Receivership Entity, but whose investment was occasionally characterized as a
17 loan. That investor's claim, which included a request for reimbursement of
18 attorneys' fees and damages over and above principal investment amount, was
19 likewise compared to the Receivership Entities' records regarding the investment,
20 and I recommend allowing the claim in the amount of \$1 million, but denying those
21 portions of the claim that request reimbursement for attorneys' fees and damages.

22 7. Over the course of the receivership, my office received multiple requests for
23 payment of back taxes from the Internal Revenue Service, the California Franchise Tax
24 Board, and other taxing or government entities (collectively, the "Taxing Entities") in
25 connection with the purported business and financial activities of the Receivership Entities.
26 I recommends treating all payment requests received from the Taxing Entities on or before
27 the claims bar date established pursuant to the Procedures Order, whether submitted as
28 formal claims or not, as timely claims. I further recommend allowing four (4) of the five

1 (5) Taxing Entity claims received, at face value, but subordinating such claims to
2 Receivership Entity investor claims until such time as all investor claims are paid, in full. I
3 recommend denying one (1) Taxing Entity claim on the grounds that it was submitted
4 against Relief Defendant Yanrob Medical, Inc., an entity which, while it shared common
5 control with the Receivership Entities, was not operated as a Receivership Entity. I do not
6 believe this claim to be compensable by the receivership estate.

7 8. As reflected in the Claims Summary, my office received a substantial
8 number of claims from trade creditors, mostly from entities that allegedly provided
9 construction or other services in connection with the real estate development
10 projects owned and undertaken by the Receivership Entities. In order to maximize
11 the likelihood that trade creditor claims recommended for allowance are legitimate, I
12 and my staff examined and relied on, among other things, evidence of work
13 performed, invoices for work performed, and written contracts and service
14 agreements governing performance. Where claims submitted were not supported
15 with sufficient documentation but otherwise appeared to be colorable, my staff
16 contacted the claimants and secured additional documentation in before I arrived at
17 a conclusion regarding validity or invalidity of the claims. As addressed in the
18 Omnibus Motion, while I do not recommend all trade creditor claims for allowance,
19 as with the Taxing Entity claims, I propose that all trade creditor claims
20 recommended for allowance be subordinated to investor claims.

21 9. In addition to the claims discussed above, I also received six (6) claims
22 for payment from Mason Investments, LLC, the Receivership Entities' overseas
23 subscription agent (against whom I previously determined that the Receivership
24 Entities initially had a claim for disgorgement of at least \$3.6 million) and their
25 principal, Allen Chi (collectively, "Mason"). None of the Mason claims requested a
26 specific payment amount, although they all appear to be predicated upon sums
27 allegedly due to Mason in connection with its services as a subscription agent. As
28 reflected in some of my prior submissions to the Court, Mason was paid, in part,

1 from funds derived directly from investor principal, a violation of the Receivership
2 Entities' offering materials and something which immediately rendered it impossible
3 for overseas investors to obtain their desired immigration status under the EB-5
4 immigration program. In other words, Mason owes a debt to the Receivership
5 Entities and their investors, not vice-versa. Accordingly, I recommend that the
6 Mason claims be denied, in their entirety.

7 10. Medico Investments, LLC ("Medico") owns the real property adjacent to the
8 real property located at 17577-17579 Sultana Street, Hesperia, California, which was
9 owned but later abandoned by the Receivership Entities. Medico submitted a claim for
10 \$400,000, but did not specify the basis for its claim, the amount of the claim, or how the
11 claim was determined. Likewise, Medico provided no documentation in support of its
12 claim. Medico is neither an investor in or trade creditor of the Receivership Entities.
13 Accordingly, I recommend that the Medico claim be denied, in its entirety.

14 11. Dan Carlone Construction, Inc. ("Carlone") submitted a claim for
15 \$1,023,576.32 against the Receivership Entities, mostly for services allegedly rendered in
16 connection with the real property located at 7227 Oleander Avenue, Fontana California
17 92336 (the "Fontana Project"). My staff and I identified a number of problems with the
18 Carlone claim, the most significant of which is that there remain significant, pre-
19 receivership disputes regarding the nature of Carlone's engagement, the services it actually
20 performed, and Carlone's prospective liability to the Receivership Entities for failure to
21 perform its services adequately, which disputes led to the commencement and prosecution
22 of litigation pending in the San Bernardino Superior Court. None of the information
23 provided by Carlone in support of its claim was sufficient to establish to my satisfaction
24 that Carlone had performed all of the services it claimed, or that it was entitled to payment
25 for services rendered. In addition, the Carlone claim was duplicative of at least two (2)
26 other trade creditor claims, suggesting an effort to realize an unjustified windfall.
27 Accordingly, on the basis of the record presently available, I recommend that the Carlone
28 claim be denied, in its entirety.

EXHIBIT 1

Last Name	First Initial	Total Invested	Entity	Notes
Wu	C	\$ 500,000.00	Suncor Fontana, LLC	
Cao	G	\$ 500,000.00	Suncor Fontana, LLC	Submitted Claim Form
Hong	L	\$ 500,000.00	Suncor Fontana, LLC	Submitted Claim Form
Liu	A	\$ 500,000.00	Suncor Fontana, LLC	Submitted Claim Form
Chen	Z	\$ 500,000.00	Suncor Fontana, LLC	
Li	Y	\$ 500,000.00	Suncor Fontana, LLC	Submitted Claim Form
Wang	X	\$ 500,000.00	Suncor Fontana, LLC	
Chen	Q	\$ 500,000.00	Suncor Fontana, LLC	
Zhao	G	\$ 500,000.00	Suncor Fontana, LLC	
Li	Y	\$ 500,000.00	Suncor Hesperia, LLC	
Xu	W	\$ 500,000.00	Suncor Hesperia, LLC	
Zou	Q	\$ 500,000.00	Suncor Hesperia, LLC	
Xu	W	\$ 500,000.00	Suncor Hesperia, LLC	
Ji	S	\$ 500,000.00	Suncor Hesperia, LLC	
Ms. Liu	J	\$ 500,000.00	Suncor Hesperia, LLC	
Menga	X	\$ 500,000.00	Suncor Hesperia, LLC	
Jiang	H	\$ 500,000.00	Suncor Hesperia, LLC	
Zhu	J	\$ 500,000.00	Suncor Hesperia, LLC	
Huang	A	\$ 500,000.00	Suncor Hesperia, LLC	
Zheng	Y	\$ 500,000.00	Suncor Hesperia, LLC	
Lili	W	\$ 500,000.00	Suncor Hesperia, LLC	
Zhao	H	\$ 500,000.00	Suncor Hesperia, LLC	
Wang	J	\$ 500,000.00	Suncor Hesperia, LLC	
Xu	A	\$ 500,000.00	Suncor Hesperia, LLC	
Guo	C	\$ 500,000.00	Suncor Hesperia, LLC	
Liu	J	\$ 500,000.00	Suncor Hesperia, LLC	Submitted Claim Form
Li	Z	\$ 500,000.00	Suncor Hesperia, LLC	
Zhou	J	\$ 500,000.00	Suncor Care Lynwood, LLC	Submitted Claim Form
Kexin	D	\$ 500,000.00	Suncor Care Lynwood, LLC	
Zhang	Y	\$ 500,000.00	Suncor Care Lynwood, LLC	
Zhang	Z	\$ 500,000.00	Suncor Care Lynwood, LLC	
Anqi (Angela)	G	\$ 500,000.00	Suncor Care Lynwood, LLC	
Zuo	S	\$ 500,000.00	Suncor Care Lynwood, LLC	
Wu	L	\$ 500,000.00	Suncor Care Lynwood, LLC	
Bai	X	\$ 500,000.00	Suncor Care Lynwood, LLC	
Huang	Q	\$ 500,000.00	Suncor Care Lynwood, LLC	
Cai	H	\$ 500,000.00	Suncor Care Lynwood, LLC	
Wang	X	\$ 500,000.00	Suncor Care Lynwood, LLC	
Yau	M	\$ 500,000.00	Suncor Care Lynwood, LLC	

Count: 39

\$ 19,500,000.00

ID	Last Name	First Initial	Recommended Treatment	Claim Amount	Recommended Approval Amount	Entity
240	Aibin	L.	Approved As Modified	\$500,160.00	\$500,000.00	Suncor Fontana, LLC
239	Guiling	C.	Approved As Modified	\$500,200.00	\$500,000.00	Suncor Fontana, LLC
236	Jie	Z.	Approved As Modified	\$540,000.00	\$500,000.00	Suncor Care Lynwood, LLC
237	Jing	L.	Approved As Modified	\$581,695.00	\$500,000.00	Suncor Hesperia, LLC
238	Lei	H.	Approved As Modified	\$500,200.00	\$500,000.00	Suncor Fontana, LLC
241	Yu	L.	Approved As Modified	\$500,200.00	\$500,000.00	Suncor Fontana, LLC

Count: 6

Totals

\$3,122,455.00

\$3,000,000.00

ID	Claimant	Recommended Treatment	Claim Amount	Recommended Approval Amount	Entity
219	Employment Development Department	Deny	\$5,477.86	\$0.00	Yanrob Medical, Inc./Robert Yang
216	Franchise Tax Board	Approve	\$6,327.09	\$6,327.09	Suncor Fontana, LLC
224	Franchise Tax Board	Approve	\$7,587.86	\$7,587.86	Suncor Hesperia, LLC
217	Franchise Tax Board	Approve	\$6,048.79	\$6,048.79	Suncor Care Lynwood, LLC
139	Office of Statewide Health Planning and Development	Approve	\$750.00	\$750.00	Suncor Fontana, LLC

Count: 5

Totals

\$26,191.60

\$20,713.74

ID	Claimant	Recommended Treatment	Claim Amount	Recommended Approval Amount	Entity
185	Shin Sook Park, Trustee of Shin Sook Park Trust dated Dec. 4, 2001	Approved As Modified	\$1,282,328.00	\$1,000,000.00	Healthpro Capital Partners, LLC

Count: 1 Totals: \$1,282,328.00 \$1,000,000.00

ID	Claimant	Recommended Treatment	Claim Amount	Recommended Approval Amount	Entity
24	Associated Construction Services Group	Approve	\$40,977.38	\$40,977.38	Suncor Fontana, LLC
43	B&T Works, Inc.	Approve as Modified	\$128,618.88	\$104,995.00	Suncor Hesperia, LLC
187	Construction Defect Professionals, Inc.	Approve as Modified	\$10,416.00	\$8,680.00	Suncor Fontana, LLC
231	CW Soils, Inc.	Approve	\$3,210.00	\$3,210.00	Suncor Fontana, LLC
230	CW Soils, Inc.	Approve	\$7,380.00	\$7,380.00	Suncor Hesperia, LLC
2	CW Soils, Inc.	Approve	\$4,425.00	\$4,425.00	Suncor Care Lynwood, LLC
95	Freeman Building Services, Inc.	Approve	\$400.00	\$400.00	Suncor Fontana, LLC
41	IRC Plumbing, Inc.	Approve as Modified	\$37,800.00	\$34,650.00	Suncor Fontana, LLC
69	Jkarr Inspection Services	Approve as Modified	\$21,699.30	\$18,700.50	Suncor Fontana, LLC
12	Laschober & Sovich, Inc.	Approve	\$8,624.46	\$8,624.46	Suncor Care Lynwood, LLC
160	M.A. Ogg Heating & A/C, Inc.	Approve	\$6,648.60	\$6,648.60	Suncor Fontana, LLC
33	M. Napolitano	Approve	\$22,699.11	\$22,699.11	Suncor Fontana, LLC
44	Orange Community Escrow, Inc.	Approve	\$15,356.60	\$15,356.60	Suncor Hesperia, LLC
70	Reno Hardware & Supply Inc.	Approve as Modified	\$9,142.28	\$7,012.14	Suncor Fontana, LLC
233	So Cal Industries	Approve	\$221.45	\$221.45	Suncor Fontana, LLC
18	So Cal Industries	Approve	\$10,004.51	\$10,004.51	Suncor Hesperia, LLC
235	So Cal Industries	Approve	\$5,621.64	\$5,621.64	Suncor Care Lynwood, LLC
234	So Cal Industries	Approve	\$1,423.54	\$1,423.54	Suncor Care, Inc.
38	Southwest Concrete Products dba Calportland Co.	Approve	\$356,561.70	\$356,561.70	Suncor Hesperia, LLC
170	Stantec Consulting Services, Inc.	Approve	\$4,391.00	\$4,391.00	Suncor Care, Inc.
232	TGA Engineering, Inc.	Approve	\$7,801.00	\$7,801.00	Suncor Fontana, LLC
22	TGA Engineering, Inc.	Approve	\$4,852.50	\$4,852.50	Suncor Hesperia, LLC
73	TGA Engineering, Inc.	Approve	\$10,455.00	\$10,455.00	Mentone Project, Redlands
40	Vanir Construction Management, Inc.	Approve	\$23,530.00	\$23,530.00	Suncor Hesperia, LLC

Count: 24

Totals:

\$742,259.95

\$708,621.13

Trade Creditor Claims - Recommended for Denial

ID	Claimant	Claim Amount	Entity
90	C. Miller dba Johnson Plumbing	\$69,781.59	Suncor Care, Inc.; Healthpro Capital Partners, LLC
83	Dan Carlone Construction, Inc.	\$1,023,576.32	Suncor Fontana, LLC
158	D. Lepe	\$25,400.00	Suncor Care Lynwood, LLC

Count: 3**Total: \$1,118,757.91**

ID	Claimant	Claim Amount	Entity
183	Celtic Bank Corporation	\$2,223,650.70	Suncor Fontana, LLC/Other

Count: 1 Total: \$2,223,650.70

Other Claims

ID	Claimant	Recommended Treatment	Claim Amount	Recommended Approval Amount	Entity
247	A. Chi	Deny	\$ -	\$ -	Suncor Fontana, LLC
245	A. Chi	Deny	\$ -	\$ -	Suncor Hesperia, LLC
248	A. Chi	Deny	\$ -	\$ -	Suncor Care Lynwood, LLC
250	Mason Investments, LLC	Deny	\$ -	\$ -	Suncor Fontana, LLC
246	Mason Investments, LLC	Deny	\$ -	\$ -	Suncor Hesperia, LLC
249	Mason Investments, LLC	Deny	\$ -	\$ -	Suncor Care Lynwood, LLC
51	Medico Investments, LLC	Deny	\$ 400,000.00	\$ -	Suncor Hesperia, LLC
188	Milligan, Beswick, Levine & Knox, LLP	Approve	\$ 13,631.68	\$ 13,631.68	Suncor Fontana, LLC
243	Milligan, Beswick, Levine & Knox, LLP	Approve	\$ 70.28	\$ 70.28	Suncor Fontana, LLC
242	Milligan, Beswick, Levine & Knox, LLP	Approve	\$ 8,143.51	\$ 8,143.51	Suncor Fontana, LLC
244	Milligan, Beswick, Levine & Knox, LLP	Approve	\$ 706.78	\$ 706.78	Suncor Fontana, LLC

Count: 11**Totals****\$****422,552.25****\$****22,552.25**

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PROOF OF SERVICE

Securities and Exchange Commission v. Robert Yang, Suncor Fontana, et al.
USDC, Central District of California – Case No. 5:15-cv-02387-SVW (KKx)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

A true and correct copy of the foregoing document(s) described below will be served in the manner indicated below:

DECLARATION OF RECEIVER, STEPHEN J. DONELL, IN SUPPORT OF RECEIVER'S OMNIBUS MOTION FOR ORDER: (1) APPROVING RECEIVER'S RECOMMENDED TREATMENT OF CLAIMS; AND (2) AUTHORIZING RECOMMENDED DISTRIBUTION ON ALLOWED CLAIMS

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On **October 3, 2017**, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **Zachary T. Carlyle**
carlylez@sec.gov,kasperg@sec.gov,karpeli@sec.gov,
blomgrene@sec.gov,pinkstonm@sec.gov,NesvigN@sec.gov
- **Stephen J. Donell**
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- **Mark T. Hiraide**
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- **Joshua Andrew del Castillo**
jdelcastillo@allenmatkins.com
- **David R Zaro**
dzaro@allenmatkins.com

2. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):** On **October 3, 2017**, I served the following person(s) and/or entity(ies) in this case by placing a true and correct copy thereof in a sealed envelope(s) addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion for party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 (one) day after date of deposit for mailing in affidavit. Or, I deposited in a box or other facility regularly maintained by FedEx, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelopes or packages designated by the express service carrier, addressed as indicated above on the above-mentioned date, with fees for overnight delivery paid or provided for.

Franchise Tax Board (FTB)
P.O. Box 2952
Sacramento, CA 95812-2952

Via U.S. Mail

Internal Revenue Service
880 Front Street
San Diego, CA 92101-8869

Via U.S. Mail

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **October 3, 2017** at Los Angeles, California.

/s/ Martha Diaz

Martha Diaz