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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 FEDERAL TRADE COMMISSION,  
11

12 Plaintiff,

13 v.

14 ASCEND CAPVENTURES INC., also  
15 doing business as Ascend Ecom LLC;  
16 Ascend Ecomm LLC; ACV; ACV Partners;  
17 Accelerated Ecommerce Ventures; Ascend  
18 Distribution LLC; Ethix Capital; and ACV  
19 Nexus, a Wyoming close corporation profit  
20 corporation;  
21 ASCEND ECOMMERCE INC., also doing  
22 business as Ascend Ecom LLC, a Wyoming  
23 close corporation profit corporation;  
24 ASCEND ADMINISTRATION INC., a  
25 California general stock corporation;  
26 ASCEND ECOM LLC, a Wyoming limited  
27 liability company;  
28 ASCEND DISTRIBUTION LLC, a Texas  
limited liability company;  
WILLIAM MICHAEL BASTA,  
individually and as officer and/or owner of  
Ascend Ecom LLC, Ascend Capventures  
Inc., Ascend Ecommerce Inc., Ascend

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

**ORDER DENYING, IN PART, AND  
GRANTING, IN PART, FIRST  
INTERIM APPLICATION FOR  
PAYMENT OF FEES AND  
REIMBURSEMENT OF  
EXPENSES OF RECEIVER  
STEPHEN J. DONELL AND HIS  
PROFESSIONALS [ECF NO. 78]**

Administration Inc., Ascend Distribution LLC; and  
JEREMY KENNETH LEUNG, individually and as officer and/or owner of Ascend Ecom LLC, Ascend Capventures Inc., Ascend Ecommerce Inc., Ascend Administration Inc., and Ascend Distribution LLC,  
Defendants.

Before the Court is an unopposed First Interim Application for Payment of Fees and Reimbursement of Expenses (ECF No. 78 (“Application” or “App.”)) filed by Stephen J. Donell (“Receiver Donell”) in his capacity as the Court-appointed receiver in this action. The Court has read and considered the Receiver’s submissions and concluded that the Application is suitable for decision without oral argument. *See* Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15. Having considered the submissions, the relevant law, and the record in this case, the Court DENIES, in part, and GRANTS, in part, the Application. Receiver Donell may renew his application to cure the deficiencies discussed below.

## **I. BACKGROUND**

The Court has recounted in detail the underlying facts of this action. *See* (ECF Nos. 29, 30, and 82). Relevant to this instant Application, the Court, pursuant to the recommendation by Plaintiff Federal Commission (“FTC” or the “Government”), *see* (ECF No. 5) and the parties’ stipulation, *see* (ECF No. 62), appointed Stephen J. Donell as the Receiver of the Defendants’ corporate entities involved in activity that remains the subject of this action (hereinafter, “Receivership Entities”). *See* (ECF No. 82 (“Court’s Preliminary Injunction Order”) at 6). Receiver Donell is tasked with protecting and preserving the Receivership Entities’ assets for the purpose of securing consumer redress while the Court-ordered preliminary injunction remains in effect. The Court’s Order further declared that the Receivership Entities shall provide any payments and disbursements to the Receiver “as may be necessary and advisable in discharging his . . . duties.” (*Id.* at 18).

In his instant Application, Receiver Donell seeks an interim award of fees and expenses incurred by himself, the primary counsel Allen Matkins Leck Gamble Mallory & Natsis LLP (“Allen Matkins”), the Texas-based counsel Ross, Smith & Binford, PC (“RSB”), the Florida-based counsel Markowitz Ringel Trusty & Hartog, P.A. (“MRTH”) serving as the Receiver Florida-based counsel, and forensic accounting firm SL Biggs (collectively, “Professionals”). *See* (ECF No. 78-1 (“Memo”) at 2). According to Receiver Donell, the Professionals have thus far achieved substantial progress in preserving the affected assets; such progress includes, but is not limited to: stabilizing the Estate to maximize the likelihood of preserving the status quo, preventing harm to allegedly injured consumers of the Receivership Entities, and recovering funds provided by investing consumers. *See (id. at 4).*

Currently, the Estate holds approximately \$275,451.74 in cash, and the Receiver has traced over \$1 million in transferred funds stemming from consumers’ investments with the “apparent unilateral benefit of Defendants Baste and Leung in connection with the purchase of luxury real properties.” (*Id.* at 5). The Receiver, therefore, anticipates that “this value” in funds will also be “subject to turnover to the Receiver.” (*Id.*). Receiver Donell and his Professionals, therefore, request the following interim award of fees and expense reimbursements associated with their work performed from September 13, 2024, to October 31, 2024:

Applicant	Fees	Expenses	Total
Receiver	\$69,897.15	\$2,982.85	\$72,880.00
Allen Matkins	\$145,013.85	\$7,587.29	\$152,601.14
SL Biggs	\$70,337.00	\$0.00	\$70,337.00
RSB	\$20,317.50	\$810.47	\$21,127.97
MRTH	\$3,000.00	\$0.00	\$3,000.00
	<b>\$308,565.50</b>	<b>\$11,380.61</b>	<b>\$319,946.11</b>

1 Because the current recovered amount is less than the Professionals' requested  
2 award amount in this present Application, Receiver Donell asks the Court to authorize the  
3 payment of interim fees and expenses "on an immediate, pro rata basis," so additional funds  
4 that are recovered in the future fulfill the outstanding amount in fees and expenses. (*Id.* at  
5 2).

## 6 **II. LEGAL STANDARD**

7 Long-settled precedent establishes that "a district court's power to supervise an  
8 equity receivership and to determine the appropriate action to be taken in the administration  
9 of the receivership is extremely broad." *SEC v. Hardy*, 803 F.2d 1034, 1037 (9th Cir.  
10 1986). The Court, in addition to appointing a receiver, is responsible for compensating the  
11 receiver, his attorneys, and assisting professionals. *See Drilling & Exploration Corp. v.*  
12 *Webster*, 69 F.2d 416, 418 (9th Cir. 1934) (discussing that courts "appointing the receiver"  
13 also have the "power to fix the compensation of such receiver and the compensation of the  
14 receiver's attorney[s] [and employed professionals]"); *see also SEC v. Small Bus. Cap.*  
15 *Corp.*, No. 5:12-CV-03237 EJD, 2013 WL 2146605, at \*2 (N.D. Cal. May 15, 2013) (citing  
16 *In re Alpha Telcom, Inc.*, 03:01-CV-1283-PA, 2013 WL 840065, at \*16 (D. Or. Mar. 6,  
17 2013)). Tasked with this responsibility, the Court may also exercise its discretion to  
18 provide a "fee award that is appropriate under the circumstances." *In re Alpha Telcom*,  
19 2013 WL 840065, at \*17.

20 When a receiver seeks an interim fee award while the action remains ongoing, such  
21 "award of interim fees is appropriate where both the magnitude and the protracted nature  
22 of a case impose economic hardships on professionals rendering services to the estate."  
23 *Small Bus. Cap. Corp.*, 2013 WL 2146605, at \*2 (internal quotation marks and citation  
24 omitted). Moreover, "[f]requently courts will withhold a portion of the requested interim  
25 fees because until the case is concluded the court may not be able to accurately determine  
26 the reasonable value of the services for which the allowance of interim compensation is  
27 sought." *Id.* (internal quotation marks omitted) (quoting *In re Alpha Telcom*, 2006 WL  
28 3085616, at \*3)). Interim compensation must also be reasonable. *See Sec. & Exch.*

1 *Comm’n v. Total Wealth Mgmt., Inc.*, No. 15-CV-226-BAS-DHB, 2016 WL 727073, at \*1  
2 (S.D. Cal. Feb. 24, 2016) (“This entitlement to reasonable compensation extends to the  
3 professionals employed by the receiver.”). The receiver also “bears the burden to  
4 demonstrate to the court entitlement to payment of fees and costs in the amount requested.”  
5 *Id.* To determine the reasonableness of the requested fee amount, courts typically consider  
6 the “economy of administration, the burden that the estate may safely be able to bear, the  
7 amount of time required, although not necessarily expended, and the overall value of the  
8 services to the estate.” *Sec. & Exch. Comm’n v. Cap. Cove Bancorp LLC*, No.  
9 SACV15980JLSJCX, 2016 WL 6078324, at \*2 (internal quotation marks and citation  
10 omitted). Additionally, courts within this circuit have considered the hourly market rate  
11 prevailing in each applicant’s respective profession. *See id.* at \*3. Lastly, equitable  
12 receivers and assisting professionals generally “should charge a reduced rate to reflect the  
13 public interest involved in preserving funds held in a receivership estate.” *Id.* at \*2.

### 14 **III. DISCUSSION**

15 As outlined above, *see supra* Section I, Receiver Donell and the Professionals  
16 collectively seek a total interim fees award of \$308,565.50 and expense reimbursements of  
17 \$11,380.61 for work performed for approximately seven weeks. For the reasons discussed  
18 below, *see infra* Section III(A), the present Application and its accompanying exhibits are  
19 not sufficient for the Court to properly examine whether the requested fee amounts are  
20 reasonable and fair. The Court, however, finding the associated expenses reasonable,  
21 grants the Application’s request for expense reimbursements, *see infra* Section III(B).

#### 22 **A. Award of Receiver and Professionals’ Fees**

23 As a preliminary matter, the Court concludes that both the magnitude and the  
24 protracted nature of this case impose economic hardships on the Professionals rendering  
25 services to the Estate. For example, the Professionals have thus far stabilized the Estate to  
26 maximize the likelihood of preserving the status quo, prevented harm to allegedly injured  
27 consumers of the Receivership Entities, and traced funds provided by investing consumers.  
28

1 Accordingly, an award of interim fees is appropriate. With this in mind, however, the  
2 Court must now assess the reasonableness of the requested fees amount.

3 Generally, courts within this circuit determine the reasonableness of requested  
4 interim fee awards by reviewing comparable hourly fees within the professionals'  
5 respective professions. For example, another court in this district has emphasized that the  
6 "burden is on the fee applicant to produce satisfactory evidence—in addition to the  
7 attorney's own affidavits—that the requested rates are [reasonable, i.e.,] in line with those  
8 prevailing in the community for similar services by [professionals] of reasonable  
9 comparable skill, experience and reputation." *Cap. Cove Bancorp LLC*, 2016 WL  
10 6078324, at \*3 (alterations in original) (internal quotation marks omitted) (quoting  
11 *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008)). Because the  
12 "Receiver and his professionals had [previously] failed to justify their requested hourly  
13 rates," the court denied granting an interim fees award and requested supplemental briefing  
14 to justify the professionals' requested hourly rate. *Id.*; see also *Sec. & Exch. Comm'n v.*  
15 *Cap. Cove Bancorp LLC*, 2016 WL 6211426, at \*2 (C.D. Cal. Mar. 24, 2016) (requiring  
16 "additional information before [the court] can fashion an appropriate interim fee award"  
17 because "the Receiver does not justify the individual hourly rates requested for himself and  
18 his professionals . . . [and] fails to explain how the requested rates, even as discounted, are  
19 reasonable when compared to (a) professionals of similar skill and experience in the  
20 Orange County area and (b) securities receivership cases involving similar degrees of  
21 complexity and management").

22 Based on the information presented in this Application, the Court is unable to  
23 determine if the Professionals' requested fees are reasonable. Although the Professionals  
24 submitted billing sheets reflecting the work performed thus far, the Application is wholly  
25 devoid of critical information—namely, whether the hourly rates posed by the Receiver,  
26 his counsel, and his assisting Professionals are reasonable and consistent with the market  
27 rate in each respective profession. The Application, for instance, does not present any  
28 statements or declarations outlining the counsels' credentials, such as the number of years



1 each counsel has served in the legal profession as well as their expertise, if any, in this  
2 given area of law. As counsel is aware, seeking an award of attorneys' fees necessitates  
3 such details so the Court may determine that the fee award is reasonable and fair. Likewise,  
4 Receiver Donell, the colleagues assisting him, and the professionals within the forensic  
5 accounting firm also do not substantiate their requested hourly fees with a discussion of  
6 the prevailing market rate in their respective industries.

7 This lack of substantial details also concerns the Court because its primary duty in  
8 this action serves to ensure that impacted consumers recover some form of redress. Indeed,  
9 several courts, similarly tasked with presiding over federal equitable receiverships, have  
10 also emphasized the importance of fulfilling this duty to ensure consumer redress. *See*  
11 *Small Bus. Cap. Corp.*, 2013 WL 2146605, at \*3 (N.D. Cal. May 15, 2013) ("The Court  
12 does not discount the efficacy and importance of the Receiver's efforts to date, but it awards  
13 moderate fees in this instance because ensuring that the Receiver's efforts benefit the  
14 investors and the receivership estate is this Court's primary concern when awarding interim  
15 compensation in the early stages of this litigation."); *see also Cap. Cove Bancorp LLC*,  
16 2016 WL 6078324, at \*6.

17 Given its duty to the consumers, the Court preemptively cautions Receiver Donell  
18 and his Professionals at the onset, that it remains concerned about maintaining the fees and  
19 costs within reason. *See Small Bus. Cap. Corp.*, 2013 WL 2146605, at \*3 (stressing that  
20 the "[c]ourt has consistently reminded the Receiver and the Receiver's attorneys that it is  
21 concerned with [] keeping the fees and costs down"). This concern, the Court notes, is  
22 well-reasoned because the ultimate goal "of the Receiver and the attorneys is to preserve  
23 the status quo among the receivership estate as best they can for the benefit of the  
24 investors." *Id.* Notwithstanding this concern, the Court also acknowledges the diligent  
25 work performed thus far by Receiver Donell and the Professionals, and therefore, the Court  
26 intends, with additional information presented, to reasonably compensate the  
27 Professionals. Further, according to Receiver Donell, he expects to turnover and recover  
28 additional assets, which in turn, allow the Court to distribute additional fee awards with the

1 ultimate goal of striking a proper balance between consumer redress and reasonable  
2 compensation. The Court, however, declines to prematurely grant 100% of the requested  
3 interim fees on an automatic, pro rata basis.

4 Lastly, the Receiver further asserts that the FTC does not object to this requested  
5 award amount, and as such, the Court should give “great weight” in favor of granting the  
6 request. (Memo at 7) (internal quotation marks omitted) (citing *SEC v. Fifth Ave. Coach*  
7 *Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973)). As emphasized by the Receiver,  
8 the FTC stands “in the best position to measure the fees and expenses requested in the  
9 instant receivership against those incurred in other, similar proceedings and cases of similar  
10 complexity . . . .” (*Id.*). While this assertion may be true, the Court notes that the  
11 Government has not filed any declaration confirming its review or endorsement of the  
12 Application. Absent a declaration offering the Government’s position—especially  
13 considering the Government’s duty to secure “consumer redress” (ECF No. 72 at 3, n.2)—  
14 the Court will not prematurely assume that the requested fees are at or below the applicable  
15 market rate. *See, e.g., Cap. Cove Bancorp LLC*, 2016 WL 6078324, at \*2 (“The SEC filed  
16 a declaration in support of the Application and asserts that it reviewed the hourly rates  
17 proposed by the Receiver and his professionals and determined that the rates were at or  
18 below the market rate.”). Therefore, the Receiver’s Application for interim fees award is  
19 hereby denied without prejudice for him to renew the request.

## 20 **B. Reimbursement of Costs**

21 According to the billing records submitted by the Professionals, Receiver Donell  
22 incurred costs of \$2,982.85, *see* (App. at 27), Allen Matkins incurred costs of \$7,587.29,  
23 *see (id. at 59)*, and RSB incurred costs of \$810.47, *see (id. at 94)*. The costs, in sum,  
24 covered filing fees, recordation fees, and additional expenses related to inspections of  
25 Defendants’ various warehouse locations in Texas and Florida. The Court finds such costs  
26 reasonable and hereby grants reimbursement of those expenses incurred by the  
27 Professionals.




1 **IV. CONCLUSION**

2 For the foregoing reasons, the Court DENIES, in part, and GRANTS, in part, the  
3 Receiver's Application without prejudice. Receiver Donell may renew his Application  
4 consistent with this Court's Order.

5  
6 **IT IS SO ORDERED.**

7 DATED: February 24, 2025

8   
9 ~~HON. SHERI V. DELOE GARNETT~~  
UNITED STATES DISTRICT JUDGE