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7 Attorneys for Receiver  
8 STEPHEN J. DONELL

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11

12 FEDERAL TRADE COMMISSION,  
13 Plaintiff,  
14 v.  
15 ASCEND CAPVENTURES INC., et al.,  
16 Defendants.

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

**DECLARATION OF BRIAN  
J. LANDAU IN SUPPORT OF  
AMENDED FIRST INTERIM  
APPLICATION FOR PAYMENT OF  
FEES OF RECEIVER, STEPHEN  
J. DONELL, AND HIS  
PROFESSIONALS**

[Application for Payment of Fees;  
Memorandum of Points and Authorities;  
Declaration of Stephen J. Donell;  
Declaration of Joshua A. del Castillo;  
Declaration of Alan R. Rosenberg;  
Declaration of Frances A. Smith; and  
[Proposed] Order submitted concurrently  
herewith]

Date: April 23, 2025  
Time: 1:30 pm  
Ctm: 5C  
Judge Hon. Sherilyn Peace Garnett

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1 I, Brian J. Landau, declare as follows:

2 1. I submit this Declaration in support of the concurrently filed *Amended*  
3 *First Interim Application for Payment of Fees of Receiver, Stephen J. Donell, and*  
4 *his Professionals* (the "Fee Application"). I have personal knowledge of the facts  
5 set forth in this Declaration and, if called as a witness, could and would testify  
6 competently to such facts, under oath.

7 2. I am partner at SL Biggs, A Division of SingerLewak LLP, an  
8 accounting and consulting firm ("SL Biggs"), and have been employed at SL Biggs  
9 and its predecessor firm, Biggs & Co., since 2002. I am a certified public  
10 accountant with over twenty (20) years of accounting experience in bankruptcy and  
11 other fiduciary matters, including both federal and state receiverships.

12 3. Throughout my career, I have handled hundreds of receivership and  
13 bankruptcy matters, working for both federal and state court-appointed receivers, as  
14 well as chapter 7 bankruptcy trustees. Many of these cases involved tracing of  
15 funds, fraudulent conveyance analysis, and determining and resolving tax  
16 obligations for the parties involved. A true and accurate copy of my CV, including  
17 select cases I have been involved in, is attached as Exhibit A.

18 4. Throughout my career, I have actively participated in the Los Angeles  
19 Bankruptcy Forum and the California Bankruptcy Forum. My involvement has  
20 included organizing and producing a panel for their annual conference.

21 5. In its capacity as the forensic accountant for Stephen J. Donell (the  
22 "Receiver"), the court-appointed receiver in the above-entitled action, SL Biggs has  
23 endeavored to perform services for the Receiver as expeditiously and efficiently as  
24 possible, and charged rates commensurate with its standard rates for similar  
25 fiduciary services. I am familiar with the prevailing rates for similarly qualified  
26 attorneys in my geographical area and believe my rates at SL Biggs to be consistent  
27 with those charged by other accounting professionals with similar expertise and  
28 experience.

1 I declare under penalty of perjury that the foregoing is true and correct.  
2 Executed on March 13, 2025, at Los Angeles, California.

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5 Brian J. Landau  
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# **EXHIBIT A**



A Division of SingerLewak

## BRIAN J. LANDAU, CPA

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### EXPERIENCE & EXPERTISE

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- Business Operations Management
- Management & Operations Consulting
- Financial Reporting
- Budgeting & Financial Forecasting
- Assurance & Advisory Services
- Tax Planning & Preparation
- Corporate Sales & Acquisition
- Business Turnaround & Crisis Management
- Bankruptcy (Chapters 7 & 11)
- Receivership
- Forensic Accounting
- Fraud Investigation
- DIP Management & Operations Oversight
- Trust & Estate Tax Preparation
- Trust & Probate Accounting

### PROFESSIONAL BACKGROUND

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**Brian J. Landau, CPA** is a Partner of SLBiggs, A Division of SingerLewak, a full-service accounting and consulting firm with offices throughout California and the western United States. The SLBiggs Division provides a spectrum of specialized consulting and accounting services, including business operations management, insolvency, forensic accounting, probate and other specialized areas, to which Mr. Landau brings over 20 years of diverse public accounting experience and expertise.

Mr. Landau has extensive experience assisting business owners in developing the financial and operational management tools and reporting systems necessary to effectively grow and manage their companies. He assists clients in the implementation of accounting systems, including the training of office personnel on software, accounting procedures and reporting requirements to improve financial oversight and manage growth. Mr. Landau's depth of knowledge and technical experience enables him to address the extraordinary problems and issues that arise almost daily in business. He has directed and advised clients through the handling of specialized business tax structures, acquisition or sale of companies, business expansion, banking and financing matters, and other operational challenges.

Since 2002, Mr. Landau has worked in the specialized areas of bankruptcy, receivership, litigation support, and forensic accounting. He has significant experience in this area, including reconstructing records, providing analysis related to disputes, asset recovery, litigation, fraudulent conveyances, insolvency, tax, Ponzi schemes, and numerous other investigative matters. He regularly provides insolvency consulting services in both pre- and post-petition cases and has specialized experience in the

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winding down of businesses for liquidation, preparation of post-petition accounting, and management of court filing requirements. Additionally, Mr. Landau is frequently engaged to provide tax and consulting services to receivers and bankruptcy trustees and is well versed in the specialized tax and financial complexities unique to bankruptcy and receivership situations.

Mr. Landau has substantial experience with Chapter 11 reorganizations, preparing Monthly Operating Reports, advising debtors regarding operational and tax matters, assisting in drafting the financial portions of Plans of Reorganization, preparing Disclosure Statements, liquidation analysis, analysis of Plan feasibility and tax consequences, and handling other financial considerations for Plan approval and successful execution. He has also managed the process of claims analysis and distributions under approved Plans.

Mr. Landau also has considerable trust and probate experience in the areas of tax preparation, as well as probate and fiduciary accountings for complex trusts and estates with assets that include managed investment accounts and other sophisticated and non-conventional investments, including operating businesses, multi-family rental properties and LLCs.

## INDUSTRIES

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|--------------------------------|----------------------------------|
| • Manufacturing & Distribution | • Trusts & Estates               |
| • Wholesalers                  | • Real Estate                    |
| • Restaurants & Hospitality    | • Retail Sales                   |
| • Physicians                   | • Film Production & Distribution |
| • Radiology Centers            | • Non-Profits                    |
| • Attorneys                    | • Education & Child Development  |
| • Insurance Providers          | • High-Net-Worth Individuals     |

## EDUCATION & AFFILIATIONS

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University of California, San Diego - Bachelor of Science in Management Science - 2002

University of California, Los Angeles Extension – Certificate of Accounting - 2005

Member of the California Society of Certified Public Accountants (CalCPA)

Member of the American Institute of Certified Public Accountants (AICPA)

Member of the Los Angeles Bankruptcy Forum

CPA License #101132

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## CASE DESCRIPTIONS

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Following is a sample of representative bankruptcy, receivership and adversary cases in which Mr. Landau has played a significant role in accounting, tax, financial analysis, asset recovery investigation, Chapter 11 reorganization, liquidation, or financial management.

### **Metropolitan Life Insurance Company vs. ACDF, LLC et al. – Receivership**

As accountant to the federal court appointed Receiver, Mr. Landau undertook a comprehensive analysis of the financial records for the receivership entities. Mr. Landau, prepared detailing monthly accountings filed with the court. Additionally, Mr. Landau addressed tax obligations related to the receivership ensuring compliance with tax regulations.

### **SEC vs. J.T. Wallenbrock**

The Firm reconstructed records, prepared detailed accountings, and assisted in the recovery of funds in this \$350 million Ponzi scheme which involved over 7,000 investor accounts. Transactions for a five-year period were reconstructed from bank records and other documents to prepare accountings of cash receipts, cash disbursements and investor transactions. The Firm prepared detailed investor transaction account statements and identified funds invested by and disbursements paid to each investor/account holder. The related investor/account statements of transactions were used for prosecution of recovery actions, as well as in the confirmation and verification of claims. Over \$12 million in investor funds were recovered.

### **SEC vs. Concord Capital Enterprises**

The Firm reconstructed records, prepared detailed accountings, and assisted in the recovery of funds in this \$20 million Ponzi scheme with over 300 investors. Accounting records were either never maintained or were destroyed by Concord. Transactions for a two-year period had to be reconstructed to prepare an accounting of Concord's cash receipts, disbursements and investor transactions. We identified funds invested by and paid to each investor, prepared transaction statements for each investor, verified and reconciled account balances to investor records, and processed allowed claims. Additionally, our accounting identified recipients of funds, assets acquired by Concord and other sources of recovery for the benefit of creditors.

### **Hawaii Attorney General (Bennett) vs. HGEA, UPW, ET AL**

The Firm was retained by the Attorney General of the State of Hawaii to assist in the prosecution of a complaint against the Hawaii Government Employees Association and the United Public Workers, two of the largest labor unions in Hawaii, for recovery of funds paid to these unions by the state to cover state employee health benefits under programs provided by the unions. We performed detailed forensic accounting of over \$350 million paid to these unions over a nine-year period and prepared a comprehensive report of its findings.

### **Tomko Ltd. - Receivership**

As accountant to Receiver, Mr. Landau investigated the ownership structure, assets and operations of this real estate holding company and conducted a forensic accounting of cash receipts and disbursements, related party transactions, leases, rent, CAM fees, bad-debt expense, partnership distributions, intercompany transfers, etc. of Tomko's three primary real property assets and issued a summary report on financial transactions identifying potential losses and damages.

### **Cesare Vietina v. Security Pacific Associates, Inc. et al. – Case No. BC721060**

Mr. Landau provided forensic accounting services and issued an evidentiary report of findings in this case involving Madeo Ristorante, Madu, Inc. and related parties. Causes of action included involuntary dissolution, fraud, and contract dispute. Mr. Landau's forensic accounting report was used by appraisers as a basis for a subsequent valuation and derivative claim analysis.

### **Damo Textile, Inc. – Receivership**

As accountant to the Receiver of this women's clothing company, Mr. Landau provided general accounting and tax services. Work involved reconstructing the books and records in order to prepare amended tax returns. The amended returns resulted in net operating loss carryback and subsequent tax refunds in excess of \$500,000.

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### **Claremont, California Assisted Living Facility – Receivership**

As accountant to the Receiver, Mr. Landau conducted a review of facility operations to assist in establishing the financial and operational management and reporting systems necessary to restore solvency, prepared necessary tax returns, prepared financial projections and monthly operating budgets, including strategic planning to increase revenue and decrease operating expenses, assisted in securing PPP loan funding, and was instrumental in providing ongoing financial and operational consulting.

### **Chemoil Corporation v. Apex Fuels, LLC**

The Firm was engaged by the Receiver to provide forensic accounting, tax, and consulting services in this case involving a receivership of a gasoline and diesel fuel distribution company.

### **Valley Farm Supply, Inc.**

As accountant to the Chapter 7 Trustee, Mr. Landau provided comprehensive tax and forensic accounting services. Work involved preference and insider fraudulent transfer analyses. As a result of this analysis, the recovered funds led to a significant distribution to the creditors in this case.

### **Adal Referee Matter**

Retained by the Court Appointed Referee, Mr. Landau provided accounting, tax, and consulting services to assist him in fulfilling his fiduciary duties of managing 5 rental properties and partitioning them by sale.

### **Bistro Garden at Coldwater, Inc.**

As accountant to the Debtor and Debtor-in-Possession in this Chapter 11 case that was precipitated by a lease dispute between the Debtor and its landlord, Mr. Landau performed extensive forensic accounting and analysis to resolve the dispute and reinstate the lease agreement. Work involved efforts to achieve financial and management control over Debtor's operations, profitability and cash flow, monitoring of operations and preservation of excess cash flow for lease arrearage payments, as well as analysis and reconciliation of lease disputes with landlord to resolve lease arrearages and cure payment amounts and terms. Resultant of this work, the Debtor, through its attorney, negotiated a revised lease agreement and settlement with its landlord. The Firm's operations oversight and financial management of Debtor resulted in its reorganization and a Court-approved Plan of Reorganization.

### **Bay Area Financial**

This long-standing commercial finance business suffered problems with its loan portfolios during the 2008-2011 economic downturn and filed a Chapter 11 bankruptcy. The Firm was employed as debtor's financial advisor and accountants during the Chapter 11 case, and Samuel Biggs was designated the Liquidating Agent under the plan of liquidation to liquidate the real property, the loan portfolio, and other residual assets. Mr. Landau prepared financial schedules and analyses for the disclosure statement and plan, analyzed and verified claims, oversaw preparation of U.S. Trustee Monthly Operating Reports, managed creditor distributions, and prepared tax returns.

### **Cobe Chemicals**

As accountants to the Trustee in this Chapter 11 case through its conversion to Chapter 7, the Firm provided comprehensive tax, forensic accounting, investigative and advisory services through the sale and transition of operations to the purchaser of debtor's assets. Work involved preference and insider fraudulent transfer analyses, extensive tax preparation (payroll, sales & use, property, income), preparation of Monthly Operating Reports, and management of the cessation of operations, including handling accounts payable and accounts receivable collections to facilitate the transition to the new owner.

### **Continental Coin Corporation**

The Firm was engaged in this Chapter 11 case through its confirmed Plan of Liquidation. Mr. Landau prepared all of the necessary pre- and post-plan confirmation accounting, including Monthly Operating Reports, Post Confirmation Status Reports, and tax returns. Work was also performed to analyze and verify claims, prepare an accounting and schedule of distributions, and prepare and file necessary payroll tax returns, W-2s, 1099s and other required tax forms for wage and vendor claims.

### **Faries Bankruptcy Estate**



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Mr. Landau performed instrumental tax work to recover nearly \$1 million in tax refunds resulting from the carryback of NOL tax attributes. This case involved analysis of 8 years of IRS account transcripts to offset IRS claims against refunds due the Estate. The Trustee successfully recovered approximately \$973,000 in tax refunds as a result of our work. We additionally provided the Trustee substantiation to object to the FTB's \$300,000 secured claim, with the objection upheld by the bankruptcy court.

#### **AOKI Pacific Corporation**

The Debtor in this case was a wholly owned subsidiary of a Japanese company with interests in numerous construction companies and joint ventures, many of which were involved in ongoing, active construction projects. Tax work was extremely complex, involving accounting for foreign entities and compliance with IRS special tax reporting requirements for U.S. corporations owned by foreign entities.

