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5 *Receiver*

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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COMMODITY FUTURES TRADING
13 COMMISSION,

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Plaintiff,

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v.

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DENARI CAPITAL LLC, TRAVIS
CAPSON, and ARNAB SARKAR,

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Defendants,

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Case No. 19-cv-07284-EMC

**DECLARATION OF KATHY BAZOIAN
PHELPS IN SUPPORT OF FIFTH
ADMINISTRATIVE MOTION FOR AN
ORDER PURSUANT TO LOCAL RULE 7-11
FOR THE APPROVAL OF FEES AND
EXPENSES FOR RECEIVER, DIAMOND
MCCARTHY LLP, AND MILLER KAPLAN
ARASE LLP THROUGH MARCH 31, 2021**

Date: No Hearing Set
Time: No Hearing Set
Judge: Edward M. Chen

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1 I, Kathy Bazoian Phelps, declare:

2 1. Pursuant to this Court’s Revised Order Appointing Receiver, entered on February 28,
3 2019, I was appointed as the successor receiver (“Receiver”) in this case. I am also an attorney duly
4 licensed to practice in the State of California and am senior counsel at the firm of Diamond
5 McCarthy LLP (“Diamond McCarthy”). I have personal knowledge of the matters set forth below
6 and if called as a witness, I would and could testify competently to the matters stated herein.

7 2. This declaration is made in support of the Fifth Administrative Motion for an Order
8 Pursuant to Local Rule 7-11 for the Approval of Fees and Expenses for the Receiver, Diamond
9 McCarthy LLP, and Miller Kaplan Arase through March 31, 2021 (“Motion”).

10 3. Attached hereto as Exhibit “1” is a financial summary of the Receivership Estate for
11 the first quarter 2021, as of March 31, 2021. The financial summary sets forth the cash on hand in
12 the estate.

13 4. Pursuant to my proposal for my appointment, and in recognition of the efficiencies and
14 benefits to the Receivership Estate in my role as Receiver that I can also address legal issues, I
15 have divided my time to date between the following billing categories:

- 16 Case Administration (B110)
- 17 Fee Applications (B160)
- 18 Plan and Disclosure Statement (B320)

19 5. The detailed time entries reflecting the time spent in each of these categories is
20 attached hereto as Exhibit “2.”

21 6. My standard hourly rate is \$675.00, but I have discounted my hourly rate to \$475.00.

22 Case Administration

23 7. With respect to Case Administration, I performed 5.10 hours of services for total fees
24 of \$1,968.50 from January 1, 2021 through March 31, 2021 (the “Motion Period”).

25 8. Since my appointment, I have worked efficiently and economically to move this case
26 forward. During the Motion Period, I have taken actions to manage the administration of the case,
27 including issues dealing with financial reporting, document management, tax returns, and banking.
28 I managed the funds of the Receivership Estate and handled banking and the accounts at East West

1 Bank.

2 9. During the Motion Period, I have continued to communicate with investors who had
3 inquiries on a number of matters including the status of the case and the Receivership Estate,
4 claims, and distribution issues, maintained the website I created for them to easily access necessary
5 information related to the case and their claims. I was in regular communication with the CFTC by
6 email and telephone as well as the Receivership Defendants and their counsel concerning the case.

7 Plan and Disclosure Statement

8 10. With respect to Plan and Disclosure Statement Administration/Plan Implementation, I
9 performed 2.90 hours of services for total fees of \$1,377.50.

10 11. During the Motion Period, I also had regular communications with the URHG
11 counterparties in an effort to obtain the Receivership's interest in the Sparks property as a result of
12 the URHG Settlement approved by this Court. (Doc. No. 80.) My collection efforts are ongoing.

13 12. I also communicated with the president of National Gold regarding questions he had
14 concerning the distribution of National Gold shares in the prior quarter.

15 Fee Applications

16 13. With respect to the Fee Applications, I performed 1.20 hours of services for total fees
17 of \$570.00.

18 14. During the Motion Period, I reviewed my adviser's invoices with respect to the
19 application for fees for the fourth quarter 2020.

20 * * *

21 15. I have read the Motion and the billing statements attached to my declaration. To the
22 best of my knowledge, information and belief formed after reasonable inquiry, all the fees and
23 expenses requested in the attached billing statements are true and correct.

24 16. The fees that I and my staff have charged are reasonable, necessary, and commensurate
25 with the skill and experience required for the activity performed. I respectfully submit that neither I
26 nor my staff has expended time unnecessarily and that I have rendered efficient and effective
27 services.

28 17. I have conferred with counsel for the CFTC and counsel for the Defendants, and I am

1 advised that they do not oppose the Motion.

2 I declare under penalty of perjury that the foregoing is true and correct. Executed on this
3 15th day of April, 2021 at Los Angeles, California.

4 /s/ Kathy Bazoian Phelps
5 Kathy Bazoian Phelps

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EXHIBIT 1

Receivership Estate of Denari Capital LLC
1st Quarter 2021 - Cash Receipts and Disbursements

Checking #0102

Date	Notes	Deposits	Withdrawals	Balance
1/1/2021	Opening Balance			\$250,020.17
1/4/2021	transfer from ICS	\$47,361.83		\$297,382.00
1/4/2021	First interim distribution (check 1018)		\$46,250.00	\$251,132.00
1/4/2021	First interim distribution (check 1021)		\$1,132.00	\$250,000.00
1/6/2021	transfer from ICS	\$88,860.00		\$338,860.00
1/6/2021	First interim distribution (check 1019)		\$88,860.00	\$250,000.00
1/31/2021	interest	\$20.17		\$250,020.17
2/1/2021	transfer to ICS		\$20.17	\$250,000.00
2/22/2021	transfer from ICS	\$44,344.34		\$294,344.34
2/22/2021	Receiver Fees (check 1022)		\$15,019.00	\$279,325.34
2/22/2021	Receiver costs (check 1023)		\$616.34	\$278,709.00
2/22/2021	Schinner Shain Fees (check 1024)		\$250.00	\$278,459.00
2/22/2021	Miller Kaplan Fees (check 1025)		\$2,379.00	\$276,080.00
2/22/2021	Diamond McCarthy Fees (check 1026)		\$26,080.00	\$250,000.00
2/28/2021	interest	\$18.22		\$250,018.22
3/1/2021	transfer to ICS		\$18.22	\$250,000.00
3/31/2021	interest	\$20.17		\$250,020.17
3/31/2021	Ending Balance			\$250,020.17

ICS Cash Sweep Account #0102

		Deposits	Withdrawals	Balance
1/1/2021	Opening balance			\$233,926.87
1/4/2021	transfer to checking (distributions)		\$47,361.83	\$186,565.04
1/6/2021	transfer to checking (distributions)		\$88,860.00	\$97,705.04
1/29/2021	Interest	\$5.13		\$97,710.17
2/1/2021	deposit from checking (interest)	\$20.17		\$97,730.34
2/22/2021	transfer to checking (fees)		\$44,344.34	\$53,386.00
2/26/2021	Interest	\$3.38		\$53,389.38
3/2/2021	deposit from checking (interest)	\$18.22		\$53,407.60
3/31/2021	Interest	\$2.24		\$53,409.84
3/31/2021	Ending Balance			\$53,409.84

Sarkar Account 0116

Date	Notes	Deposits	Withdrawals	Balance
1/1/2021	Opening balance			\$2,998.54
1/31/2021	interest	\$0.12		\$2,998.66
2/28/2021	interest	\$0.10		\$2,998.76
3/31/2021	Interest	\$0.11		\$2,998.87
3/31/2021	Ending Balance			\$2,998.87

Capson Account #0109

Date	Notes	Deposits	Withdrawals	Balance
1/1/2021	Opening balance			\$16,058.31
1/31/2021	interest	\$0.61		\$16,058.92
2/28/2021	interest	\$0.56		\$16,059.48
3/31/2021	Interest	\$0.61		\$16,060.09
3/31/2021	Ending Balance			\$16,060.09

Cash Position of Receivership Estate of Denari Capital LLC
As of March 31, 2021

Cash

Checking		\$250,020.17
ICS Account		\$53,409.84
Sarkar Account		\$2,998.87
Capson Account		\$16,060.09
	Subtotal	\$322,488.97

EXHIBIT 2

Kathy Bazoian Phelps, Receivership for Denari
1st Q 2021

Case Administration

Acct Date	Attorney	Task Code	Hours	Rate	Amount	Descr
01-05-2021	48 - KBP	B110	0.5	475	237.50	Download and review bank statements, send to counsel and accountant.
01-05-2021	48 - KBP	B110	0.7	475	332.50	Draft email to accountant, provide financial information for tax returns.
01-14-2021	48 - KBP	B110	0.3	475	142.50	Prepare exhibits for fee application.
01-14-2021	48 - KBP	B110	0.2	475	95.00	Review and approve CFTC stipulation regarding deadlines.
01-19-2021	48 - KBP	B110	0.2	475	95.00	Communication with counsel regarding cash disbursement schedule, status report.
01-29-2021	48 - KBP	B110	0.5	475	237.50	Review and verify distributions and cash distribution report.
02-04-2021	48 - KBP	B110	0.4	475	190.00	Download and review bank statements.
02-08-2021	253 - HDN	B110	0.7	145	101.50	Review K. Phelps' request to upload 6 documents to the Denari filings page; download and save filings to database; upload filings to webpage and create links; check live site for functionality and errors; correspondence to K. Phelps regarding updates.
02-08-2021	48 - KBP	B110	0.2	475	95.00	regarding updates. Manage content for website, new filings.
02-16-2021	253 - HDN	B110	0.1	145	14.50	Review K. Phelps' request to upload 1 Fee Order to the Denari filings page; download and save order to database; upload to webpage and create link; check live site for functionality and errors; correspondence to K. Phelps regarding updates.
02-16-2021	48 - KBP	B110	0.1	475	47.50	Review and respond to email from B. Walsh regarding tax returns.
02-16-2021	48 - KBP	B110	0.2	475	95.00	Review fee order, prepare checks to professionals.
02-17-2021	48 - KBP	B110	0.1	475	47.50	Review and forward 1099 from East West.
03-09-2021	48 - KBP	B110	0.1	475	47.50	Review and respond to Bank of America regarding hold on account, email to CFTC.
03-15-2021	48 - KBP	B110	0.1	475	47.50	Emails with CFTC and Bank regarding lift of hold on account.
03-24-2021	48 - KBP	B110	0.1	475	47.50	Draft email to accountants regarding tax return.
03-26-2021	48 - KBP	B110	0.2	475	95.00	Review and respond to C. Metzger regarding claims analysis.
		B110	4.7		1,968.50	
Employment Applications						
01-13-2021	48 - KBP	B160	0.1	475	47.50	Communications with counsel regarding fee application.
01-20-2021	48 - KBP	B160	0.4	475	190.00	Review and revise fee application.
01-28-2021	48 - KBP	B160	0.2	475	95.00	Communications with counsel regarding declarations and exhibits regarding fee applications.
01-29-2021	48 - KBP	B160	0.3	475	142.50	Review and finalize fee application.
02-08-2021	48 - KBP	B160	0.2	475	95.00	Review and finalize fee application.
		B160	1.2		570.00	
Plan and Disclosure Statement						
01-05-2021	48 - KBP	B320	0.1	475	47.50	Review email from J. Holt regarding status of Sparks property closing.
01-20-2021	48 - KBP	B320	0.1	475	47.50	Review email from J. Holt regarding status of closing on Sparks property.
01-28-2021	48 - KBP	B320	0.1	475	47.50	Draft memo to J. Holt regarding follow up on Sparks property.
02-01-2021	48 - KBP	B320	0.1	475	47.50	Review email from C. Metzger regarding Sparks property, case administration.
02-01-2021	48 - KBP	B320	0.1	475	47.50	Draft email to J. Holt regarding Sparks property closing status.
02-01-2021	48 - KBP	B320	0.1	475	47.50	Review and respond to email from J. Holt regarding timing of closing on Sparks property.
02-02-2021	48 - KBP	B320	0.1	475	47.50	Review email from G. Bermensolo regarding closing on Sparks property.
02-08-2021	48 - KBP	B320	0.2	475	95.00	Review email from investor regarding inquiry regarding URHG shares, review response from counsel.
02-12-2021	48 - KBP	B320	0.2	475	95.00	Telephone conference with F. Noland regarding transfers of National Gold shares.
02-12-2021	48 - KBP	B320	0.3	475	142.50	Review documentation from Frank Noland regarding question regarding transfers of National Gold.
02-16-2021	48 - KBP	B320	0.1	475	47.50	Draft email to G. Bermensolo regarding status of Sparks closing.
02-17-2021	48 - KBP	B320	0.1	475	47.50	Draft memo to counsel regarding Sparks sale, closing of case.
02-23-2021	48 - KBP	B320	0.1	475	47.50	Review email from G. Bermensolo regarding closing sale transaction.
03-01-2021	48 - KBP	B320	0.1	475	47.50	Draft memo to G. Bermensolo regarding Sparks property transaction.
03-04-2021	48 - KBP	B320	0.1	475	47.50	Draft email to G. Bermensolo regarding status of Sparks closing.
03-04-2021	48 - KBP	B320	0.1	475	47.50	Review email from G. Bermensolo regarding Sparks property financing.
03-15-2021	48 - KBP	B320	0.1	475	47.50	Draft email to G. Bermensolo regarding Sparks property.
03-16-2021	48 - KBP	B320	0.2	475	95.00	Review and respond to email from G. Bermensolo regarding Sparks property.
03-17-2021	48 - KBP	B320	0.1	475	47.50	Review and respond to email regarding status of Sparks funds.
03-18-2021	48 - KBP	B320	0.1	475	47.50	Draft follow up email to G. Bermensolo regarding Sparks.
03-29-2021	48 - KBP	B320	0.4	475	190.00	Telephone conference with National Gold lawyer regarding concerns regarding pre-receivership transfer of shares.
		B320	2.9		1,377.50	

GRAND TOTAL FEES

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3,916.00