

1 KATHY BAZOIAN PHELPS (State Bar No. 155564)
kphelps@diamondmccarthy.com
2 DIAMOND MCCARTHY LLP
3 333 S. Hope St., Suite 4050
Los Angeles, California 90071
4 Telephone: (424) 278-2330

5 *Receiver*

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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 COMMODITY FUTURES TRADING
13 COMMISSION,

14 Plaintiff,

15 v.

16 DENARI CAPITAL LLC, TRAVIS
CAPSON, and ARNAB SARKAR,

17 Defendants,
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Case No. 19-cv-07284-EMC

DECLARATION OF DAVID A. CASTLEMAN 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 DECEMBER 31, 2020

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

1 I, David A. Castleman, declare:

2 1. I am an attorney duly licensed to practice in the State of California, and a senior
3 counsel at the firm of Diamond McCarthy LLP (“Diamond McCarthy”), counsel of record for the
4 Receiver Kathy Bazoian Phelps in this case. I have personal knowledge of the matters set forth
5 below and if called as a witness, I would and could testify competently to the matters stated herein.

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

9 3. On February 4, 2020, the Court entered an order (Doc. No. 44) authorizing the
10 Receiver to employ Diamond McCarthy as the Receiver’s general counsel retroactively to
11 December 4, 2019 (“DM Employment Order”). I am the attorney principally responsible for
12 representing the Receiver. I directly supervised the professionals and staff of Diamond McCarthy
13 with respect to this representation.

14 4. In recognition of the efficiencies and benefits to the estate, Diamond McCarthy has
15 divided its time among different billing categories:

16 Case Administration

17 Asset Disposition

18 Fee Applications/Objections

19 Plan and Disclosure Statement

20 5. For the period of January 1, 2021 through March 31, 2021 (“Motion Period”),
21 Diamond McCarthy performed services in the Case Administration and Fee
22 Applications/Objections categories.

23 6. In the interests of the estate and pursuant to the DM Employment Order, Diamond
24 McCarthy has reduced its rates by 20%, and as such my customary rate of \$625.00 per hour has
25 been reduced to \$500.00 per hour, as reflected in the billing statements. Other professionals’ rates
26 were similarly discounted. These distinct billing categories enable Diamond McCarthy to monitor
27 its activities and appropriately account for the time expended. Attached hereto as Exhibit “3” are
28 true and correct copies of the billing statements itemizing the legal services provided in this case.

1 Case Administration

2 7. Diamond McCarthy performed 2.30 hours of case administration services for total fees
3 of \$1,150.00.

4 8. The Case Administration billing category includes all professional services related to
5 general representation of the Receiver in her administration of the Receivership Estate during the
6 Motion Period, primarily including assisting the Receiver in preparing the fourth quarter 2020
7 financial information.

8 Asset Disposition

9 9. Diamond McCarthy did not perform services under this billing category during the
10 Motion Period.

11 Fee Applications/Objections

12 10. Diamond McCarthy performed 3.80 hours of fee applications/objections services for
13 total fees of \$1,900.00.

14 11. During the Motion Period, Diamond McCarthy worked with the Receiver to prepare
15 and file the fourth interim fee request for the Receiver and Diamond McCarthy for the period
16 October 1, 2020 through December 31, 2020, by way of an Administrative Motion and supporting
17 declarations.

18 Plan & Disclosure Statement

19 12. Diamond McCarthy did not perform services under this billing category during the
20 Motion Period.

21 * * *

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

25 14. The fees that Diamond McCarthy has charged are reasonable, necessary, and
26 commensurate with the skill and experience required for the activity performed. Diamond
27 McCarthy's services and time expenditures are reasonable in light of the labor required for the
28 matters for which Diamond McCarthy was retained and the balancing that must be performed to

1 efficiently and effectively represent the Receiver. Diamond McCarthy respectfully submits that it
2 has not expended time unnecessarily and that it has rendered efficient and effective services.

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

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/s/ David A. Castleman

David A. Castleman

EXHIBIT 3

4/7/2021 11:16:34 AM

Diamond McCarthy LLP
Draft for Work-In-Process Through 3/31/2021

Page 1

Matter ID: 2818-00011

Draft Seq # 1

Billing Attorney: 48 - Phelps, Kathy B.

Bill Format: 9010

Counsel, of Kathy Bazoian Phelps, Receivership for
Diamond McCarthy LLP

Billing Cycle: M

1999 Avenue of The Stars, Suite 100
Los Angeles, CA 90067**Re: Case Administration-Denari****Alternate Billing Rules**

Imaging: Print images based on rules

Billing & Payment Recap

Total Billed Fees:	17,300.00	Combined Adv. Deposit Bal.:	0.00
Total Billed Costs:	0.00	Fee Adv. Deposit Bal.:	0.00
Total Billed Interest:	0.00	Cost Adv. Deposit Bal.:	0.00
Total Billed Retainer:	0.00	Trust Funds 1:	0.00
Total Collected:	17,300.00	Trust Funds 2:	0.00
Last Bill:	01/15/21 1,750.00	Trust Funds 3:	0.00
Last Payment:	02/19/21 1,750.00	Trust Funds 4:	0.00
Last Write-Off:			

WIP & A/R Aging

As of 3/31/2021	Total	Fees	Cost	Interest	Retainer	Aging			
						0-30	31-60	61-90	91+
WIP	1,150.00	1,150.00	0.00	0.00	0.00	0.00	100.00	1,050.00	0.00
A/R	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals	1,150.00	1,150.00	0.00	0.00	0.00	0.00	100.00	1,050.00	0.00

Fee Recap - Actual Hourly Rate

Timekeeper	Hours	Rate	Amount	On Hold			To Bill		
				Hours	Rate	Amount	Hours	Rate	Amount
DAC	2.30	500.00	1,150.00				2.30	500.00	1,150.00
Total WIP Fees	2.30		1,150.00				2.30		1,150.00
Total WIP			1,150.00			0.00			1,150.00

Billing Instructions

Bill Fees: _____ Write off Fees: _____ Bill Costs: _____ Write off Costs: _____
Do Not Bill: _____ Apply Advance Deposit: All _____ or Other Amount _____ Send Statement Only: _____

Fee Detail

Fee ID	Date	Atty	Description	Task:Act	Hold	Hours	Rate	Amount
758937	01/18/21	DAC	Prepare 4th Quarter financial statements; review account statements and filings regarding same.			1.60	500.00	800.00
758938	01/18/21	DAC	Revise 4th Quarter financial statements.			0.50	500.00	250.00
761880	02/08/21	DAC	Emails with claimant regarding distribution questions.			0.20	500.00	100.00

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Diamond McCarthy LLP
Draft for Work-In-Process Through 3/31/2021

Page 2

Matter ID: 2818-00011

Draft Seq # 1

Fee ID	Date	Atty	Description	Task:Act	Hold Hours	Rate	Amount
				Total Fees	2.30		1,150.00

4/7/2021 11:17:40 AM

Diamond McCarthy LLP
Draft for Work-In-Process Through 3/31/2021

Page 1

Matter ID: 2818-00017

Draft Seq # 1

Billing Attorney: 48 - Phelps, Kathy B.

Bill Format: 9010

Counsel, of Kathy Bazoian Phelps, Receivership for
Diamond McCarthy LLP

Billing Cycle: M

1999 Avenue of The Stars, Suite 100
Los Angeles, CA 90067**Re: Fee Applications/Objections-Denari****Alternate Billing Rules**

Imaging: Print images based on rules

Billing & Payment Recap

Total Billed Fees:	9,670.80	Combined Adv. Deposit Bal.:	0.00
Total Billed Costs:	0.00	Fee Adv. Deposit Bal.:	0.00
Total Billed Interest:	0.00	Cost Adv. Deposit Bal.:	0.00
Total Billed Retainer:	0.00	Trust Funds 1:	0.00
Total Collected:	9,670.80	Trust Funds 2:	0.00
Last Bill:	01/15/21 3,230.00	Trust Funds 3:	0.00
Last Payment:	02/19/21 3,230.00	Trust Funds 4:	0.00
Last Write-Off:			

WIP & A/R Aging

As of 3/31/2021	Total	Fees	Cost	Interest	Retainer	Aging			
						0-30	31-60	61-90	91+
WIP	1,900.00	1,900.00	0.00	0.00	0.00	0.00	0.00	1,900.00	0.00
A/R	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals	1,900.00	1,900.00	0.00	0.00	0.00	0.00	0.00	1,900.00	0.00

Fee Recap - Actual Hourly Rate

Timekeeper	Hours	Rate	Amount	On Hold			To Bill		
				Hours	Rate	Amount	Hours	Rate	Amount
DAC	3.80	500.00	1,900.00				3.80	500.00	1,900.00
Total WIP Fees	3.80		1,900.00				3.80		1,900.00
Total WIP			1,900.00			0.00			1,900.00

Billing Instructions

Bill Fees: _____ Write off Fees: _____ Bill Costs: _____ Write off Costs: _____
Do Not Bill: _____ Apply Advance Deposit: All _____ or Other Amount _____ Send Statement Only: _____

Fee Detail

Fee ID	Date	Atty	Description	Task:Act	Hold	Hours	Rate	Amount
758940	01/19/21	DAC	Draft fee applications for 4th Quarter and related affidavits.			3.80	500.00	1,900.00
						Total Fees	3.80	1,900.00