

RAINES FELDMAN LLP
KATHY BAZOIAN PHELPS (SBN 155564)
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1800 Avenue of the Stars, 12th Floor
Los Angeles, California 90067
Telephone: (310) 440-4100

Temporary Receiver

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

DENARI CAPITAL LLC, TRAVIS
CAPSON, and ARNAB SARKAR

Defendants.

Case No. 19-cv-07284-EC

**DECLARATION OF KATHY BAZOIAN
PHELPS IN SUPPORT OF
ADMINISTRATIVE MOTION BY
RECEIVER KATHY BAZOIAN PHELPS
PURSUANT TO LOCAL CIVIL
RULE 7-11 FOR ORDER APPROVING
SUBSTITUTION OF COUNSEL AND
EMPLOYMENT OF RAINES FELDMAN
LLP**

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

1 I, Kathy Bazoian Phelps, declare:

2 1. I am the receiver appointed by this Court as temporary receiver (the “Receiver”),
3 until further order of the Court, with the full powers of an equity receiver, for Denari Capital,
4 LLC (“Denari”), Travis Capson, and Arnab Sarkar (collectively with Denari, the “Receivership
5 Defendants”), and all of their assets, except as set forth therein.

6 2. I submit this Declaration in support of the Motion of Receiver, Kathy Bazoian
7 Phelps, for Administrative Relief for Order Approving Substitution of Counsel and Employment
8 of Raines Feldman LLP.

9 3. I have personal knowledge of the facts set forth in this Declaration, and, if called to
10 testify, could testify competently thereto.

11 4. Prior to filing this Motion, I conferred with counsel for the CFTC, and counsel for
12 the Receivership Defendants, in accordance with Local Rule 7-11. They both advised me that
13 they do not oppose the Motion.

14 5. I seek to retain Raines Feldman LLP (“Raines Feldman” or the “Firm”) as my
15 general counsel. As reflected on the first page of this Motion, Raines Feldman is the law firm at
16 which I am now employed, and I am a partner in the firm. I have recently changed law firms and
17 am now a partner at Raines Feldman.

18 6. I seek to substitute out Diamond McCarthy LLP as my counsel of record and to
19 employ the law firm of Raines Feldman as my general counsel. Diamond McCarthy and Raines
20 Feldman have both signed a Substitution of Counsel form which is attached hereto as Exhibit “1.”

21 7. In my reasonable business judgment, I have determined that, in order to perform
22 my duties and obligations as defined by this Court’s Receiver Order, I continue to require the
23 assistance of counsel. I therefore request that the Court approve the employment and
24 compensation of Raines Feldman as my general counsel, effective as of April 23, 2021.

25 8. I will continue to need the assistance of counsel to aid in the implementation of the
26 distribution plan in this case. I will need to finalize the Sparks transaction contemplated under the
27 plan, seek to make further distributions, and close out the Receivership case. I will need to make
28 further distributions which will require the assistance of counsel to address any legal issues that

1 arise in the implementation of the Plan and any legal issues that may arise.

2 9. For these reasons, and to assist me with other legal issues that may arise in the
3 administration of the receivership estate, I have determined that I continue to require counsel in
4 order to assist with my implementation of the distribution plan. David Castleman has been the
5 lawyer primarily responsible for assisting me as counsel, and he too has changed firms and joined
6 Raines Feldman. I therefore believe that Raines Feldman's employment is appropriate and in the
7 best interests of the receivership for several reasons. Mr. Castleman is not only well-qualified to
8 serve as my counsel, but he is also extremely knowledgeable about the facts of this case. This
9 change in counsel will therefore not cost the estate anything extra as there is no risk of additional
10 legal fees to learn about the case and no risk of duplication. Raines Feldman is able to act
11 immediately without waiting until its employment is confirmed, understanding and assuming the
12 attendant risks. Other counsel would have had to expend time to familiarize themselves with the
13 facts in this case.

14 10. I therefore seek the Court's approval for my employment of Raines Feldman as my
15 general counsel to advise me and represent me with regard to the implementation of the Plan and
16 related matters including those noted above.

17 11. Raines Feldman has agreed to discount its regular hourly rates in this matter and
18 will charge a maximum hourly rate for legal services of \$500.00 per hour. I anticipate primary
19 legal services will be provided by David Castleman, a partner whose regular hourly rate is \$625
20 and will be discounted to \$500 per hour. Hourly rates for other partners or associates at the firm
21 who may perform work on the matter will be discounted by 15% and their hourly rates will be
22 capped at \$500. A copy of the Firm's regular rates are attached to the Declaration of David
23 Castleman as Exhibit "2." I have conferred with the CFTC and the Defendants' counsel
24 regarding these rates and they have advised that they do not have any opposition.

25 12. To the best of my knowledge, Raines Feldman and all of its partners, associates
26 and employees are disinterested persons, and neither Raines Feldman nor any partners, associates
27 or employees of Raines Feldman are connected with the Receivership Defendants, their investors,
28 or their creditors.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 28, 2021, at Los Angeles, California.

3

Case No. 19-cv-07284-EC

DECLARATION OF KATHY BAZOIAN PHELPS IN SUPPORT OF
RECEIVER’S ADMINISTRATION MOTION TO EMPLOY PROFESSIONAL

2848108.1

EXHIBIT 1

UNITED STATES DISTRICT COURT

Northern District of California

COMMODITY FUTURES TRADING COMMISSION

CONSENT ORDER GRANTING
SUBSTITUTION OF ATTORNEY

Plaintiff (s),

V.

DENARI CAPITAL LLC, TRAVIS CAPSON, and
ARNAB SARKARCASE NUMBER: 19-cv-07284-EMC

Defendant (s),

Notice is hereby given that, subject to approval by the court, Kathy Bazoian Phelps, Receiver substitutes
(Party (s) Name)

Raines Feldman LLP, State Bar No. N/A as counsel of record in
(Name of New Attorney)

place of Diamond McCarthy LLP.


(Name of Attorney (s) Withdrawing Appearance)

Contact information for new counsel is as follows:

Firm Name: Raines Feldman LLPAddress: 1800 Avenue of the Stars, 12th Floor, Los Angeles, California 90067Telephone: 310-440-4100 Facsimile 310-691-1367E-Mail (Optional): kphelps@raineslaw.com

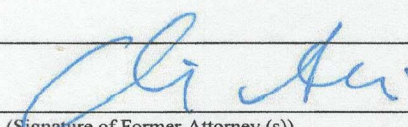
I consent to the above substitution.

Date: April 23 2021


(Signature of Party (s))

I consent to being substituted.

Date: April 21 2021


(Signature of Former Attorney (s))

I consent to the above substitution.

Date: April, 2021

(Signature of New Attorney)

The substitution of attorney is hereby approved and so ORDERED.

Date: _____

Judge

Honorable Edward M. Chen

[Note: A separate consent order of substitution must be filed by each new attorney wishing to enter an appearance.]

UNITED STATES DISTRICT COURT

Northern District of California

COMMODITY FUTURES TRADING COMMISSION

CONSENT ORDER GRANTING
SUBSTITUTION OF ATTORNEY

Plaintiff (s),

V.

DENARI CAPITAL LLC, TRAVIS CAPSON, and
ARNAB SARKARCASE NUMBER: 19-cv-07284-EMC

Defendant (s),

Notice is hereby given that, subject to approval by the court, Kathy Bazoian Phelps, Receiver substitutes
(Party (s) Name)Raines Feldman LLP, State Bar No. N/A as counsel of record in
(Name of New Attorney)place of Diamond McCarthy LLP.
(Name of Attorney (s) Withdrawing Appearance)

Contact information for new counsel is as follows:

Firm Name: Raines Feldman LLPAddress: 1800 Avenue of the Stars, 12th Floor, Los Angeles, California 90067Telephone: 310-440-4100 Facsimile 310-691-1367E-Mail (Optional): kphelps@raineslaw.com

I consent to the above substitution.

Date: April, 2021

(Signature of Party (s))

I consent to being substituted.

Date: April 21, 2021

(Signature of Former Attorney (s))

I consent to the above substitution.

Date: April, 2021

(Signature of New Attorney)

David Castleman

The substitution of attorney is hereby approved and so ORDERED.

Date: _____

Judge

Honorable Edward M. Chen

[Note: A separate consent order of substitution must be filed by each new attorney wishing to enter an appearance.]