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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-EMC

Assigned to: Hon. Edward M. Chen

**MOTION BY RECEIVER FOR
ORDER:**

**(1) APPROVING RECEIVER'S FINAL
REPORT AND ACCOUNTING;
(2) AUTHORIZING FINAL
DISTRIBUTION;
(3) BARRING FUTURE CLAIMS;
(4) AUTHORIZING PAYMENT OF
ALL ADMINISTRATIVE EXPENSES
AND PROFESSIONALS' FEES AND
COSTS;
(5) CLOSING THE RECEIVERSHIP;
(6) DISCHARGING THE RECEIVER;
AND
(7) RETAINING JURISDICTION**

Date: June 26, 2025
Time: 1:30 p.m.
Judge: Edward M. Chen

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Kathy Bazoian Phelps, receiver (the “Receiver”) for Denari Capital LLC (“Denari”), Travis Capson (“Capson”), and Arnab Sarkar (“Sarkar” and, collectively, the “Receivership Defendants”) pursuant to the November 24, 2021 Consent Order for Permanent Injunction, Restitution, and Civil Monetary Penalty (the “Consent Order”) (Dkt. No. 119), hereby files this Motion for an Order: (1) Approving the Receiver’s Final Report and Accounting; (2) Authorizing a Final Distribution; (3) Barring Future Claims; (4) Authorizing Payment of All Administrative Expenses and Professionals’ Fees and Costs; (5) Closing the Receivership; (6) Discharging the Receiver; and (7) Retaining Jurisdiction (the “Motion”). The Receiver has conferred with the Commodity Futures Trading Commission (the “CFTC”), and counsel to the Receivership Defendants who do not oppose the Motion.

I. INTRODUCTION

This Motion is filed to seek authorization to make an interim distribution and to otherwise wind up the estate, with a final distribution to be made once final tax clearance has been obtained. The Receiver therefore seeks an order to begin the process of closing the Receivership, to be finalized upon the filing of a closing declaration. The Motion seeks the following relief:

1. Approval of the Receiver’s Final Report and Accounting. The Receiver seeks approval of the accounting attached to the Receiver’s Declaration as Exhibit “1” and approval and confirmation of all actions and activities taken by or on behalf of the Receiver and all payments made by the Receiver in connection with the administration of the Receivership Estate.

2. Administration. The Receiver seeks authorization to take all steps necessary or appropriate to complete the administration of the Receivership and its assets in accordance with the relief granted in this Motion.

3. Establishment of Reserve for Closing Tasks. The Receiver seeks an order authorizing the Receiver to establish a reserve in the amount of approximately \$7,500 (the “Reserve”) and to make payments from the Reserve to the Receiver, legal and tax

professionals, any taxing authority, and any other necessary professionals or vendors in connection with those actions taken after the payment of administrative fees and expenses to wind-down and close the Receivership. Any surplus Reserve remaining after the payment of outstanding taxes, fees, and expenses shall be deemed abandoned.

4. Final Distribution. The Receiver seeks authority to make a final distribution of all Receivership assets remaining after the payment of administrative fees and expenses, and establishment of the Reserve, to be distributed *pro rata* to holders of Allowed Claims pursuant to that Order Approving Distribution Plan entered October 5, 2020 (Dkt. No. 79), which is estimated to be an additional 20.6%. In connection with the final distribution, the Receiver seeks authorization for: (a) all distribution checks issued on account of the final distribution to holders of Allowed Claims to be required to be negotiated within 90 days of the date of issuance (the “Stale Date Deadline”) and checks returned without a valid forwarding address or checks uncashed after the Stale Date Deadline to be deemed void (the “Void Distributions”); (b) the Receiver may, in her discretion, treat such Void Distributions as civil monetary penalty payments of the Receivership Defendants and turn over to the CFTC any Void Distributions pursuant to paragraph 126 of the Consent Order;¹ and (c) an order determining any Allowed Claim associated with any Void Distribution finally and forever abandoned.

5. Abandonment of Assets. The Receiver seeks an order authorizing all assets not distributed or otherwise administered by the Receiver as of the closing of the Receivership Estate to be deemed abandoned. An order further authorizing abandoned assets to be destroyed or discarded, without regard to title or value, in the sole and absolute discretion of the Receiver.²

¹ The Consent Order provides that “[in] the event that the amount of Restitution Obligation payments to the Permanent Receiver are of a *de minimis* nature such that the Permanent Receiver determines that the administrative cost of making a distribution to eligible pool participants is impractical, the Permanent Receiver may, in her discretion, treat such restitution payments as civil monetary penalty payments, which the Permanent Receiver shall forward to the CFTC following the instructions for civil monetary penalty payments.” Consent Order, ¶ 126.

² The Receiver anticipates there will be minimal assets, if any, remaining in the Receivership Estate after closing the Receivership.

1 6. Outstanding Tax Returns. The Receiver seeks authorization, by and through her
2 tax professionals, to prepare and submit any post-receivership tax returns for the Receivership
3 Entities as the Receiver deems necessary or appropriate, and payment for the Receiver's tax
4 professionals from the Reserve.

5 7. Discharge. The Receiver seeks an order discharging the Receiver and her
6 agents, employees, members, officers, independent contractors, attorneys, representatives,
7 predecessors, successors, and assignees (the "Receiver Parties"), releasing the Receiver Parties
8 from all claims and liabilities arising out of and/or pertaining to the Receivership and relieving
9 the Receiver Parties of all duties, liabilities, and responsibilities pertaining to the Receivership
10 previously established in this action, effective upon the Receiver filing a closing declaration in
11 which she attests that she has completed the final distribution as specified herein, has filed the
12 final necessary tax returns with sufficient time for a prompt assessment to be completed by the
13 Internal Revenue Service, and paid the final fees and costs of the Receivership (the "Closing
14 Declaration").

15 8. Barred Claims. The Receiver seeks an order barring any claims against the
16 Receiver and the Receivership Estate not allowed as of the filing of this Motion, including but
17 not limited to a claim by National Gold Mining Company ("National Gold"), and enjoining all
18 persons from commencing or prosecuting, without leave of the Court, any action against the
19 Receiver or her agents in connection with or arising out of the Receiver Parties' services to
20 this Court in this Receivership. The Receiver specifically seeks an order disallowing and
21 denying the National Gold Unfiled Claim and providing the Receiver with discretion without
22 further order of the Court to disallow and deny any future claim by National Gold on the basis
23 that it was filed after the Bar Date established by Order of this Court on February 6, 2020 (Dkt.
24 No. 47).

25 9. Destruction of Records. The Receiver seeks authority to abandon and destroy
26 the electronic and paper records of the Receivership Defendants and of any other corporations
27 or businesses in the Receiver's possession, custody, or control, if, within thirty days after
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1 service of written notice to the CFTC, the Receiver has not been served with a written request
2 by the CFTC for records or a subpoena by a law enforcement agency. If during such thirty-
3 day period, the Receiver is served with a written request for records by the CFTC or subpoena
4 by a law enforcement agency, the Receiver shall be authorized to turn over the original records
5 to the CFTC or a law enforcement agency in response to the request or subpoena.

6 10. Administrative Fees and Expenses. The Receiver seeks authorization of all
7 Receivership administrative fees and expenses incurred in this Receivership proceeding,
8 including the Receiver's fees and expenses and those of her professionals incurred in
9 connection with the Receivership proceeding, including those previously paid to the Receiver
10 and her counsel, all administrative expenses and the Receiver's and professionals' fees and
11 expenses incurred during the period January 1, 2024 through April 30, 2025, and all
12 administrative expenses and the Receiver's and professionals' fees and expenses incurred
13 during the period from May 1, 2025 through the closing of the Receivership Estate and the
14 discharge of the Receiver ("Final Expense Period"), described in the Final Accounting.

15 11. Jurisdiction. The Receiver seeks the Court's retention of jurisdiction for the
16 purpose of implementing and enforcing the provisions of the order on this Motion, including
17 but not limited to for the purpose of enforcing the above injunctive relief.

18 12. Closing of the Receivership. The Receiver seeks authorization to close the
19 Receivership without further order from this Court effective upon the filing of the Closing
20 Declaration.

21 The relief requested in the Motion will promote the orderly and prompt wind up of this
22 Receivership in an expeditious cost-effective manner. The relief sought is customary and
23 appropriate in closing a receivership estate.

24 **II. BACKGROUND**

25 **A. Procedural History**

26 On November 5, 2019, the CFTC filed a Complaint (Dkt. No. 1) against the
27 Receivership Defendants. On December 4, 2019, the Court appointed Kathy Bazoian Phelps
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1 as temporary receiver with full powers of an equity receiver, and directed and authorized her
2 to take full control of the Receivership Defendants and to administer the Receivership Estate.
3 (Dkt. No. 37, ¶¶ 23-29.) The Court appointed the Receiver as permanent receiver on November
4 24, 2021. (Dkt. No. 119, ¶ 121).

5 On February 6, 2020, the Court set the bar date for claims as April 6, 2020. (Dkt. No.
6 47). The Receiver received eighteen claims in the ordinary course (one of which was
7 withdrawn), plus one priority claim from the California Franchise Tax Board for \$800. The
8 total allowed claims were valued at \$3,683,082.

9 On August 27, 2020, the Receiver filed Motions for Entry of Orders approving (1) the
10 Receiver's Plan for Distribution; (2) the Sierra Gold LLC Agreement; (3) the Form
11 Agreements with Investors; (4) the Form and Manner of Notice; (5) the Settlement with United
12 Resource Holdings Group, Inc., United Milling and Refining Corp., and Springbok
13 Development LLC; (6) the Sale of Publicly Traded Shares; and (7) the Settlement of Claim
14 Asserted by Investor Gregory Capson (Dkt. Nos. 69-72). On October 5, 2020, the Court
15 granted all of these Motions (Dkt. Nos. 79-82).

16 Specifically, the Court approved the Distribution Plan (the "Plan") in this case on
17 October 5, 2020 (Dkt. No. 79). The Receiver implemented the distribution of the securities
18 soon thereafter.

19 On December 17, 2020, the Receiver filed a Motion for Entry of an Order approving
20 an interim distribution to Claimants (the "First Interim Distribution Motion"), in the amount
21 of 50% of the amount of the Claimants' cash claims (Dkt. No. 87). On December 23, the Court
22 granted the First Interim Distribution Motion. (Dkt. No. 88.) On December 24, 2020, the
23 Receiver wired funds to those claimants that requested distribution by wire transfer and sent
24 checks to those claimants that requested distribution by check. The three claimants who had
25 been sent distribution checks cashed them in early January 2021.

26 On April 21, 2021, the Receivership Estate received \$150,000.00 as a result of the
27 closing of the Sparks Property as set forth in the URHG Settlement (Dkt. No. 80).

1 In July 2021, the Receiver received from the California Franchise Tax Board a new
2 claim, dated June 30, 2021, for unpaid taxes and fees in the amount of \$1,775.96. The Receiver
3 has paid all known outstanding California state tax liability and believes that this claim has
4 now been satisfied in full.

5 On August 9, 2021, the Receiver moved the Court for an entry of an order approving a
6 second interim distribution (the “Second Interim Distribution Motion”), approving the
7 resolution of certain tax matters, and barring future claims (Dkt. No. 109). The Court granted
8 the Second Interim Distribution Motion on August 23, 2021, which instructed the Receiver to
9 distribute \$163,604.56, representing 15% of the total cash claims (Dkt. No. 112). On August
10 25, 2021, the Receiver completed the distribution by wire transfer to all but one of the
11 claimants, in the amount of \$163,264.96, and the final claimant deposited a check for \$339.60
12 on September 15, 2021. That distribution is now complete.

13 The parties reached a settlement that resolves all of the charges alleged in the
14 Complaint filed by the CFTC against the Receivership Defendants. The parties jointly
15 stipulated to the entry of a proposed Consent Order of Permanent Injunction, Civil Monetary
16 Penalty, and Other Equitable Relief, without admitting or denying the allegations of the
17 Complaint.

18 On November 24, 2021, the Court entered the Consent Order, which appointed the
19 Receiver as Permanent Receiver and granted her the full powers of a federal equity receiver,
20 and ordered the Receivership Defendants to pay, jointly and severally, (\$3,663,282.14) (the
21 “Restitution Obligation”). (Dkt. No. 119). The Consent Order required the Restitution
22 Obligation to be offset up to the full amount by any distributions made by the Receiver to
23 claimants pursuant to the Plan of Distribution (Dkt. No. 69-1), which was previously approved
24 by the Court (Dkt. No. 79). (Dkt. No. 119).

25 Pursuant to the Consent Order, the Receiver was to receive restitution payments from
26 the Receivership Defendants and make distributions as set forth in the Consent Order. (Dkt.
27 No. 119). The Receiver was to oversee the Restitution Obligation pursuant to the Consent
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1 Order and would have the discretion to determine the manner of distribution of such funds in
2 an equitable fashion to Receivership Defendants' pool participants who have made claims to
3 the Receiver, or may defer distribution until such time as the Receiver deems appropriate. (*Id.*)

4 The Receiver, however, has received no payments from the Receivership Defendants
5 toward their Restitution Obligation.

6 The Consent Order also provides for compensation for the Receiver, which will be paid
7 exclusively from the funds held by the Receiver in the Receivership Estate. (Dkt. No. 119).
8 The Receiver and all personnel she hired as previously authorized by the Court, including
9 counsel to the Receiver, remain entitled to reasonable compensation for the performance of
10 duties pursuant to the Consent Order and for the cost of actual out-of-pocket expenses incurred
11 by them for those services authorized by the Consent Order. (*Id.*)

12 The Receiver in this Motion requests permission to make a final distribution on the
13 remaining allowed cash claims.

14 **B. Securities Holdings**

15 The Plan included distribution of the Receivership's holdings of securities, which had
16 limited liquidity, as well as the cash that the Receiver was able to marshal. As set forth below,
17 the distribution of securities is complete (satisfying in excess of \$2,500,000 of the Allowed
18 Claims).

19 On October 5, 2020, the Court approved a settlement among the Receiver and United
20 Resource Holdings Group, Inc. ("URHG"), United Milling and Refining Corp., and Springbok
21 Development Inc. (the "URHG Settlement") (Dkt. No. 80). As part of the implementation of
22 the URHG Settlement, the Receiver took possession of \$56,666.83 in funds located in the
23 Wells Fargo account, Account No. xxxxxx2291, and the real estate transaction contemplated
24 in the URHG Settlement resulted in an additional \$150,000 cash payment to the Receivership
25 Estate on April 21, 2021. The Receiver was paid \$101,445.06 for the purchase of 10,144,506
26 URHG shares pursuant to the agreement approved by the Court (Dkt. No. 81). The Receiver
27 transferred the shares to the purchaser.

1 The Receivership Estate originally held 30,633,998 URHG shares in the estate. As part
2 of the Plan, the Receiver sold the shares as set forth above and distributed the remaining
3 20,489,492 shares to claimants. The Receivership Estate also directly held 157,593 shares of
4 National Gold Mining Co. (“National Gold”) and distributed those shares to a claimant
5 pursuant to the Plan. The Receivership Estate also held 348,000 shares of National Gold
6 through its interest in Sierra Gold LLC (“Sierra Gold”) and redeemed its interest in Sierra Gold
7 for those shares of National Gold. Those 348,000 shares of National Gold were then distributed
8 to claimants pursuant to the Plan. The Receiver no longer holds any securities in the estate.

9 **C. Post-Plan and Claims Bar Date Activity**

10 On April 28, 2021, the Receiver received a letter from Mark Smallhouse (the
11 “Smallhouse Letter”), counsel for National Gold, suggesting for the first time a possible claim
12 against the Receivership Estate (the “National Gold Unfiled Claim”). *See* Phelps Decl. Ex. 3.
13 The Smallhouse Letter raised several issues about various persons and entities, many of which
14 had nothing to do with the Receivership. The letter cursorily noted that National Gold had
15 “independent creditor claims against Denari Capital,” but failed to set forth the basis for such
16 claims. As set forth above, part of the administration of the estate required the disposition of
17 the estate’s position in National Gold (and, relatedly, Sierra Gold), which required the Receiver
18 to have several communications with National Gold beginning around April 2020. At no point
19 did National Gold raise that it had independent creditor claims, nor did National Gold ever file
20 an actual claim with the estate.

21 Indeed, much of the Smallhouse Letter complained about the distribution of National
22 Gold shares to a claimant and the sale of URHG shares to the purchaser. But those transfers
23 were not just approved as part of the Plan; they were each separately approved upon the
24 Receiver’s motion on notice, with no oppositions filed by National Gold or anyone else. (Dkt.
25 Nos. 81, 82.) The letter also raised issues concerning Global Gold Exchange, which has
26 nothing to do with this Receivership. Nevertheless, counsel for the Receiver replied on May
27 11, 2021, providing a claim form without any waiver to the estate’s defenses as to such claim,
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including timeliness, and setting a deadline of June 10, 2021 for the submission of this untimely assertion of a claim. *See* Phelps Decl. Ex. 4. No response has been received as of this filing. Mr. Smallhouse will be served with a copy of this Motion by email so that National Gold may have notice and an opportunity to respond if it so chooses.

D. Prior Cash Distributions

The current cash claims to the Receivership total \$1,091,497.08, of which \$546,148.54 (or 50% of the allowed claims) was distributed in the first interim distribution approved by this Court on December 23, 2021 (Dkt. No. 88), as set forth in Exhibit “2” to the Phelps Declaration. That included an \$800 claim due to the California Franchise Tax Board, which the Receiver paid in full. The first interim distribution was completed in January 2021.

The Court approved a second interim distribution on August 23, 2021 of 15% of the allowed claims, totaling \$163,604.56. (Dkt. No. 112.) The second interim distribution is also complete. The remaining cash claims of the estate total \$381,743.98.

E. Current Cash Position of Receivership

The cash on hand in the Receivership is \$255,977.58 as of April 30, 2025. There are outstanding professional fees owing of \$23,464.90, and the Receiver believes that an additional \$5,000 may be incurred through the final closing of the case. The Receiver also believes it is appropriate to hold a Reserve of approximately \$7,500 to address those fees and any unanticipated tax consequences or administrative expenses. Accordingly, the Receiver proposes below to make a final distribution of the remaining cash claims in the estate, to a cumulative distribution of approximately 85.6% for each cash claimant. Such a distribution would require a cash outlay of \$224,683.60, leaving \$7,829.08 in the estate.

III. THE RELIEF SOUGHT IN THE MOTION TO CLOSE THE RECEIVERSHIP IS APPROPRIATE AND NECESSARY

“[A] district court’s power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad.” *S.E.C. v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986). The Ninth Circuit has acknowledged

1 that “a primary purpose of equity receiverships is to promote orderly and efficient
2 administration of the estate by the district court for the benefit of creditors.” *Id.* at 1038
3 (citations omitted). Accordingly, Ninth Circuit “will generally uphold reasonable procedures
4 instituted by the district court that serve this purpose.” *Id.*

5 The Receiver has achieved exemplary results in this proceeding. At all necessary times,
6 the Receiver sought guidance and authority from the Court as to how to proceed in this
7 Receivership.

8 The relief sought in this Motion is to “promote the orderly and efficient administration
9 of the estate” as the Receiver closes the Receivership. The proposed order closing the
10 Receivership contains important provisions that are appropriate and necessary, and it is in the
11 Court’s discretion to grant the Motion in all respects.

12 **A. A Final Distribution is Appropriate**

13 The Receiver requests authority to make a final distribution to claimants as set forth in
14 Exhibit “2” to the Phelps Declaration. The Receiver seeks authorization to make a final
15 distribution of all Receivership assets remaining after the payment of administrative fees and
16 expenses, and establishment of the Reserve, to be distributed *pro rata* to holders of Allowed
17 Claims pursuant to that Order Approving Distribution Plan entered October 5, 2020 (Dkt. No.
18 79). The Receiver will request a prompt assessment for consideration of the final tax return.

19 The Receiver proposes to make a final distribution of 20.6% of the claimants’ cash
20 claims, for a total distribution of 85.6% on those claims. As set forth in Exhibit “2” to the
21 Receiver’s Declaration, such distribution will require a cash outlay of \$224,683.60, allowing
22 the estate to reserve the remaining \$7,829.08. The Receiver believes, in consultation with her
23 accountant advisors, that it is prudent to reserve these funds for future administrative expenses,
24 final taxes, and unanticipated expenses while the Receiver closes the case.

25 For the distribution, claimants have the option of receiving their funds by wire transfer
26 or by check to their last known address. In order to ensure that all funds are sent out as
27 expeditiously as possible, the Receiver proposes that claimants be given 14 days from the entry
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1 of an order on this Motion to provide the Receiver with wire instructions, otherwise the
2 Receiver will default to sending the distribution the same way it was sent for the first interim
3 distribution.

4 Any remaining funds in the Receivership will be used to pay any administrative costs
5 incurred before the Receivership is closed, and any remainder after that will be paid to the
6 CFTC.

7 **B. The Receiver's Final Report and Accounting Should be Approved**

8 The Receiver's Final Report and Accounting summarizes the cash activities of the
9 Receiver during the pendency of the Receivership case, reflecting receipts and disbursements
10 for the Receivership through March 31, 2025, and is attached as Exhibit "1" to the Phelps
11 Declaration. The Receiver is entitled to have the Court review and approve the Receiver's
12 Final Report and Accounting describing the Receiver's activities and to have the Court confirm
13 her activities during the course of the Receivership. *See 2 Clark on Receivers* § 383.1 (3d ed.
14 1992) ("A receiver's account and report is for the purpose of informing the appointing court
15 and parties interested of the receiver's stewardship. Since the receiver is the court's officer, the
16 court may at its own instance approve or disapprove the report of the receiver").

17 The Final Report and Accounting demonstrates that the Receiver prudently managed
18 the cash of the Receivership Estate, and as set forth in the Receiver's Declaration, the Receiver
19 has liquidated or distributed the noncash property of the estate. The Receiver respectfully
20 requests that the Court approve her Final Report and Accounting.

21 **C. Authorization to File Outstanding Tax Returns Should Be Given**

22 The Receiver is required to submit appropriate tax returns for each calendar year of the
23 pendency of the Receivership. The applicable statute of limitation period to determine tax
24 liability for federal income taxes is generally three years. I.R.C. § 6501(a). Internal Revenue
25 Code § 6501(d) provides an 18-month prompt assessment of federal tax liabilities for a
26 corporation in liquidation and a decedent or decedent's estate. This 18-month prompt
27 assessment also applies to a qualified settlement fund. *See* Treas. Reg. § 1.468B-2. Since a
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1 receiver may be held personally liable for unpaid federal income taxes pursuant to 31 U.S.C.
2 § 3713, it has been imperative that the estate hold a reserve to fund any unanticipated tax
3 liability.

4 The Receiver has conferred with her accountants and counsel and obtained final
5 determination of any tax obligations for the estate which will be critical to the closure of the
6 case.

7 The Receiver has worked with her accountants and counsel to determine an adequate
8 reserve pending the filing of the Receivership's final tax return and the 18-month prompt
9 assessment period. The figures set forth in this Motion represent the Receiver's business
10 judgment of how much is appropriate to distribute and how much is appropriate to adequately
11 pay current tax liability. Accordingly, the Receiver anticipates submitting necessary and
12 appropriate tax returns contemporaneously with the closure of the Receivership case, and
13 requests Court authorization to do so. The Receiver seeks authorization to file the final tax
14 returns for the Receivership, to pay all associated tax liability, and to pay her accountants a flat
15 fee of \$2,500 plus costs to prepare the final tax returns. The Receiver seeks authority to prepare
16 and submit any post-receivership tax returns, by and through her tax professionals, for the
17 Receivership Entities as the Receiver deems necessary or appropriate, and authority to pay the
18 Receiver's tax professionals from the Reserve.

19 **D. The Administrative Expenses Should Be Approved**

20 The Receiver requests approval of all Receivership administrative fees and expenses
21 incurred in this Receivership proceeding, including the Receiver's fees and expenses and those
22 of her professionals incurred in connection with the Receivership proceeding, including those
23 previously paid to the Receiver and her counsel, all administrative expenses and Receiver's
24 and professionals' fees and expenses incurred during the period January 1, 2024 through April
25 30, 2025, and all administrative expenses and Receiver's and professionals' fees and expenses
26 incurred during the period from May 1, 2025 through the closing of the Receivership Estate
27 and the discharge of the Receiver ("Final Expense Period"), described in the Final Accounting.
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The Receiver estimates that an additional \$5,000 of professionals' fees and expenses may be incurred during the Final Expense Period.

The Receiver requests approval of the following fees for the period January 1, 2024 through April 30, 2025 (the "Motion Period"):

Receiver: Fees \$4,322.50

Raines Feldman Littrell LLP ("Raines Feldman"): Fees \$11,642.40

Miller Kaplan Arase LLP ("Miller"): Fees \$7,500 (including \$2,500 for final tax return)

These fee requests are supported by the Declarations of the Receiver and Nicholas Sanchez. Fees and expenses have previously been granted as set forth in Exhibit "5" to the Receiver's Declaration.

1. The Receiver's Fee Request

As detailed in the Declaration of the Receiver, the Receiver established separate categories for services provided. The billing statements itemizing the services provided are contained in Exhibit "6" to the Receiver's Declaration. The categories and amounts are as follows:

Matter / Category	Hours	Fees
Case Administration (B110)	8.80	\$4,180.00
Asset Analysis and Recovery (B120)	0.30	\$142.50
TOTAL	9.10	\$4,322.50

Under Case Administration, the Receiver worked with her accountants on tax matters, and managed the funds of the Receivership Estate. The Receiver began preparing to close the Receivership by seeking tax guidance from her accountants and working with counsel on the draft motion to close the Receivership. The Receiver communicated with investors regarding distribution status. Under Asset Analysis and Recovery, the Receiver reviewed fund statements for interest on bank accounts.

1 **2. Raines Feldman's Fee Request**

2 As detailed in the Receiver's Declaration, Raines Feldman established separate billing
3 categories for services provided, which enabled Raines Feldman to monitor its activities and
4 appropriately account for the time expended. The billing statements itemizing the services
5 provided are attached as Exhibit "7" to the Receiver's Declaration. The categories and amounts
6 for each are as follows:

Category	Hours	Fees
Case Administration (B110)	25.60	\$10,137.60
Fee Applications/Objections (B160)	3.80	\$1,504.80
TOTAL	29.40	\$11,642.40

11 In Case Administration, Raines Feldman assisted the Receiver in analyzing various
12 issues related to the estate and prepared the cash disbursement schedule. Raines Feldman
13 worked with the Receiver on drafting the motion to close the Receivership and supporting
14 documents. In Fee Applications/Objections, Raines Feldman assisted the Receiver by
15 preparing the Ninth Interim Fee Request.

16 **3. Miller Kaplan's Fee Request**

17 As detailed in the Sanchez Declaration, Miller Kaplan was retained solely as tax
18 advisers and counsel, and created categories for general tax advice and preparation of the
19 qualified settlement fund tax forms. The billing statements itemizing the services provided are
20 contained in Exhibit "8" attached thereto. Miller Kaplan's services during the Motion Period
21 for \$5,000 included preparation and filing of the 2023 and 2024 Qualified Settlement Fund
22 Income Tax Returns. The request also includes payment of the flat fee of \$2,500 for the
23 preparation of the final tax return for the Receivership Estate.

24 **E. Discharging and Releasing the Receiver Is Appropriate**

25 The Receiver requests that the Court ratify the Receiver's actions in administering this
26 Receivership and that the Court discharge the Receiver from all liabilities and further duties
27 and responsibilities following the filing of her Closing Declaration. The Court has wide latitude
28 in supervising the Receiver and may provide for the administration of the Receivership as it

1 deems appropriate. 13 *Moore's Federal Practice* § 66.06[4][a] (3d ed. 2013); *Hardy*, 803 F.2d
2 1034.

3 As part of the proposed order, the Receiver requests that any and all claims that are not
4 asserted by lodging of a formal objection or opposition to this Motion shall forever be barred,
5 as against the Receiver Parties, and the Receivership Estate.

6 The Receiver is only aware of one potential claim, the National Gold Unfiled Claim,
7 that was raised by the Smallhouse Letter. National Gold has been aware of the Receivership
8 and has engaged in extensive dialogue with the Receiver throughout the case, beginning in
9 early 2020, to coordinate the transfer of the National Gold shares to the claimants. No claim
10 or hint of an issue or concern with the Receivership or the Receivership Entities was raised,
11 and no claim was ever asserted against the estate. Only after the transfer of National Gold
12 shares was complete did National Gold contact the Receiver in early 2021, and in the
13 Smallhouse Letter dated April 28, 2021, National Gold for the first time stated that it believed
14 it held a claim against the estate. But as no basis for a claim or amount was articulated, and
15 even though the bar date had long passed, the Receiver responded on May 11, 2021, offering
16 National Gold the opportunity to set forth the basis of any such claim, provided a claim form,
17 and set a deadline of June 10, 2021 to submit a claim, while preserving all objections including
18 to timeliness. No claim was filed, nor has any response to the Receiver's letter of May 11,
19 2021 been received. Nevertheless, out of an abundance of caution, National Gold, via counsel,
20 will be served by email with this Motion, and will have an opportunity to respond pursuant to
21 Local Rule 7-3.

22 The Receiver will respond as appropriate if any opposition is filed, but if not, the
23 Receiver respectfully submits that a bar order is appropriate as that party, or any other
24 interested party, will have had notice and an opportunity to be heard. *See, e.g., In re Heritage*
25 *Bond Litig.*, No. 02-ML-1475 DT, 2005 WL 8156234, at *6 (C.D. Cal. Mar. 15, 2005)
26 (requiring "notice and an opportunity to challenge the good faith settlement"). "The due
27 process right to be heard is met when a party is on notice of a pending matter so that he or she
28

1 can choose whether or not to contest it.” *Id.* (citing *Britz v. Dow Chemical Co.*, 73 Cal.App.4th
2 177, 183 (1999)). As such, the Receiver requests that this Court enter the Receiver’s requested
3 bar order, including the express barring of the National Gold Unfiled Claim or any future
4 claims by National Gold.

5 The Receiver further requests that, once she has completed the closing tasks including
6 the filing of the necessary tax returns, and the Receiver submits her Closing Declaration to the
7 Court regarding her completion of these final closing tasks, this Court thereafter close the
8 present Receivership case and discharge and release the Receiver Parties and relieve the
9 Receiver Parties of all duties, liabilities, and responsibilities pertaining to this Receivership.
10 Attendant to such discharge, the Court should reserve exclusive jurisdiction over any and all
11 claims that may be asserted against the Receiver and the Receiver’s professionals and
12 employees for their respective services, and all issues that were a part of the subject matter of
13 the Receivership Estate.

14 **IV. CONCLUSION**

15 For the foregoing reasons, the Receiver respectfully requests that the Court grant the
16 Motion and enter an order (1) approving the Final Report and Accounting of the Receiver; (2)
17 authorizing the Receiver to take all steps necessary or appropriate to complete the
18 administration of the Receivership and its assets in accordance with the relief granted in the
19 Motion; (3) authorizing the Receiver Parties to abandon and destroy the electronic and paper
20 records of the Receivership Entities and destroy, or otherwise dispose of, all books, records,
21 and other items related to the Receivership; (4) authorizing all assets not distributed or
22 otherwise administered by the Receiver as of the closing of the Receivership estate to be
23 deemed abandoned; (5) disallowing and denying in full the National Gold Unfiled Claim; (6)
24 discharging the Receiver upon submission of the Receiver’s Closing Declaration; (7) barring
25 all claims against the Receivership Estate and enjoining any further actions against the
26 Receiver without authorization by this Court; (8) approving all Receivership administrative
27 fees and expenses incurred in this Receivership proceeding, including for the Motion Period;
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1 (9) establishing a Reserve for closing tasks; (10) authorizing the Receiver to make a final
2 distribution to claimants as set forth above; (11) authorizing the filing of final tax returns; (12)
3 granting the Receiver authority to close the Receivership; and (12) retaining jurisdiction. The
4 Receiver requests all other appropriate relief.

5
6 Dated: May 20, 2025

RAINES FELDMAN LITTRELL LLP

7
8 By: /s/ Kathy Bazoian Phelps
9 Kathy Bazoian Phelps
Receiver