THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

UNITED STATES COMMODITY	§
FUTURES TRADING COMMISSION,	§
	§
Plaintiff,	§
	§
V.	§
	§
SENEN POUSA, INVESTMENT	§
INTELLIGENCE CORPORATION,	§
DBA PROPHETMAX MANAGED FX,	§
JOEL FRIANT, MICHAEL DILLARD, and	§
ELEVATION GROUP, INC.,	§
	§
Defendants.	§

Civil Action No. A-12-CV-0862-LY

MOTION FOR APPROVAL TO PAY EXPENSES

Guy M. Hohmann, the Court-appointed Receiver in the above-referenced ProphetMax Receivership matter and the ancillary IB Capital matter, files this Motion for Approval to Pay Expenses ("Motion") covering October 01, 2020, through October 31, 2020. The Receiver believes this Motion and brief in support demonstrate the expenses are reasonable and necessary.

I. Van Oosten Schulz de Korte Advocaten, Amsterdam, the Netherlands

Fees incurred with this firm relate to their ongoing handling of a matter before the Court of Appeal at the Hague (the "Court") complaining against a USD \$900 million settlement between ING Bank and the Dutch State. Other than awaiting a final ruling from the Court, no further activity is anticipated. It is expected that a ruling will be received which by the end of 2020. In addition, the firm, has recently made a settlement proposal to ING. The settlement offer expires on December 2, 2020. Total fees and expenses for their most recent invoice are EUR €9062.00 (USD \$10,701.19)¹.

¹XE:Convert EUR/USD (November 12, 2020). Retrieved from https://www.xe.com/currencyconverter/convert/?Amount=9%2C062&From=EUR&To=USD

II. Kinstellar

In the Receiver's previous Motion for Approval to Pay Expenses, [Dkt. # 191] the Kinstellar firm's first invoice reflected total fees and expenses for EUR 21,045.58. The Receiver received via United States Postal Service an invoice which included an additional EUR 634.95. The Receiver is including this additional fee for their most recent invoice in this Motion for Approval to Pay Expenses for EUR \in 634.95 (USD \$749.23)².

III. Munsch, Hardt

As noted above, there are ongoing settlement discussions between the Receiver and ING Bank ("ING"). ING had expressed a desire to be free of any additional claims for the conduct at issue herein if it were to enter into a settlement with the Receiver. The Receiver's U.S. counsel was retained to provide a summary of relevant Fifth Circuit case law addressing this issue. Munsch, Hardt subsequently invoiced the Receiver for \$2576.00

IV. Senior and Junior Paralegal

The senior paralegal's main focus for the month of October continued to include assisting the junior paralegal with investors with their claim questions and responding to investors that had questions via email or telephone conversations regarding the postcards the Receiver mailed in an attempt to validate their contact information. This ongoing activity is winding down. The senior paralegal also assisted the Receiver with the Status Update and Unopposed Motion to Incur and Pay Expenses and to Initiate Litigation [Dkt. #192]. The main focus of another more junior paralegal was communicating with investors that responded to the postcards the Receiver mailed. He answered their questions, validated or updated their contact information and updated the

²XE:Convert EUR/USD (November 12, 2020). Retrieved from

https://www.xe.com/currencyconverter/convert/?Amount=634.95&From=EUR&To=USD

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investor spreadsheet. He also monitored the Receivership email box daily for general investor inquiries. He updates the Facebook site and maintains the ProphetMax / IB Capital website.

The senior paralegal worked a total of 15.30 hours for the month of October; her time was invoiced at \$50.00 per hour which is one-third of her normal hourly rate for a total of \$765.00. The junior paralegal worked a total 23.5 hours from October 1, 2020, through October 31, 2020; his time was invoiced at \$30.00 per hour which is a forty percent discount to his normal hourly rate for a total of \$705.00.

PRAYER FOR RELIEF

The Receiver requests the Court enter the proposed Order filed with this Motion to approve the payment of total expenses of USD \$15,496.42 referenced above. The expenses were both reasonable and necessary for the Receiver to fulfill his Court-ordered duties.

> Respectfully submitted, GUY HOHMANN

By: <u>/s/ Guy Hohmann</u>

Guy Hohmann State Bar No. 09813100 guyh@hohmannlaw.com 114 West 7th Street Suite 1100 Austin, Texas 78701 (512) 495-1438

RECEIVER FOR THE PROPHETMAX AND IB CAPITAL RECEIVERSHIP ESTATES

CERTIFICATE OF CONFERENCE

The Receiver conferred with Timothy Mulreany, counsel for the CFTC, who stated the CFTC does not take a position on the Motion nor the relief sought herein.

<u>/s/ Guy Hohmann</u> Guy Hohmann

CERTIFICATE OF SERVICE

On November 13, 2020, I electronically submitted the foregoing document with the Clerk of the Court of the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

<u>/s/ Guy Hohmann</u> Guy Hohmann

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Civil Action No. A-12-CV-0862-LY

PROPOSED ORDER ON RECEIVER'S MOTION TO PAY FEE EXPENSES

Before the Court is the Receiver's Motion to Pay Fee Expenses (the "Motion") to

approve the payment of total expenses of USD \$15,496.42. Having considered the Motion, the

evidence presented, and arguments of counsel, if any, the Court finds the Motion should be, and

is hereby, GRANTED.

SIGNED this ______ day of ______, 2020.

LEE YEAKEL UNITED STATES DISTRICT JUDGE