

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.*

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

**RECEIVER’S MOTION FOR APPROVAL OF THIRTIETH FEE APPLICATION,  
STATUS UPDATE AND TO PAY EXPENSES AND BRIEF IN SUPPORT**

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 of Thirtieth Fee Application, Status Update and to Pay Expenses and Brief in Support (the “Motion”) covering the one-month period from April 1, 2024, through April 30, 2024, (hereinafter “the Fee Period”).

The Receiver believes this Motion and brief in support demonstrate the Receiver's fees and expenses were reasonable and necessary when considering the time period covered by the application and the results achieved by the Receiver during the Fee Period. For the Court's convenience, the Receiver will convey details at a high level to avoid duplicate reporting.

## LEGAL STANDARD

The Receiver has previously briefed the legal standards for evaluating the reasonableness and necessity of professional fees and expenses. The Court has consistently evaluated the Receiver's fee applications using the factors set forth by the Ninth Circuit in *Johnson v. Georgia*

*Highway Express, Inc.*, 488 F.2d 714, 717-19(5th Cir.1974).<sup>1</sup> The Court in the Stanford Receivership observed that this particular receivership is essentially equivalent to a Chapter 7 bankruptcy. *See* Civ. Action No. 3;09-cv-072 4, Doc. 1093 at 39 ("Ultimately, this particular receivership is the essential equivalent of a Chapter 7 bankruptcy. While a different federal statutory scheme - one that is looser and more flexible than the Bankruptcy Code-is at work, the overall purposes and objectives of the Stanford receivership track the overall purposes and objectives present in the Bankruptcy Code and a Chapter 7 proceeding."). Therefore, the factors governing the analysis of requests for professional fees and expenses incurred in the bankruptcy context are also relevant to the Court's valuation of the Receiver's fee applications.

Under 11 U.S.C. § 330(a)(3), in examining a request for fees and expenses to be awarded to an examiner, trustee under chapter 11, or other professional in the context of a bankruptcy, a court considers, in addition to the amounts involved and results obtained, "the nature, the extent, and the value of such services, taking into account all relevant factors, including (A) the time spent on such services; (B) the rates charged for such services; (C) whether the services were necessary

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<sup>1</sup> Under *Johnson*, courts consider the following factors in determining whether the time spent, services performed, expenses incurred, and hourly rates charged are reasonable and necessary: (1) the time and labor required for the litigation; (2) the novelty and complication of the issues; (3) the skill required to properly litigate the issues; (4) whether the attorney was precluded from other employment by the acceptance of this case; (5) the attorney's customary fee; (6) whether the fee is fixed or contingent; (7) whether the client or the circumstances-imposed time limitations; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorney; (10) the "undesirability" of the case; (11) the nature and length of the attorney-client relationship; and (12) awards in similar cases. *Id.* at 717-19. In applying these factors, "the district court must explain the findings and the reasons upon which the award is based. However, it is not required to address fully each of the 12 factors." *Curtis v. Bill Hanna Ford, Inc.*, 822 F.2d 549, 552 (5th Cir. 1987) (citation omitted); *see also SEC v. W.L. Moody & Co., Bankers (Unincorporated)*, 374 F. Supp. 465,480 (S.D. Tex. 1974), *aff'd*, *SEC v. W.L. Moody & Co.*, 519 F.2d 1087 (5th Cir. 1975); *SEC v. Mega. fund Corp.*, No. 3:05-CV-1328-L, 2008 WL 2839998, at \*2 (N.D. Tex. June 24, 2008); *SEC v. Ninth Ave. Coach Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973).

to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under [11 U.S.C. § 330(a)(3)]; (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under [11 U.S.C. § 330(a)(3)]." 11 U.S.C. § 330(a)(3).

#### **A. FIRST INTERIM DISTRIBUTION**

As previously reported, the Receiver completed the First Interim Distributions. Although, this Court approved time-frame is exhausted, during the beginning of this fee period, the Receiver continued to have incremental correspondence from approved Investor Claimants. The communication stemmed from investors who had not responded to the Receiver's previous emails announcing the distribution. Due to the date on the emails, the approved Investor Claimants inquired if they still qualified to receive their distribution. The four distributions ranged from \$5,228.48 to \$277.56. The Receiver authorized the distributions to be made and does not anticipate any further approved Investor Claimants contacting the Receivership regarding participating in the First Interim Distribution.

#### **B. RECEIVER'S ACTIVITIES FOR THIS FEE PERIOD**

##### **1. Slovakia - \$7.1 million**

As noted in previous reports, in early March, the City Court sitting in Bratislava ordered the Slovakian funds be transferred to the Receiver.

The Enforcement Officer indicated the bank holding the funds is raising an issue as to whether the March 23 order is valid and effective. The Receiver's Slovakian counsel certainly indicates that it is a final, effective and non-appealable order.

On April 24, 2024, the Receiver's Slovakian counsel wrote the City Court advising them of the position the bank is taking and requesting their assistance in resolving the situation. As of the filing of this update, the Receiver's Slovakian counsel has not received a reply from the City Court, in response to their April 24 letter. On May 7, 2024, the Receivers' Slovakian counsel sent a pre-suit litigation notice to the bank.

## **2. Morocco – \$ 4.87 million**

As previously reported, repatriation efforts in Morocco are focused on recovering the above amount located in bank accounts in the name of Emade Echade and Rabiaa and Essadia Moutaouakkil (the "Account Holders").

During the fee period, on April 5, 2024, the Receiver received an update stating his French counsel has been working with the Dutch Public Prosecutors Office ("DPPO") in preparing a Mutual Legal Assistance Treaty ("MLAT") request to be sent to the Moroccan Public Prosecutor.

The request will ask for the Moroccan Public Prosecutor to lift the freeze on these accounts for the sole purpose of transferring them to the receivership estate. In addition, the MLAT request will attach as an exhibit the Irrevocable Transfer Orders executed by the account holders instructing the bank to transfer the funds to the receivership estate.

Through the combined efforts of the Receiver's French and Moroccan counsel, letters were drafted and sent on April 9, 2024, by the Account Holders to Banque Centrale Populaire (bank headquarters) formally requesting the missing documents pertaining to the details of the accounts.

On April 23, 2024, the Receiver's Moroccan counsel, Mrs. Aïcha Brahma, contacted Mr Kettani, the bank's counsel, in an attempt to speed up the process of obtaining these missing documents.

In order to submit a complete file to the Moroccan Foreign Exchange Office, Receiver's Moroccan Consultant requested various documents, including:

- 1) Recent bank statements for the Account Holders bank accounts;
- 2) Requests for authorization drawn up by the bank on a standard form;
- 3) A document from the Moroccan Public Prosecutor's Office (in whatever form) showing that the Moroccan Public Prosecutor's Office agrees to ratify the irrevocable transfer orders of August 7, 2023.

The Receiver's French and Moroccan counsel are waiting for these documents in order to complete the file at the Moroccan Foreign Exchange Office.

In regard to timing, Ramadan officially ended on April 10th, 2024, during this time, it is the Receiver's understanding businesses work reduced work hours. The Official Website of the International Trade Administration recently discussed market challenges in Morocco. "The greatest barriers to doing business in Morocco include lack of transparency in government procurement, slow bureaucratic decision-making and procedures, and restrictions on pre-payments for imports prior to delivery. Companies often complain about delays in receiving government payments." <sup>2</sup> Given these challenges, the Receiver is encouraged by the progress made during this fee application.

### **C. COMMUNICATIONS WITH INVESTOR CLAIMANTS**

During this beginning of fee period, the Investor Claimants communication with the sporadic. Several investors emailed and telephoned inquiring about updates. Several investors

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<sup>2</sup> Official Website of the International Trade Administration (January 01, 2024). "Market Challenges" Retrieved May 7, 2024. <https://www.trade.gov/country-commercial-guides/morocco-market-challenges>

updated their contact details. Later in this fee period, communication became very active. The Department of Justice (“DOJ”) emailed a notice to the Investor Claimants. *See* Exhibit 1

It is not uncommon for the DOJ to email Notices to the Investor Claimants. As soon as the emails are received, the Receiver and his paralegals receive numerous telephone calls and emails inquiring about the letter. The communication ranges from what does this mean, the investors stating they want justice, inquiring what happened to the rest of the co-conspirators and/or they want to inform the Receivership about the Notice etc.,

#### **D. PARALEGALS’ ACTIVITIES FOR THIS FEE PERIOD**

In the beginning of this fee period, the paralegal’s activities were relatively quiet. As reported above, later in the month, communication spiked dramatically.

The senior paralegal reviewed and closed First Interim Distribution bookkeeping aspect of the distribution i.e. saved and printed bank statements and related records in hard and soft copy, reconciled bank statements against distributions etc.

The paralegal time also included reviewing the social media sites; he is the one of the administrators of the Receivership website, he logged onto the administrative page and reviewed updates to the site to ensure the website is up to date.

The senior paralegal’s total hours during this fee period were 22.1; her invoice totaled \$2,652.00. The paralegal’s total hours were 18.3 and his invoice totaled \$1,464.<sup>3</sup>

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<sup>3</sup> The Receiver’s paralegal invoiced 18.3 hours at \$80.00 per hour which is a 20% discount from his normal hourly rate for a total of \$1,464.00. The senior paralegal invoiced 22.1 hours at \$120.00 per hour which is a 20% discount of her normal hourly rate for a total of \$2,652.00 [Dkt. 265].

## E. ADMINISTRATIVE EXPENSES

During this fee period, The Hohmann Law Firm received invoices from Donlin Recano & Company, Inc. (the “DRC”). This Court approved distribution agent.<sup>4</sup> The DRC submitted their first quarter invoices for two matters which included a total of six invoices. The first matter included invoices pertaining to administrative fees for processing and mailing the First Interim Distribution checks to the approved Investor Claimants; their three invoices totaled \$2,158.32. The DRC’s second matter related the IRS required W-9 and MISC-1099 forms. The DRC processed the IRS W-9 form information collected by the Receivership for each Investor Claimant governed by U.S federal tax laws who received either an ING Bank Settlement Distribution and/or the First Interim Distribution. The DRC generated, e-copies as well as physical copies, mailed the completed MISC-1099 forms to the Investor Claimants and uploaded the MISC-1099 form data to the IRS’s secure portal; their three invoices totaled \$8,306.70.<sup>5</sup>

The Receivership’s accountant Ahuja & Consultants, Inc. (formerly Ahuja & Clark, PLLC) submitted invoices to the Receivership. The invoices related to 2023 tax filings which totaled \$6,641.58 and reviewing the Receivership’s initial filing for year 2014 which totaled \$412.50.

The first invoice included reviewing the Receiver’s tax obligations and tax laws for U.S.A. tax treaties with Cyprus, France, Morocco, Netherlands and Slovakia, create W-8BEN forms for the Receiver’s foreign counsel, MISC-1099 forms for the Receiver and his U.S. Counsel.

The second invoice related to the accountant reviewing the Receivership’s tax obligations for prior year tax returns to ensure the Receivership in compliance with U.S. federal tax laws.

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<sup>4</sup> March 3, 2023 [Dkt. #262]. Signed Order Receiver's Unopposed Motion for Approval of First Interim Distribution Plan and Procedure

<sup>5</sup> In instances where the Investor Claimants resided over-seas, the Receiverships paralegal emailed the e-Copies of MISC-1099, upon request.

### **CONCLUSION AND PRAYER FOR RELIEF**

The Receiver requests the Court approve his Thirtieth Fee Application for his invoice which includes time expended by the Receiver for the one-month time period between April 1, 2024, through April 30, 2024, totaling \$12,121.01 Attached as Exhibit 2 to this Motion for Approval of Thirtieth Fee Application and Brief in Support is the invoice detailing all the Receiver's time entries, during the Fee Period.

The Receiver requests the Court enter the proposed Order filed with this Motion to approve (1) the payment of interim expenses of \$4,116.00 for the invoices of his two paralegals (2) the DRC invoices totaling \$10,465.02 (3) the Receivership's accountant's invoices for Ahuja & Consultants, Inc. invoices totaling \$7,060.08. The fees and expenses for this fee period are \$33,762.11 for the Receivership Estate and IB Capital Receivership Estate during the Thirtieth Period, all of which were both reasonable and necessary for the Receiver to fulfill his Court-ordered duties.

Respectfully submitted,  
GUY HOHMANN

By: /s/ Guy Hohmann  
Guy Hohmann  
State Bar No. 09813100  
guyh@hohmannlaw.com  
114 West 7<sup>th</sup> Street  
Suite 625  
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.

/s/ Guy Hohmann

Guy Hohmann

**CERTIFICATE OF SERVICE**

May 13, 2024, 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).

/s/ Guy Hohmann

Guy Hohmann

**From:** U.S. Department of Justice - VNS <[fedemail@vns.usdoj.gov](mailto:fedemail@vns.usdoj.gov)>  
**Sent:** Monday, April 22, 2024 2:13 PM  
**To:** [REDACTED]  
**Subject:** U.S. Department of Justice - VNS - Inmate Number 50749-509

DO NOT REPLY TO THIS EMAIL.



April 22, 2024

**U.S. Department of Justice**  
Federal Bureau of Prisons  
SER - Pensacola FPC  
110 Raby Avenue  
P.O. Box 3933  
Pensacola, FL 32516  
Phone: (850) 457-1911  
Fax: (850) 458-7275

[REDACTED]  
**RE: MICHAEL DION**  
Register Number: 50749-509  
Docket Number: 21-CR-60103

Dear [REDACTED]

You have requested to receive notifications regarding MICHAEL DION, an inmate incarcerated at this facility. Notifications concerning this inmate will be provided to you through the Victim Notification System (VNS). You may obtain current information about this matter on the Internet at <https://www.notify.usdoj.gov> or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program.

You will need the following Victim Identification Number (VIN) '**6977208**' and Personal Identification Number (PIN) '**5347**' anytime you contact the Call Center and the first time you log on to VNS on the Internet. You are associated with multiple cases. You will need only this victim ID/PIN code to access all case information. If you are receiving notifications with multiple victim ID/PIN codes please contact the VNS Call Center. In addition, the first time you access the VNS Internet site you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is Saloom.

**This notice is to inform you that MICHAEL DION's release date has been changed. The inmate is now scheduled to be released on September 16, 2026. The inmate is not eligible for parole.**

You may cancel this notification at any time by calling the VNS toll-free number provided, or by submitting your cancellation request in writing to the Federal Bureau of Prisons (BOP). Also, if BOP staff initiate a notification and are unsuccessful in contacting you due to inaccurate contact information, your participation in the notification program may be canceled; therefore, it is essential that you continue to ensure your contact information in the VNS remains up-to-date.

Exhibit 1

Finally, notification will terminate when the inmate has completed service of the sentence for the crime which resulted in the notification.

If at any time you have any questions or concerns regarding this program or the offender's status, please do not hesitate to contact me at the above address or you may telephone the VNS Call Center.

Sincerely,

E. Mamula  
Unit Manager

If you do not want to receive email notifications from the Victim Notification System (VNS) please log into the VNS Web site at <https://www.notify.usdoj.gov>, select "My Information", remove your email address and click the "update" button. If you remove your email address, you will continue to receive letters from VNS except in those case which have large numbers of victims. To change your email address, select "My Information", provide a new address and click the "update" button.

If you do not want to receive any notifications in your case, select "Stop Receiving Notifications" and follow the instructions on the screen.

If you believe you have received this email in error, please contact the office listed at top of the email message.

Please note, if this is the first notification you have received from VNS you will need to wait 4-8 hours from receipt of this email before you can login to the VNS Internet site (<https://www.notify.usdoj.gov>). In addition, it will also be 4-8 hours before any documents which may have been uploaded to VNS as part of this notification are available under the "Downloads/Links" section on the Web page.

Please call the Victim Notification System (VNS) Help Desk at phone number 1-866-625-1631 for assistance and questions.



## The Hohmann Law Firm

114 West 7th Street  
625 Norwood Tower  
Austin, Texas , 78701  
Guyh@hohmannlaw.com  
www.hohmannlaw.com  
O: (512) 551-9808

## INVOICE

Number	1380
Issue Date	4/1/2024
Due Date	4/30/2024
Email	guyh@hohmannlaw.com

### Bill To:

Guy Hohmann Receiver for ProphetMax and IB Capital

114 West Seventh Street  
Suite 1100  
Austin, Texas 78701  
O: 512-495-1438

### Time Entries

Time Entries	Rate	Hours	Sub
GMH-RCVR 4/2/2024 Emails from and to Emade Echadi regarding transfer orders, email from and to my French counsel regarding MLAT request to the Moroccan Public Prosecutor's Office, outline of important points to be made in the MLAT request and email same to the Dutch Public Prosecutors Office.	\$658.75	1.80	\$1,185.75
GMH-RCVR 4/3/2024 Multiple emails from and to Nadia Deprez to counsel for the Moroccan account holders regarding execution of letters requesting account information and to the DPPO regarding attaching the irrevocable transfer orders to the MLAT request the DPPO is sending to the Moroccan Public Prosecutor's Office, prepare responsive email to Ms. Deprez.	\$658.75	0.40	\$263.50
GMH-RCVR 4/4/2024 Prepare selected portions of 29th fee application, review of Google Translate version of the Slovakian Order and email my Slovakian counsel regarding obtaining a certified translation of the Order update due to the Court and the latest communications from the Enforcement Officer, review of recent emails from my French counsel in connection with status report, email to my French counsel suggesting she communicate directly to the DPPO concerning the upcoming MLAT request to the Moroccan Public Prosecutor's Office, email my Slovakian counsel regarding translation of Slovak Order into English and status of communications between the enforcement officer and CSOB bank.	\$658.75	4.60	\$3,030.25
GMH-RCVR 4/5/2024 Review email from my French counsel to the DPPO regarding particulars of, and attachments to, their upcoming MLAT request to the Moroccan Public Prosecutor's Office, review email from my Slovakian counsel with attached Slovak Order translated into English and recent discussions between the Enforcement Officer and CSOB bank, review and revise 29th Fee Application to incorporate translated March 13, 2024 court order from the City Court of Bratislava, Slovakia.	\$658.75	2.60	\$1,712.75

Exhibit 2

Time Entries	Rate	Hours	Sub
GMH-RCVR 4/7/2024 Review of previous budget calculations for estimated legal fees, Slovakian enforcement officer's success fee, and amounts to be paid preferentially to investors who brought compensation claims in the Dutch criminal proceeding pursuant to the agreement with the DPPO in order to arrive at percentage of Slovakian funds to be distributed in the second interim distribution and conference with Ryn Hohmann regarding all of the above.	\$658.75	1.80	\$1,185.75
GMH-RCVR 4/8/2024 Review and revise 29th fee application and review recent emails from my Slovakian and Moroccan counsel regarding status of repatriation efforts, conference with Ryn Hohmann regarding same, email from and to investors regarding possible additional distributions in 2024, review and revise standard responsive emails to be sent to investors inquiring about the status of repatriation efforts and whether there will be additional distributions in 2024, review of email from my French counsel regarding my Moroccan counsel's receipt of Banque Populaire letters from the account holders.	\$658.75	3.20	\$2,108.00
GMH-RCVR 4/9/2024 Review of email from my French counsel regarding my Moroccan counsel's receipt of Banque Populaire letters from the account holders. Emails from Mike Jonk regarding DHL tracking.	\$658.75	0.30	\$197.63
GMH-RCVR 4/16/2024 Email from and to Emade Echadi and my French counsel regarding sufficiency of letters signed by the account holders and next steps.	\$658.75	0.60	\$395.25
GMH-RCVR 4/17/2024 Emails from and to my French counsel and Mr. Echade regarding persons to contact at Banque Populaire.	\$658.75	0.40	\$263.50
GMH-RCVR 4/18/2024 Review email from my Slovakian counsel and send responsive email regarding obtaining information concerning other attachment on the account and possible compromise regarding same, email to and from Michel Geurkink regarding same.	\$658.75	0.70	\$461.13
GMH-RCVR 4/23/2024 Emails from and to investors regarding recent email they received from the DOJ and review of same, emails to and from investors regarding further repatriation of funds.	\$658.75	0.40	\$263.50
GMH-RCVR 4/24/2024 Continued emails with investors regarding repatriation of Slovakian funds and possible distribution amount.	\$658.75	1.60	\$1,054.00

<b>Time Entries</b>	<b>18.40</b>	<b>\$12,121.01</b>
<b>Total</b>		

Total (USD)	\$12,121.01
Paid	\$0.00
Balance	\$12,121.01

## Terms & Conditions

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## Exhibit 2

IN 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-DEA

**ORDER GRANTING RECEIVER'S**  
**MOTION FOR APPROVAL OF THIRTIETH FEE APPLICATION AND EXPENSES**

Before the Court is the Receiver’s Motion for Approval of the Thirtieth Fee Application and Brief in Support (“Motion”), covering the one-month time period from April 1, 2024, through April 30, 2024.

Before the Court is the Receiver's Motion for Approval to Pay his Fees and Expenses of \$33,762.11 for the following:

1. Receiver's fees of \$12,121.01
2. Senior paralegal total expenses of \$2,652.00
3. Paralegal total expenses of \$1,464.00
4. Donlin Recano & Co. Inc. expenses \$10,465.02
5. Ahuja & Consultant's Inc. expenses \$7,060.08

Having considered the Motion, the evidence presented, and arguments of counsel, if any, the Court finds the time spent, services performed, hourly rates charged, and expenses incurred by

the Receiver were reasonable and necessary for the Receiver to perform his Court-ordered duties. The Court concludes the Motion should be, and is hereby, GRANTED.

It is therefore ORDERED that payment for interim fees and expenses listed above totaling \$33,762.11 for the Receiver's invoice and for services rendered to the ProphetMax Receivership Estate and IB Capital Receivership Estate during the Thirtieth Fee Period is approved.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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DAVID A. EZRA  
SENIOR UNITED STATES DISTRICT JUDGE