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12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF NEVADA**

14 SECURITIES AND EXCHANGE
COMMISSION;
15
16 Plaintiff,
17 v.
18 PROFIT CONNECT WEALTH
SERVICES, INC., JOY I. KOVAR, and
BRENT CARSON KOVAR;
19
20 Defendants.

CASE NO. 2:21-cv-01298-JAD-BNW

**MOTION TO ENJOIN PARALLEL
PROCEEDING AND FOR AN ORDER
TO SHOW CAUSE WHY SANCTIONS
FOR VIOLATION OF THE
RECEIVERSHIP ORDER SHOULD NOT
BE AWARDED**

HEARING REQUESTED

23 Geoff Winkler, as receiver of Profit Connect Wealth Services Inc. and any of its
24 subsidiaries and affiliates moves to enjoin *Jeffrey Nicholas v. Troy Sutton*, No. 5:21-
25 cv-00208-H, a case pending in the U.S. District Court for Northern District of Texas
26 by a Profit Connect investor¹ against a Profit Connect agent and affiliate seeking

27 ¹ As explained later in this brief, Jeffrey Nicholas was not only a Profit Connect
28 investor, he was a Profit Connect agent and affiliate.

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1 damages for the investor's investments in Profit Connect.² The Texas action is
2 nothing more than the investor's attempt to race the Receiver to the courthouse so
3 that the investor may recover false profits and monies that belong to the receivership
4 estate before the Receiver can. Importantly, the Texas action violates this Court's
5 Receivership Order (ECF No. 26) prohibiting anyone from suing a Profit Connect
6 agent and affiliate, such as Troy Sutton. The Texas action further violates this
7 Court's Receivership Order prohibiting anyone from interfering with the Receiver's
8 mandate to take control of Profit Connect assets, such as false profits paid to Profit
9 Connect agents and affiliates. Moreover, the Texas action violates the principle of a
10 Ponzi-scheme receivership that all defrauded investors be paid out equally.

11 Troy Sutton was a Profit Connect agent and affiliate who received false profits
12 from Profit Connect for his work. The Receiver intends to claw back such monies as
13 fraudulent transfers for the benefit of the receivership estate and *all* Profit Connect
14 investors. Any recovery Nicholas obtains from Sutton prior to that time, will come at
15 the expense of the estate and all investors. Accordingly, it is unquestionable that the
16 Texas action seeks to interfere with the Receiver's directive to "to take such action as
17 is necessary and appropriate to preserve and take control of and to prevent the
18 dissipation, concealment, or disposition of any Assets" and "to investigate and, where
19 appropriate, to institute, pursue, and prosecute all claims and causes of action of
20 whatever kind and nature that may now or hereafter exists as a result of the
21 activities of present or past employees or agents of Defendant Profit Connect."

22 As set forth below, this Court may enjoin or stay the Texas action under the
23 All Writs Act, 28 U.S.C. § 1651(a), which allows a court to issue any writ necessary
24 and appropriate in the aid of its jurisdiction. Alternatively, the Court may enjoin the
25 Texas action under its inherent equitable authority to effectuate the mandates of its
26 prior orders, including the Receivership Order (ECF No. 26). By pursuing relief

27 _____
28 ² Ex. 1, Nicholas Compl. (Texas Action).

1 outside of the receivership action, Jeffrey Nicholas has violated that order and
 2 threatened the equitable recovery of all Profit Connect investors. The Texas action
 3 must be enjoined.

4 In addition, the Court should grant the Receiver his attorneys' fees as
 5 sanctions for having had to bring this injunction motion in the first instance. As set
 6 forth below, Nicholas's violation of the Court's prohibition on investor actions against
 7 Profit Connect affiliates is clear. Nicholas cannot claim that he was unaware of
 8 Sutton's status as a Profit Connect agent and affiliate because Nicholas too was an
 9 agent and affiliate, with Sutton as his "upline" in Profit Connect's multi-level
 10 marketing structure. In an effort to avoid this motion and allow Nicholas an
 11 opportunity to comply with the Court's directives, the Receiver sent Nicholas the
 12 Receivership Order and then met and conferred with Nicholas, laid out his position,
 13 and even provided supporting case law. Nevertheless, Nicholas persisted.
 14 Accordingly, sanctions in the form of fees to mitigate dissipation of the receivership
 15 estate is warranted and appropriate.

16 MEMORANDUM OF POINTS AND AUTHORITIES

17 I. RELEVANT BACKGROUND AND FACTS

18 A. The Order Appointing the Receiver and Establishing His Powers, 19 Duties, and Directives

20 This Court entered its Receivership Order (ECF No. 26) on August 6, 2021,
 21 appointing Geoff Winkler of American Fiduciary Services as permanent receiver of
 22 Profit Connect Wealth Services, Inc. and any of its subsidiaries and affiliates.

23 The Receivership Order was the culmination of the SEC's preliminary
 24 investigation into securities-law violations by Profit Connect and its principals,
 25 Defendants Joy and Brent Kovar. The SEC's investigation uncovered that the
 26 Kovars, through Profit Connect, misappropriated investor funds into its "Wealth
 27 Builder" program, a "proprietary A[rtificial] intelligence" supercomputer that
 28

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1 purported to maximize returns while minimizing exposure to the market.³ Over the
 2 span of three years, hundreds of investors were induced to invest more than \$26
 3 million into Profit Connect’s investment programs.⁴ Profit Connect’s programs were
 4 a fraud, and the supercomputer did not exist. Instead of doing what they promised
 5 investors Profit Connect would do, the Kovars routed millions of dollars to investors
 6 in a “Ponzi-like” scheme, using new investments to pay prior investors, and
 7 misappropriated investor funds for personal use.⁵

8 The Receivership Order directs the Receiver to marshal and preserve Profit
 9 Connect assets while the SEC pursued securities-fraud claims against Profit Connect
 10 and the Kovars. As relevant here, the Receivership Order authorizes and directs the
 11 Receiver to “investigate and, where appropriate, to institute, pursue, and prosecute
 12 all claims and causes of action of whatever kind and nature that may now or
 13 hereafter exist as a result of the activities of present or past employees or agents of
 14 Defendant Profit Connect, and its subsidiaries and affiliates.”⁶

15 The Receivership Order reiterates the Receiver’s interest in litigation—
 16 including ancillary litigation—when it authorizes and directs the Receiver to
 17 “institute, compromise, adjust, appear in ... proceedings in state, federal, or foreign
 18 courts” if the Receiver deems it necessary to preserve receivership assets or carry out
 19 the receivership order.⁷ On account of that power, Receivership Order prohibits any
 20

21 ³ Compl. (ECF No. 1) at ¶ 13.

22 ⁴ The SEC’s complaint alleges that Profit Connect investors were induced to invest
 23 over \$12 million, but through his investigation, the Receiver has discovered that
 24 investments equaled more than \$26 million. See Receiver’s First Status Report (ECF
 25 No. 52, at 11–12 (“In total the Receiver identified 675 investment records containing
 26 thousands of receipts and image files and excel Wealth Services files for 518 unique
 27 investors in support of a net \$26,662,261.06 of investor inflows into Profit Connect.”)

25 ⁵ Compl (ECF No.1) at ¶¶ 1, 3.

26 ⁶ Receivership Order (ECF No. 26) at 11, § X.J.

27 ⁷ *Id.* at 11, § X.K.

28

1 investor, claimant, or other party commencing “any suit or proceeding” against Profit
2 Connect or its affiliates without first obtaining leave of this Court.⁸

3 ***B. Profit Connect Affiliate Troy Sutton and the Texas Action Against Him***

4 Troy Sutton was a Profit Connect agent and affiliate.⁹ Notably, Profit Connect
5 relied on agents and affiliates, like Sutton, to tout Profit Connect and even
6 maintained a separate website devoted to its purported “successful worldwide agents
7 and affiliates.”¹⁰ The website stated that agents and affiliates were paid up to 20%
8 for referrals and could receive additional bonuses based on factors such as the
9 number of referrals and sales volumes.¹¹ Profit Connect’s bank records reflect that
10 over \$5 million were used to pay Profit Connect promoters, such as Troy Sutton.¹²

11 On September 30, 2021, a Texas-based investor named Jeffrey Nicholas sued
12 Troy Sutton, for more than \$2 million in damages he and other investors allegedly
13 sustained as a result of their Profit Connect investments.¹³ Nicholas was also a
14 Profit Connect agent and affiliate.¹⁴ In his Texas action complaint, Nicholas alleges
15 that Sutton “recommended Profit Connect to Nicholas and others” but “[a]s a licensed
16 securities broker, Sutton knew or should have known that Profit Connect was an
17 imprudent investment.”¹⁵ Nicholas asserts claims for negligence, gross negligence,

18 ⁸ *Id.* at 12, § XIII.

19 ⁹ Ex. 2, Winkler Decl. at ¶ 4.

20 ¹⁰ Compl. (ECF No.1) at ¶ 34 (<https://profitconnect-agent.com>).

21 ¹¹ *Id.* at ¶ 35.

22 ¹² Receiver’s First Status Report (ECF No. 52), at p. 13 (“The receiver identified at
23 least 151 agents in these records and records supporting approximately \$5,436,771 in
payments made to independent contractors of Profit Connect.”)

24 ¹³ According to the Texas complaint, Sutton is pursuing not only his individual rights
25 against Nicholas but all rights that have purportedly been “assigne[d] from his fellow
Lubbock, Texas-based co-investors.”

26 ¹⁴ Ex. 2, Winkler Decl. at ¶ 5.

27 ¹⁵ Ex. 1, Nicholas Compl. at ¶¶ 7, 8.

28

1 and negligent misrepresentation arising out of Sutton's representations regarding
2 the financial viability of Profit Connect and its Wealth Builder program.¹⁶

3 **C. The Receiver's Attempt to Meet and Confer with Nicholas's Counsel**

4 On October 28, 2021, the Receiver together with his counsel, Maria Gall, Esq.,
5 met and conferred with Fernando Bustos, Esq., counsel of record for Jeffrey Nicholas,
6 and David Isaak, Esq., counsel of record for Troy Sutton.¹⁷ Ms. Gall initiated and
7 asked for the meeting to discuss the propriety of the Texas action.¹⁸ During the
8 conference, she pointed out that the Texas action violated the Receivership Order for
9 two primary reasons. First, it violated the express wording of the order restraining
10 any investor from commencing any suit against Profit Connect or its subsidiaries or
11 affiliates or from doing any act or thing whatsoever to interfere with the Receiver's
12 taking control, possession, or management of Profit Connect assets. Second, even if
13 the Texas action did not violate the express wording of the Receivership Order, it had
14 the effect of impeding the purpose of the Receivership and the Receiver's mandate to
15 marshal assets for the benefit of all investors.¹⁹

16 In response, Mr. Bustos appeared to focus on a singular issue: whether Sutton
17 considered himself a Profit Connect affiliate? Mr. Bustos directed this question to
18 Mr. Isaak (Sutton's attorney), and when Mr. Isaak stated that Sutton did not
19 consider himself a Profit Connect affiliate, Mr. Bustos abruptly cut off further
20 conversation on that subject saying that Mr. Isaak had "answered his question." Mr.
21 Bustos appeared to be satisfied that based on Mr. Isaak's position he could proceed
22 with the Texas action, despite the Receivership Order, the purpose of the

23
24 ¹⁶ *See generally id.*

25 ¹⁷ Ex. 3, Gall Decl. at ¶ 4.

26 ¹⁸ *Id.* at ¶ 5; Ex. 4, Email from Gall to Bustos, et al. (Oct. 19, 2021) (attachment
excluded).

27 ¹⁹ Ex. 3, Gall Decl. at ¶ 6.
28

1 Receivership, and the Receiver’s mandate.²⁰ Ms. Gall offered to and later circulated
 2 case law supporting the Receiver’s position, asking that Mr. Bustos consider that law
 3 and revert to her his final position by November 5, 2021, so that the parties could
 4 possibly avoid court intervention and attorneys’ fees.²¹ As of the filing of this motion,
 5 Mr. Bustos has chosen to not respond.²² Accordingly, the Receiver makes this motion
 6 to enjoin the Texas Action in an effort to protect the Receivership estate and all its
 7 investors.

8 II. ARGUMENT SUPPORTING AN INJUNCTION OF THE TEXAS ACTION

9 A. Applicable Law Under The All Writs Act and the Court’s Inherent 10 Authority To Protect the Receivership Estate and Enforce Its Own 11 Orders

12 The All Writs Act, coupled with the Court’s inherent authority to effectuate its
 13 own decrees, provide the vehicle to enjoin or stay the Texas action.²³ The U.S.
 14 Supreme Court has long recognized that the language of the All Writs Act is not
 15 limited to the issuance of writs and extends to “such commands . . . necessary . . . to
 16 prevent the frustration of orders it has previously issued.”²⁴ The Ninth Circuit
 17 echoes the Supreme Court and instructs district courts to broadly construe their
 18 powers under the All Writs Act.²⁵ At bottom, the breadth of the All Writs Act
 19 contemplates a district court’s ability to enjoin parties and non-parties from

20 ²⁰ *Id.* at ¶ 7.

21 ²¹ *Id.* at ¶ 8; Ex. 8, Email from Gall to Bustos, et al. (Oct. 28, 2021).

22 ²² Ex. 3, Gall Decl. at ¶ 9.

23 ²³ *See SEC v. Wencke*, 622 F.2d 1363, 1369, 1369 n.6 (9th Cir. 1980) (internal
 24 quotation marks omitted) (citing J.R. Farrand, *Ancillary Remedies in SEC Civil*
 25 *Suits*, 89 HARV. L. REV. 1779 (1976)).

26 ²⁴ *United States v. N.Y. Tel. Co.*, 434 U.S. 159, 172 (1977); *see also Nat’l Org. for*
 27 *Reform of Marijuana Laws v. Mullen*, 828 F.2d 536, 544 (9th Cir. 1987).

28 ²⁵ *SEC v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981) (“And, we have
 also said that a district court’s ‘powers under § 1651 should be broadly construed.’”) (quoting *Hamilton v. Nakai*, 453 F.2d 152, 157 (9th Cir. 1973), *cert. denied*, 406 U.S. 945).

1 interfering with the court’s directives.²⁶

2 A district court’s already-broad authority to enjoin competing actions under
3 the All Writs Act further expands where, as here, the Court has installed a receiver
4 at the SEC’s request. As the Ninth Circuit has long recognized, it is “especially
5 appropriate in an [SEC] action like this one that the federal courts” maintain a
6 receivership “free from interference in other court proceedings.”²⁷ This outlook is
7 consistent with a receivership’s primary purpose to protect estate property and,
8 ultimately, to return that property to the victimized investors.²⁸ Allowing a third-
9 party action to proceed against an entity under receivership would “render[]
10 meaningless” a receiver’s efforts to preserve assets in an efficient and equitable
11 manner.²⁹

12 In addition to the All Writs Act, the Court enjoys “inherent equitable
13 authority” to impose a “variety of ancillary relief measures” in SEC enforcement
14 actions.³⁰ Among these “ancillary relief measures” is the Court’s ability to enjoin
15 parties and non-parties from pursuing claims against an entity—to *include its*
16 *assets*—in receivership.³¹ The Ninth Circuit has explained that the court’s equitable

17 ²⁶ The seemingly contrary provisions of the Anti-Injunction Act, 28 U.S.C. § 2283, do
18 not affect the court’s authority to enjoin third-party actions against an entity in
19 receivership. Although the Anti-Injunction Act generally prohibits federal courts
20 from enjoining related cases in other courts, it exempts injunctions supported by an
21 “Act of Congress” and only applies to competing state-court actions. Furthermore,
22 the Ninth Circuit has clarified that the Anti-Injunction Act does not prohibit
injunctions requested by administrative agencies like the SEC who are tasked with
enforcing federal law. *Wencke*, 622 F.2d at 1368. In short, because the Receiver’s
request to enjoin the Texas action springs from an SEC enforcement action and does
not involve a state-court proceeding, the Anti-Injunction Act does not limit the court’s
broad authority.

23 ²⁷ *Wencke*, 622 F.2d at 1372.

24 ²⁸ *SEC v. Credit Bancorp, Ltd.*, 93 F. Supp. 2d 475, 476 (S.D.N.Y. 2000) (citing *SEC v.*
25 *Am. Bd. of Trade Inc.*, 830 F.2d 431, 436 (2d Cir. 1987)).

26 ²⁹ *Id.* (citations and internal quotation marks omitted).

27 ³⁰ *Wencke*, 622 F.2d at 1369.

28 ³¹ *Id.* (citing *SEC v. United Fin. Grp.*, 576 F.2d 217, 221 n.8 (9th Cir. 1978)).

1 authority to impose ancillary relief “rests *as much on its control over the property*
2 *placed in receivership* as on its jurisdiction over the parties to the securities fraud
3 action.”³²

4 This two-fold grant of authority renders the Court’s power to enforce its own
5 orders particularly broad and flexible. The relief may take several forms. For
6 instance, a court may issue a blanket prohibition on any action against the
7 receivership entity and its assets absent leave of court³³ or it may enjoin a particular
8 action against the receivership entity and its assets.³⁴ Regardless, it is settled in this
9 circuit that the Court’s inherent equitable authority provides wide latitude in
10 utilizing equitable means to effectuate its orders.³⁵

11 **B. The Texas Action Violates the Court’s Receivership Order and Invades** 12 **the Province of the Receiver**

13 Pursuant to the All Writs Act and the Court’s inherent authority to enforce its
14 own orders, the Texas action should be enjoined for at least two reasons.

15 First, the Texas Action violates the Receivership Order’s clear prohibition on
16 investor actions against Profit Connect affiliates. The Receivership Order states in
17 no uncertain terms that “except by leave of this Court, during the pendency of this
18 receivership, all ... investors ... and all other persons seeking relief of any kind, in

19 ³² *Id.* at 1369 (emphasis added).

20 ³³ *Id.*

21 ³⁴ *Credit Bancorp.*, 93 F. Supp. 2d at 477, 478.

22 ³⁵ Several other circuits have adopted the Ninth Circuit’s approach. *See SEC v.*
23 *Byers*, 609 F.3d 87, 91 (2nd Cir. 2010); *Liberte Capital Grp. v. Capwill*, 462 F.3d 543,
24 551 (6th Cir. 2006). The Sixth Circuit, for example, has held that once a court orders
25 assets into receivership, its “equitable purpose *demand*s that the court be able to
26 exercise control over claims brought against those assets.” *Liberte Capital Grp.*, 462
27 F.3d at 551 (emphasis added). The Second Circuit similarly held that anti-litigation
28 injunctions like the one requested here fall squarely within a court’s inherent
authority. *Byers*, 609 F.3d at 91 (citing *Wencke*, 622 F.2d at 1369). Citing *Wencke*,
622 F.2d at 1369, the Second Circuit recognized that if a district court cannot protect
receivership assets from competing lawsuits, it cannot effectively oversee those
assets either. *Id.*

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1 law or in equity, from Defendant Profit Connect, or its subsidiaries or affiliates ... are
 2 hereby restrained and enjoined from, directly or indirectly ... commencing,
 3 prosecuting, continuing or enforcing any suit or proceeding ... against any of them.”³⁶

4 The Texas action arises exclusively from the alleged actions of Troy Sutton in
 5 his capacity as a Profit Connect agent and affiliate.³⁷ The fact that Sutton may not
 6 today consider himself a Profit Connect agent and/or affiliate is of no import, as
 7 Sutton cannot revise indisputable history. The preliminary evidence—from Sutton
 8 himself—establishes that he, either individually and/or through Emerald Star
 9 Enterprises, Inc., was a Profit Connect agent and affiliate. For instance, on May 7,
 10 2021, Sutton wrote to Profit Connect acknowledging: “Hello, Troy Sutton here (I have
 11 my own individual *affiliate* spot with Profit Connect as Emerald Star and one with
 12 my group as Over the Ridge.)”³⁸ On that same day, Sutton sent another email to
 13 Profit Connect advising in connection with trying to sign another individual up as a
 14 Profit Connect affiliate that he would “set up the slot with my own *affiliate*
 15 number.”³⁹

16 The fact that Nicholas is using Sutton’s mere representation that he (Sutton)
 17 does not now consider himself a Profit Connect affiliate only underscores that
 18 Nicholas is trying to end-run this Court’s Receivership Order. Nicholas’s true intent
 19 in evading this Court’s Order is further betrayed by the fact that he was well aware

20
 21 ³⁶ Receivership Order (ECF No. 26) at 12, § XIII.

22 ³⁷ See Ex. 1, Nicholas Compl. at ¶ 6 (emphasis added) (“Sutton recommended on
 23 multiple occasions that [plaintiff] invest *through* Sutton in Profit Connect Wealth
 24 Services, Inc.”); *id.* ¶ 7 (alleging that Sutton recommended Profit Connect after
 performing due diligence on the investments); *id.* ¶ 8 (alleging that several investors
 relied on Sutton’s representations of Profit Connect’s financial strength to invest over
 \$2 million).

25 ³⁸ Ex. 5, Email from Sutton to Tursh and Kona (May 7, 2021, 7:50 AM) (emphasis
 26 added).

27 ³⁹ Ex. 6, Email from Sutton to Tursh and Kona (May 7, 2021, 9:15 AM) (emphasis
 28 added).

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1 that Sutton was acting as a Profit Connect agent and affiliate and how Profit
 2 Connect’s “agents and affiliates” program worked, *because Nicholas too was an agent*
 3 *and affiliate*. For instance, on April 27, 2021, Nicholas wrote to Profit Connect
 4 stating that “Troy Sutton got me set up to off[er] Profit Connect to my clients recently
 5 ... I have signed up a few people as clients ... When will those people show up on my
 6 agent portal ...? When people sign up, do they just put my name as the agent ...?”⁴⁰
 7 Simply put: there can be no reasonable dispute that the Texas action Nicholas
 8 commenced and continues to enforce against Sutton violates this Court’s order
 9 prohibiting lawsuits by investors against Profit Connect affiliates.

10 Second, even if the plain words of the Court’s prohibition on actions by
 11 investors against affiliates could be ignored (they cannot), the Texas action violates
 12 the Receivership Order’s broad prohibition on “doing any act or thing whatsoever to
 13 interfere with taking control, possession or management by the permanent receiver
 14 appointed hereunder of the property and assets, owned, controlled or managed by or
 15 in the possession of Defendant Profit Connect ... or to interfere in any manner with
 16 the discharge of the permanent receiver’s duties and responsibilities hereunder.”⁴¹

17 The Receiver’s prime directive is to “take custody, control, possession and charge of
 18 all funds, assets ... choses in action ... wherever located, of or managed by Defendant
 19 Profit Connect ... with full power to sue, foreclose, marshal, collect, receive, and take
 20 into possession all such Assets.”⁴² The Texas action fundamentally threatens the
 21 Receiver’s prime directive, including the Receiver’s ability to preserve and dispose of
 22 Profit Connect’s assets in an efficient and equitable manner.

23 Ponzi-type schemes, such as Profit Connect, create “equally innocent victims”⁴³

24 ⁴⁰ Ex. 7, Email from Nicholas to Tursh (Apr. 27, 2021).

25 ⁴¹ Receivership Order (ECF No. 26) at 12, § XIII.C.

26 ⁴² Receivership Order (ECF No. 26) at 9, § X.A.

27 ⁴³ *Cunningham v. Brown*, 265 U.S. 1, 13 (1924).

28

1 who “share equally in the fund of pooled assets in accordance with the SEC plan.”⁴⁴
2 Jeffrey Nicholas is one victim of hundreds to Profit Connect’s fraud. The Receiver is
3 tasked with working for all investors’ benefits, and to do so, he must be free to
4 marshal and preserve assets—and unwind distribution of false profits—without
5 interference from outside legal proceedings that create a race to the courthouse.
6 Indeed, allowing Jeffrey Nicholas to recover his investments through a third-party
7 action, while all other investors wait for the Receiver to facilitate a recovery, gives
8 Nicholas an improper preference.

9 Stated differently, it would be inequitable for Nicholas to cut the line and get
10 first crack at any available Profit Connect assets. At the end of the day, the Texas
11 action is a “competing action” that only serves to siphon Receivership assets by
12 robbing Peter to pay Paul. Should the Texas action proceed, the Receiver will be
13 constrained to engage in the race to courthouse by immediately initiating a
14 competing suit against Sutton, and thereby further dissipate Profit Connect assets
15 that could otherwise fund returns to all investors. The All Writs Act and the Court’s
16 inherent authority provide the mechanism to enjoin the Texas action and prevent
17 further damage to the Receivership estate and all its investors.

18 C. Nicholas Suffers No Prejudice From Waiting His Turn

19 Finally, an injunction will not prejudice Nicholas, because the Receiver
20 represents his interests pari-passu with every other Profit Connect investor. By
21 enjoining the Texas action the Court merely preserves the status quo until the
22 Receiver can marshal and distribute the remaining assets equitably to all investors.
23 In sum, an injunction will not deprive the Texas plaintiffs relief; “it merely postpones
24 that effect.”⁴⁵

25 _____
26 ⁴⁴ *SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738–39 (9th Cir. 2005) (“[T]his is a
case where ‘equality is equity.’”) (citing *Cunningham*, 265 U.S. at 13); *see also SEC v.*
George, 426 F.3d 786, 799 (6th Cir. 2005).

27 ⁴⁵ *Wencke*, 622 F.2d at 1372.
28

1 **III. ARGUMENT SUPPORTING FEES AS SANCTIONS**

2 **A. Legal Standard**

3 “If a person disobeys a specific a definite court order, he may properly be
4 adjudged in contempt.”⁴⁶ Although the court must find that the person to be held in
5 contempt had notice of the terms of the court’s order, the court need not find that
6 violations were willful or intentional.⁴⁷ If a violation is shown, the burden is then on
7 the contemnor to demonstrate why he has been unable to comply with the order.⁴⁸

8 “Judicial sanctions in civil contempt proceedings may, in a proper case, be
9 employed for either or both of two purposes: [1] to coerce the defendant into
10 compliance with the court’s order, and [2] to compensate the complainant for losses
11 sustained.”⁴⁹ “Where compensation is intended, a fine is imposed, payable to the
12 complainant. Such fine must of course be based upon evidence of complainant’s
13 actual loss, and his right, as a civil litigant, to the compensatory fine is dependent
14 upon the outcome of the basic controversy.”⁵⁰

15 Finally, the court may further require a disobedient party, its attorney, or
16 both, to pay reasonable expenses and attorneys’ fees if the failure to obey the court
17 order was without substantial justification.⁵¹

18 **B. Nicholas’s Violation of the Receivership Order and His Failure to**
19 **Suspend the Texas Action Warrant Fees**

20 As set forth more fully above, the Receiver—by his own initiative—reached out
21

22 ⁴⁶ *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th Cir. 1987).

23 ⁴⁷ *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949).

24 ⁴⁸ *F.T.C. v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999).

25 ⁴⁹ *United States v. United Mine Workers of Am.*, 330 U.S. 258, 303–04 (1947)
(citations omitted).

26 ⁵⁰ *Id.* at 304 (citations omitted).

27 ⁵¹ *Tacori Enters. v. Beverly Jewelry Co. Ltd.*, 253 F.R.D. 577, 581 (C.D. Cal. 2008).

28

1 to Nicholas through their respective counsel in an effort to avoid this Motion.⁵² The
2 Receiver’s counsel forwarded the Court’s Receivership Order to Nicholas’s counsel
3 ahead of the meet and confer, advising that it was the Receiver’s “position that your
4 lawsuit violates the attached receivership order and is otherwise interfering with the
5 receivership estate.”⁵³ Accordingly, as of at least October 19, 2021, Nicholas had
6 notice of the Court’s express directives prohibiting investors from initiating lawsuits
7 against Profit Connect affiliates, such as Sutton, and from otherwise doing anything
8 to interfere with the Receiver’s mandates.

9 Although Nicholas’s counsel participated in the meet and confer on October 28,
10 2021, Nicholas effectively spurned the Receiver’s efforts at compromise and instead
11 used the meet and confer as an opportunity to end-run the order by fixating on
12 Sutton’s revisionist and unsupported position that he was not a Profit Connect
13 affiliate.⁵⁴ As also set forth above, Nicholas knew better than to blindly accept
14 Sutton’s position because Nicholas—as a Profit Connect agent and affiliate himself
15 with Sutton as his “upline”—knew the true nature of Sutton’s relationship with
16 Profit Connect.⁵⁵ Moreover, the Receiver’s counsel provided Nicholas’s counsel with
17 case law supporting the Receiver’s position in an effort to avoid making this motion
18 and incurring attorneys’ fees on behalf of the Receivership Estate.⁵⁶ Nevertheless,
19 Nicholas persisted with the Texas action in an effort to continue his race to the
20 courthouse with the Receiver.

21 A sanction, in the form of reimbursement of Receivership fees, is especially
22

23 ⁵² Ex. 3, Gall Decl. at ¶¶ 4, 8.

24 ⁵³ Ex. 4, Email from Gall to Bustos, *et al.* (Oct. 19, 2021) (attachment to the email
excluded).

25 ⁵⁴ Ex. 3, Gall Decl. at ¶ 7.

26 ⁵⁵ Ex. 7, Email from Nicholas to Tursh (Apr. 27, 2021).

27 ⁵⁶ Ex. 3, Gall Decl. at ¶ 8; Ex. 8, Email from Gall to Bustos, *et al.* (Oct. 28, 2021).
28

1 appropriate, because if the Court enjoins the Texas action without any further
2 consequence, other investors, creditors, and third-parties may be emboldened to try
3 their hand at end-running the Receivership Order. The Receiver should be pursuing
4 his prime directive to marshal and preserve Profit Connect assets for the benefit of
5 all investors, without distraction of racing to court to enjoin parallel proceedings that
6 violate this Court's orders and invade the province of the Receivership. For these
7 reasons, an order holding Nicholas in contempt and awarding the Receiver his
8 reasonable attorneys' fees for bringing this motion is warranted.

9 **IV. CONCLUSION**

10 The Receiver respectfully requests that the Court issue an order enjoining all
11 proceedings in *Nicholas v. Sutton*, No. 5:21-cv-00208-H and directing Nicholas to
12 show cause why he should not be held in contempt of the Receivership Order and
13 ordered to pay the Receiver's his fees for making this motion.

14 Dated: November 8, 2021

15 BALLARD SPAHR LLP

16
17 By: /s/ Maria A. Gall
18 Maria A. Gall, Esq.
19 Nevada Bar No. 14200
20 1980 Festival Plaza Drive, Suite 900
21 Las Vegas, NV 89135

22 -and-

23 Kyra E. Andrassy, Esq.
24 (admitted pro hac vice)
25 SMILEY WANG-EKVALL, LLP
26 3200 Park Center Drive, Suite 250
27 Costa Mesa, California 92626

28 *Attorneys for Receiver*

BALLARD SPAHR LLP
1980 FESTIVAL PLAZA DRIVE, SUITE 900
LAS VEGAS, NEVADA 89135
(702) 471-7000 FAX (702) 471-7070

CERTIFICATE OF SERVICE

On November 8, 2021, I served the foregoing **MOTION TO ENJOIN PARALLEL PROCEEDING AND FOR AN ORDER TO SHOW CAUSE WHY SANCTIONS FOR VIOLATION OF THE RECEIVERSHIP ORDER SHOULD NOT BE AWARDED** on plaintiff Securities and Exchange Commission by electronic service and Brent and Joy Kovar by first class mail to their last known address listed below:

Plaintiff Securities and Exchange Commission:

Kathryn C. Wanner, Esq.
Teri M. Melson, Esq.
Securities and Exchange Commission
444 S. Flower Street, Suite 900
Los Angeles, California 90071
wannerk@sec.gov
melsont@sec.gov

***Pro Se* Defendants Joy I. Kovar and Brent Carson Kovar:**

Brent Kovar
Joy Kovar
7043 Calvert Cliffs Street
North Las Vegas, NV 89084

/s/ Adam Crawford
An Employee of Ballard Spahr LLP

BALLARD SPAHR LLP
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Index of Exhibits

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Exhibit 3 – Declaration of Maria Gall

Exhibit 4 – Email from Gall to Bustos (Oct. 19, 2021)

Exhibit 5 – Email from Sutton to Tursh and Kona (May 7, 2021, 7:50 AM)

Exhibit 6 – Email from Sutton to Tursh and Kona (May 7, 2021, 9:15 AM)

Exhibit 7 – Email from Nicholas to Tursh (Apr. 27, 2021)

Exhibit 8 – Email from Gall to Bustos (Oct. 28, 2021)

EXHIBIT 1

Nicholas Complaint

Case No. 5:21-cv-00208-H

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

JEFFREY NICHOLAS,

Plaintiff,

v.

TROY SUTTON

Defendant.

§
§
§
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CIVIL ACTION NO. _____

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

1. Plaintiff JEFFREY NICHOLAS (“Plaintiff” or “Nicholas”) alleges as follows against Defendant TROY SUTTON (“Sutton”), and respectfully shows the Court:

I. PARTIES

2. Plaintiff Jeffrey Nicholas is a citizen of the State of Texas, residing in Lubbock County, Texas.

3. Defendant Troy Sutton is a citizen of the State of Utah and may be served at 2365 N. 1000 E., Provo, Utah County, Utah 84604, or wherever he may be found.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because the parties are citizens of different states and the amount in controversy exceeds \$75,000.00. Venue is proper in this district under 28 U.S.C. § 1391(a) because it is a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred. This Court has personal jurisdiction over Defendant Sutton because of his significant dealings in this district pertaining to the subject matter of this lawsuit.

III. CONDITIONS PRECEDENT

5. All conditions precedent have been performed or have occurred.

IV. FACTUAL BACKGROUND

6. Beginning in 2020, Defendant Sutton recommended on multiple occasions that Nicholas invest through Sutton in Profit Connect Wealth Services, Inc. (“Profit Connect”). After performing months of due diligence on Profit Connect, in May 2021, Sutton traveled to Lubbock and attended a meeting with Nicholas and others, where he presented Profit Connect as an investment opportunity to potential investors. Three (3) months later, Sutton returned to Lubbock to inform Nicholas and other investors that his professional judgment had been wrong, and that he would do everything in his power to get their money back.

7. Profit Connect promised guaranteed annual rates of return exceeding 20% on its investments, due to a supercomputer that utilizes artificial intelligence to mine bitcoin and invest in other cryptocurrencies. In theory, this rate of return was possible owing to complex artificial intelligence models. During Sutton’s due diligence, he visited Profit Connect’s headquarters, met with Profit Connect’s owners, and gained access to Profit Connect’s confidential business records. Based upon his due diligence, he recommended Profit Connect to Nicholas and others. However, unbeknownst to Nicholas and other investors, over the course of several years, Profit Connect had used this elaborate fraudulent scheme to defraud hundreds of unsuspecting investors out of millions of dollars.

8. As a licensed securities broker, Sutton knew or should have known that Profit Connect was an imprudent investment. Notwithstanding his extensive due diligence, he continuously recommended that Nicholas and others invest in Profit Connect. Relying upon Sutton’s licensing, expertise, and due diligence, in May and June of 2021, Nicholas and many

other unsuspecting Lubbock, Texas-based investors invested in Profit Connect. In total, these investors lost more than \$2,000,000.00. As an assignee of rights from his fellow Lubbock, Texas-based co-investors, Nicholas pursues his individual claims against Sutton, as well as the claims of all other Texas investors who relied upon Sutton's professional judgment.

V. CLAIMS FOR RELIEF

A. COUNT 1 – Negligence

9. Pursuant to Federal Rule of Civil Procedure 10(c), Plaintiff re-alleges and incorporates by reference each of the allegations made above as though the allegations were fully set forth herein.

10. As a licensed securities broker, Sutton knew or should have known that Profit Connect was an imprudent investment. He also owed a duty of care to each person he recommended Profit Connect. Sutton breached his duty of care by recommending Profit Connect—an investment that was clearly too good to be true—to Nicholas and others, each of whom was injured because of Sutton's negligence.

11. Accordingly, Nicholas asserts a claim of negligence against Sutton.

B. COUNT 2 – Gross Negligence

12. Pursuant to Federal Rule of Civil Procedure 10(c), Plaintiff re-alleges and incorporates by reference each of the allegations made above as though the allegations were fully set forth herein.

13. When viewed from an objective standpoint at the time of the event, Sutton acted in a reckless manner that involved an extreme degree of risk, considering the probability and magnitude of potential harm to potential investors. Sutton had actual, subjective awareness of the

risks involved with Profit Connect, but nevertheless proceeded with conscious indifference to the safety and welfare of investors by recommending Profit Connect.

14. Accordingly, Nicholas asserts a claim of gross negligence against Sutton.

C. COUNT 3 – Negligent Misrepresentation

15. Pursuant to Federal Rule of Civil Procedure 10(c), Plaintiff re-alleges and incorporates by reference each of the allegations made above as though the allegations were fully set forth herein.

16. Sutton is a licensed securities broker. Nicholas and the other investors constitute a class of persons that Sutton intended to benefit or give investment advice to regarding Profit Connect. In the regular course of business, Sutton recommended on multiple occasions that Nicholas invest and encourage others to invest in Profit Connect. After extensive due diligence, Sutton described Profit Connect as a safe and sound investment. Despite knowledge that annual rates of return guaranteed by Profit Connect were improbable, Sutton gave Nicholas false and misleading information about the nature of the investment in Profit Connect, as well as the terms and conditions of the investment. Relying upon Sutton's representations as a licensed securities broker, Nicholas and others invested and lost more than \$2,000,000.00.

17. Accordingly, Nicholas asserts a claim of negligent misrepresentation against Sutton.

VI. PUNITIVE DAMAGES

18. Nicholas is additionally entitled to punitive damages, pursuant to Texas Civil Practice and Remedies Code Chapter 41.

VII. JURY DEMAND

19. Plaintiff requests that the Court set this case for a jury trial.

VIII. PRAYER

20. WHEREFORE, premises considered, Plaintiff respectfully requests that the Court set this case for trial and that the Court grant Plaintiff the following relief against Defendant:

1. Compensatory damages to be proven at trial;
2. Punitive damages to be proven at trial;
3. Costs of suit;
4. Pre- and post-judgment interest at the maximum rate allowed by law; and
5. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

By: /s/ Fernando M. Bustos

Fernando M. Bustos; SBN: 24001819

fbustos@bustoslawfirm.com

Matthew N. Zimmerman; SBN: 24100386

mzimmerman@bustoslawfirm.com

BUSTOS LAW FIRM, P.C.

P.O. Box 1980

Lubbock, Texas 79408-1980

(806) 780-3976

(806) 780-3800 FAX

ATTORNEYS FOR PLAINTIFF,
JEFFREY NICHOLAS

EXHIBIT 2

Declaration of Geoff Winkler

EXHIBIT 2

1 Maria A. Gall, Esq.
Nevada Bar No. 14200
2 BALLARD SPAHR LLP
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3 Las Vegas, NV 89135
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4 Fax: (702) 471-7070
gallm@ballardspahr.com

5
6 Kyra E. Andrassy, Esq.
(admitted pro hac vice)
SMILEY WANG-EKVALL, LLP
7 3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
8 Tel: (714) 445-1000
Fax: (714) 445-1002
9 kandrassy@swelawfirm.com

10 *Attorneys for Receiver*
11 *Geoff Winkler of American Fiduciary Services*

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF NEVADA**

14 **SECURITIES AND EXCHANGE**
15 **COMMISSION;**

16 Plaintiff,

17 v.

18 **PROFIT CONNECT WEALTH**
19 **SERVICES, INC., JOY I. KOVAR, and**
20 **BRENT CARSON KOVAR;**

21 Defendants.

CASE NO. 2:21-cv-01298-JAD-BNW

**GEOFF WINKLER'S DECLARATION IN
SUPPORT OF MOTION TO ENJOIN
PARALLEL PROCEEDING AND FOR
AN ORDER TO SHOW CAUSE WHY
SANCTIONS FOR VIOLATION OF THE
RECEIVERSHIP ORDER SHOULD NOT
BE AWARDED**

22
23 Geoff Winkler, as receiver of Profit Connect Wealth Services Inc. and any of its
24 subsidiaries and affiliates, declares as follows under penalty of perjury:

25 1. I am over 21 years old and am a founding member of American Fiduciary
26 Services and I am the court-appointed receiver of Profit Connect Wealth Services, Inc.
27 and any of its subsidiaries and affiliates.
28

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2. I consider myself competent to testify to the matters presented in this declaration, and I submit this declaration in support of my motion to enjoin the parallel proceeding styled *Jeffrey Nicholas v. Troy Sutton*, No. 5:21-cv-00208-H, pending in the U.S. District Court for Northern District of Texas.

3. By virtue of my position as the Receiver of Profit Connect, including based on my review and analysis of Profit Connect documents and information, I have personal knowledge of the matters stated in this declaration.

4. Troy Sutton was a Profit Connect agent and affiliate.

5. Jeffrey Nicholas was a Profit Connect agent and affiliate.

6. Attached as Exhibit 5 to the Complaint is a true and correct of an email Profit Connect received on May 7, 2021, from Troy Sutton.

7. Attached as Exhibit 6 to the Complaint is a true and correct copy of another email Profit Connect received on May 7, 2021, from Troy Sutton.

8. Attached as Exhibit 7 to the Complaint is a true and correct copy of an email Profit Connect received on April 27, 2021 from Jeffrey Nicholas.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 8, 2021

/s/ Geoff Winkler
Geoff Winkler, as Receiver of Profit Connect

EXHIBIT 3

Declaration of Maria Gall

EXHIBIT 3

1 Maria A. Gall, Esq.
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2 BALLARD SPAHR LLP
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3 Las Vegas, NV 89135
Tel: (702) 471-7000
4 Fax: (702) 471-7070
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5
6 Kyra E. Andrassy, Esq.
(admitted pro hac vice)
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7 3200 Park Center Drive, Suite 250
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8 Tel: (714) 445-1000
Fax: (714) 445-1002
9 kandrassy@swelawfirm.com

10 *Attorneys for Receiver*
11 *Geoff Winkler of American Fiduciary Services*

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF NEVADA**

14 **SECURITIES AND EXCHANGE**
15 **COMMISSION;**

16 Plaintiff,

17 v.

18 **PROFIT CONNECT WEALTH**
SERVICES, INC., JOY I. KOVAR, and
19 **BRENT CARSON KOVAR;**

20 Defendants.

CASE NO. 2:21-cv-01298-JAD-BNW

**MARIA A. GALL ESQ.'S
DECLARATION IN SUPPORT OF
MOTION TO ENJOIN PARALLEL
PROCEEDING AND FOR AN ORDER
TO SHOW CAUSE WHY SANCTIONS
FOR VIOLATION OF THE
RECEIVERSHIP ORDER SHOULD NOT
BE AWARDED**

21
22
23 Maria A. Gall, Esq. declares as follows under penalty of perjury:

24 1. I am over 21 years old and am counsel of record for Geoff Winkler, the
25 court-appointed receiver of Profit Connect Wealth Services, Inc. and any of its
26 subsidiaries and affiliates.

27 2. I consider myself competent to testify to the matters presented in this
28 declaration, and I submit this declaration in support of the Receiver's motion to enjoin

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1 the parallel proceeding styled *Jeffrey Nicholas v. Troy Sutton*, No. 5:21-cv-00208-H,
2 pending in the U.S. District Court for Northern District of Texas.

3 3. By virtue of my position as the Receiver's counsel of record, I have
4 personal knowledge of the matters stated in this declaration.

5 4. On October 28, 2021, I, together with the Receiver, met and conferred
6 with Fernando Bustos, Esq., counsel of record for Jeffrey Nicholas, and David Isaak,
7 Esq., counsel of record for Troy Sutton.

8 5. I initiated and asked for the meeting to discuss the propriety of the Texas
9 action. Attached as Exhibit 4 to the motion is a true and correct copy of an email
10 supporting the foregoing statement.

11 6. During the conference, I pointed out that the Texas action violated the
12 Receivership Order for two primary reasons. I explained that it violated the express
13 wording of the order restraining any investor from commencing any suit against Profit
14 Connect or its subsidiaries or affiliates or from doing any act or thing whatsoever to
15 interference with the Receiver's taking control, possession, or management of Profit
16 Connect assets. I then explained that even if the Texas action did not violate the
17 express wording of the Receivership Order, it had the effect of impeding the purpose
18 of the Receivership and the Receiver's mandate to marshal assets for the benefit of all
19 investors.

20 7. In response, Mr. Bustos appeared to focus on a singular issue: whether
21 Sutton considered himself a Profit Connect affiliate? Mr. Bustos directed this question
22 to Mr. Isaak (Sutton's attorney), and when Mr. Isaak stated that Sutton did not
23 consider himself a Profit Connect affiliate, Mr. Bustos abruptly cut off further
24 conversation on that subject saying that Mr. Isaak had "answered his question." In
25 my view, Mr. Bustos appeared to be satisfied that based on Mr. Isaak's position he
26 could proceed with the Texas action, despite the Receivership Order, the purpose of
27 the Receivership, and the Receiver's mandate.

28 8. I offered to and later circulated case law supporting the Receiver's

1 position, asking that Mr. Bustos consider that law and revert to her his final position
2 by November 5, 2021, so that the parties could possibly avoid court intervention and
3 attorneys' fees. Attached as Exhibit 8 to the motion is a true and correct copy of an
4 email supporting the foregoing statement.

5 9. As of the filing of this motion, Mr. Bustos has not responded.

6

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Dated: November 8, 2021

9 /s/ Maria A. Gall

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EXHIBIT 4

Email from Gall to Bustos (Oct. 19, 2021)

EXHIBIT 4

Gall, Maria A. (LV)

From: Gall, Maria A. (LV)
Sent: Tuesday, October 19, 2021 2:14 PM
To: 'fbustos@bustoslafirm.com'; 'mzimmerman@bustoslafirm.com'; dsperber@antitrust.ec
Cc: 'Kyra Andrassy'; 'Geoff Winkler'
Subject: Jeffrey Nicholas v. Troy Sutton, Case No. 5:21-cv-00208-H
Attachments: (2021-08-06 Filed) - 26 - ORDER granting [25] Stipulation DMFIRM_141757718(1).PDF

Dear Messrs. Bustos and Zimmerman.

Good afternoon. Please let introduce myself and my co-counsel, Kyra Andrassy. Kyra and I represent Geoff Winkler, the court-appointed receiver of Profit Connect Wealth Services, Inc. and any of its subsidiaries and affiliates, in the action styled *Securities and Exchange Commission v. Profit Connect Wealth Services, Inc., et al.*, Case No. 21-cv-01298-JAD-BNW, pending in the U.S. District Court for the District of Nevada. I have attached the court order appointing Mr. Winkler the receiver.

I understand you represent Jeffrey Nicholas and have filed a lawsuit against Troy Sutton on Mr. Nicholas's behalf, styled *Jeffrey Nicholas v. Troy Sutton*, Case No. 5:21-cv-00208-H, pending in the U.S. District Court for the Northern District of Texas. It is our position that your lawsuit violates the attached receivership order and is otherwise interfering with the receivership estate. We plan to file a motion to enjoin your lawsuit, but before doing so would like to meet and confer with you to see if we can reach a resolution that avoids burdening our courts.

Can you please give me some times next Wednesday, Thursday, and Friday that you are available? I have included Mr. Sutton's attorney on this e-mail in case he would like to participate.

Thank you.

Warm regards,

Maria A. Gall

Ballard Spahr
LLP

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VCARD

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EXHIBIT 5

Email from Sutton to Tursh and Kona

(May 7, 2021, 7:50 AM)

EXHIBIT 5

To: Elly Turshl [redacted] @ProfitConnect.com]; Eddie Kona [redacted] @ProfitConnect.com]
From: Troy Sutton [redacted] @hotmail.com]
Sent: Fri 5/7/2021 7:50:02 AM (UTC-07:00)
Subject: HELP! New Agent

Hello,

Troy Sutton here (I have my own individual affiliate spot with Profit Connect as Emerald Star and one with my group as Over the Ridge).

I just noticed that no new agents are being allowed to sign up. That's exciting that the website is changing and things are moving forward.

I was wondering, however, if I could get one more affiliate signed up under Over the Ridge as he just toured yesterday the data center before he flies back to Dubai tomorrow.

His conversation with Brent went *very well*, and FINALLY after months of discussion and his own investigation, he is not just willing, but excited to be an affiliate.

He is extremely well connected with royal families in the Middle East, and numerous colleagues that helped him manage sovereign wealth funds out there.

His flight back to Dubai is tomorrow! Waiting until October to sign him up when he is speaking at several financial and wealth events in Abu Dhabi and Dubai in May, June, and July will have a negative effect on his morale and productivity (not to mention my own after this long road). He is on board **totally** and looking forward to placing his own *starting* "small" \$350k deposit next week (\$100k cash and \$250k IRA rollover) and millions thereafter.

I understand I'm probably asking a lot and you can't make exceptions for everyone. But *please* make an exception for Brandon.

If he can't sign up, that's discouraging and we're finally getting the ball rolling with him (and the rest of my team). Even after driving down to Vegas on Wednesday, touring with Brent on Thursday and driving back home, I didn't know until this morning the affiliate track was temporarily closed.

Of course, thank you for your consideration. As always, your hard work is appreciated!

Troy Sutton

Brandon Rowberry is his name. His USA address is [redacted]. [redacted]@gmail.com
Bronze level and he is happy to write a check for his entire first year of membership or wire it today if necessary. He'll wire his \$100k on Monday once he sets up his own customer seat time as well as start the process for the IRA rollover.

EXHIBIT 6

Email from Sutton to Tursh and Kona

(May 7, 2021, 9:15 AM)

EXHIBIT 6

To: Elly Turshl [redacted] [redacted]@ProfitConnect.com; Eddie Kona [redacted] [redacted]@ProfitConnect.com
From: Troy Sutton [redacted] [redacted]@hotmail.com
Sent: Fri 5/7/2021 9:15:54 AM (UTC-07:00)
Subject: HELP! New Agent Brandon Rowberry!

Case 2:21-cv-01298-JAD-BNW Document 55-7 Filed 11/08/21 Page 2 of 2

Please read the other email first I sent an hour ago-ish...

He just texted me to tell me he has spoken with several family members/friends this morning who also wish to become affiliates and he is willing to pay for all 4 annual positions (\$2400) today and start gathering depositors Monday in Dubai (where he actually lives).

I understand that will reduce my override, but he and I go way back and he has offered to make at least one of those positions an LLC of which I will be a member...

Whatever, there is infinite money with his connections and multiple VIPs when those slots open up again at Profit Connect.

Can we make this happen? I don't know the names of those 3 other members (4 slots including himself) yet, but he'll get them to me today. Additionally, I am planning to attend and speak on Profit Connect's behalf with Brandon at two of those wealth events in Dubai and Abu Dhabi in June and/or July assuming he can become an affiliate now instead of October.

He is also the new CEO of one of the biggest healthcare companies in India and the Middle East called Aster DM Ltd--prior to this he worked for the Abu Dhabi Investment Authority as one of their wealth management strategists (that is the United Arab Emirates sovereign wealth fund worth nearly a trillion dollars).

Also, sidenote, he would like to see if he couldn't make a payroll deduction slot for his 18,000+ employees at Aster to put \$50/month into Profit Connect (assuming the conflict of interest is approved by the board with disclosures he would get a referral fee, if not, I'll set up the slot with my own affiliate number and he'll simply get paid for other non-connected referrals). That's just a thought, his primary objective though is referrals to a myriad of financial/wealth contacts he has maintained over the years in the Middle East and the USA.

On a different note:

Questions for Profit Connect's accountant:

Interest on the deposit seats is only taxable (i.e. 1099s sent from Profit Connect for USA citizens) when income/interest is taken out, correct? In other words, if a depositor simply leaves the compounding APR in there, Profit Connect doesn't send them a 1099 each year. Right?

Which 1099 is sent? 1099-MISC, 1099-INT?

As an LLC, a purchase of seat time qualifies as an expense for my company? Upon the ultimate return of capital, that would count as income the same way my LLC pays for marketing with the intent of making money from it?

I'm asking because I will be speaking with a large number of institutions soon that have thousands/hundreds of thousands/millions in cash sitting in CDs that they aren't using except for an occasional rainy day every few years. Their accountants will ask how to qualify the expenditure to purchase seat time (investment/cost).

Can a person combine money from their IRA LLC bank account as well as cash from a separate NON-IRA LLC bank account to get a VIP slot?

Thank you so much for your assistance!

Sincerely

Troy Sutton

EXHIBIT 7

Email from Nicholas to Tursh
(Apr. 27, 2021)

EXHIBIT 7

To: Elly Turshl [redacted]@ProfitConnect.com]
From: Jeffrey NICHOLAS [redacted]@gmail.com]
Sent: Tue 4/27/2021 12:50:44 PM (UTC-07:00)
Subject: Pending Business

Elly,
My name is Jeffrey Nicholas in Lubbock, Texas. Troy Sutton got me set up to off Profit Connect to my clients recently, and I am still learning everything. However, I have a few follow up questions he said I could email you about:

1. I have signed up a few people as clients, not in my downline but just put them in either cash type accounts or IRA's. My question is: When will those people show up on my agent portal as either pending business or business paid?
2. When people sign up, do they just put my name as the agent or is there a code I can give them so that I get credit? I have signed up Cameron Nettle, Brenda Smith, Nancy Vaughn but none of them are showing up.
3. Is there a way to track my business online for client's so that when their money is put into their account I can also see their account values, etc so I can give continuing service to them?
4. For the IRA's I have set up, we have used udirectira.com Does profit connect have any further guidance on how to get the funds into UDirect and then assigned to Profit Connect? Also, do I need to set up a different PC account to establish the IRA is coming as well?

Sorry for the litany of questions but I want to make sure my clients are taken care of and that I also get paid on this business I am bringing in.

Thank you!

Jeffrey Nicholas
[redacted] 6643 cell

EXHIBIT 8

Email from Gall to Bustos

(Oct. 28, 2021)

EXHIBIT 8

Gall, Maria A. (LV)

From: Gall, Maria A. (LV)
Sent: Thursday, October 28, 2021 3:22 PM
To: Isaak, David
Cc: Fernando Bustos; Matt Zimmerman; Kyra Andrassy; Geoff Winkler; Amy Dobberstein
Subject: RE: Jeffrey Nicholas v. Troy Sutton, Case No. 5:21-cv-00208-H

Good afternoon.

Thank you again for your time in meeting and conferring with us earlier today. I am linking to filings in another receivership for your review. There is no order that I could readily locate on the injunction motion, which I believe is because the plaintiff in the to-be-enjoined lawsuit stipulated to dismiss his case soon after briefing on the motion closed. Thank you.

<https://www.equialtreceivership.com/wp-content/uploads/2020/11/Doc-212-MOTION-for-Miscellaneous-Relief-specifically-Motion-to-Enjoin-Parallel-EquiAlt-Related-Action.pdf>

<https://www.equialtreceivership.com/wp-content/uploads/2020/11/Doc-224-MOTION-to-Stay-and-Response-to-212-MOTION-to-Enjoin-Parallel-EquiAlt-Related-Action.pdf>

Warm regards,
Maria Gall

From: Gall, Maria A. (LV) <GallM@ballardspahr.com>
Sent: Tuesday, October 19, 2021 8:55 PM
To: Isaak, David <disaak@skv.com>
Cc: Fernando Bustos <fbustos@bustoslawfirm.com>; Matt Zimmerman <MZimmerman@bustoslawfirm.com>; Kyra Andrassy <kandrassy@swelawfirm.com>; Geoff Winkler <geoff@americanfiduciaryservices.com>; Amy Dobberstein <ADobberstein@bustoslawfirm.com>
Subject: Re: Jeffrey Nicholas v. Troy Sutton, Case No. 5:21-cv-00208-H

I believe Mr. Bustos provided availability for Thursday afternoon and Friday all day. If you could provide you availability for those timeframes, we will match with ours and recirculate the invite. Thanks.

Maria Gall
BALLARD SPAHR LLP
1980 Festival Plaza Drive Suite 900
Las Vegas, Nevada 89138
702-868-7535 (office)

On Oct 19, 2021, at 8:52 PM, Isaak, David <disaak@skv.com> wrote:

⚠ EXTERNAL

I am sorry, but I have a deposition next Wednesday. Is there another day that will work for everyone?

Thanks,