

GREENBERG TRAUERIG, LLP
10845 GRIFFITH PEAK DRIVE SUITE 600, LAS VEGAS, NEVADA 89135
TELEPHONE: (702) 938-6856

1 KARA HENDRICKS, ESQ.
Nevada Bar No. 07743
2 KYLE A. EWING, ESQ.
Nevada Bar No. 014051
3 GREENBERG TRAUERIG, LLP
4 10845 Griffith Peak Drive Suite 600
Las Vegas, Nevada 89135
5 Telephone: (702) 938- 6856
6 Facsimile: (702) 792-9002
hendricksk@gtlaw.com

7 KYRA E. ANDRASSY, ESQ.
8 Admitted *Pro Hac Vice*
SMILEY WANG-EKVALL, LLP
9 3200 Park Center Drive, Suite 250
10 Costa Mesa, California 92626
Telephone: (714) 445-1000
11 Facsimile: (714) 445-1002
kandrassy@swelawfirm.com

Attorneys for Receiver
Geoff Winkler of American Fiduciary Services

12
13
14
15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 SECURITIES AND EXCHANGE
18 COMMISSION,

Plaintiff,

19 v.
20

21 PROFIT CONNECT WEALTH SERVICES,
22 INC., JOY I. KOVAR, and BRENT CARSON
KOVAR,

Defendants.
23

Case No. 2:21-cv-01298-JAD-BNW

24
25 **MOTION TO APPROVE PROVISIONAL SETTLEMENT AGREEMENT**
26 **WITH TROY SUTTON**

27 ///

28 ///

1 Geoff Winkler, the Court-appointed Receiver of Profit Connect Wealth Services, Inc.
2 (“Profit Connect”), and its subsidiaries and affiliates, files the subject motion asking this Court
3 to approve the provisional settlement agreement, dated October 10, 2023, between Profit
4 Connect, on the one hand, and Troy Sutton (“Sutton”) on the other hand (the “Provisional
5 Settlement Agreement”).

6 This Motion is based on the below memorandum of points and authorities, the exhibits
7 hereto, all papers on file, and any argument the Court may consider.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 On August 6, 2023, Geoff Winkler was appointed as permanent receiver for Profit
10 Connect and its subsidiaries and affiliates, with full powers of an equity receiver (the
11 “Appointment Order”). ECF No. 26. The Appointment Order authorizes the Receiver to
12 “institute, compromise, adjust, appear in, intervene in, or become party to such actions or
13 proceedings in state, federal, or foreign courts, which (i) the receiver deems necessary and
14 advisable to preserve or recover any Assets, or (ii) the receiver deems necessary and advisable
15 to carry out the receiver’s mandate under this Order.” ECF No. 26 at § X(k).

16 On March 27, 2023, the Receiver initiated an action in the 72nd District Court, Lubbock
17 County, Texas against Jeffrey Nicholas (“Nicholas”), Troy Sutton (“Sutton”), and Allianz Life
18 Financial Services, LLC (“Allianz”) (the “Texas State Court Action”). On April 3, 2023,
19 Defendant Nicholas removed the Texas State Court Action to the United States District Court,
20 Northern District of Texas, Lubbock, Case No. 5:23-cv-00074-C (the “Texas Lawsuit”).

21 The Texas Lawsuit followed the Receiver’s allegation that Sutton, and the other named
22 defendants, harmed Profit Connect and its investors and creditors and received payments
23 attributable to investor funds as compensation. The operative complaint in the Texas Lawsuit
24 alleges Sutton and Nicholas were two of approximately eighty-five promoters recruited by Profit
25 Connect and that from May 2018 through April 2021, more than \$3,000,000 (amounting to
26 approximately 26% of the funds from investors in Profit Connect) was used to compensate those
27 promoters. Through their promotion of Profit Connect, the Texas Lawsuit alleged Sutton and

28 ///

1 Nicholas convinced approximately forty investors to put at least \$2,112,400 into Profit Connect
2 resulting in subsequent compensation for Sutton and Nicholas.

3 Following the initiation of the Texas Lawsuit, the Receiver engaged in settlement
4 negotiations with Sutton that were largely premised on Sutton’s inability to pay any judgment
5 that might be obtained against him. On October 10, 2023, the parties executed the Provisional
6 Settlement Agreement, subject to approval by this Court. (A true and correct copy of the
7 Provisional Settlement Agreement is attached hereto as **Exhibit 1**.¹)

8 Through the Provisional Settlement Agreement, the Receiver and Sutton have agreed to
9 a mutual release of all claims in exchange for Sutton’s payment of fifteen thousand dollars
10 (\$15,000.00).² Additionally, Section 4 of the Provisional Settlement Agreement provides that
11 Sutton is required to, for as long as the Texas Lawsuit remains pending, cooperate with the
12 Receiver for Sutton’s deposition, if requested by the Receiver and to respond to any document
13 subpoena served upon him by the Receiver.

14 In the Receiver’s view, the Provisional Settlement Agreement provides value to the
15 receivership estate in that it avoids the uncertainty and expense of litigation and collection of
16 any ensuing judgment and, as a result, protects the receivership estate by enabling it to recover
17 funds believed to belong to the receivership estate without devoting further resources toward the
18 same. Sutton has provided financial records demonstrating his inability to pay a settlement
19 amount greater than the amount agreed upon.

20 ///

21 ///

22 ///

23 ///

24 ///

25 _____
26 ¹ Section 2 of the Provisional Settlement Agreement provides: “The parties agree that upon full execution
27 of this Agreement, the Receiver shall promptly seek approval for the Parties’ settlement from the
28 Receivership Court []. This Agreement will only be enforceable upon approval of the Receivership Court.
The Receiver will promptly furnish Defendant Sutton with a copy of the Receivership Court’s Order of
Approval by email. If the Receivership Court does not approve this Agreement, it shall be null and void.”

² **Exhibit A**, Provisional Settlement Agreement at §§ 3-6.

GREENBERG TRAURIG, LLP
10845 GRIFFITH PEAK DRIVE SUITE 600, LAS VEGAS, NEVADA 89135
TELEPHONE: (702) 938-6856

1 For the reasons stated herein, and pursuant to Section X(k) of the Appointment Order,
2 the Receiver respectfully asks this Court for an order approving the Provisional Settlement
3 Agreement attached hereto as **Exhibit 1**. A proposed order approving the Provisional Settlement
4 Agreement is attached hereto as **Exhibit 2**.

5 DATED this 14th day of November, 2023.

6 GREENBERG TRAUIG, LLP

7 By: */s/ Kara B. Hendricks*

8 KARA B. HENDRICKS, Bar No. 07743
9 KYLE A. EWING, Bar No. 014051
10 10845 Griffith Peak Drive Suite 600
11 Las Vegas, Nevada 89135
12 Telephone: (702) 938- 6856
13 Facsimile: (702) 792-900

14 KYRA E. ANDRASSY, ESQ.*
15 *Admitted Pro Hac Vice
16 SMILEY WANG-EKVALL, LLP
17 3200 Park Center Drive, Suite 250
18 Costa Mesa, California 92626
19 Telephone: (714) 445-1000
20 Facsimile: (714) 445-1002

21 *Attorneys for Receiver Geoff Winkler*

22 GREENBERG TRAUIG, LLP
23 10845 GRIFFITH PEAK DRIVE SUITE 600, LAS VEGAS, NEVADA 89135
24 TELEPHONE: (702) 938- 6856
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that, on the **14th day of November, 2023**, a true and correct copy of the foregoing was filed electronically via the Court’s CM//ECF system. Notice of filing will be served on all parties by operation of the Court’s CM/ECF system, and parties may access this filing through the Court’s CM/ECF system.

/s/ Evelyn Escobar-Gaddi
An employee of GREENBERG TRAUIG, LLP

GREENBERG TRAUIG, LLP
10845 GRIFFITH PEAK DRIVE SUITE 600 , LAS VEGAS, NEVADA 89135
TELEPHONE: (702) 938-6856

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION
1	PROVISIONAL SETTLEMENT AGREEMENT
2	[PROPOSED] ORDER APPROVING PROVISIONAL SETTLEMENT AGREEMENT

GREENBERG TRAUIG, LLP
10845 GRIFFITH PEAK DRIVE SUITE 600, LAS VEGAS, NEVADA 89135
TELEPHONE: (702) 938-6856

EXHIBIT 1

EXHIBIT 1

Settlement Agreement & Release of Claims

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

PARTIES

This Settlement Agreement and Release of Claims (“Agreement”) is made and entered into on the last day set forth on the signature page (“Effective Date”) by and between Geoff Winkler, acting in his capacity as the court-appointed Receiver (the “Receiver”) of Profit Connect Wealth Services, Inc. and any of its subsidiaries and affiliates (“Profit Connect”) and Troy Sutton, an individual residing at 2365 North 1000 East, Provo, Utah, 84604 (“Defendant” or “Sutton”) (each, a “Party” and collectively, the “Parties”).

RECITALS

This Agreement is entered into by the above Parties with acknowledgment of and reference to the following facts:

WHEREAS on August 6, 2021, Geoff Winkler was appointed as Receiver for Profit Connect by the United States District Court for the District of Nevada in Case No. 2:21-cv-01298-JAD -BNW (“Receivership Court”); and

WHEREAS on May 10, 2023, the Receiver filed Plaintiff’s First Amended Complaint in a case styled *Geoff Winkler, Receiver for Profit Connect Wealth Services, Inc. v. Jeffrey Nicholas, Troy Sutton and Allianz Life Insurance Company of North America*, Cause No. 5:23-CV-00074-C, in the United States District Court for the Norther District of Texas, Lubbock Division (the “Lawsuit”); and

WHEREAS, Receiver has alleged in the Lawsuit that Defendant Sutton harmed Profit Connect and its investors and creditors, and received funds transferred from Profit Connect that were subject to the Receivership; and

WHEREAS, Defendant denies the Receiver’s allegations in the Lawsuit; and

WHEREAS, each Party to this Agreement is fully apprised of the facts set forth in these Recitals and of the facts and contentions raised in the Lawsuit, and in all other aspects of the dispute between or among the Parties, whether pleaded or not, and possibilities of each action and matter described herein; and

WHEREAS, the Parties agree that it is in their mutual interests to avoid the uncertainty and expense of litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

NOW THEREFORE, in consideration of the mutual promises and covenants stated herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The recitals set forth above are incorporated herein by reference and made a part of this Agreement. The representations contained in said recitals shall survive any default hereunder.

2. Provisional Settlement. The Parties agree that upon full execution of this Agreement, the Receiver shall promptly seek approval for the Parties' settlement from the Receivership Court (the "Approval"). This Agreement will only be enforceable upon approval of the Receivership Court. The Receiver will promptly furnish Defendant Sutton with a copy of the Receivership Court's Order of Approval by email. If the Receivership Court does not approve this Agreement, it shall be null and void.

3. Payment by Defendant: Defendant Sutton shall pay Receiver the sum of FIFTEEN THOUSAND and 00/100 DOLLARS (\$15,000.00) (the "Settlement Funds") by wire transfer within 10 days of Sutton's receipt of the Receivership Court's Approval of this Agreement.

4. Future Cooperation by Defendant: For as long as the Lawsuit remains pending in the United States District Court for the Northern District of Texas (Lubbock Division), Sutton agrees that he will not object to and will consent to being deposed as part of the Lawsuit if requested by the Receiver. Sutton and Receiver agree that if Sutton is asked to appear for a deposition, he will not have to appear in a location different than the town he is living in at the time of the requested deposition. Sutton further agrees, without waiving any substantive rights, to respond to a document subpoena served upon him by Receiver. Sutton further agrees to accept service of a deposition or document subpoena via email or regular mail.

5. Plaintiff Receiver's Releases: Upon receipt of the Settlement Funds, the Receiver of Profit Connect Wealth Services, Inc. hereby releases and forever discharges Defendant Sutton and his heirs, successors, and assigns of and from any and all claims that were or could have been asserted (i) in the Lawsuit or (ii) in the Receivership Court against Sutton. Additionally, upon the payment described herein, the Receiver will promptly (within 14 days of the date of receipt of payment) dismiss Defendant Sutton with prejudice from the Lawsuit. This release does not release Defendant's obligations under this Agreement.

6. Defendant's Release of Receiver and Profit Connect. Upon payment of the Settlement Funds, Defendant hereby releases, waives and forever discharges the Receiver of Profit Connect Wealth Services, Inc. and Profit Connect from any and all claims, whether known or unknown, that were or could have been asserted (i) in the Lawsuit or (ii) in the Receivership Court against Profit Connect Wealth Services, Inc. This release does not release Receiver and Profit Connect's obligations under this Agreement.

8. Attorneys' Fees and Costs: The Parties agree that they shall be responsible for payment of their own attorneys' fees and court costs incurred in connection with this Agreement, including without limitation those incurred in connection with the negotiation, drafting and execution of this Agreement. In the event of Litigation (as defined below), the prevailing party, as determined by a final non-appealable order, shall be entitled to reimbursement of such party's reasonable attorneys' fees and expenses and court costs, including those incurred on appeal, from the non-prevailing party.

9. Tax Reporting: The Parties to this Agreement acknowledge that the consideration provided pursuant to this Agreement, including the accompanying releases contained herein, reflect the settlement of actual or threatened litigation.

10. Authority to Sign: Each person signing below represents and warrants that he/she has authority to sign on behalf of the individual or entity listed.

11. Entire Agreement: This Agreement, including any exhibits and the recitals set forth above, which are hereby fully incorporated into this Agreement by reference, constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties. The terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied, between the Parties with respect to the subject matter of this Agreement. The Parties expressly disclaim any allegation of fraudulent inducement with respect to this Agreement generally, and also expressly disclaim any reliance on any representation, statement, or omission made by any person including, but not limited to, any other Party or any agent, attorney, or representative of any other Party relating in any way to the subject matter, basis, reasonableness, or effect of this Agreement. To avoid any possible doubt, the Parties expressly warrant, represent, agree, and acknowledge the following:

- a. No Party is relying on any statement or representation, whether oral, written, or otherwise, of any other person including without limitation any other Party, their agents, and/or their attorneys, when compromising and settling any right, claim, demand and/or cause of action, whether known or unknown;
- b. No promise or agreement that is not contained in writing in this Agreement has been made in connection with executing this Agreement and the releases contained in this Agreement;
- c. Each Party is relying solely on its own judgment and advice of its own counsel when deciding whether to enter into this Agreement. Each Party has been represented by legal counsel who has read and explained to her/him/it the entire contents of this Agreement, including its releases and its legal consequences;
- d. Each Party has entered into this Agreement freely and without duress and has done so after full opportunity to consult with the legal counsel and other professionals of its choice; and
- e. No Party will make any future claim that it was fraudulently induced to enter into this Agreement by way of any false or misleading statements, representations, or nondisclosures (whether oral, written, or otherwise), by any person including, without limitation, any other Party, its agents, or its attorneys, unless said misrepresentation is expressly stated in this Agreement. The Parties expressly waive any and all reliance on any statements, representations, disclosures, or nondisclosures that are not expressly stated in this Agreement.

12. Construction: The Parties acknowledge that they have each had the opportunity to review and/or modify this Agreement. The parties agree that the construction and interpretation

of this Agreement shall not be strictly construed against any party, and if any ambiguity or question of intent arises with respect to any provision of this Agreement, this Agreement shall be construed as if drafted jointly by all parties.

13. Cooperation: Each Party agrees to execute any and all documents reasonably required to effectuate the terms of this Agreement.

14. Voluntary and Knowing Execution: Each Party represents that he has read this entire Agreement and understands each and every term hereof. The Parties further acknowledge that each party has had the opportunity to consult legal counsel in connection with entering into this Agreement and respective counsel for each Party has explained the meaning and significance of each provision of this Agreement. This Agreement is executed freely and voluntarily with full knowledge and understanding of its terms.

15. Binding Effect: This Agreement shall be binding upon and shall inure to the benefit and/or detriment of the Parties and their respective heirs, beneficiaries, guardians, administrators, trustees, executors and executrixes, agents, principals, representatives, successors, and assigns.

16. Governing Law; Jurisdiction and Venue: This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada, applicable to transactions as if made and to be performed wholly within such state, without regard to the conflicts-of-law provisions thereof. For purposes of any suit, action, proceeding, claim or counterclaim (collectively, "Litigation") arising from or relating to a breach or violation (collectively, "Breach") or threatened Breach of this Agreement, the parties hereby accept and submit to the jurisdiction of the United States District Court for the District of Nevada. Each Party hereby expressly and irrevocably submits to *in personam* jurisdiction to the United States District Court for the District of Nevada in any Litigation arising from or relating to this Agreement.

17. Miscellaneous: This Agreement may be executed by electronic means or by facsimile, and electronic or facsimile copies of this Agreement shall be treated as originals for all purposes. The headings and captions contained herein are for convenience only and may not be considered in interpreting the meaning or intent of any provision hereof. The singular as used herein includes the plural, the plural as used herein includes the singular, and the use of pronouns and gender shall apply to all genders. If any provision of this Agreement shall be adjudicated by any Court to be invalid or unenforceable, the remainder of the provisions, covenants, terms and conditions of this Agreement shall not be affected thereby, and there shall be deemed substituted for the affected provision(s) a valid and enforceable provision as similar as possible to the affected provision(s).

18. Counterparts: This Agreement may be executed in counterparts which, when taken together, shall constitute a binding agreement between all parties hereto.

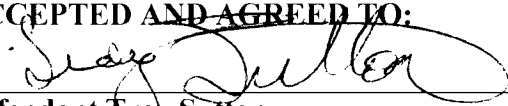
IN WITNESS WHEREOF, the parties have hereunto set their hand and seal:

ACCEPTED AND AGREED TO:

Geoff Winkler
Receiver for Profit Connect Wealth Services, Inc.

Date: _____

ACCEPTED AND AGREED TO:



Defendant Troy Sutton
2365 N 1000 E Provo, UT 84604
Troysutton1@hotmail.com

Date: 10/10/2023

EXHIBIT 2

EXHIBIT 2

[Proposed] Order

GREENBERG TRAUERIG, LLP
10845 GRIFFITH PEAK DRIVE SUITE 600, LAS VEGAS, NEVADA 89135
TELEPHONE: (702) 938-6856

1 KARA HENDRICKS, ESQ.
Nevada Bar No. 07743
2 KYLE A. EWING, ESQ.
Nevada Bar No. 014051
3 GREENBERG TRAUERIG, LLP
4 10845 Griffith Peak Drive Suite 600
Las Vegas, Nevada 89135
5 Telephone: (702) 938- 6856
Facsimile: (702) 792-9002
6 hendricksk@gtlaw.com

7 KYRA E. ANDRASSY, ESQ.
8 Admitted *Pro Hac Vice*
SMILEY WANG-EKVALL, LLP
9 3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
10 Telephone: (714) 445-1000
Facsimile: (714) 445-1002
11 kandrassy@swelawfirm.com

12 *Attorneys for Receiver,*
13 *Geoff Winkler of American Fiduciary Services*

14
15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 SECURITIES AND EXCHANGE
18 COMMISSION,
19
Plaintiff,
20
v.
21 PROFIT CONNECT WEALTH SERVICES,
INC., JOY I. KOVAR, and BRENT CARSON
22 KOVAR,
23
Defendants.

Case No. 2:21-cv-01298-JAD-BNW
**[PROPOSED] ORDER GRANTING
RECEIVER GEOFF WINKLER'S
MOTION TO APPROVE
PROVISIONAL SETTLEMENT
AGREEMENT WITH TROY
SUTTON**

24
25 The Court having reviewed and considered the pleadings and papers on file and any
26 argument on the MOTION TO APPROVE PROVISIONAL SETTLEMENT AGREEMENT
27 WITH TROY SUTTON (“Motion”) and there being no opposition to the Motion and good cause
28 appearing,

