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11  
12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA

14 SECURITIES AND EXCHANGE  
COMMISSION,

15 Plaintiff,

16 v.

17 PROFIT CONNECT WEALTH  
18 SERVICES, INC., JOY I. KOVAR, and  
BRENT CARSON KOVAR,

19 Defendants.  
20  
21  
22

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

**THE RECEIVER’S THIRD INTERIM  
APPLICATION FOR ALLOWANCE  
AND PAYMENT OF FEES AND COSTS  
FOR THE PERIOD FROM JANUARY 1,  
2022, THROUGH MARCH 31, 2022**

**[HEARING REQUESTED]<sup>1</sup>**

23 Geoff Winkler of American Fiduciary Services, LLC, the permanent receiver  
24 (the “Receiver”) over Profit Connect Wealth Services, Inc., and any subsidiaries and  
25 affiliates (together, “Profit Connect”) pursuant to an order entered on August 6, 2021  
26 (the “Receiver Order”), submits this application for allowance and payment of his fees

27 \_\_\_\_\_  
28 <sup>1</sup> The Receiver requests that the Court schedule a hearing on this application at the  
same date and time as the hearing on the Receiver's status report, which is being  
filed on or about April 29, 2022.

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1 and costs and the fees and costs of the professionals he employed to assist him in  
2 fulfilling his duties under the Receiver Order. The period of time covered by this  
3 Application is from January 1, 2022, through March 31, 2022 (the “Application  
4 Period”). The Receiver is informed that the Securities & Exchange Commission  
5 (“SEC”) has no objection to the relief sought in this Application.

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 Because the Receiver is not a licensed attorney, does not have in-house counsel,  
8 and is not a computer expert, he employed professionals to assist him in fulfilling his  
9 duties as the Receiver. Specifically, pursuant to Section X.G. of the Receiver Order,  
10 he retained Smiley Wang-Ekval, LLP, and Ballard Spahr, LLP, as counsel, Stroz  
11 Friedberg as his computer forensic experts, and Baker Tilly as his certified public  
12 accountants to assist with tax-related issues. The Court approved the employment  
13 of Smiley Wang-Ekval and Ballard Spahr by order entered on September 21, 2021;  
14 the Court approved the employment of Baker Tilly by order entered on February 9,  
15 2022.

16 Pursuant to this Application, the Receiver and his professionals seek approval  
17 of the following fees and costs for this Application Period:

- 18 (1) Receiver fees of \$225,015.00 and costs of \$1,503.36;
- 19 (2) Ballard Spahr fees of \$26,365.30, and costs of \$1,657.28;
- 20 (3) Smiley Wang-Ekval fees of \$12,637.80 and costs of \$110.63;
- 21 (4) Stroz Friedberg fees of \$14,471.25 and costs of \$41,981.50; and
- 22 (5) Baker Tilly fees of \$12,280.50 and costs of \$8.69.

23 The Receiver seeks authority to pay 80% of the fees on an interim basis and 100% of  
24 the costs.

25 This Application is based on the below written argument, the declarations of  
26 Geoff Winkler, Maria A. Gall, Esq., Kyra E. Andrassy, Esq., Sergio Kopelev, and  
27 Stacy Elledge Chiang, all papers on file, and any argument the Court may call and  
28 consider.

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1           **I.       RELEVANT BACKGROUND AND PROCEDURAL HISTORY**

2           The SEC initiated this action against Profit Connect, Joy Kovar, and Brent  
3 Kovar on July 8, 2021, by the sealed, *ex parte* filing of a complaint and motion for  
4 temporary restraining order seeking, among other things, the freezing of defendants'  
5 assets and the appointment of a receiver over Profit Connect. The Court granted the  
6 *ex parte* temporary restraining order, in part, by allowing the asset freeze to proceed  
7 but set the motion for a hearing in order to provide defendants an opportunity to be  
8 heard on the temporary receivership request.

9           On July 23, 2021, defendants stipulated to modify the temporary restraining  
10 order to appoint the Temporary Receiver. By order entered on August 6, 2021, the  
11 Court approved a stipulation of the parties appointing the Receiver as the permanent  
12 receiver.

13           During this Application Period, the Receiver and his team continued their  
14 focus of building Profit Connects books and records, which effectively did not exist at  
15 the time of his appointment. Building the books and records is a necessary predicate  
16 to completing the forensic accounting. The Receiver also worked with his real  
17 property broker to market and sell the Calvert Cliffs property in which defendants  
18 Brent Kovar and Joy Kovar resided. As a result of their work, the Receiver was able  
19 to enter into a purchase and sale agreement for \$555,000.00, which represents a  
20 ~\$130,000.00 premium above the original purchase price in January 2021. The  
21 Receiver continues to identify potential claims that belong to the receivership estate  
22 and to gather information, issue subpoenas, and review books and records and  
23 documents that are produced to identify additional sources of recovery. These efforts  
24 will pave the way for additional recoveries to be obtained by the estate. Counsel  
25 continue to coordinate their efforts to avoid duplication of services.

26           As of March 31, 2022, the Receiver is holding cash \$8,906,812.05, which  
27 includes the net proceeds generated from the auction of personal property in  
28 December 2021. As set forth in the motion to approve the employment of the

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1 professionals and because receivership work is a form of public service, each of the  
2 professionals has agreed to discount their typical hourly rate by 15%, and this  
3 discount is reflected in the fees being sought in this Application.

4 **II. LEGAL AUTHORITY**

5 “The power of a district court to impose a receivership ... derives from the  
6 inherent power of a court of equity to fashion effective relief.”<sup>2</sup> “The primary purpose  
7 of equity receiverships is to promote orderly and efficient administration of the  
8 Receivership Estate by the district court for the benefit of creditors.”<sup>3</sup> “[T]he practice  
9 in administering an estate by a receiver ... must accord with the historical practice  
10 in federal courts or with a local rule.”<sup>4</sup>

11 As the Ninth Circuit explained:

A district court’s power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad. The district court has broad powers and wide discretion to determine the appropriate relief in an equity receivership. The basis for this broad deference to the district court’s supervisory role in equity receiverships arises out of the fact that most receiverships involve multiple parties and complex transactions.<sup>5</sup>

17 Decisions regarding the timing and amount of an award of fees and expenses  
18 to the Receiver and his or her professionals are committed to the sound discretion of  
19 the Court.<sup>6</sup> In determining the reasonableness of fees and expenses requested in this

21 <sup>2</sup> *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980).

22 <sup>3</sup> *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986.)

23 <sup>4</sup> Fed. R. Civ. P. 66.

24 <sup>5</sup> *SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005) (citations  
25 omitted); *see also CFTC v. Topworth Int’l, Ltd.*, 205 F.3d 1107, 1115 (9th Cir. 1999)  
26 (“This court affords ‘broad deference’ to the court’s supervisory role, and ‘we generally  
27 uphold reasonable procedures instituted by the district court that serve th[e] purpose  
28 of orderly and efficient administration of the receivership for the benefit of  
creditors.”).

<sup>6</sup> *See SEC v. Elliot*, 953 F.2d 1560, 1577 (11th Cir. 1992) (rev'd in part on other  
grounds, 998 F.2d 922 (11th Cir. 1993)).

1 context, the Court should consider the time records presented, the quality of the work  
2 performed, the complexity of the problems faced, and the benefit of the services  
3 rendered to the Estate, along with the SEC's position on the request, which is entitled  
4 to "great weight."<sup>7</sup>

### 5 III. THE FEES AND COSTS BEING REQUESTED

6 As set forth in prior applications, in evaluating the fees and costs of the  
7 Receiver and his professionals, the fact that Profit Connect had no books and records,  
8 including books of account, or any functioning accounting department must be taken  
9 into account. The absence of these records means that the Receiver and his team  
10 must get the documents that they need to determine what happened with funds put  
11 in by investors from third parties. This requires the issuance of subpoenas, and often  
12 ensuing discussions with the subpoenaed parties about the scope or timing of the  
13 requested production. It also means that the Receiver has had to recreate, and is still  
14 in the process of recreating, accounting records by reconstructing the entity's  
15 financials using financial statements and offsetting financial records. The majority  
16 of these statements and records have had to be procured through subpoenas served  
17 on financial institutions.

18 Also, despite the Receivership Order and the principles underlying a federal  
19 equity receivership, some investors are seeking other methods of recovery to recoup  
20 their investments ahead of other investors. The Receiver is presently aware of a  
21 putative class action that is being formed by one set of investors and counsel. The  
22 Receiver is also aware of at least one action by an investor against a Profit Connect  
23 agent pending in another jurisdiction. The Receiver and his counsel are engaging  
24 with counsel in these anticipated and pending lawsuits in order to preserve the assets  
25 of the receivership estate.

26  
27  
28 <sup>7</sup> *SEC v. Fifth Ave. Coach Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973).

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1 The foregoing highlights some of the actions the Receiver and his legal  
2 professionals have been constrained to undertake early in this case and which drives  
3 their fees. That said, the Receiver's prompt action in reconstructing Profit Connect's  
4 financial records has assisted in his preservation and marshalling of Profit Connect  
5 property, including over \$4 million dollars in cryptocurrency and a net recovery of  
6 over \$1.25 million dollars for the personal property auctioned in December 2021, with  
7 additional gross sums of approximately \$550,000 and \$400,000 anticipated this  
8 current quarter from the sale of the single family residences owned and/or purchased  
9 with Profit Connect funds.

10 Below is a description of the services provided by each of the professionals  
11 during the Application Period. All of the fees and expenses incurred during the  
12 Application Period will benefit the receivership estate moving forward.

13 **a. The Receiver**

14 [Fees of \$225,015.00 and costs of \$1,503.36]

15 Pursuant to paragraph X of the Receiver Order, the Receiver was empowered  
16 and tasked with a broad range of authority, including the authority to take possession  
17 and control of all assets, to assume full control of Profit Connect, to have control of  
18 and be added as the sole authorized signatory for all accounts, to conduct an  
19 investigation and discovery necessary to locate and account for assets, to assess the  
20 viability and profitability of Profit Connect, to take action necessary to preserve and  
21 prevent the disposition, concealment, or dissipation of assets, to employ professionals,  
22 to make an accounting, to make payments and disbursements, to investigate and  
23 prosecute claims, to engage in litigation to preserve or recover assets or to carry out  
24 the Receiver's mandate, and to have access to all mail and electronic mail.

25 With the sale of the personal property and closure of the business last quarter,  
26 the Receiver's hours dropped significantly by over 20% this quarter. The Receiver  
27 anticipates that his hours will continue to drop as the focus shifts from handling the  
28

1 remnants of the business closure and property sales to investigating the estate's  
2 claims and choses in action.

3 Pursuant to the Receiver Order, the Receiver and his team performed the  
4 following duties in Q1 2022:

- 5 • Obtained net auction proceeds of \$1,259,817.06 following the December 2021  
6 personal property auction that grossed over \$300,000 than the auctioneer  
7 initially anticipated;
- 8 • Negotiated a fully executed settlement agreement with Ramona Uriarte,  
9 ensuring that Ms. Urirate either fully returns by June 2022 the \$387,786.94 of  
10 Profit Connect funds she used to purchase a single-family residence (plus  
11 \$8,000 in interest) or deeds the residence to the receivership estate;
- 12 • Entered into a purchase and sale agreement for the sale of real property in  
13 North Las Vegas, above listing price, and prepared for the sale of real  
14 properties in and Searchlight, Nevada;
- 15 • Located and obtained \$58,400.15 in additional cryptocurrency being held in a  
16 Coinbase commerce accounts;
- 17 • Located and obtained \$40,100.00 transfer of Profit Connect funds being held  
18 by a former employee, agent, and affiliate;
- 19 • Obtained a \$25,000.00 insurance payout in connection with an employee  
20 dishonesty claim;
- 21 • Continued forensic accounting work, including identification of at least 5  
22 additional accounts for a total of at least 28 accounts and identification of 4,216  
23 additional transactions for a total of at least 15,889 transactions;
- 24 • Issued W-2s to former Profit Connect employees;
- 25 • Subpoenaed records and performed forensic accounting to recreate missing  
26 accounting information and validate amounts owed to investors and others;
- 27 • Investigated additional assets and worked to determine if they were properly  
28 assets of the receivership estate;

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- Discussed and worked with counsel to pursue litigation against third parties;
- Retained tax accountants to prepare unfiled tax returns; and
- Continued to review documents and interview parties to determine potential litigation against third parties.

The Receiver's fees for the Application Period are as follows:

<i>Name</i>	<i>Title</i>	<i>Hours</i>	<i>Rate/Hr.</i>	<i>Total</i>
Geoff Winkler	Receiver	145.5	\$340.00	\$49,470.00
John Hall	Accountant	180.9	\$310.00	\$56,079.00
Milana Barkhanoy	Associate	82.5	\$255.00	\$21,037.50
Renee Dieffenderfer	Associate	18	\$255.00	\$4,590.00
Josh McGraw	Associate	314.7	\$255.00	\$80,248.50
Ysabel Willits	Analyst	90.6	\$150.00	\$13,590.00
<b><i>Total</i></b>		<b><i>832.2</i></b>		<b><i>\$225,015.00</i></b>

Due to its broad range of experience and expertise, AFS performs almost all required work in-house, saving both time and money, including tasks involving corporate accounting, forensic accounting, case administration, claims administration, asset valuation, investor communication and internet technology. AFS' billing philosophy is to leverage work down to the staff member with the lowest bill rate that also has the skills and experience necessary to complete the task. This allows AFS to minimize the cost to complete all work associated with the case, ensuring a maximum return to stakeholders involved in the matter while also preserving the quality of our work product. AFS does not bill for travel time in regulatory cases.

AFS's rates include a 15% discount off its already discounted hourly rates for government matters and will not increase for the pendency of the case. Both the



1 standard regulatory rate and the discounted regulatory rate reflect a significant  
2 discount off our standard consulting rates.

3 All billing standards meet or exceed the SEC's Billing Instructions for  
4 Receivers in Civil Actions Commenced by the U.S. Securities and Exchange  
5 Commission (SFAR) and the U.S. Trustee's Guidelines for Reviewing Applications for  
6 Compensation and Reimbursement of Expenses.

7 Similar to his fees, the Receiver's expenses dropped significantly this quarter  
8 due to the sale of the personal property, closure of the business, and turn-over of the  
9 Profit Connect warehouse. In short, and given the foregoing, the Receiver had less  
10 need to travel in Q1 2022. The Receiver's expenses for the Application Period are as  
11 follows:

<i>Category</i>	<i>Total Cost</i>
Airfare	\$1,054.50
Car Rental	--
Courier/Shipping/Freight	\$52.03
Fuel	--
Hotel	--
Meals	--
Internet/Online Fees	\$35.10
Miscellaneous	\$231.25
Office Supplies	--
Parking	\$48.00
Personal Car Mileage	--
Printing/Photocopying/Stationary	--
Taxi	\$82.58
<b><i>Total</i></b>	<b><i>\$1,503.36</i></b>

1 AFS does not seek reimbursement for routine copying, facsimile, postage, or  
2 other expenses. Any expenses which AFS seeks to have reimbursed are done so in  
3 accordance with the SEC and U.S. Trustee guidelines above. Costs directly  
4 attributable to the administration of the estate will be paid directly by the estate in  
5 accordance with the order of appointment.

6 The Standardized Fund Accounting Report, AFS's invoices, and its billing  
7 entries are included with the Declaration of Geoff Winkler attached as Exhibit 1.

8 **b. Ballard Spahr**

9 [Fees of \$26,365.30, and costs of \$1,657.28]

10 During the Application Period, attorneys at Ballard Spahr LLP performed  
11 services on multiple projects. Their work included, among other things: (1) issuing  
12 and enforcing subpoenas to various entities in an effort to track, trace, and recover  
13 Profit Connect assets; (2) advising the Receiver on his obligations in connection with  
14 preserving Profit Connect assets; (3) working on a settlement agreement and  
15 attendant papers for the Calvert Cliffs property held by Ramona Uriarte; (4)  
16 analyzing legal issues related to purported Profit Connect purchase of the  
17 Microstamps corporation; (5) liaising with potential counsel re: claims against certain  
18 Profit Connect agents and affiliates; and (6) continuing the action against former  
19 Profit Connect employee William Roshak, et al. to recover over \$500,000 in  
20 fraudulently transferred Profit Connect funds, including discovery.

21 During the Application Period, the Receiver's primary counsel from Ballard  
22 Spahr, Maria Gall, billed 48.3 hours at a standard rate of \$570.00/hour for a total of  
23 \$27,531.00. Where appropriate, she leveraged work to a paralegal Adam Crawford  
24 who billed 4.3 hours at a standard rate of \$160.00/hour for a total of \$688.00. Ms.  
25 Gall will continue to leverage work, whether to a paralegal or associate, where  
26 appropriate but notes that much of the work being performed is not only appropriate  
27 for a junior partner but also requires wide-ranging knowledge of the receivership and,  
28 for that reason, is more efficiently performed by her. Also, where appropriate, Ms.

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1 Gall has sought the assistance of counsel with specialized knowledge. Of counsel  
2 Diane Markert billed 5.1 hours at \$450.00/hour for a total of \$2,295.00 to advise on  
3 real estate matters, which is in Ms. Markert's area of expertise. Ballard Spahr has  
4 discounted all these standard fees by 15%, and seeks \$26,365.30 and costs of  
5 \$1,657.28 for its professional services in Q1 2022.

6 Ballard Spahr's invoices are included with the Declaration of Maria Gall  
7 attached as Exhibit 2.

8 **c. Smiley Wang-Ekval**

9 [Fees of \$12,637.80 and costs of \$110.63]

10 During the Application Period, Smiley Wang-Ekval performed a number of  
11 different services that benefited the estate, including: (1) meeting and conferring with  
12 Fiserv, Inc. regarding a subpoena for bill pay information for Profit Connect's bank  
13 accounts, which resulted in obtaining the needed information; (2) meeting and  
14 conferring with counsel for Amazon regarding a subpoena for details of orders paid  
15 for by Profit Connect; (3) reviewing documents produced by third parties to identify  
16 potential claims of the receivership estate; (4) finalizing and obtaining Court approval  
17 of the motion to employ a broker and to sell real property owned by the receivership  
18 estate; (5) preparing a counteroffer for the residential real property containing  
19 provisions unique to sales by a Receiver; and (6) communicating with Bank of  
20 America regarding a Profit Connect credit card being used by Brent Kovar that Bank  
21 of America failed to freeze despite multiple requests to do so.

22 The Receiver's primary counsel from Smiley Wang-Ekval billed \$12,637.80 in  
23 fees. These fees reflect a 15% discount off of the standard hourly rates.

24 Smiley Wang-Ekval's invoice is included with the Declaration of Kyra  
25 Andrassy attached as Exhibit 3.

26 **d. Stroz Friedberg**

27 [Fees of \$14,471.25 and costs of \$41,981.50]  
28

1 During the Application Period, staff from Stroz Friedberg (an Aon company)  
2 continued to assist the receiver with understanding, quantifying and collecting data  
3 from various Profit Connect IT systems, although the amount of work required has  
4 significantly decreased as the Receiver expected it would. This work included, among  
5 other things: (1) continuing to inventory digital devices used by Profit Connect  
6 principals and employees; (2) continuing to gain access to and export financial data  
7 for Profit Connect; (3) continuing to perform forensic collection of data from various  
8 digital devices; (4) continuing to export data from various digital devices; (5)  
9 continuing to process and host data exported from various digital devices; and (6)  
10 continuing to perform searches of hosted data. Stroz Friedberg billed \$14,471.25 on  
11 an hourly basis and \$41,981.50 in expenses for processing and hosting and for user  
12 licenses of data collected from Profit Connect in the Relativity Electronic Discovery  
13 application. These rates and accompanying invoices already include discounts from  
14 Stroz Friedberg standard rates.

15 Stroz Friedberg's invoices are attached to the Declaration of Sergio Kopelev  
16 attached as Exhibit 4.

17 **e. Baker Tilly**

18 [Fees of \$12,280.50 and costs of \$8.69]

19 During the Application Period, staff from Baker Tilly assisted the Receiver  
20 with Profit Connect's tax obligations. Their work included (1) initial planning,  
21 research, document review and meetings with the Receiver and his team, (2)  
22 preparation of a tax issues memo for purposes of updating victims (via the  
23 receivership website or otherwise), (3) the S election filing package, and (4) the 2021  
24 corporate extension. Baker Tilly billed \$12,280.50 on an hourly basis with \$8.69 in  
25 expenses this quarter. These rates and accompanying invoices already include  
26 discounts from Baker Tilly's standard rates.

27 Baker Tilly's invoices are attached to the Declaration of Stacy Chiang attached  
28 as Exhibit 5.

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**IV. CONCLUSION**

Based on the foregoing and pursuant to Section X.G. of the Receiver Order, the Receiver and his professionals request entry of an order:<sup>8</sup>

(1) Allowing the Receiver fees of \$225,015.00 and costs of \$1,503.36 for the Application Period;

(2) Allowing Ballard Spahr fees of \$26,365.30, and costs of \$1,657.28 for the Application Period;

(3) Allowing Smiley Wang-Ekval fees of \$12,637.80 and costs of \$110.63 for the Application Period;

(4) Allowing Stroz Friedberg fees of \$14,471.25 and costs of \$41,981.50 for the Application Period;

(5) Allowing Baker Tilly fees of \$12,280.50 and costs of \$8.69 for the Application Period;

(5) Authorizing the Receiver to pay 80% of the allowed fees and 100% of the allowed costs from funds on hand in the receivership estate; and

(6) Granting such other and further relief as the Court deems just and appropriate.

Dated: May 6, 2022

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-and-

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*Attorneys for Receiver*

<sup>8</sup> The form of the order is attached as Exhibit 6.

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**CERTIFICATE OF SERVICE**

I certify that on May 6, 2022 I served the foregoing **THE RECEIVER'S THIRD INTERIM APPLICATION FOR ALLOWANCE AND PAYMENT OF FEES AND COSTS FOR THE PERIOD FROM JANUARY 1, 2022, THROUGH MARCH 31, 2022** on the following parties by filing the same with the Court's CM/ECF system:

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*Attorneys for Defendant William Roshak and Tetiana Luzhanska*

*Attorneys for Defendant Melissa Roshak*

/s/ Adam Crawford  
An Employee of Ballard Spahr LLP

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