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16 **UNITED STATES DISTRICT COURT**  
17 **DISTRICT OF NEVADA**  
18

19 SECURITIES AND EXCHANGE  
20 COMMISSION,

21 Plaintiff,

22 vs.

23 MATTHEW WADE BEASLEY, *et al.*,

24 Defendants,

25 THE JUDD IRREVOCABLE TRUST, *et al.*,

26 Relief Defendants.  
27

Case No. 2:22-cv-00612-CDS-EJY

**RECEIVER'S REPLY IN SUPPORT OF  
PETITION FOR ORDER APPROVING  
PROCEDURES FOR SALES OF REAL  
PROPERTY OUT OF RECEIVERSHIP  
[ECF 172]**

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1 Geoff Winkler (the "Receiver"), the Court-appointed receiver in the above-entitled matter  
2 hereby submits the following Reply in support of his pending Petition for Order Approving Sales of  
3 Real Property Out of Receivership (the "Petition") [ECF No. 172] and in response to the Limited  
4 Opposition (the "Opposition") to the Petition filed by Defendant Christopher Humphries [ECF  
5 No. 212], as follows:

6 **I. INTRODUCTION.**

7 As specifically noted in the Petition – and acknowledged by the Opposition – the Receiver's  
8 Petition merely seeks to secure Court approval of proposed procedures for the sales of real property  
9 out of receivership; it does not request Court approval of any specific sale. In the interests of judicial  
10 economy, and by the Petition, the Receiver seeks only to establish the general procedures that will  
11 govern the Receiver's sales of real property out of the receivership, after he has secured the turnover  
12 of that property, attended to any critical title issues, marketed the property for sale (as appropriate),  
13 and identified a prospective purchaser whose offer he determines, in his reasonable business  
14 judgement, to be the highest and best. In other words, by the Petition, the Receiver seeks only to  
15 secure Court confirmation that his proposed procedures (a) satisfy the requirements of 28 U.S.C.  
16 §§ 2001–2002 for sales of real property; (b) are consistent with industry customs and standards;  
17 (c) allow any real properties subject to sale by the Receiver to be appropriately marketed to identify  
18 the highest and best offers; and (d) provide an efficient sale process that will assist in maximizing  
19 the recovery from the sales of such properties. Accordingly, the Receiver respectfully submits that  
20 the Opposition is misplaced and premature, and that the Petition should be granted.

21 **II. ARGUMENT.**

22 Again, and despite the Opposition's apparent misapprehension of the Receiver's intent, by  
23 the Petition, the Receiver seeks only to secure Court approval of his proposed procedures for the  
24 sales of real property out of the receivership estate. The Petition identifies no properties to be sold  
25 – including the real property addressed in Defendant Humphries' Opposition – and does not request  
26 that the Court approve the sale of any specific property; indeed, the Petition specifically notes that,  
27 prior to requesting Court approval of any specific real property sale, the Receiver will need to,  
28 among other things: (1) secure the turnover of the property in accordance with the Court's prior

1 orders; (2) have title to the property assigned to the Receiver; and (3) prepare and market the  
2 property for sale. (*See* Petition at 2:9 – 5:10 and n. 3.) The issue presented in the Petition is therefore  
3 not whether the Receiver has the right to sell real property out of receivership (that question has  
4 already been answered by the Court in the affirmative in its June 3, 2022 Order Appointing Receiver  
5 [ECF No. 88]), but whether the procedures proposed by the Receiver are appropriate.

6         The Receiver believes that the procedures proposed in the Petition are reasonable, consistent  
7 with the statutory requirements for the sale of real property out of receivership, and should be  
8 approved by the Court. "The power of a district court to impose a receivership or grant other forms  
9 of ancillary relief does not in the first instance depend on a statutory grant of power from the  
10 securities laws. Rather, the authority derives from the **inherent power of a court of equity to**  
11 **fashion effective relief.**" *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980) (emphasis added).  
12 The "primary purpose of equity receiverships is to promote orderly and efficient administration of  
13 the estate by the district court for the benefit of creditors." *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th  
14 Cir 1986). Accordingly, district courts have the broad power of a court of equity to determine the  
15 appropriate action in the administration and supervision of an equity receivership. *See SEC v.*  
16 *Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005); *see also CFTC v. Topworth Int'l, Ltd.*,  
17 205 F.3d 1107, 1115 (9th Cir. 1999) ("This court affords 'broad deference' to the court's supervisory  
18 role, and 'we generally uphold reasonable procedures instituted by the district court that serve th[e]  
19 purpose' of orderly and efficient administration of the receivership for the benefit of creditors.").  
20 Accordingly, this Court has broad discretion in the administration of the receivership estate, and the  
21 Receiver's administration and disposition of the assets of the estate.

22         That discretion unequivocally extends to the sales of receivership property. *See, e.g., SEC*  
23 *v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (holding the district court has broad powers and  
24 wide discretion to determine relief in an equity receivership). "The power of sale necessarily follows  
25 the power to take possession and control of and to preserve property." *SEC v. Am. Capital Invest.,*  
26 *Inc.*, 98 F.3d 1133, 1144 (9th Cir. 1996). Indeed, critical to the very purpose of a receivership, "[a]  
27 court of equity, under proper circumstances, has the power to order a receiver to sell property free  
28 and clear of all encumbrances." *Miners' Bank of Wilkes-Barre v. Acker*, 66 F.2d 850, 853 (2d Cir.

1 1933). And, contrary to the argument presented in the Opposition, a federal court is not limited or  
 2 deprived of any of its equity powers by state statute. *Beet Growers Sugar Co. v. Columbia Trust*  
 3 *Co.*, 3 F.2d 755, 757 (9th Cir. 1925) (holding state statute allowing time to redeem property after a  
 4 foreclosure sale inapplicable in a receivership sale).

5 The Receiver's proposed sales procedures likewise comply with the requirements of 28  
 6 U.S.C. § 2001. As addressed in the Petition, the Receiver's proposed procedures require that all real  
 7 property will be listed with a licensed broker and shown to interested parties. They further require  
 8 that all real property sold will be subject to overbid to further ensure the highest and best price is  
 9 obtained. In other words, the Proposed Procedures are tailored specifically to satisfy the Receiver's  
 10 obligations under §§ 2001 and 2002, and to maximize the prices obtained for any real property sold  
 11 out of receivership. *See, e.g., SEC v. Capital Cove Bancorp LLC*, No. SA-15-CV-980-JLS, 2015  
 12 U.S. Dist. LEXIS 174856, at \*13 (C.D. Cal. Oct. 13, 2015); *Breeding Motor Freight Lines, Inc. v.*  
 13 *Reconstruction Fin. Corp.*, 172 F.2d 416, 422 (10th Cir. 1949).

14 Indeed, even the Receiver's proposal to deviate from the standard 28 U.S.C. § 2001  
 15 procedures on stipulation of the relevant parties satisfy all elements of the law. While courts cannot  
 16 waive these requirements, they can be waived by stipulation of the parties. *See, e.g., National Bank*  
 17 *v. Najero, Inc.*, 2014 WL 5473054, \*1 (E.D. Mich. Oct. 27, 2014) ("Although the court cannot waive  
 18 the requirements of § 2001(b), the requirements can be waived by the parties").

### 19 **III. CONCLUSION.**

20 In summary, the procedures proposed in the Receiver's Petition are entirely consistent with  
 21 applicable law. Nowhere in the Petition does the Receiver request that this Court authorize him to  
 22 sell the property identified in the Humphries Opposition (indeed, the property has neither been  
 23 turned over to the Receiver, nor had title restored to the Receiver, nor marketed for sale, nor had an  
 24 offer tentatively accepted). As such, the Receiver submits that the Opposition is misplaced and

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1 premature, and should be ignored for the purposes of the Petition, which the Receiver respectfully  
2 requests be granted by the Court at its earliest opportunity.

3  
4 Dated: August 2, 2022

SEMENZA KIRCHER RICKARD

5  
6 */s/ Jarrod L. Rickard*

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**CERTIFICATE OF SERVICE**

I am employed by the law firm of Semenza Kircher Rickard. in Clark County. I am over the age of 18 and not a party to this action. The business address is 10161 Park Run Drive, Suite 150, Las Vegas, Nevada 89145.

On the 2nd day of August 2022, I served the document(s), described as:

**RECEIVER'S REPLY IN SUPPORT OF PETITION FOR ORDER APPROVING PROCEDURES FOR SALES OF REAL PROPERTY OUT OF RECEIVERSHIP [ECF 172]**

by serving the  original  a true copy of the above and foregoing via:

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8  b. **BY U.S. MAIL.** I deposited such envelope in the mail at Las Vegas, Nevada. The  
9 envelope(s) were mailed with postage thereon fully prepaid. I am readily familiar with  
10 Semenza Kircher Rickard's practice of collection and processing correspondence for  
11 mailing. Under that practice, documents are deposited with the U.S. Postal Service on the  
12 same day which is stated in the proof of service, with postage fully prepaid at Las Vegas,  
13 Nevada in the ordinary course of business. I am aware that on motion of party served,  
14 service is presumed invalid if the postal cancellation date or postage meter date is more than  
15 one day after the date stated in this proof of service.

14  c. **BY PERSONAL SERVICE.**

15  d. **BY DIRECT EMAIL.**

16  e. **BY FACSIMILE TRANSMISSION.**

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

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*/s/ Olivia A. Kelly*

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An Employee of Semenza Kircher Rickard

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