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14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF NEVADA**

16 SECURITIES AND EXCHANGE COMMISSION,

17 Plaintiff,

18 vs.

19 MATTHEW WADE BEASLEY, *et al.*,

20 Defendants,

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

22 Relief Defendants.
23

CASE NO. 2:22-cv-00612-CDS-EJY

**OMNIBUS MOTION TO APPROVE
SECOND QUARTERLY
APPLICATIONS FOR FEES AND
REIMBURSEMENT OF EXPENSES
FOR RECEIVER AND RECEIVER’S
COUNSEL FOR THE PERIOD FROM
JULY 1, 2022 THROUGH
SEPTEMBER 30, 2022**

24
25 Geoff Winkler, the Court-appointed Receiver (the “Receiver”), submits this Omnibus
26 Motion to Approve Second Quarterly Applications for Fees and Reimbursement of Expenses for
27 Receiver and Receiver’s Counsel for the Period from July 1, 2022 through September 30, 2022
28 (“Motion”).

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1 This Motion is based on the below memorandum of points and authorities, the Second
2 Quarterly Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s
3 Counsel Greenberg Traurig (ECF No. 365), the Second Quarterly Applications for Fees and
4 Reimbursement of Expenses for Receiver and Receiver’s Counsel (1) Allen Matkins Leck Gamble
5 Mallory & Natsis, LLP; and (2) Semenza Kircher Rickard (ECF Nos. 360-362) filed
6 contemporaneously herewith, the pleadings and papers on file herein, and such other and further
7 information as may be presented to the Court at the time of any hearing.

8 DATED this 15th day of November, 2022.

GREENBERG TRAUIG, LLP

9
10 By: /s/ Kara B. Hendricks
11 KARA B. HENDRICKS, Bar No. 07743
12 JASON K. HICKS, Bar No. 13149
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

17
18 By and through the subject Motion, the Receiver respectfully requests the allowance and
19 payment of his fees and costs and the fees and costs of the professionals he employed to assist him
20 in fulfilling his duties under the Receiver Order, incurred for the period from July 1, 2022 through
21 September 30, 2022 (the “Application Period”). The Receiver and his counsel timely provided a
22 draft and copies of billing entries to counsel for the Securities & Exchange Commission (“SEC”)
23 and SEC staff has reviewed and provided comments on the fee statements and does not oppose the
24 interim approval and payment of the fees and costs sought herein.

25 Because the Receiver is not a licensed attorney, does not have in-house counsel, and due
26 to the scope of service needed during the Application Period he employed professionals to assist
27 him in fulfilling his duties as the Receiver. Specifically, pursuant to Section 7(F) of the Receiver
28 Order, the Receiver proposed retaining Greenberg Traurig LLP (“Greenberg Traurig”), Allen

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1 Matkins Leck Gamble Mallory & Natsis LLP (“Allen Matkins”), as counsel (ECF No. 90) and the
2 law firm of Semenza Kircher Rickard (“Semenza Kircher”) as conflicts counsel (ECF No. 108).
3 As further detailed below, during the Application Period, the Receiver and his professionals
4 endeavored to avoid duplication of efforts, and to undertake required tasks in as efficient a manner
5 as possible, utilizing personnel best suited to the task. Additionally, the complexity of the
6 Receivers tasks, the value of the services provided, the quality of the work performed, the benefits
7 obtained on behalf of the receivership estate, and the burden of the fee request on the receivership
8 estate warrant approval of the same.

9 The Receiver and his professionals seek approval of the following fees and costs for this
10 Application Period, on an interim basis:

- 11 (1) Receiver fees of \$375,123.00 and costs of \$19,231.64;
- 12 (2) Greenberg Traurig fees of \$188,439.52 and costs of \$1,273.00;
- 13 (3) Allen Matkins fees of \$221,341.50 and costs of \$3,925.73; and
- 14 (4) Semenza Kircher fees of \$12,319.50 and costs of \$188.00.

15 By way of this Motion, the Receiver requests the Court's interim approval of 100% of the
16 fees and expenses incurred during the Application Period and further requests the interim payment
17 of 80% of such fees and 100% of such expenses, to be paid from the funds of the receivership
18 estate (the "Receivership Estate").

19 II. RELEVANT BACKGROUND

20 The SEC initiated this action against J&J Consulting Services, Inc., an Alaska corporation,
21 J&J Consulting Services, Inc., a Nevada corporation, J and J Purchasing LLC, The Judd
22 Irrevocable Trust and BJ Holdings LLC (collectively, the “J&J Receivership Defendants”) and
23 others on April 12, 2022 (ECF No. 1) and concurrently with the Complaint filed an *ex parte* motion
24 for temporary restraining order seeking, among other things, the freezing of defendants’ assets, an
25 accounting, an order prohibiting the destruction of documents seeking the appointment of a
26 receiver over the J&J Receivership Defendants (ECF No. 2). The Court granted the *ex parte*
27 temporary restraining order, in part, by allowing the asset freeze to proceed but set the motion for
28 a hearing in order to provide defendants an opportunity to be heard on the temporary receivership

1 request (ECF No. 3). On April 21, 2022, a hearing was held and the Court found grounds to enter
2 a preliminary injunction, asset freeze, and other equitable relief. (ECF No. 56). Thereafter, on
3 May 3, 2022 the SEC filed a motion to appoint receiver and requested related relief. (ECF No. 67).
4 On June 3, 2022 an Order was entered appointing Geoff Winkler as Receiver (“Receiver Order”
5 or “Appointment Order”). (ECF No. 88).¹

6 Upon his appointment, the Receiver immediately began a diligent review of the business
7 and financial affairs of the Receivership Defendants and undertook efforts to marshal assets for
8 the Receivership Estate in furtherance of his Court-ordered duties and responsibilities. The
9 Receiver has made substantial progress, particularly in connection with his efforts to assert control
10 over the Receivership Entities and identify and marshal their assets for the benefit of the
11 receivership estate, investors, and other creditors. These efforts are further detailed in the Second
12 Quarterly Status Report (ECF No. 343) which details the Receiver’s and his counsel efforts to:

- 13 1) investigate and marshal assets (the total value of assets collected through the reporting
14 period is \$80,522,785, inclusive of the \$8,054,348.30 in cash);
- 15 2) communicate with investors and creditors;
- 16 3) gather documents and begin a forensic accounting;
- 17 4) identify personal property and obtain approval for sale of the sale (the total value of all
18 personal property collected through the end of this reporting period is \$8,672,310
19 which includes \$1,162,996 in cryptocurrency and \$7,509,314 as the estimated value of
20 vehicles, watercrafts, and airplanes);
- 21 5) identify and take control of certain real property and obtain approval of a process for
22 the sale of the same (the total value of real properties acquired by the Receiver to date
23 is \$52,969,573);
- 24 6) implement measures to resolve related bankruptcy matters;
- 25 7) monitor ancillary proceedings that may affect the receivership;
- 26 8) research and evaluate other matters affecting the estate as deemed warranted; and
- 27 9) prepare and file requisite pleadings and documents with the Court to effectuate turnover

28 ¹ On July 29, 2022, this Court entered an order expanding the original receivership order to apply to additional defendants (*see* ECF No. 207).

1 of assets and establish procedures to effectuate the Receiver’s goals.

2 As is common in the early stages of a complex receivership involving hundreds of millions
 3 of dollars in assets – here, the Receiver and his professionals were required to expend significant
 4 time and effort to preserve the *status quo*, begin the recovery of receivership assets, and commence
 5 their efforts to obtain financial documents and other information that will likely prove critical to
 6 the administration of the Estate, the Receiver's evaluation of prospective creditor claims, and any
 7 claw-back or disgorgement litigation that the Receiver ultimately determines, in his reasonable
 8 business judgment, is required to recover assets for the benefit of the Estate and its creditors.
 9 Specific details regarding efforts of the Receiver and his team from American Fiduciary Services
 10 (“AFS”) and Greenberg Traurig are further detailed in the Second Quarterly Application for Fees
 11 and Reimbursement of Expenses for Receiver and Receiver’s Counsel Greenberg Traurig (ECF
 12 No. 365). Additional details regarding the activities and services provided by Allen Matkins Leck
 13 Gamble Mallory & Natsis, LLP and Semenza Kircher Rickard are set forth in their Second
 14 Quarterly Application for Fees and Reimbursement of Expenses (ECF Nos. 360-362).

15 III. LEGAL AUTHORITY

16 “The power of a district court to impose a receivership ... derives from the inherent power
 17 of a court of equity to fashion effective relief.”² “The primary purpose of equity receiverships is
 18 to promote orderly and efficient administration of the Receivership Estate by the district court for
 19 the benefit of creditors.”³ “[T]he practice in administering an estate by a receiver ... must accord
 20 with the historical practice in federal courts or with a local rule.”⁴

21 As the Ninth Circuit explained:

22 A district court’s power to supervise an equity receivership and to
 23 determine the appropriate action to be taken in the administration of
 24 the receivership is extremely broad. The district court has broad
 25 powers and wide discretion to determine the appropriate relief in an
 26 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.⁵

27 ² *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980).

28 ³ *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986).

⁴ Fed. R. Civ. P. 66.

⁵ *SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005) (citations omitted); see also *CFTC v. Topworth Int’l, Ltd.*, 205 F.3d 1107, 1115 (9th Cir. 1999) (“This court affords ‘broad deference’ to the court’s supervisory role,

1 Decisions regarding the timing and amount of an award of fees and expenses to the
 2 Receiver and his or her professionals are committed to the sound discretion of the Court.⁶ In
 3 determining the reasonableness of fees and expenses requested in this context, the Court should
 4 consider the time records presented, the quality of the work performed, the complexity of the
 5 problems faced, and the benefit of the services rendered to the Estate, along with the SEC's
 6 position on the request, which is entitled to "great weight."⁷

7 **IV. THE FEES AND EXPENSES INCURRED ARE REASONABLE AND**
 8 **SHOULD BE ALLOWED.**

9 The Receiver and his counsel respectfully submit that the fees and expenses incurred during
 10 the Application Period were fair, reasonable, necessary, and significantly benefited the Estate.
 11 Importantly, efforts were taken to avoid duplication of efforts and to undertake required tasks in
 12 as efficient manner as possible, utilizing personnel best suited to the task consistent with the
 13 complexity of the tasks required with the goal of providing high quality work that benefits the
 14 receivership estate.

15 **a. Efforts to Avoid Duplication.**

16 During the Application Period, the Receiver and his professionals endeavored to avoid
 17 duplication of efforts, and to undertake required tasks in as efficient a manner as possible, utilizing
 18 personnel best suited to the task. Among other things, the Receiver and select representatives
 19 among his professionals held weekly videoconference meetings to identify outstanding tasks,
 20 assign to each outstanding task a measure of urgency or importance, and determine which of the
 21 Receiver's professionals would be responsible for completing the task, and when. As reflected in
 22 the invoices submitted in support of the Second Quarterly Applications for Fees (ECF Nos. 360-
 23 362 and 365) many of the tasks undertaken by the Receiver and his professionals required
 24 immediate attention.

25 As was the case in the first reporting period, and by way of example, Allen Matkins took
 26

27 and 'we generally uphold reasonable procedures instituted by the district court that serve th[e] purpose of orderly and
 efficient administration of the receivership for the benefit of creditors.'").

28 ⁶ 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)).

⁷ *SEC v. Fifth Ave. Coach Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973).

1 the lead on handling bankruptcy related matters while Greenberg Traurig took the lead on working
2 with defendants and their counsel to facilitate the turnover of assets and filing related motions.
3 This division of work has significantly benefitted the estate, as reflected in the Court's prior
4 favorable orders on the Receiver's bankruptcy report, approval of procedures for the sale of real
5 and personal property, motions relating to the attorney of attorney fees, and in the progress made
6 by the Receiver to-date in connection with the identification and marshaling of valuable
7 receivership assets.

8 Although, on occasion, the Receiver and his professionals were required to engage in
9 efforts that overlapped to a degree (again, particularly given the early stage of the receivership
10 case), they consistently endeavored to limit such overlap, and to ensure that each task was
11 undertaken by the appropriate, and smallest, group of professionals necessary and sufficient to
12 maximize the likelihood of a successful outcome. These efforts have continued beyond the
13 Reporting Period.

14 **b. Complexity of Receivers Tasks and Quality of Work Performed.**

15 During the early stages of a receivership there are a number of moving parts and numerous
16 issues to address many on an expedited timeline. Here, due to the number of defendants including
17 the new defendants that as a result of the amended complaint filed by the SEC, the number of
18 alleged victims of the purported Ponzi-scheme (the Receiver has been in contact with over 740
19 during the Application Period), and the dollar amount at issue, there were inherent complexities
20 the Receiver and his team faced in determining how to proceed in the most expedient manner.
21 After the Court expanded the scope of the Appointment Order and Injunction Order, the Receiver
22 and his counsel made immediate efforts to contact the new defendants to facilitate the turnover of
23 available assets in an orderly fashion. Additionally, the Receiver and his team have continued
24 efforts to contact financial institutions to advise of the orders entered by this Court effecting
25 monies they held. During this reporting period significant efforts were made to establish and get
26 court approval for procedures to sell real and personal property and employ professional to assist
27 with the same. The fruits of these efforts include the sale of luxury homes, a personal aircraft, and
28 will be further apparent going forward as the sale of vehicles and real property is well under way.

1 All of these efforts were taken contemporaneously, and required coordination among multiple
2 attorneys, occasionally among personnel from multiple law firms, to say nothing of coordination
3 with the Receiver and his in-house staff.

4 The quality of the work performed by the Receiver and his team is further established in
5 the Second Quarterly Report filed on November 1, 2022 (ECF No. 343) as summarized above.
6 Notwithstanding the complexities associated a new receivership and limited knowledge regarding
7 the underlying facts, during the first several months of the receivership, the Receiver and his
8 professionals successfully secured real and personal property which is presently valued in the
9 aggregate at over \$61 million dollars for the benefit of the Receivership Estate, in addition to
10 developing a mechanism to sell real and personal property. Accordingly, the Receiver and his
11 professionals respectfully submit that the work performed was of the highest quality, and the
12 resultant benefit to the estate is substantial.

13 **c. Fair Value of Receiver's Time and Reasonableness of Expenses on**
14 **Receivership Estate.**

15 As set forth in the applications made to this court to facilitate the Receiver employing
16 counsel (ECF Nos. 90 and 108), and as referenced in the fee applications filed contemporaneously
17 herewith (ECF Nos. 360-362 and 365) the attorneys working on this matter are doing so at *heavily*
18 discounted rates far below the market or "rack" rates charged in non-receivership matters,
19 notwithstanding the complexity of the present receivership case or the amounts in controversy.
20 Additionally, efforts have been taken to avoid duplicate efforts of counsel. Further, AFS is also
21 providing significant discounts and performs a substantial amount of work in-house, saving both
22 time and money, including tasks involving corporate accounting, forensic accounting, case
23 administration, claims administration, asset valuation, investor communications and internet
24 technology. The significantly reduced rates being charged in this matter, along with efforts to
25 avoid duplication and streamline task demonstrate the reasonableness of the fees requested.

26 When it comes to evaluating the burden of the expenses and the ability of the receivership
27 estate to reasonably bear the same, it is important to look at the case as a whole. In its Complaint
28 (as amended), the SEC has alleged causes of action arising from an alleged investment scheme,

1 whereby hundreds of millions of dollars in investments were successfully solicited based on claims
2 that funds invested would be backed by settlements to be paid out in litigation across the country.
3 (ECF No. 118). In addition, the SEC has alleged that investor funds were diverted by certain
4 defendants to purchase luxury homes, a private aircraft, and multiple luxury automobiles, among
5 other things. (*Id.*) The Receiver's ability to recover cash and assets valued at more than \$80
6 million dollars is not insignificant and is an important consideration when evaluating the fees
7 requested and their potential impact on the estate.

8 As compared to the value of the assets recovered, the Receiver's and his professionals' fees
9 in their entirety (to say nothing of the fact that they have requested payment of fees at an interim
10 rate of only 80% of actual fees incurred) are nominal. Moreover, the Receiver and his team
11 continue to recover assets and are in the process of selling the same with proceeds going directly
12 to the Receiver for the benefit of the estate to achieve the most equitable outcome possible for all
13 stakeholders. Accordingly, approval of the fees requested is appropriate.

14 **d. Communication with SEC Counsel**

15 The fees requested by the Receiver and his professionals were reviewed and will continue
16 to be reviewed by the SEC staff prior to their submittal to this Court. As set forth in the
17 Appointment Order (ECF No. 88), at least 30 days prior to filing each Quarterly Fee Application
18 with the Court, the Receiver and his team provide SEC Counsel a complete copy of the proposed
19 fee application and relevant billing information.⁸ The SEC staff then reviews the invoices and can
20 provide comments to the Receiver prior to the filing of the fee application. The Receiver and his
21 professionals are sensitive to the feedback received from the staff and received minimal comments
22 for the invoices submitted for this Application Period all of which have been incorporated into the
23 invoices submitted at this time. Importantly, for purposes of the current application, SEC counsel
24 has informed the Receiver that the SEC does not oppose the requested allowance and payment of
25 fees and costs, on an interim basis.

26 ///

27
28 _____
⁸ In an effort to provide the SEC ample time to review and comment regarding the same, invoices are now being provided to counsel for the SEC on a monthly basis.

V. CONCLUSION

Based on the foregoing, the Receiver and his counsel request that the Court approve the fees and expenses as noted herein, and also authorize the payment of those fees and expenses on a percentage, interim basis. Specifically, the Receiver and his counsel request entry of an order⁹ Granting this Omnibus Motion in its entirety and approving the following fees and costs incurred for this Application Period as follows:

- a. Receiver fees of \$375,123.00 and costs of \$19,231.64;
- b. Greenberg Traurig fees of \$188,439.52 and costs of \$1,273.00;
- c. Allen Matkins fees of \$221,341.50 and costs of \$3,925.73; and
- d. Semenza Kircher fees of \$12,319.50 and costs of \$188.00.

The Receiver respectfully requests the Court's interim approval of 100% of the fees and expenses incurred during the Application Period and further requests the interim payment of 80% of such fees and 100% of such expenses and granting such other and further relief as the Court deems just and appropriate.

DATED this 15th day of November 2022.

GREENBERG TRAUIG, LLP

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Attorneys for Receiver Geoff Winkler

⁹ The form of the proposed order is attached as **Exhibit 1**.

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I hereby certify that on the **15th day of November 2022**, a true and correct copy of the foregoing **OMNIBUS MOTION TO APPROVE SECOND QUARTERLY APPLICATIONS FOR FEES AND REIMBURSEMENT OF EXPENSES FOR RECEIVER AND RECEIVER’S COUNSEL FOR THE PERIOD FROM JULY 1, 2022 THROUGH SEPTEMBER 30, 2022** was filed electronically via the Court’s CM/ECF system. Notice of filing will be served on all parties registered to this case by operation of the Court’s CM/ECF system, and parties may access this filing through the Court’s CM/ECF system.

/s/ Andrea Lee Rosehill
An employee of GREENBERG TRAUIG, LLP

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**GREENBERG TRAUERIG,
LLP**
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EXHIBIT 1

[Proposed] Order Granting Omnibus Motion to Approve Second
Quarterly Applications for Fees and Reimbursement of Expenses

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

SECURITIES AND EXCHANGE COMMISSION,

CASE NO. 2:22-cv-00612-CDS-EJY

Plaintiff,

vs.

MATTHEW WADE BEASLEY, *et al.*,

Defendants,

THE JUDD IRREVOCABLE TRUST, *et al.*,

Relief Defendants.

**[PROPOSED] GRANTING OMNIBUS
MOTION TO APPROVE SECOND
QUARTERLY APPLICATIONS FOR
FEES AND REIMBURSEMENT OF
EXPENSES FOR RECEIVER AND
RECEIVER’S COUNSEL FOR THE
PERIOD FROM JULY 1, 2022
THROUGH SEPTEMBER 30, 2022**

The Court having reviewed the Omnibus Motion to Approve Second Quarterly Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel for the Period from July 1, 2022 through September 30, 2022; the Second Quarterly Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel Greenberg Traurig;

1 the Second Quarterly Applications for Fees and Reimbursement of Expenses for Receiver and
2 Receiver’s Counsel (1) Allen Matkins Leck Gamble Mallory & Natsis, LLP and (2) Semenza
3 Kircher Rickard (the “Applications”); and the Court having found that notice was proper and that
4 good cause exists to approve the same,

5 IT IS ORDER THAT the Omnibus Motion to Approve Second Quarterly Applications for
6 Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel for the Period from
7 July 1, 2022 through September 30, 2022 is GRANTED and:

- 8 (1) the Receiver fees of \$375,123.00 and costs of \$19,231.64 are allowed;
- 9 (2) Greenberg Traurig fees of \$188,439.52 and costs of \$1,273.00 are allowed;
- 10 (3) Allen Matkins fees of \$221,341.50 and costs of \$3,925.73 are allowed; and
- 11 (4) Semenza Kircher fees of \$12,319.50 and costs of \$188.00 are allowed.

12 The Receiver is hereby authorized to pay 80% of the allowed fees and 100% of the allowed
13 costs from funds on hand in the receivership estate.

14 **IT IS SO ORDERED.**

15 _____
16 District Court Judge

17 Dated: _____

18 i

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