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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

**AMENDED 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 Geoff Winkler, the Court-appointed Receiver (the "Receiver"), submits this Amended Omnibus
25 Motion to Approve Second Quarterly Applications for Fees and Reimbursement of Expenses for Receiver
26 and Receiver's Counsel for the Period from July 1, 2022, through September 30, 2022 (" Amended
27 Motion").

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1 This Amended Motion incorporates by reference the Second Quarterly Applications for Fees and
2 Reimbursement of Expenses for Receiver and Receiver’s Counsel Greenberg Traurig (ECF No. 365) and
3 recent amendment thereto (ECF No. 405) , 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), and recent amendment
6 thereto (ECF No. 402), and the Omnibus Motion to Approve Second Quarterly Applications for Fees and
7 Reimbursement of Expenses for Receiver and Receiver’s Counsel for the Period from July 1, 2022 through
8 September 30, 2022 (ECF No. 366).

9 This Amended Motion also addresses the concerns raised by the Court at the hearing on
10 December 16, 2022.¹

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

- 13 (1) Receiver fees of \$373,619 and costs of \$19,231.64;
- 14 (2) Greenberg Traurig fees of \$186,853.25 and costs of \$1,273.00;
- 15 (3) Allen Matkins fees of \$220,054.50 and costs of \$3,775.02; and
- 16 (4) Semenza Kircher fees of \$12,122.50 and costs of \$188.00.

17 The Receiver and his counsel respectfully submit that the fees and expenses incurred during the
18 Application Period were fair, reasonable, necessary, and significantly benefited the Estate. Notably, the
19 fees are less than one percent (1%) of the total recovery made by the Receiver to date. Indeed,
20 ECF No. 366 and the other filings referenced above are incorporated by reference describe the Receiver
21 and his counsels’ efforts to avoid duplication, the complexity of the Receiver’s tasks and quality of work
22 performed, the value and reasonableness of the expenses, as well as the communication with the SEC that
23 occurred prior to the original submittal on November 15, 2022. At the Court’s direction, an additional

24
25 ¹ The Court previously considered the Omnibus Motion to Approve Second Quarterly Applications for Fees and
26 Reimbursement of Expenses for Receiver and Receiver’s Counsel for the Period from July 1, 2022 through
27 September 30, 2022; the Second Quarterly Applications for Fees and Reimbursement of Expenses for Receiver and
28 Receiver’s Counsel Greenberg Traurig; and the Second Quarterly Applications for Fees and Reimbursement of
Receiver’s Counsel (1) Allen Matkins Leck Gamble Mallory & Natsis, LLP and (2) Semenza Kircher Rickard
(together, the “Original Applications”). See ECF Nos. 360, 365, and 366. After making observations regarding the
Court’s concerns about certain billing entries by the Receiver and his counsel at the motion hearing held
December 16, 2022, the Court denied the Original Applications without prejudice, ordering the Receiver and his
counsel to refile the Applications with additional clarification. See ECF No. 398.

1 review of the invoices submitted was completed, and revisions are reflected in the amounts requested
2 here.

3 As referenced in the prior submittals, the amounts requested for fees incurred for the Second
4 Quarter reflect the significantly discounted rates previously approved by the Court. Additionally, prior to
5 being filed with the Court, a rigorous review process is completed.

6 **Billing Standards and Invoice Review Prior to Submittal.**

7 In response to the Court’s inquiry during the December 16, 2022 hearing, the Receiver would like
8 to provide some additional background regarding the guidelines utilized by his team and the professionals
9 he retains, as well as the process that is employed prior to any fee submission being filed with the Court.
10 Most notably, in addition to discounting rates for this matter and following their own firm best practices
11 for ethical and commercially reasonable billing, the Receiver and his counsel work to ensure that all billing
12 standards meet or exceed both (i) the SEC’s Billing Instructions for Receivers in Civil Actions
13 Commenced by the U.S. Securities and Exchange Commission (the “Billing Instructions”) and (ii) the
14 U.S. Trustee’s Guidelines for Reviewing Applications for Compensation and Reimbursement of
15 Expenses.² The Billing Instructions and Trustee’s Guidelines have been developed iteratively by the SEC
16 and U.S. Trustee specifically to ensure that receivers, trustees, and any professionals or others employed
17 by them charge only reasonable and necessary fees and expenses to a receivership or bankruptcy estate.

18 The Billing Instructions followed by the submitting parties include requirements that each
19 professional and paraprofessional keep contemporaneous billing records and record time in increments of
20 tenths of an hour and that time records provide reasonable detail and narrative.³ Each entry must also
21 identify an SEC approved category for the work performed.⁴ Certain work performed by the Receiver
22 and counsel that might otherwise be billable in a different context is not included in the invoices submitted
23 to this Court and written off presumptively by the respective parties. This includes time spent preparing
24 fee applications and documentation in support of the same as well as many administrative tasks.
25 Additionally, the Receiver and counsel routinely write off time associated with internal communication
26

27 ² The Billing Instructions are available online at www.sec.gov/oiea/Article/billinginstructions.pdf.

28 ³ See, www.sec.gov/oiea/Article/billinginstructions.pdf.

⁴ *Id.*

1 and training. Further, consistent with SEC guidelines, only certain types of costs are included in the
2 invoices submitted. Allowed expenses per SEC guidelines include filing fees, process service fees, expert
3 witness fees, court reporter fees, lines and title expense, postage, parking, and travel.⁵ SEC guidelines
4 also allow for reimbursement for photo copying and telephone charges. However, such photocopying and
5 telephone expenses are already voluntarily excluded from the invoices and applications submitted in this
6 case.

7 When it comes to travel, the Receiver and his team are also limited in what they can seek
8 reimbursement for and are cost conscious. Notably, per SEC guidelines, long distance travel outside a
9 twenty (20) mile radius of the applicant’s office is reimbursable at fifty percent (50%) of the applicant’s
10 regular billing rate, and reimbursement is subject to specific travel restrictions and limitations.⁶ The
11 Receiver and his team follow the guidelines, which specify: 1) they seek the and use the lowest airfare;
12 2) luxury accommodations and deluxe meals are not reimbursable; 3) personal and incidental charges are
13 not included; and 4) expenses over \$75 require a receipt. In regard to hotel selection, the Receiver books
14 accommodations based on availability and costs, and the Receiver and his team strive to find reasonable
15 accommodations, taking into account fluctuating prices due to conference and events in Las Vegas.

16 Cognizant of the fees and expenses and the impact they can have on the Receivership Estate,
17 Mr. Winkler reviews both the invoices from his team of professionals and American Fiduciary Services
18 (“AFS”) on a monthly basis. In so doing, he looks to identify inefficiencies and cuts any time entries and
19 requests for reimbursement he believes are excessive or inconsistent with the Billing Instructions and/or
20 U.S. Trustee’s Guidelines. After Mr. Winkler’s review, the invoices are sent directly to counsel for the
21 SEC for their review an input under both the Billing Instructions standards and counsel’s experience and
22 discretion. Although the Appointment Order (ECF No. 88) specifies that the SEC be provide with drafts
23 of quarterly fee applications 30 days prior to the same being filed, in this case, the Receiver and his team
24 work to provide the SEC the invoices on a monthly basis.

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28 ⁵ *Id.*

⁶ *Id.*

1 In regard to the fees and costs requested in the Second Fee Application, the process outlined above
2 was utilized with (1) the professionals responsible reviewing their own invoices on a monthly basis, (2) the
3 Receiver then reviewing the invoices on a monthly basis, and (3) the Receiver then providing the same to
4 counsel for the SEC for its review. Staff for the SEC then reviewed the invoices and can (and did) provide
5 comments to the Receiver prior to the filing of the fee application. The Receiver and his professionals
6 are sensitive to the feedback received from SEC staff. For the Second Fee Application, minimal concerns
7 relating to the invoices submitted were raised by the SEC. However, the comments made were addressed
8 and/or incorporated. At the SEC’s request, certain time was written off and not included in the subject
9 submittal.

10 It is also important to note that, consistent with the billing guidelines of the SEC, the Receiver and
11 the applicable law firms are seeking payment of 80% of their fees with the remaining, unpaid twenty
12 percent (20%) as a “holdback” of approved fees, subject to final review and payment only at the
13 conclusion of this Receivership. This provides additional security, should the Court have any additional
14 concerns not addressed in the amended filings. Indeed, the 20% hold back provides a buffer and an
15 additional opportunity for final consideration when the case is complete.

16 For these reasons, as well as the clarifications provided in the separate Amendments to (i) the
17 Second Quarterly Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s
18 Counsel Greenberg Traurig, (ECF No. 405), and (ii) the Second Quarterly Applications for Fees and
19 Reimbursement of Expenses for Receiver and Receiver’s Counsel (1) Allen Matkins Leck Gamble
20 Mallory & Natsis, LLP; and (2) Semenza Kircher Rickard (ECF Nos. 360-362), (ECF No. 402), the

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1 Receiver respectfully requests the Court approve the amended fee applications and grant the relief
2 requested in this Amended Omnibus Motion. A proposed order is included as **Exhibit A** hereto.

3 DATED this 20th day of December 2022.

4 **GREENBERG TRAUIG, LLP**

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

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18 *Attorneys for Receiver Geoff Winkler*

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I hereby certify that on the **20th day of December 2022**, a true and correct copy of the foregoing **AMENDED 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/ Evelyn Escobar-Gaddi
An employee of GREENBERG TRAUIG, LLP

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INDEX OF EXHIBITS	
EXHIBIT	DESCRIPTION
A	Proposed Order

GREENBERG TRAURIG, LLP
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EXHIBIT A

EXHIBIT A

[Proposed] Order

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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

**[PROPOSED] ORDER GRANTING
AMENDED 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**

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1 Presently before the Court are the Amended Omnibus Motion to Approve Second Quarterly
2 Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel for
3 the Period from July 1, 2022 through September 30, 2022; the Amended Second Quarterly
4 Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel
5 Greenberg Traurig; and the Amended Second Quarterly Applications for Fees and Reimbursement
6 of Receiver’s Counsel (1) Allen Matkins Leck Gamble Mallory & Natsis, LLP and (2) Semenza
7 Kircher Rickard (together, the “Amended Applications”).

8 The Court previously considered the Omnibus Motion to Approve Second Quarterly
9 Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel for
10 the Period from July 1, 2022 through September 30, 2022; the Second Quarterly Applications for
11 Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel Greenberg Traurig; the
12 Second Quarterly Applications for Fees and Reimbursement of Receiver’s Counsel (1) Allen
13 Matkins Leck Gamble Mallory & Natsis, LLP and (2) Semenza Kircher Rickard (together, the
14 “Original Applications”). *See* ECF Nos. 360, 365, and 366. After noting the Court’s concerns
15 about certain billing entries by the Receiver and his counsel at the motion hearing held
16 December 16, 2022, the Court denied the Original Applications without prejudice, ordering the
17 Receiver and his counsel to refile the Applications with additional clarification. *See* ECF No. 398.

18 The Court finds that the renewed Amended Applications provide sufficient clarification or
19 reduction of the specific items noted by the Court, as well as similar items. Accordingly, the
20 Receiver has demonstrated good cause to grant the Amended Applications. Having found that
21 notice was proper,

22 **IT IS HEREBY ORDERED THAT** the Omnibus Motion to Approve Second Quarterly
23 Applications for Fees and Reimbursement of Expenses for Receiver and Receiver’s Counsel for
24 the Period from July 1, 2022, through September 30, 2022, is GRANTED and:

- 25 (1) the Receiver fees of \$373,619.00 and costs of \$19,231.64 are ALLOWED;
- 26 (2) Greenberg Traurig fees of \$186,853.25 and costs of \$1,273.00 are ALLOWED;
- 27 (3) Allen Matkins fees of \$220,054.50 and costs of \$3,775.02 are ALLOWED; and
- 28 (4) Semenza Kircher fees of \$12,122.50 and costs of \$188.00 are ALLOWED.

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Accordingly, the Receiver is hereby AUTHORIZED to pay 80% of the allowed fees and 100% of the allowed costs from funds on hand in the receivership estate.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

DATED: _____

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