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6 *Attorneys for Receiver Geoff Winkler*

7
8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 SECURITIES AND EXCHANGE
COMMISSION,

11 Plaintiff,

12 vs.

13 MATTHEW WADE BEASLEY, *et al.*,

14 Defendants,

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

16 Relief Defendants.
17

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

**DECLARATION OF RECEIVER, GEOFF
WINKLER, IN SUPPORT OF MOTION
FOR ORDER AUTHORIZING RECEIVER
TO EMPLOY SPECIAL LITIGATION
COUNSEL**

**[Motion and [Proposed] Order submitted
concurrently herewith]**

18 **DECLARATION OF GEOFF WINKLER**

19 I, Geoff Winkler, declare as follows:

20 1. I am the Court-appointed receiver for J&J Consulting Services, Inc., an Alaska
21 corporation; J&J Consulting Services, Inc., a Nevada corporation; J and J Purchasing LLC; The
22 Judd Irrevocable Trust; and BJ Holdings LLC, and over the Wells Fargo Interest on Lawyers'
23 Trust Account ending in 5598 and held in the name of Beasley Law Group PC, along with the
24 personal assets of Matthew Wade Beasley; Jeffrey J. Judd; Christopher R. Humphries; Shane M.
25 Jager; Jason M. Jongeward; Denny Seybert; and Roland Tanner (all, collectively, the
26 "Receivership Defendants") in the above-entitled action. I make this Declaration in support of
27 Receiver Geoff Winkler's Motion for Order Authorizing Receiver to Employ Special Litigation
28

1 Counsel (“Motion”), and have personal knowledge of the facts presented in this Declaration. If
2 called as a witness in this matter, could and would competently testify thereto.

3 2. Through my attorneys, I have conferred with the Plaintiff Securities and Exchange
4 Commission (the “Commission”) regarding the need for separate litigation counsel to investigate
5 and, if appropriate, file a lawsuit against Wells Fargo Bank, N.A. (“Wells Fargo”).

6 3. My investigation and analysis of the business and financial affairs of the
7 Receivership Entities is preliminary and ongoing, however, my staff and I have reviewed
8 thousands of pages relating to transactions engaged in by the Receivership Entities and Individual
9 Defendants. I understand and believe in my reasonable business judgment, that Wells Fargo’s
10 conduct in connection with the SEC’s allegations against Defendants in the SEC Action warrants
11 further investigation, and, potentially, the commencement of an action to recover damages arising
12 out of Wells Fargo’s acts and/or omissions as they relate to the Ponzi scheme alleged here.

13 4. I have reviewed the Class Action lawsuits initiated against Wells Fargo by a
14 number of purported class plaintiffs (the “Class” or “Class Plaintiffs”). Those lawsuits were
15 consolidated into one proceeding currently pending before Judge Navarro as In re J&J Investment
16 Litigation, Case No. 2:22-cv-00529-GMN-NJK, United States District Court for the District of
17 Nevada (the “Class Action”). (See Class Action ECF No. 37.) Based on the information presently
18 available to me, I have determined that the Receiver and the Receivership Entities have or may
19 have an independent basis or grounds to pursue claims against Wells Fargo. As a result, I seek
20 express authorization from this Court to engage the law firm of Levine Kellogg Lehman Schneider
21 + Grossman LLP (the “Firm”) to: (i) investigate the basis and viability of these prospective
22 claims; and (ii) if an appropriate basis exists to do so, file a lawsuit against Wells Fargo. I believe
23 there is a sound business and legal basis, and that it is in the best interest of the Receivership
24 Entities and their estate, to seek the employment of the Firm as special litigation counsel to
25 investigate claims against Wells Fargo and, if reasonably appropriate, represent the Receivership
26 Entities and Receiver in any separate litigation initiated by the Receiver against Wells Fargo.

27 5. As an initial matter, certain of my existing counsel have conflicts which preclude
28 their representation of me or the Receivership Entities in an action against Wells Fargo. Further,

1 the Firm is familiar with the facts of the Class Action and the allegations against Wells Fargo, as it
2 is currently one of four interim co-lead counsel in the Class Action. The Firm, and in particular its
3 partners Jeffrey C. Schneider and Jason Kellogg, have significant experience in the prosecution of
4 claims against financial institutions, both on behalf of classes, court-appointed fiduciaries
5 including federal equity receivers, and individual claimants.

6 6. The Firm has agreed to represent the Receiver and Receivership Entities on a
7 contingency basis at an appropriate rate, *subject to this Court's approval*, and to pay the costs of
8 the investigation and prosecution of any and all claims against Wells Fargo by the Receiver. As
9 such, the Receivership Entities and their estate will not incur the fees and costs of any action
10 against Wells Fargo unless and until a recovery is obtained.

11 7. In addition, I have negotiated (i) a common interest agreement and (ii) a joint
12 prosecution agreement with the Class Plaintiffs. The joint prosecution agreement provides
13 customary and commercially reasonable terms and protections to facilitate coordination of
14 discovery and other matters. The common interest agreement memorializes the parties'
15 recognition that the Class Plaintiffs and the Receiver share a common interest in sharing certain
16 information, without waiving any applicable privileges, protections, immunities, or claims of
17 confidentiality they may possess, individually or collectively. I reasonably believe that entering
18 such agreements will substantially benefit the receivership estate by sharing resources and
19 reducing costs.

20 8. I selected the Firm after interviewing several law firms and counsel. I believe that
21 the Firm is well qualified based on its litigation expertise and ability to represent the Receiver in
22 connection with the investigation and prosecution of prospective claims against Wells Fargo,
23 without conflicts.

24 9. The Firm has agreed to represent the Receiver and the Receivership Entities on a
25 contingent basis. In the event there is a recovery on a claim against Wells Fargo on behalf of the
26 Receiver and/or the Receivership Entities, the Receiver has agreed, subject to Court approval, to
27 pay the Firm 25% of the gross proceeds actually recovered by the Receiver whether through
28 settlement, final judgment or otherwise. If the settlement or recovery is accomplished through the

1 joint efforts of Class Counsel, then the 25% will be shared among the Firm and Class Counsel
2 according to their separate agreement.

3 10. To the best of the Firm's and my knowledge, the Firm does not hold an interest or
4 represent any interest adverse to the parties in this matter, or the Receivership Entities and their
5 assets. It should be noted that the Class Plaintiffs in the Class Action are currently represented by
6 several law firms including, as relevant here, the Firm. The Firm will withdraw as counsel for the
7 Class Plaintiffs concurrently with the entry of an order by the Court approving the Firm as special
8 litigation counsel for the Receiver and authorizing the Receiver to proceed with the investigation
9 and initiation of a lawsuit.

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

11 Executed on February 2, 2023, at Los Angeles, California.

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Geoff Winkler

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 3rd day of February, 2023, I served the document(s), described as:

DECLARATION OF RECEIVER, GEOFF WINKLER, IN SUPPORT OF MOTION FOR ORDER AUTHORIZING RECEIVER TO EMPLOY SPECIAL LITIGATION COUNSEL [Motion and [Proposed] Order submitted concurrently herewith]

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

a. **CM/ECF System** to the following registered e-mail addresses:

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

c. **BY PERSONAL SERVICE.**

d. **BY DIRECT EMAIL.**

e. **BY FACSIMILE TRANSMISSION.**

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

/s/ Olivia A. Kelly
An Employee of Semenza Kircher Rickard