

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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SECURITIES AND EXCHANGE))	
COMMISSION,))	
))	
Plaintiff,))	
))	
v.))	Civil No. 1:18-cv-01262
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TODD ELLIOTT HITT, KIDDAR))	
CAPITAL LLC, and KIDDAR GROUP))	
HOLDINGS, INC.,))	
))	
Defendants,))	
))	
and))	
))	
KIDDAR HERNDON STATION LLC,))	
KIDDAR HOMEBUILDING FUND I,))	
LLC, MELBOURNE RETREAT LLC,))	
KIDDAR MASS AVE LLC, KIDDAR))	
RIDGEVIEW LLC, ESA EMERSON))	
LLC, ESA HIGHWOOD LLC, and))	
KIDDAR AQ LLC a/k/a KIDDAR))	
AQUICORE LLC,))	
))	
Relief Defendants.))	
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**APPLICATION FOR ALLOWANCE OF COMPENSATION
AND EXPENSE REIMBURSEMENT FOR BRUCE H. MATSON AS RECEIVER**

Christopher L. Perkins, Receiver for the estates of Kiddar Capital LLC, Kiddar Group Holdings, Inc., Kiddar Homebuilding Fund I LLC, Melbourne Retreat LLC, Kiddar Mass Ave LLC, Kiddar Ridgeview LLC, ESA Emerson LLC, ESA Highwood LLC, and Kiddar AQ LLC, also known as Kiddar Aquicore LLC (the "**Receivership Defendants**"), submits this Application for Allowance of Compensation and Expense Reimbursement for Bruce H. Matson as Receiver (the "**Application**") in accordance with the "Billing Instructions for Receivers in Civil Actions

Commenced by the U.S. Securities and Exchange Commission” (the “**Billing Instructions**”). In this Application, Matson seeks approval of (a) compensation in the amount of \$93,780.00 and (b) reimbursement of expenses in the amount of \$2,112.96 for the period of October 9, 2018 through December 13, 2019 (the “**Application Period**”). In support of this Application, the Receiver respectfully represents the following:

Jurisdiction and Venue

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 959.

Background

2. On October 5, 2018 (the “**Filing Date**”), the Securities and Exchange Commission (“**SEC**”) commenced a civil case (the “**Civil Case**”) by filing a complaint against the Receivership Defendants, among others, for violations of federal securities laws.

3. By Order dated October 12, 2018, this Court appointed the original Receiver in this Civil Case (the “**Receivership Order**”). By Order dated December 13, 2019, this Court appointed the undersigned as substitute Receiver.

Case Status

4. On April 24, 2020, the Receiver filed his Quarterly Status Report [Docket No. 141] detailing, among other things, the amount of cash on hand, accrued expenses, funds received and disbursed, the status of creditor claims, and the value of Receivership assets. The Receiver incorporates the Final Status Report herein.

5. The SEC’s Standardized Fund Accounting Report (the “**SFAR**”) is attached hereto as Exhibit 1.

Relief Requested

6. By this Fee Application, Matson is seeking approval of compensation for the Application Period in the amount of \$93,780.00 for professional services rendered as Receiver and reimbursements of \$2,112.96 for out-of-pocket expenses incurred for the Receiver's benefit from and including October 9, 2018 through and including December 13, 2019. Attached hereto as Exhibit 2 is Matson's invoice for services rendered and expenses incurred during the Application Period. Attached as Exhibit 3 is a Declaration of Mr. Matson in support of the Application.

Summary of Services Rendered During Application Period

7. The total amount of compensation requested by Matson for the Application Period is based on the discounted hourly rates agreed to be charged by the professionals who performed services as a Receiver in this matter.

8. In the course of serving as Receiver during the Application Period, Matson has provided various services, which may be summarized as follows:

A. Asset Analysis & Recovery: Total Hours 170.65 Total: \$51,195

Description – Investigate assets of the Receivership Defendants' estates; analyze various information from financial advisors regarding asset analysis; review and analyze real property records and lien documentation.

Necessity and Benefit to the Estate - Matson's services were necessary in analyzing and liquidating potential assets that serve as a basis for distribution for the benefit of creditors.

B. Case Administration: Total Hours 50.2 Total \$15,060

Description – Research, analysis, conferences, document review and preparation, correspondence, and court appearances on case administrative matters including, but not limited to: filing and service of pleadings, communications and strategy regarding case, review docket filings, various hearing preparation, internal organizational meetings, communication with counsel for various constituents including Receivership Defendants, investors, Relief Defendants, and government agencies.

Necessity and Benefit to the Estate - Matson's services were necessary to assist in the complex and ordinary issues pertaining to the ongoing maintenance of this case.

C. Claims Administration and Objections: Total Hours 92.15 Total \$27,645

Description –Communications with Hitt Family, creditors and counsel; manage internal claims review process; review/analysis of various claims.

Necessity and Benefit to the Estate - Matson's services were necessary to perform his responsibilities and obligations concerning creditors' claims against the estates and to formulate a plan of distribution.

9. The fees sought by Matson are reasonable for the work he performed in the specialized area of receivership law and in practice before the United States District Court for the Eastern District of Virginia. Such fees are customary for this practice and are comparable in amount to services rendered by other receivers in the area. The fees sought herein are reasonable considering the nature and extent of the work, the time spent, and the value of the services.

10. The expenses incurred by Matson as set forth herein, are reasonable and necessary charges for items such as travel mileage and lodging when attending meetings and court hearings in excess of 100 miles from his office location.

11. Under the "lodestar" approach, the Court should consider the number of hours of service reasonably devoted to the case multiplied by the Receiver's reasonable rates. Courts frequently consider the specific "lodestar" factors enumerated in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974). These lodestar tests were adopted by the Fourth Circuit in Barber v. Kimbrells, Inc., 577 F.2d 216, 226 (4th Cir.), cert. denied, 439 U.S. 934 (1978), and in Anderson v. Morris, 658 F.2d 246, 249 (4th Cir. 1981), where the Fourth Circuit held that the District Court should employ the lodestar approach, and then adjust the fee on the basis of the remaining Johnson factors in the case. The following are the Johnson factors,¹ and a discussion of

¹ Johnson, 488 F.2d at 717-19; Barber, 577 F.2d at 226, n.28; Anderson, 658 F.2d at 248, n.2.

each factor, which Matson respectfully requests that the Court consider in determining the reasonableness of the amount of professional compensation requested in this Application:

- The time and labor required. Matson expended 294.4 hours of professional services as the Receiver during the Application Period. The time and labor spent by Matson was reasonable and necessary to provide the estate with the quality and extent of services required to appropriately fulfill the Receiver's obligations.
- The novelty and difficulty of the case. The issues addressed by Matson in connection with his services as Receiver were often novel and complex and required his expertise of a specialized background in bankruptcy, restructuring, and litigation.
- The skills requisite to perform the services properly. The services performed by Matson required the skills of a trained receiver, with an appreciation and understanding of complex fraud schemes and asset disposition.
- The preclusion of other employment. Although Matson's services as Receiver were often time-critical, this engagement did not preclude Matson from accepting other engagements.
- The fee charged. Per his agreement with the SEC, Matson seeks allowance of professional fees based on a substantially reduced hourly rate that discounted when compared to rates charged by Matson in matters similar to the magnitude and complexity present in this case. The hourly rate charged by Matson is well below the range of those customarily charged by other professionals having comparable skills and expertise in similar matters.
- Whether the fee is fixed or contingent. Matson's fees are charged according to the time spent and Applicant's prevailing hourly rates.
- Time limitations imposed by the client or the circumstances. Many of the matters that arose in connection with this case presented time-critical challenges for Matson.
- The amount involved and the results obtained. Matson provided critical timely services as Receiver in this ongoing case. The fees in the amount of \$93,900 are reasonable in light of the results obtained.
- The experience, reputation and ability of the professionals. Matson is well qualified to provide professional services as a Receiver. Matson has extensive experience in financial restructuring, interim and crisis management, regulatory compliance issues, complex business and commercial litigation and other matters relevant to this case.
- The "undesirability" of the case. While Matson is well-equipped and well-qualified to serve as Receiver, both the magnitude and time-sensitive nature of the case prevents Matson from assisting the firm on other matters.

- Awards in similar cases. Matson believes the professional fees sought herein are consistent with fees charged by similarly skilled professionals for comparable services in other cases. The fees sought by this Application are based on discounted hourly rates that commensurate with or below rates charged to other clients. Further, the hourly rates charged by Matson are within the range of those customarily charged by other professionals having comparable skills and expertise in similar matters.

12. Matson believes that the services rendered as Receiver and the out-of-pocket expenses incurred therewith were necessary and reasonable in view of his obligations in this case and the scope and nature of the matters in which Matson was involved to competently perform his duties as Receiver.

13. Upon information and belief, the rates charged by Matson are comparable to the fees charged by other professionals in similar cases. Matson believes that the fees requested herein clearly satisfy the Johnson factors as set forth above.

Certification

14. Matson certifies that he has read the Application.

15. Matson certifies, to the best of his knowledge, information, and belief formed after reasonable inquiry, the Application and all fees and expenses therein are true and accurate and comply with the Billing Instructions.

16. Matson certifies that all fees contained in the Application are based on the rates listed in Matson's fee schedule attached hereto and such fees are reasonable, necessary and commensurate with the skill and experience required for the activity performed.

Notice

17. Notice of this Motion will be served upon: (a) the SEC; (b) counsel for the Defendants and the Receivership Defendants; (c) all parties filing a notice of appearance in this Civil Case, and (d) all parties receiving electronic notice in this Civil Case. In light of the foregoing

and the nature of the relief requested herein, the Receiver submits that no other or further notice is required.

18. Pursuant to Local Rule 7(F)(1), the Receiver requests the Court waive any requirement for a separate memorandum of law. Pursuant to Local Rule 7(J), the Receiver requests the Court waive oral argument, as the Receiver believes this Motion is unopposed and hereby submits this Motion for ruling on this brief.

Conclusion

WHEREFORE, Matson respectfully requests that the Court enter an order in a form substantially similar to that attached hereto as Exhibit 4: (i) providing final approval of compensation during the Application Period in the amount of \$93,900.00 for professional services rendered as Receiver and reimbursement of \$2,112.96 for out-of-pocket expenses incurred by the Receiver from and including October 9, 2018, through and including December 13, 2019; (ii) authorizing the Receiver to pay the professional fees and expenses requested herein to Lynn Tavenner, Trustee for the estate of LeClair Ryan, Matson's former employer; and (iii) granting such other and further relief as the Court deems appropriate.

Dated: December 4, 2020

CHRISTOPHER L. PERKINS,
RECEIVER/SPECIAL MASTER

/s/

Christopher L. Perkins (Virginia Bar No. 41783)
Eckert Seamans Cherin & Mellott, LLC
919 East Main Street
Suite 1300
Richmond, Virginia 23219
Telephone: (804) 788-9636
Facsimile: (804) 698-2950
christopher.perkins@eckertseamans.com

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December 2020, a true and correct copy of the foregoing was filed with the Court through the Clerk's CM/ECF filing system and served on all persons receiving electronic notice in this case, and/or by first-class mail, postage prepaid, to all parties listed below:

Nicholas C. Margida
Charles J. Felker
Patrick R. Costello
U.S. Securities & Exchange Commission
100 F Street NE
Washington, D.C. 20549
Counsel for the SEC

David H. Dickieson
Danny Onorato
Hilary LoCicero
Schertler & Onorato LLP
901 New York Avenue NW, Suite 500 West
Washington, D.C. 20001
*Counsel for the Defendants and the
Receivership Defendants*

Michael J. Lichtenstein
Shulman Rogers
12505 Park Potomac Avenue
Potomac, MD 20854
Counsel for Eagle Bank

F. Douglas Ross
Odin, Feldman & Pittleman, P.C.
1775 Wiehle Avenue, Suite 400
Reston, VA 20190
Counsel for Freedom Bank

Jeff J. Marwil
Proskauer Rose LLP
70 West Madison, Suite 3800
Chicago, IL 60602
Counsel for Matthew Bullock

Ralph E. Kipp, Esq.
The Law Offices of Ralph E. Kipp, P.L.C.
10615 Judicial Drive, Suite 501
Fairfax, VA 22030
Counsel for An Ping Corporation

Barry Boss
Cozen O'Connor
1200 19th Street NW
Washington, DC 20036
*Counsel for Brett Hitt, Hitt Family
and Hitt Construction*

James M. Sack
The Sack Law Firm, P.C.
8270 Greensboro Drive, Suite 810
McLean, VA 22102
*Counsel for Herndon Station, LLC
and various investors/creditors*

Robert M. Marino
Redmon Peyton & Braswell, LLP
510 King Street, Suite 301
Alexandria, VA 22314
*Counsel for ATC Financial LLC and
Brian Casey*

Jack Garson
Garson Law LLC
7910 Woodmont Avenue, Suite 650
Bethesda, MD 20814
Counsel for Glen Ferguson

David G. Barger
Greenberg Traurig, LLP
1750 Tysons Boulevard, Suite 1000
McLean, VA 22102
Counsel for VR Investments

