

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 18-CV-62593-GAYLES

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

SIMPLE HEALTH PLANS LLC, et al,

Defendants.

**RECEIVER'S FOURTH MOTION FOR AWARD OF
PROFESSIONAL FEES AND REIMBURSEMENT OF EXPENSES
FOR THE PERIOD OF SEPTEMBER 1, 2020 – JULY 31, 2021
WITH SUPPORTING MEMORANDUM OF LAW**

Pursuant to Section XVIII of the Preliminary Injunction [ECF No. 139], Michael I. Goldberg, the Court-appointed receiver (the "Receiver") over Defendants Simple Health Plans LLC ("Simple Health"), Health Benefits One LLC ("HBO"), Health Center Management LLC, Innovative Customer Care LLC, Simple Insurance Lead LLC ("SIL"), Senior Benefits One LLC, and each of their subsidiaries, affiliates, and successors (collectively, the "Receivership Entities"), respectfully submits this Fourth Motion for Award of Professional Fees and Reimbursement of Expenses for the Period of September 1, 2020 – July 31, 2021 (the "Motion" or the "Fee Application") and states as follows¹:

¹ This Motion is submitted in compliance with Section XVII of the Preliminary Injunction, which acknowledged that the Receiver and all personnel hired by the Receiver, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to the Preliminary Injunction and for the cost of actual out-of-pocket expenses incurred by them, for the assets now held by, in the possession or control of, or which may be received by the Receivership Entities. *See* ECF No. 139. The Preliminary Injunction directs the Receiver to file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation. *Id.* Accordingly, the Receiver submits this Motion for the Court's consideration.

I. Introduction and Procedural Background

Plaintiff Federal Trade Commission (“FTC”) filed the above-captioned action, under seal, on October 29, 2018 against the Receivership Entities and Steven Dorfman (“Dorfman” and with the Receivership Entities, “Defendants”), under Section 13(b) of the Federal Trade Commission Act (the “FTC Act”), 15 U.S.C. § 53(b) and the Telemarketing and Consumer Fraud and Abuse Act, 15 U.S.C. §§ 6101-6108, alleging Defendants violated Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a) and the FTC’s Telemarketing Sales Rule, 16 C.F.R. Part 310, as amended.

A. The Temporary Restraining Order

On October 31, 2018, the Court entered an Order [ECF No. 15] Granting the FTC’s Motion for Temporary Restraining Order with Asset Freeze, Appointment of A Temporary Receiver, and Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue (the “TRO”). The TRO reflected the Court’s finding that good cause existed to appoint a temporary receiver over the Receivership Entities, for purposes of, among other things, to take exclusive custody, control and possession of all assets of, or in the possession, custody or under the control of any Receivership Entity, wherever situated and to conserve, hold, manage and prevent the loss of all assets of the Receivership Entities and perform all acts necessary or advisable to preserve the value of those assets pending future Court orders. *See* TRO, Section XII. On November 1, 2018, the Receiver took possession of the assets of the Receivership Entities and shut down the business operations.

The TRO scheduled a hearing to take place on November 14, 2018 at which time Defendants were to appear before the Court to show cause, if there is any, why the Court should not enter a preliminary injunction, pending final ruling on the Complaint. Upon the requests by the FTC and by Defendants, the Court continued that hearing on multiple occasions. In the interim, the Court extended the asset freeze and other restrictions set forth in the TRO. On March 4, 2019,

Dorfman filed a Notice of Appeal of the TRO [ECF No. 85]. Dorfman also filed an Emergency Motion (I) Seeking Confirmation That the Scheduling Order Is Abated Pending Resolution of the Appeal; (II) To Stay the Proceeding Pending Resolution of the Appeal; or (III) To Expedite Status Conference, dated March 13, 2019 [ECF No. 94]. The Court entered an Order [ECF No. 100] denying the motion. On April 16, 2019, the Eleventh Circuit Court of Appeals dismissed the appeal for lack of jurisdiction. [ECF No. 129].

B. The Preliminary Injunction

On April 16, 2019, the Court held an evidentiary show cause hearing on the FTC's request for preliminary injunctive relief. After hearing testimony and reviewing documentary evidence, the Court made findings, including the following:

The record clearly reflects a continued need for the Receiver in this action to preserve assets and maintain the status quo. The Receiver is also necessary to determine the full extent of Defendants' deceptive practices, identify the victims of Defendants' scheme, and prevent further fraudulent practices during the pendency of the preliminary injunction ... The record supports a preliminary finding that Defendants devised a fraudulent scheme to use consumer funds to enrich themselves. Accordingly, the Court finds that a preliminary injunction is necessary to maintain the status quo pending a trial on the merits. *See* Preliminary Injunction [ECF No. 139] at 24.

See Preliminary Injunction [ECF No. 139] at 24. Dorfman immediately filed a Notice of Appeal [ECF No. 140], followed by an Expedited Motion to Stay Proceeding Pending Final Resolution of Appeal [ECF No. 145] . On May 31, 2019, the Court denied the stay motion by paperless order, finding that it retained jurisdiction and that Dorfman failed to establish that a stay was warranted under the applicable factors. [ECF No. 152].

On June 4, 2019, Dorfman filed a Motion to Dissolve the Preliminary Injunction, dated June 4, 2019 [ECF No. 157], which the Court denied on July 10, 2019 [ECF No. 183]. The Court disagreed with Dorfman's argument that the Court must dissolve the Preliminary Injunction because the FTC did not initiate an administrative proceeding within twenty days after issuance of the Temporary Restraining Order. The Court relied upon then established Eleventh Circuit

precedent, that the FTC may obtain preliminary injunctive relief while pursuing a permanent injunction in a federal district court action brought pursuant to Section 13(b) of the FTC Act. *See FTC v. U.S. Oil & Gas Corp.*, 748 F.2d 1431, 1434 (11th Cir. 1984) (rejecting defendant’s argument that the preliminary injunction had to be dissolved because the FTC did not bring an administrative action within twenty days of the issuance of the temporary restraining order). Again, Dorfman filed a Notice of Appeal [ECF No. 200] of the Court’s decision. On February 5, 2020 the Eleventh Circuit Court of Appeals affirmed the Preliminary Injunction. *See F.T.C. v. Simple Health Plans LLC*, 801 F. App’x 685 (11th Cir. Feb. 5, 2020).

Thereafter, on April 22, 2021, the Supreme Court, entered its decision in *AMG Capital Management v. FTC*, 141 S.Ct. 1341 (2021), upending some four decades of reliance by the FTC on Section 13(b) as one of its bases to seek restitution or disgorgement. As the Supreme Court framed the issue, “The question presented is whether this statutory language [in Section 13(b) authorizing a ‘permanent injunction’] authorizes the Commission to seek, and a court to award, equitable monetary relief such as restitution or disgorgement.” *Id.* at 1344. The Court “conclude[d] that it does not.” *Id.*

That very day, Dorfman filed his Emergency Motion To Dissolve Preliminary Injunction [ECF No. 418], which was followed by with the Notices of Supplemental Authority [ECF Nos. 421, 422, and 435] (collectively, the “Motion to Dissolve”). The FTC responded in opposition [ECF Nos. 424] as did the Receiver [ECF Nos. 425 and 429] (collectively, the “Responses in Opposition”); Dorfman’s then filed his Consolidated Reply in Support of Emergency Motion to Dissolve Preliminary Injunction [ECF No. 427]. The Court conducted a hearing on the Motion to Dissolve on May 14, 2021. On May 27, 2021, the Court entered an order directing supplemental briefing on the Emergency Motion to Dismiss [ECF No. 430]. Specifically, the Court ordered the parties to brief whether: (1) in *Federal Trade Commission v. AMG Capital Management, LLC*, the FTC alleged the violation of any rules promulgated under 15 U.S.C. §57a; (2) any briefing or

oral argument before the Supreme Court in *AMG* discussed a distinction between actions brought pursuant to §19a(1) and §19a(2) of the Federal Trade Commission Act, 15 U.S.C. §57b(a)(1) and 15 U.S.C. §57b(a)(2); and (3) a violation of the Telemarketing Sales Rule, 16 C.F.R. Part 310, alone, is sufficient to warrant injunctive relief. The Receiver's response to the Order is ECF No. 432, the FTC's response is ECF No. 433, and Dorfman's response is ECF No. 434. The parties have also filed several notices of supplemental authority and responses to notices. [ECF Nos. 435-437].

On September 5, 2021, the Court entered an Order denying Dorfman's Motion to Dissolve and finding that, based upon its review of the Supreme Court's holding in *AMG*, the plain language of FTC Act and the TCFAPA, and the allegations in the original Complaint, the Court had the requisite authority under § 19 of the FTC Act to issue the Preliminary Injunction, order the asset freeze, and appoint the Receiver. [ECF No. 446]. The Court also found that the FTC continues to possess a likelihood of success on the merits on its § 5 and TSR claims² against the Defendants, and that the Preliminary Injunction is necessary to protect consumers, preserve assets for consumer redress, and maintain the status quo. *Id.*

On September 10, 2021, Dorfman filed an interlocutory appeal of the Court's Order denying his Motion to Dissolve. *See* Notice of Interlocutory Appeal [453]. Shortly thereafter, on September 13, 2021, the Court entered a paperless order staying the case for thirty (30) days pending Dorfman's interlocutory appeal. [ECF No. 454] (the "Stay Order").

C. The Operative Complaint, Pending Dispositive Motions and Trial

On September 30, 2019, the FTC filed a Motion for Leave to File Amended Complaint [ECF No. 213]. According to the FTC, since filing its Complaint, the FTC identified an additional individual, Candida L. Girouard ("Girouard"), who had the authority to control Defendants'

² The TSR implements the TCFAPA. See 16 C.F.R. 310.1.

common enterprise, participated directly in the illegal conduct at issue in this case, and had actual or constructive knowledge of the unlawful acts. Girouard served as the Chief Compliance Officer for the Corporate Defendants and a trusted advisor to Dorfman. New evidence gathered since the filing of the FTC's initial pleading shows that Girouard played an integral role in Defendants' telemarketing scam. *See id.* Among other things, she drafted the facially misleading sales and customer service scripts used to deceive consumers, supervised a sham compliance team that monitored sales calls for adherence to these scripts, and served as Defendants' main point of contact in deflecting complaints, investigations, and other inquiries from carriers and regulators. *See id.* The Court authorized the amendment and, on November 1, 2019, Plaintiff filed its Amended Complaint [ECF No. 231]. On March 4, 2020, the FTC filed a Motion for Preliminary Injunction As to Defendant Candida Girouard [ECF No. 275], which was granted on April 2, 2020. [ECF No. 280].

On December 16, 2019, Dorman and Girouard filed a Motion to Dismiss the Amended Complaint [ECF No. 252]. The Court entered an order [ECF No. 287] granting the motion, in part, and authorizing the FTC to file a Second Amended Complaint on June 15, 2020. The FTC filed its Second Amended Complaint for Permanent Injunction and Other Equitable Relief ("Second Amended Complaint"; ECF No. 289) on June 23, 2020. The Second Amended Complaint was brought by the FTC under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing Act, 15 U.S.C. §§ 6101-6108, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310, as amended.

On July 15, 2020, Dorman and Girouard filed a Motion to Dismiss the Second Amended Complaint [ECF No. 307]. The Court entered a paperless order [ECF No. 338] denying the motion

on October 19, 2020; Dorfman filed his Answer [ECF No. 346] on November 11, 2020. On January 11, 2021, the Receiver filed an Answer on behalf of the Receivership Entities [ECF No. 373].

On January 15, 2021, the FTC filed a Motion for Summary Judgment [ECF No. 374] and a Motion for Judgment on the Pleadings with Respect to Dorfman's Defenses [ECF No. 378]. Also on January 15, 2021, Dorfman filed his own Motion for Summary Judgment [ECF No. 379]. The motions are fully briefed, and remain under consideration as of the filing of this Status Report. On March 24, 2021, the Court entered a paperless Order [ECF No. 410] resetting the jury trial for November 8, 2021, and resetting all pretrial deadlines accordingly. The case is currently stayed, however, by virtue of the Court's Order entered on September 13, 2021. The Stay Order stayed the case for thirty (30) days pending Dorfman's interlocutory appeal of the Court's Order denying Dorfman's Motion to Dissolve, and set a status conference on October 13, 2021 to address all scheduling issues, including the November 8, 2021, trial date.

II. Work Performed by the Receiver and His Professionals

A. The Professionals

1. Akerman LLP

The Receiver is a partner at the law firm of Akerman LLP ("Akerman") and a founding member of Akerman's Fraud & Recovery Practice Group. The Receiver has practiced law for over thirty years and specializes in receivership and bankruptcy cases. The Receiver has been appointed receiver in more than twenty-five state and federal receivership cases and has represented receivers and trustees in many other cases. The Receiver is working with a team of attorneys and paralegals at Akerman to administer this case. Since Akerman employs more than 700 lawyers and government affairs professionals through a network of 24 offices, the Receiver has ready access

to professionals who specialize in litigation, real estate, corporate affairs, and other pertinent matters and has used their expertise to administer the receivership estate.

The Receiver has agreed to reduce his billing rate and the rates of his professionals for this case. Instead of their standard billing rates, which range from \$300 to \$800, all partners are billed at \$475; associate rates are capped at \$275; paralegals and paraprofessionals are capped at \$200, resulting in a blended rate of \$409.13. These discounts equate to a \$89,706.50 reduction in Akerman's fees. During the period covered by this Application, the Receiver and Akerman billed 431.40 hours and seek payment of fees in the sum of \$176,502.50 and reimbursement of expenses in the sum of \$4,106.33, for a total of \$180,608.83.

The Receiver's invoice is attached hereto as **Exhibit "3"**. The time entries are provided in chronological order, separated by task codes.

2. **KapilaMukamal**

Soneet Kapila, CPA, and the accounting firm KapilaMukamal ("KM" or the "Accountants") provide accounting and forensic work for the Receiver. Mr. Kapila's practice is focused on restructuring, creditors' rights, bankruptcy, fiduciary matters and financial transactions litigation. He has conducted numerous forensic and fraud investigations, and has worked in conjunction with federal agencies including the FTC, the SEC, the FBI and the United States Attorney's Office. Mr. Kapila is also a panel trustee for the United States Bankruptcy Court for the Southern District of Florida.

During the period covered by this Application, KM billed 1.50 hours and seeks payment of fees in the sum of \$581.60 and reimbursement of expenses in the sum of \$7.91 for a total of \$589.51. KM's invoice is attached hereto as **Exhibit "4(a)"**.

Additionally, KM inadvertently omitted an invoice from the Receiver's Third Motion for Award of Professional Fees and Reimbursement of Expenses for the Period of March 1, 2020 – August 31, 2020 with Supporting Memorandum of Law [ECF No. 333] (the "Third Fee

Application”). During the period covered by the Third Fee Application, KM billed 83.90 hours and seeks payment of fees in the sum of \$27,959.00 and reimbursement of expenses in the sum of \$166.45 for a total of \$28,125.45. KM's invoice is attached hereto as **Exhibit “4(b)”**.

B. Summary of Work Performed by the Receiver and his Professionals

The Receiver continued to implement the Preliminary Injunction including securing, liquidating or maintaining assets for the benefit of the creditors of the Receivership Entities. The Receiver's acts include the following:

1. The Receiver and Akerman

- The Receiver continues to review, secure and take necessary steps to locate, secure, and preserve and/or liquidate receivership assets. This includes paying expenses relating to maintaining certain real property located in Las Vegas, and securing and maintaining high-end automobiles, jewelry, and sports memorabilia (items purchased with funds from the Receivership Entities’ bank accounts) and collecting commission payments.
- The Receiver and his staff continue to research and respond to inquiries from creditors, policy holders and former employees regarding the receivership, payment and the claims process.
- The Receiver continues to examine the Receivership Entities relationship with and transfers to and from HII.
- The Receiver worked with the Accountants on tax matters including inquiries from the IRS and state tax agencies. The Receiver reviewed correspondence from taxing authorities and followed up with the accountants. The Receiver’s staff reviewed and organized tax records.
- The Receiver and counsel analyzed court filings by the Defendants; prepared necessary court filings on behalf of the Receivership estate, including detailed briefing in opposition to Dorfman's Motion to Dissolve; engaged in conferences with counsel for the FTC and the Defendants and prepared for and attended court hearings on all contested matters. The Receiver and his counsel continue to prepare for the November 8, 2021 trial on the FTC's Second Amended Complaint.

2. KapilaMukamal

Shortly after the commencement of the receivership, the Receiver retained KM as his forensic accountant and financial advisor in this matter. Since the receivership commenced, KM performed the following tasks in order to perform their forensic accounting investigation:

- During the current period, KM provided tax related services in connection with an IRS examination of Health Benefits One. The Applicant participated in telephone conferences with the IRS auditor and compiled information requested by the IRS.
- The Applicant also prepared the necessary tax return extension for the Receivership Entities including Form 1120-S for 2020.

III. The Steps the Receiver Intends to Take in the Future

The Receiver continues to secure and maintain the assets of the Receivership Entities, analyze the finances of the Defendants and respond to inquiries from the customers, creditors and other interested parties. The Receiver anticipates taking the following actions: (i) investigate and commence litigation against third parties; (ii) continue to review transfers of the individual partnership funds and seek to recover funds which were fraudulently transferred; (iii) respond to inquiries from investors, creditors, government officials and interested parties; administer estate assets and work with federal authorities investigating the pre-receivership affairs.

IX. Memorandum of Law

In determining attorneys' fees, a court must: (1) determine the nature and extent of the services rendered; (2) determine the value of those services; and (3) consider the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), *abrogated on other grounds*, *Blanchard v. Bergeron*, 489 U.S. 87, 109 S.Ct. 939, 103 L.Ed.2d 67 (1989). In *Johnson*, the court set forth twelve factors a court should consider in determining reasonableness of an attorneys' fees award in a particular case. *Id.*, 488 F.2d at 717-19. The Eleventh Circuit adopted these Johnson factors in *Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292, 1298-99 (11th Cir. 1988).

A. APPLICATION OF THE JOHNSON FACTORS

1. Time and Labor Required

The foregoing summary, together with the Exhibits attached hereto, details the time, nature and extent of the professional services the Receiver and his professionals rendered during the

period covered by this Application. The hour's expended evidence the extensive time devoted to this matter.

2. The Novelty and Difficulty of the Service

This case presents some interesting issues from a receivership perspective. The Receivership Entities sold so called health "insurance" policies to tens of thousands of people across the country. The Receiver previously worked with FTC to provide notice to the defrauded consumers to give them the ability to terminate such policies and enable them to enroll in ACA compliant plans. The Receiver now seeks to recover funds for the benefit of the consumers and other parties negatively impacted by the actions of the Receivership Entities.

3. The Skill Requisite to Perform the Services Properly

In order to perform the legal services enumerated herein properly, substantive legal knowledge in the fields of litigation, healthcare and real estate is required. Moreover, the Receiver has extensive experience as a court-appointed Receiver. His attorneys and staff are also well versed in substantive and procedural matters that arise during the representation of Receivers. KM's forensic skills were instrumental in their analysis of the financial records of the Receivership Entities and reconstruction of the transfers made by and among the Receivership Entities.

4. The Preclusion of Other Employment

Initially, the Receiver, his attorneys and accountants devoted great efforts and numerous professionals to this case, which for a limited period of time may have prevented them from focusing on other cases. However, the Receiver now works with a smaller group of professionals who are well versed in administering a receivership case. It has not been necessary for the Receiver or his professionals to turn away other work due to this appointment.

5. The Customary Fee

The Receiver has agreed to reduce his billing rate and the rates of his professionals and paraprofessionals for this case. Instead of their standard billing rates, which range from \$300 to

\$800, all partners are billed at \$475; associate rates are capped at \$275; paralegals and paraprofessionals are capped at \$200. As a result, the rates charged by Applicant are significantly lower than the rates for attorneys within the Southern District of Florida of similar skill and reputation.

6. Whether the Fee is Fixed or Contingent

The professionals' compensation is not fixed, as it is subject to the sufficiency of the estate to compensate the Receiver for his services. It is not contingent in the classic sense whereby compensation will only be given if the Receiver is successful in recovering money for creditors; however, it is contingent in the sense that it is subject to the availability of unencumbered funds and this Court's approval. There are presently funds available to pay the professionals for their services without causing a drain on the resources available to otherwise administer the case.

7. Time Limitations Imposed by the Client or Other Circumstances

As is the nature of receivership cases, the number of hours expended during the time covered by the initial fee application is usually higher than for subsequent fee applications. The initial responsibilities include securing the leased premises and assets of the Receivership Entities, notifying creditors and interested parties, taking control of bank accounts and analyzing business and banking records. However, after the completion of the initial phase in a new receivership case, the Receiver currently with a core group of professionals who assist him in his receivership cases and are skilled at administering such cases.

8. Amount involved and the results obtained

The Receiver has shut down the business operations of the Receivership Entities and frozen \$3.1 million in the Receivership Entities' bank accounts. He secured luxury vehicles, jewelry, various sports memorabilia, and placed a lien on undeveloped residential real property in Las

Vegas. The Receiver holds more than \$26 million in trust representing the proceeds of assets and commissions on health plans sold by Simple Health.

9. Experience, Reputation and Ability of Applicant

The Receiver has practiced law for thirty years and specializes in receivership and bankruptcy cases. He has been appointed receiver in more than twenty-five state and federal receivership cases and has represented receivers and trustees in many other cases. Akerman is an established law firm having substantial experience dealing with healthcare issues, commercial litigation, corporate and real estate matters. Mr. Kapila has conducted numerous forensic and fraud investigations, and has worked in conjunction with many federal agencies. The attorneys and accountants have extensive experience with the avoidance and recovery of fraudulent transfers should it be necessary in this case.

10. The Undesirability of the Case

The case is not undesirable. The Receiver is honored to be selected to administer this case.

11. The Nature and Length of the Professional Relationship

The Receiver and his professionals have no prior relationship with the Defendants.

12. Awards in Similar Cases

The amount requested herein are not unreasonable in terms of awards in cases of like magnitude and complexity.

B. Reimbursement of Expenses

A receiver appointed by a court who reasonably and diligently discharges his duties is entitled to be fairly compensated for services rendered and expenses incurred. *See SEC v. Byers*,

590 F.Supp.2d 637, 644 (S.D.N.Y. 2008); *see also SEC v. Elliott*, 953 F.2d 1560 (11th Cir. 1992) (“[I]f a receiver reasonably and diligently discharges his duties, he is entitled to compensation.”).

As more fully described herein and supported by the time records, the Receiver and his professionals have reasonably and diligently discharged their duties, and provided a benefit to the receivership estate, the investors and creditors.

WHEREFORE, the Receiver seeks entry of an Order, in the form attached hereto as **Exhibit “5”**, granting this motion and awarding the Receiver and his professionals their interim fees, reimbursement of costs for the Receiver and for KapilaMukamal and for such other relief that is just and proper.

LOCAL RULE CERTIFICATION

The Receiver hereby certifies that on September 10, 2021, his counsel circulated a copy of this Motion via email to counsel for the Plaintiff FTC, and counsel for Defendant Steven Dorfman and requested that pursuant to SDFL Local Rule 7.1(3), they review and contact the Receiver should they have any comments. Counsel for the FTC has responded and has no objection to the relief requested in the Motion. As of the filing of this Motion, the Receiver has not received any comments from counsel for Defendant Steven Dorfman. A hearing is requested only in the event that someone files an objection thereto.

Dated: September 22, 2021

Respectfully submitted,

/s/ Michael I. Goldberg
Michael I. Goldberg, Esq.
Florida Bar Number: 886602
Email: michael.goldberg@akerman.com
Court-Appointed Receiver
AKERMAN LLP
201 E. Las Olas Boulevard, Suite 1800
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Phone: (954) 463-2700
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Exhibit 1

CERTIFICATION

MICHAEL I. GOLDBERG (the “Applicant”), hereby certifies:

1. The Applicant is a partner in the law firm of Akerman LLP (“Akerman”) and the Receiver in this action. This Certification is based on the Applicant’s first-hand knowledge of and review of the books, records and documents prepared and maintained by Akerman in the ordinary course of its business. The Applicant knows that the facts contained in this motion regarding work performed by the Receiver and his staff and the facts contained in this Certification are true, and the Applicant is authorized by Akerman to make this Certification. Having reviewed the time records and data which support the motion, the Applicant further certifies that said motion is well grounded in fact and justified.

2. The billing records of Akerman which are attached to this Application are true and correct copies of the records maintained by Akerman. These records were made at or near the time the acts, events, conditions or opinions described in such records occurred or were made. The Applicant knows that the records were made by persons with knowledge of the transactions or occurrences described in such records or that the information contained in the records was transmitted by a person with knowledge of the transactions or occurrences described in the records. The records were kept in the ordinary course of the regularly conducted business activity of Akerman and it is the regular business practice of Akerman to prepare these records.

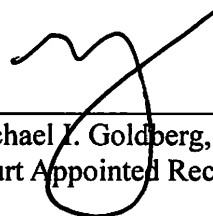
3. To the best of the Applicant’s knowledge, information and belief formed after reasonable inquiry, this motion and all fees and expenses herein are true and accurate and comply with the Billing Instructions for Receivers in Civil Actions Commenced by the SEC.

4. All fees contained in this Application are based on the rates listed in the fee schedule attached hereto and such fees are reasonable, necessary and commensurate with the skill and experience required for the activity performed.

5. The Applicant has not included in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment, or capital outlay (except to the extent that any such amortization is included within the permitted allowable amounts set forth herein for photocopies and facsimile transmission).

6. In seeking reimbursement for a service which Akerman justifiably purchased or contracted for from a third party, the Applicant requests reimbursement only for a service which the Applicant justifiably purchased or contracted for from a third party, the Applicant requests reimbursement only for the amount billed to the Applicant by the third-party vendor and paid by the Applicant to such vendor. If such services are performed by the Applicant, the Applicant will certify that he is not making a profit on such reimbursable service.

Dated: 9/22/2021

By: 

Michael I. Goldberg, Esq.
Court Appointed Receiver

Exhibit 2(a)**Total Compensation and Expenses Requested****4th Interim Fee Application
September 1, 2020 to July 31, 2021**

Name	Specialty	Hours	Fees	Expenses	Total
Receiver and Akerman LLP	Attorneys	431.40	\$176,502.50	\$4,106.33	\$180,608.83
KapilaMukamal	Accountants	1.50	\$581.60	\$7.91	\$589.51
KapilaMukamal (invoice inadvertently omitted from Third Fee Application)	Accountants	83.90	\$27,959.00	\$166.45	\$28,125.45
Total		516.80	\$205,043.10	\$4,280.69	\$209,323.79

Exhibit 2(b)**Amounts Previously Requested, and
Total Compensation and Expenses Previously Awarded****1st Interim Fee Application
April 13, 2016 - October 31, 2016**

Name	Specialty	Hours	Fees	Expenses	Total
Receiver and Akerman LLP	Attorneys	1,610.20	\$587,930.00	\$14,264.60	\$602,194.60
KapilaMukamal	Accountants	281.90	\$81,222.40	\$1,757.36	\$82,979.76
Total		1,892.10	\$669,152.40	\$16,021.96	\$685,174.36

**2nd Interim Fee Application
July 1, 2018 - February 29, 2020**

Name	Specialty	Hours	Fees	Expenses	Total
Receiver and Akerman LLP	Attorneys	857.70	\$214,520.00	\$4,632.72	\$219,152.72
KapilaMukamal	Accountants	46.30	\$18,116.00	\$191.83	\$18,307.83
Total		904.00	\$232,636.00	\$4,824.55	\$237,460.55

**3rd Interim Fee Application
March 1, 2020 – August 31, 2020**

Name	Specialty	Hours	Fees	Expenses	Total
Receiver and Akerman LLP	Attorneys	474.40	\$162,742.50	\$23,788.12	\$186,530.62
KapilaMukamal	Accountants	7.10	\$2,941.00	\$20.45	\$2,961.45
Total		481.50	\$165,683.50	\$23,808.57	\$189,492.07