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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

STEVE CHEN, USFIA, INC.,
ALLIANCE FINANCIAL GROUP,
INC., AMAUCTION, INC., ABORELL
MGMT I, LLC, ABORELL ADVISORS
I, LLC, ABORELL REIT II, LLC,
AHOME REAL ESTATE, LLC,
ALLIANCE NGN, INC., APOLLO
REIT I, INC., APOLLO REIT II, LLC,
AMKEY, INC., US CHINA
CONSULTATION ASSOCIATION, and
QUAIL RANCH GOLF COURSE, LLC,

Defendants.

Case No. 2:15-cv-07425 RGK PLA

**[PROPOSED] ORDER APPROVING
RECEIVER'S RENEWED MOTION TO
APPROVE RECEIVER'S AMENDED
DISTRIBUTION PLAN RE: SECOND
DISTRIBUTION**

Date: September 18, 2023
Time: 9:00 am
Ctrm: 850
Judge Hon.R. Gary Klausner

22 Before this Court is the *Renewed* Motion of Thomas A. Seaman, the Court-
23 appointed permanent receiver (“Receiver”) for Defendants USFIA, Inc., Alliance
24 Financial Group, Inc., Amauction, Inc., Aborell Mgmt I, LLC, Aborell
25 Advisors I, LLC, Aborell REIT II, LLC, Ahome Real Estate, LLC, Alliance
26 NGN, Inc., Apollo REIT I, Inc., Apollo REIT II, LLC, Amkey, Inc., US China
27 Consultation Association, Quail Ranch Golf Course, LLC, and their subsidiaries and
28 affiliates (collectively, “Receivership Entities”), to Approve the Receiver’s

1 Renewed Motion to Approve Receiver's Amended Distribution Plan Re: Second
2 Distribution (the "Motion"). Specifically, the Receiver seeks Court approval of the
3 Amended Distribution Plan as set forth in Exhibit A attached to the Declaration of
4 Thomas A. Seaman, ("Seaman Declaration") filed concurrently herewith and
5 attached hereto as **Exhibit A**.

6 The Receiver met and conferred with the Securities and Exchange
7 Commission prior to filing this Motion. The foundation and detailed basis for the
8 Motion and Amended Distribution Plan are set forth in the concurrently filed Notice
9 of Motion and Motion to Approve Receiver's Amended Distribution Plan Re:
10 Second Distribution, Memorandum of Points and Authorities, the supporting
11 Declaration of Thomas A. Seaman and the exhibits thereto.

12 Having considered Receiver's Motion and having found that good and proper
13 notice has been provided, and good cause appearing therefor,

14 1. The Receiver's Motion is GRANTED, in its entirety;

15 2. The Amended Distribution Plan attached hereto as **Exhibit A**, is
16 approved.

17 3. The Receiver is authorized to, make the second distribution to
18 claimants under the Amended Distribution Plan with Allowed Claims, as defined
19 therein and to proceed with the closing of the receivership as set forth in Receiver's
20 Motion.

21
22 **SO ORDERED.**

23
24 Dated: _____

25 Hon. R. Gary Klausner
26 Judge, United States District Court
27
28

EXHIBIT A

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11 Attorneys for Receiver
12 Thomas A. Seaman

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION

16 SECURITIES AND EXCHANGE
COMMISSION,

17 Plaintiff,

18 v.

19 STEVE CHEN, USFIA, INC.,
20 ALLIANCE FINANCIAL GROUP,
INC., AMAUCTION, INC., ABORELL
21 MGMT I, LLC, ABORELL ADVISORS
I, LLC, ABORELL REIT II, LLC,
22 AHOME REAL ESTATE, LLC,
ALLIANCE NGN, INC., APOLLO
23 REIT I, INC., APOLLO REIT II, LLC,
AMKEY, INC., US CHINA
24 CONSULTATION ASSOCIATION, and
QUAIL RANCH GOLF COURSE, LLC,

25 Defendants.
26

Case No. 2:15-cv-07425 RGK PLA

**AMENDED DISTRIBUTION PLAN
OF RECEIVER THOMAS A.
SEAMAN**

DISTRIBUTION PLAN

This ~~Amended~~ Amended Distribution Plan (“Amended Plan”) shall govern the administration and distribution by Thomas A. Seaman, the federal equity receiver (the "Receiver"), of funds collected in connection with the above-captioned Securities and Exchange Commission (“Commission”) enforcement action.

~~As detailed below,~~ The Receiver proposes that, after setting aside amounts necessary for taxes and administrative expenses of the Receivership Estate, all available funds be distributed to Investor Claimants with Allowed Claims determined in accordance with the principles and methods detailed below.

Certain of the previously Allowed Claims will be extinguished because the Claimant could not be located. This was provided for in the original Distribution Plan of Receiver Thomas A. Seaman [Doc No. 455](the “Original Plan”), By this Amended Plan, the Allowed Claims of Claimants who have failed to negotiate their distribution payments on or before August 9, 2023, will also be extinguished.

I. DEFINITIONS.

Unless the context otherwise requires, the below terms have the following meanings when used in their capitalized forms herein. Such meanings are equally applicable to both the singular and plural forms of the terms.

"**Administrative Expenses**" means payments arising from services performed and activities undertaken after the Receivership Date in connection with the administration and operation of the Receivership Estate, including but not limited to services rendered by the Receiver and for the Receiver by his attorneys, accountants or other professionals; goods and services provided by third party vendors; as well as other ordinary costs of operation. Pursuant to the terms of the Receiver's engagement, Administrative Expenses are paid on a rolling basis and are not subject to manner or timing of distributions under the Distribution Plan. For avoidance of doubt, prior to making the below described Second Distribution, the

1 Receiver shall set aside and reserve funds sufficient to pay all estimated
2 Administrative Expenses.

3 "Allowed Claim" means, except as provided herein, any Investor Claimant,
4 Non-Investor Claimant or Tax Claimant claim for payment against the Receivership
5 Entities allowed by the Court pursuant to an order entered in the above-captioned
6 Receivership Case. An Allowed Claim shall not include claims for interest, late
7 fees, contract or other consequential damages, contingent or unliquidated damages,
8 claims submitted by Defendants or claims by Leaders or Insiders. The allowed
9 amount of each Claim ~~will be~~ was established upon the entry of the Court's order
10 approving the below defined Motion. A previously Allowed Claim shall be
11 extinguished in its entirety and the Claimant shall not be entitled any distribution
12 hereunder if: (a) the Receiver, in his sole and absolute discretion, has been or is
13 unable to locate the Claimant; (b) the Claimant fails for any reason whatsoever to
14 negotiate their first distribution payment or this first payment does not clear the
15 Receiver's bank, PayPal or other account on or before August 9, 2023; or (c) the
16 Claimant fails to negotiate their Second Distribution payment on or before the
17 earlier of 45 days following the date the Receiver mails or transmits the payment or
18 December 1, 2023. The foregoing dates may nominally change, in the sole
19 discretion of the Receiver, based upon the date the Court enters the Order on the
20 Docket approving the Second Distribution and to address payments in process as of
21 the above noted concluding dates for the First and Second Distribution.

22 "Bar Date" means a date established by Court Order by which Claimants
23 were required to submit their Proof of Claim to the Receiver.

24 "Cash" means all cash and cash equivalents of the Receivership Entities held
25 by the Receiver.

26 "Claim" means any claim for payment against the Receivership Entity
27 whether or not such right is reduced to judgment, liquidated, unliquidated,
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1 contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or
2 unsecured.

3 **"Claim Amount"** means the net loss suffered by an Investor Claimant as
4 calculated on a MIMO basis or the amount claimed by a Non-Investor Claimant or
5 Tax Claimant.

6 **"Claimant"** or potential Claimant means a holder of a Claim, which may or
7 may not be allowed.

8 ["Closing Motions" Motion to Approve Receiver's Final Accounting and](#)
9 [Report, Motion For Discharge and to Close the Receivership and the Applications of](#)
10 [Receiver and Professionals for Approval and Payment of Final Fee Applications and](#)
11 [for Payment of Holdback Amounts.](#)

12 **"Court"** means the United States District Court for the Central District of
13 California.

14 **"Days"** means calendar days, unless otherwise specified herein.

15 **"Dispute"** means a written objection submitted to the Receiver by a Claimant
16 regarding the amount the Receiver has identified as the Claimant's Claim Amount.

17 **"Estate"** or **"Receivership Estate"** means the collection or aggregate of all
18 assets, including but not limited to Cash, claims, causes of action, or rights of
19 recovery held by the Receiver on behalf of the Receivership Entity.

20 **"Insider"** means Defendant Steven Chen or a Person who is: a relative of
21 Defendant Steven Chen including but not limited to children, siblings, wives and
22 girl-friends; Leaders, salespeople, and officers, directors or management involved in
23 the Receivership Entities.

24 **"Investor Claimant"** means a holder of a Claim that arises from one or more
25 investments with or in the Receivership Entity by an individual investor. The
26 MIMO calculations reflecting the Allowed Claim Amounts of Investor Claimants
27 are set forth on Exhibits A and B to the Receiver's declaration in support of the
28 Motion.

1 **"Leader(s)"** means those Persons who acted as or worked for the
2 Receivership Entities as salespeople, distributors or aggravators of investment funds
3 that were received from Investor Claimants.

4 **"MIMO"** means the money-in/money-out method used by the Receiver to
5 calculate the compensable losses. For avoidance of doubt, MIMO reflects the net
6 loss, if any, for each prospective Investor Claimant as determined by calculating the
7 net amount of each investor's aggregate actual out of pocket payments made to the
8 Receivership Entity ("Money-In"), less the aggregate amount of payments made
9 back to that investor from the Receivership Entity ("Money-Out").

10 **"Renewed Motion to Amend Plan"** means the Renewed Motion to Approve
11 **Receiver's Amended Distribution Plan Re: Second Distribution.**

12 **"Motion"** means the Receiver's Motion to Approve: (1) Receiver's
13 Recommendations As To Allowed Claims; (2) Receiver's Recommendations As To
14 Disputed Claims; (3) Authorization to Limit Scope of Receivership to Identified
15 Receivership Entities; and (4) Distribution Plan.

16 **"Non-Investor Claimant"** means a Claimant who provided valuable goods or
17 services to the Receivership Entities prior to the Receivership Date, including
18 employees and those who may qualify as Insiders or Leaders. The list of Non-
19 Investor Claimants is attached as Exhibit C to the Receiver's declaration in support
20 of the Motion.

21 **"Person"** means natural individuals as well as legal entities including, but not
22 limited to, corporations, partnerships, limited liability companies, trusts and
23 governmental entities.

24 **"Pro Rata Share"** means a proportionate share such that the ratio of the
25 consideration distributed on account of an Allowed Claim to the amount of such
26 Allowed Claim is the same as the ratio of the consideration distributed on account of
27 all Allowed Claims to the amount of all Allowed Claims.

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1 **"Proof of Claim Form"** means either the electronic claim form or hard copy
2 claim form which was established via the claims portal made available to Claimants
3 in which the Receiver provided each Claimant with notice of the Bar Date and
4 provided detailed instructions to Claimants with regard to the completion of the
5 claim form and the means to submit their Claim to the Receiver.

6 **"Receiver"** means Thomas A. Seaman, by and through The Thomas Seaman
7 Company, the federal equity receiver for the Receivership Entities.

8 **"Receivership Case"** means that lawsuit pending in the Court, known as SEC
9 v. Steve Chen, USFIA, Inc., et al., Case No. 2:15-cv-07425 RGK PLA, the
10 Honorable R. Gary Klausner, presiding.

11 **"Receivership Date"** means September 28, 2015.

12 **"Receivership Entities"** or **"Receivership Entity"** means separately or
13 collectively, the following entities:

14 Aborell Advisors I LLC (formerly Apollo Advisors I LLC)

15 Aborell Mgmt I LLC (formerly Apollo Mgmt I LLC)

16 Aborell REIT II LLC (formerly Apollo REIT II LLC)

17 Ahome Real Estate LLC

18 Alliance Financial Group, Inc.

19 Alliance NGN, Inc.

20 Amauction, Inc.

21 Amkey Global Corporation

22 Amkey, Inc.

23 Hills Garden Hotel, LLC

24 USFIA, Inc.

25 **"Tax Claimant"** means a holder of a Claim that arising from unpaid local,
26 state, or federal taxes due and payable prior to the Receivership Date.

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1 **II. TREATMENT OF CLAIMS.**

2 **A. Claims Of Investor Claimants.**

3 As reflected in the Motion, the Receiver has evaluated the Claims submitted
4 by Investor Claimants and determined the amount of each claim of the Investor
5 Claimants using the MIMO analysis to calculate the net loss suffered by each
6 investor in the Receivership Entities. Equitable principles require that all Investor
7 Claimants with Allowed Claims be treated equally, for distribution purposes.
8 Distributions to Investor Claimants with Allowed Claims will be determined based
9 on each investor's Allowed Claim Amount, using a pro rata methodology. As such,
10 the Receiver shall only make Cash payments to Investor Claimants with Allowed
11 Claims for their share of the below described available Receivership Funds, after his
12 application of the Pro Rata methodology.

13 **B. Non-Investor Claimants.**

14 As also reflected in the Motion, the Receiver evaluated claims submitted by
15 Non-Investor Claimants to assess whether the Claimants provided valuable goods or
16 services to the Receivership Estate prior to the Receivership Date. The Claims
17 submitted by Leaders and Insiders were disallowed and will not be paid. The
18 Allowed Claims of other Non-Investor Claimants with Allowed Claims will be
19 pooled along with the Allowed Investor Claims and the Allowed Claims will be paid
20 on a pro rata basis.

21 **C. Employee and Identified Post-Receivership Investors.**

22 Consistent with the Motion, the Receiver has recommended for allowance
23 certain claims of employees of the Receivership Entities for work performed prior to
24 the Receivership Date. See Exhibit C to the Receiver's declaration in support of the
25 Motion. The Receiver has also recommended for allowance the four Investor
26 Claims submitted by Investors where the funds were received after the Receivership
27 Date. As to the Allowed Claims of these identified employees and post-

28

1 Receivership Date investors, the Receiver will pay the Claimants 100% of their
2 Allowed Claims.

3 **D. Tax Claimant Claims.**

4 The Receiver has completed a diligent review of the Receivership Entities'
5 records in an effort to identify Tax Claimant Claims, which have been calculated at
6 their face value. With regard to the Tax Claimant Claims received from State and
7 Local tax agencies, the claims shall be allowed per the Receiver's recommendations
8 and order of the Court. Distributions to holders of state and local Allowed Tax
9 Claimant Claims shall be subordinated to the payment of Administrative Expenses,
10 Federal tax obligations and full payment of the Investor and Non-Investor Allowed
11 Claims. If there are funds remaining in the Estate after the foregoing payments, then
12 Allowed Tax Claimant Claims of state and local agencies will be paid on a pro rata
13 basis along with all Allowed Claims.

14 ~~As of the date of this Distribution Plan, there has not been a determination of~~
15 ~~the amount of State and Federal taxes that are owed, if any. However, it appears~~
16 ~~based on the income tax returns that the Receiver intends to file that no federal~~
17 ~~income taxes will be owed for the pre or post receivership periods. However, it is~~
18 ~~not certain that t~~The Internal Revenue Service (“IRS”) ~~will agree with the and~~
19 Receiver ~~that no taxes are owed and that the tax returns are proper. In the event that~~
20 ~~the IRS does not agree with the tax returns as filed by the Receiver and deems taxes~~
21 ~~to be owing, the Receiver will seek the IRS’ cooperation to resolve tax issues and to~~
22 ~~subordinate the IRS tax claims, if any, to the claims of investors in accordance with~~
23 ~~Department of Justice Tax Division Directive. To the extent that it is ultimately~~
24 ~~determined that there are federal tax obligations owed to the IRS, these claims shall~~
25 ~~be paid in full prior to the payment of Allowed Claims of other Claimants. No~~
26 ~~distributions can be made until the claims of the IRS are determined~~entered into a
27 stipulation in June 2022, in which the claims of the IRS were resolved. [See, Doc.
28 No. 483, Doc. No. 484.] Pursuant to the stipulation, "the Allowed Claims of

1 investor victims and Administrative Expenses of the receivership, as defined in the
2 Original Plan, have priority over the present and future claims of the Internal
3 Revenue Service arising out of or related to any tax obligations of the Receivership
4 Entities and the receivership." [Doc. No. 483.]

5 **III. DISTRIBUTIONS.**

6 **A. ~~Establishment Of A Reserve For Taxes and~~ Administrative**
7 **Expense Reserve and Distribution of Cashes.**

8 The Receiver shall set aside a reserve to pay the estimated Administrative
9 Expenses of the receivership. The Administrative Expenses shall be paid upon a
10 separate application by the Receiver and his professionals in connection with the
11 Closing Motions.

12 ~~As noted above, the amount of taxes that may be due and the priority of any~~
13 ~~such tax claims has not yet been determined. Accordingly, once the tax issues have~~
14 ~~been resolved, either by agreement with the IRS or via Court order, the Receiver~~
15 ~~will file a motion for authority to make a distribution to Claimants with Allowed In~~
16 June 2022, the Receiver sought and obtained authority to make a distribution to
17 Claimants with allowed Claims pursuant to the terms of ~~this~~ the Original
18 Distribution Plan (the "First Distribution"). ~~The Receiver envisions making only~~
19 ~~one distribution. In the event s~~ Sufficient additional funds should become are
20 available ~~for~~ to make a second distribution (the "Second Distribution"), as a result of
21 the ~~, or there are~~ large amounts ~~number~~ of un-negotiated distribution payments. ~~the~~
22 Receiver may make a subsequent distribution, however that is unlikely given the
23 large number of claimants and expense of administering a second distribution. The
24 timing of such future distributions, if any, shall be left to the reasonable judgment of
25 the Receiver. ~~Any Receivership Funds not remitted to Claimants or Tax Claimants~~
26 with Allowed Claims in connection with this Amended Distribution Plan and not
27 used to pay approved Administrative Expenses will ~~at such time as the Receiver's~~
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1 ~~engagement is terminated will~~ be remitted to the Commission for turnover to the
2 United States Treasury at such time as the receivership is closed.

3 The Receiver is authorized to make and implement immaterial changes to the
4 Amended Distribution Plan, including extensions to procedural deadlines set forth
5 herein. If a further change is deemed to be material by the Receiver, then he will
6 petition the Court for approval to amend the Distribution Plan prior to
7 implementation of the change.

8 **B. Distribution Payments.**

9 As noted above, ~~once the outstanding tax issues have been resolved, either by~~
10 ~~agreement with the IRS or via Court order,~~ the Receiver will filed a motion for
11 authority to make a the first distribution (the "First Distribution") to Claimants with
12 Allowed Claims pursuant to the terms of ~~this the Original Distribution~~ Plan. ~~Only~~
13 ~~those Claimants with Allowed Claims will be entitled to receive distribution~~
14 ~~payments.~~ All distribution payments (whether by check, wire, PayPal or otherwise),
15 made pursuant to the First Distribution must be negotiated and have cleared the
16 Receiver's bank, PayPal or other account on or before August 9, 2023.

17 The Allowed Claims of Claimants who could not be located by the Receiver
18 or who do not negotiate their First Distribution payment such that it clears the
19 Receiver's bank, PayPal or other account on or before August 9, 2023, shall be
20 extinguished and be deemed void without further action by the Receiver or the
21 Court.

22 The Receiver shall make the Second Distribution to Claimants with Allowed
23 Claims commencing on or around September 25, 2023 or as soon as practicable
24 after the Court approves the Amended Plan and Second Distribution. The Receiver
25 will base the Second dDistributions on his MIMO analysis and previously approved
26 pro rata methodology and will make the payments to the Claimants with Allowed
27 Claims for their share of the funds on-hand after reserving for Administrative
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1 ~~Expenses, after applying a pro rata methodology, as soon as practicable after the~~
2 ~~Court has entered the order authorizing the distribution.~~

3 The Receiver shall make all distributions in Cash in the form of either a
4 check, wire, electronic transfer using Paypal (~~when Claimants submitted their~~
5 ~~claims, they were asked to choose between a check or electronic transfer via Paypal~~
6 ~~as their form of payment for distributions)~~ or other method deemed reasonable by
7 the Receiver. Unless the Claimant otherwise requests, distributions shall be directed
8 to the name and address in the Receiver's records. The tax treatment of the
9 distributions and payment of such taxes, if any, shall be the responsibility of each
10 Claimant and Claimants should consult their tax advisors for advice regarding the
11 tax treatment of the distributions they receive.

12 **C. Uncashed Distributions.**

13 As previously noted, all of the First Distribution payments must be negotiated
14 and clear the Receiver's bank, PayPal or other accounts on or before August 9,
15 2023. After August 9, 2023, the Receiver may stop payment of all outstanding First
16 Distribution checks or payment methods.

17 Checks for the Second Distribution become ~~will bear a~~ stale date ~~of one~~
18 ~~hundred and twenty (120)~~ after 45 days from the date of issuance and the Receiver
19 may thereafter take steps to stop payment. Similarly, all distributions made via wire
20 transfer, PayPal or otherwise must be negotiated such that they clear the Receiver's
21 bank or PayPal account by the earlier of 45 days after the distribution is made or
22 December 1, 2023. For avoidance of doubt, ~~or Receiver may otherwise notify~~
23 ~~Claimants that the checks will be void after 120 days. Checks that are n~~ payments
24 of any kind that are not or cannot be successfully negotiated for any reason
25 ~~negotiated~~ within the 120-45 days of being issued by the Receiver ~~check-cashing~~
26 ~~period~~ will be voided. At such time as the Receiver deems appropriate, the issuing
27 financial institution will be instructed to stop payment on those checks or transfers.

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1 The Receiver shall ~~conduct a reasonable~~ not be obligated to conduct any
2 investigation into distribution checks that remain uncashed for the purpose of
3 identifying viable addresses for holders of Allowed Claims. If a viable address can
4 be identified, the payment ~~shall~~ may be reissued ~~as soon as practicable. If a viable~~
5 ~~address cannot be identified, the Claimant's Claim will be automatically and~~
6 ~~permanently extinguished~~ if it is reasonably certain that the payment will be
7 negotiated and clear the Receiver's bank or other account prior to December 1, 2023.
8 Any funds remaining in Receivership accounts ~~180 days after all distribution checks~~
9 ~~have been issued~~ as of December 1, 2023, shall be retained and applied ~~to future~~
10 ~~distributions on all remaining Allowed, non-subordinated Claims, if any,~~ to pay
11 ~~future~~ Administrative Expenses, or as otherwise ordered by the Court.

12 **IV. RETENTION OF JURISDICTION.**

13 The Court shall have and retain exclusive jurisdiction over matters arising out
14 of, or related to the Receivership and the ~~Distribution~~ Original Plan and Amended
15 Plan including but not limited to, the following:

- 16 1. To consider any modifications deemed material by the Receiver to the
17 Amended ~~Distribution~~ Plan, to cure any defect or omission, or reconcile any
18 inconsistency in the Amended ~~Distribution~~ Plan, address Federal tax issues, or any
19 order of the Court;
- 20 2. To protect or adjudicate rights to the assets of the Receivership Estate;
- 21 3. To protect the Receiver from adverse claims against the Receiver
22 arising out of or related to his work as the Receiver, (either before or after he is
23 discharged), any claims arising out of the distribution process, tax issues and/or any
24 efforts interfere with the Receiver's administration of the Estate or the Distribution
25 Plan;
- 26 4. To issue such orders in aid of execution of the Amended ~~Distribution~~
27 Plan as may be necessary and appropriate; and
28

1 5. To hear and determine all litigation, causes of action, and all
2 controversies, suits, and disputes that may arise in connection with any unresolved
3 Disputes and the interpretation, implementation, or enforcement of the Original Plan
4 or Amended Distribution Plan.

5
6 Dated: ~~December 7, 2020~~ August 16, 2023 ALLEN MATKINS LECK
7 GAMBLE
8 MALLORY & NATSIS LLP
9 DAVID R. ZARO
10 ~~TIM C. HSU~~

11 By: /s/ David R. Zaro
12 DAVID R. ZARO
13 Attorneys for Receiver
14 Thomas A. Seaman
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