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7 Counsel for David Stapleton, Receiver

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

14 SILICONSAGE BUILDERS, LLC aka
15 SILICON SAGE BUILDERS and
16 SANJEEV ACHARYA,

17 Defendants.

Case No. 3:20-cv-09247-SI

**APPLICATION FOR ALLOWANCE AND
PAYMENT OF FEES AND COSTS
INCURRED BY RATZLAFF TAMBERI &
WONG ACCOUNTANCY
CORPORATION, TAX ACCOUNTANTS
FOR THE RECEIVER, FOR THE PERIOD
FROM JULY 1, 2022, TO SEPTEMBER
30, 2022; DECLARATION OF CHRIS
RATZLAFF IN SUPPORT OF THE
APPLICATION**

Date: December 23, 2022
Time: 10:00 a.m.
Crtrm.: 1 – 17th Floor (Hearing by Zoom)
Judge: Susan Illston

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1 TO THE HONORABLE SUSAN ILLSTON, UNITED STATES DISTRICT JUDGE, THE
2 SECURITIES AND EXCHANGE COMMISSION, AND OTHER PARTIES IN INTEREST:

3 Ratzlaff Tamberi & Wong Accountancy Corporation (the "Firm"), tax accountants
4 for David Stapleton, the Receiver (the "Receiver"), submits its first quarterly fee
5 application for the period from July 1, 2022, to September 30, 2022 (the "Application
6 Period"), as required by the *Order on Plaintiff Securities and Exchange Commission's
7 Motion for Appointment of Receiver* (the "Receivership Order"). Through this Application,
8 the Firm seeks interim allowance of \$7,928.50 in fees incurred in connection with the
9 preparation of tax returns for certain of the entities under receivership. The Firm seeks
10 authorization for the Receiver to use funds on hand to pay 80% of these fees, or
11 \$6,342.80, on an interim basis.

12 The Firm is informed that the SEC has no objection to the allowance or payment of
13 the fees and costs requested.

14
15 **I. INTRODUCTION**

16 This receivership involves SiliconSage Builders, LLC, and approximately sixty
17 subsidiaries and affiliates and eleven different real estate projects that were various
18 stages of completion when the Receiver was appointed. The Firm was retained earlier
19 this year to prepare tax returns for certain of the entities under receivership. During the
20 Application Period, it submitted two returns and worked on several others. This work is
21 essential because Receivers are required to file tax returns. The firm incurred \$7,928.50
22 in fees in connection with tax return preparation during the Application Period and seeks
23 allowance of these fees on an interim basis and authorization for the Receiver to pay
24 80% of the allowed fees at this time.

25
26 **II. SERVICES RENDERED DURING THE APPLICATION PERIOD**

27 During the Application Period, the Firm incurred \$7,928.50 in fees in connection
28 with the preparation of federal and state returns for two entities where returns were filed

1 during the Application Period and towards the preparation of several others that are in the
 2 process of being finalized and filed. Specifically, the Firm prepared and filed returns for
 3 SiliconSage Fund 1, Series 4, LLC, and SiliconSage Fund 1, Series 1, LLC. The Firm is
 4 in the process of preparing returns for SiliconSage, Inc., 1460 Monroe, LLC, 1821
 5 Almaden, LLC, Osgood, LLC, B Street Hayward, LLC, Sage at Irvington, LLC, Downtown
 6 Gateway Retail, LLC, 528 Mathilda, LLC, 138 Balbach, LLC, and SiliconSage Builders,
 7 LLC. The services performed by the Firm during the Application Period are described in
 8 the Firm's invoice, which is attached hereto as Exhibit "1."

9
 10 **III. THE COURT HAS THE AUTHORITY AND DISCRETION TO APPROVE THE**
 11 **REQUESTED INTERIM FEES AND EXPENSES.**

12 Decisions regarding the timing and amount of an award of fees and expenses to
 13 the Receiver and his professionals are committed to the sound discretion of the Court.
 14 See *SEC v. Elliot*, 953 F.2d 1560, 1577 (11th Cir. 1992) (rev'd in part on other grounds,
 15 998 F.2d 922 (11th Cir. 1993)). In determining the reasonableness of fees and expenses
 16 requested in this context, the Court should consider the time records presented, the
 17 quality of the work performed, the complexity of the problems faced, and the benefit of
 18 the services rendered to the Estate, along with the Commission's position on the request,
 19 which is entitled to "great weight." *SEC v. Fifth Ave. Coach Lines, Inc.*, 364 F. Supp.
 20 1220, 1222 (S.D.N.Y. 1973).

21 Where, as here, the fees requested are reasonable and "where both the
 22 magnitude and the protracted nature of a case impose economic hardships on
 23 professionals rendering services to the estate[,] an interim award of fees is appropriate.
 24 *Consumer Fin. Prot. Bureau v. Pension Funding, LLC*, 2016 U.S. Dist. LEXIS 187607, at
 25 *4 (C.D. Cal. July 7, 2016). Interim allowances are necessary "to relieve counsel and
 26 others from the burden of financing lengthy and complex [] proceedings." *In re Rose*
 27 *Way, Inc.*, 1990 Bankr. LEXIS 3028, at *9 (Bankr. S.D. Iowa Mar. 1, 1990) (citing *In re*
 28 *Mansfield Tire & Rubber Co.*, 19 B.R. 125 (Bankr. N.D. Ohio 1981)).

1 Here, the Firm is assisting the Receiver with complying with his obligation to file
2 tax returns for certain of the entities. The Firm prepared and filed tax returns for two
3 entities during the Application Period and started returns for several others. The billing
4 statements of the Firm have been submitted to the SEC for review prior to the filing of this
5 Application, without objection.

6
7 **IV. CONCLUSION**

8 The Firm therefore respectfully requests that this Court enter an Order:

- 9 1. Allowing on an interim basis the Firm's fees for the Application Period
- 10 totaling \$7,928.50, respectively;
- 11 2. Authorizing the Receiver to pay 80% of the fees, or \$6,342.80, from funds
- 12 on hand; and
- 13 3. For such other and further relief the Court deems just and appropriate.

14
15 DATED: November 18, 2022

Respectfully submitted,

SMILEY WANG-EKVALL, LLP

16
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18 By: /s/ Kyra E. Andrassy
19 KYRA E. ANDRASSY
20 Counsel for David Stapleton, Receiver
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DECLARATION OF CHRISTOPHER RATZLAFF

1
2
3 I, Christopher Ratzlaff, declare as follows:

4 1. I am a partner with Ratzlaff Tamberi & Wong Accountancy Corporation, the
5 tax accountants retained by David Stapleton, the Receiver for SiliconSage Builders, LLC,
6 and its affiliates and subsidiaries (together, the "Receivership Entities"). I am submitting
7 this declaration in support of my Firm's application for fees for the third quarter of 2022
8 (the "Application"). Unless otherwise defined in this declaration, all terms defined in the
9 Application are incorporated herein by this reference.

10 2. In the ordinary course of its business, the Firm keeps a record of all time
11 expended by its professionals in the rendering of professional services on a
12 computerized billing system as follows: At or near the time the professional services are
13 rendered, attorneys and other professionals of the Firm record (a) the description of the
14 nature of the services performed, (b) the duration of the time expended, and (c) the
15 client/matter name or number by either: (1) writing such information on a time sheet, or
16 (2) inputting such information directly into the Firm's computer billing system. For the
17 professionals who record their time using written time sheets, the information contained
18 in the time sheets is then transcribed into the Firm's computer billing system. The Firm's
19 computer billing system keeps a record of all time spent on a client/matter, the
20 professional providing the services and a description of the services rendered. The
21 Firm's computer billing system automatically multiplies the time expended by each
22 professional by the respective professional's billing rate to calculate the amount of the
23 fee. The Firm conducts its business in reliance on the accuracy of such business
24 records.

25 3. I have reviewed the Firm's bill for services rendered in connection with its
26 representation of the Receiver in this case, a true and correct copy of which is attached
27 hereto as Exhibit "1."
28

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EXHIBIT "1"

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