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

10
11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

14 SILICONESAGE BUILDERS, LLC aka
15 SILICONE SAGE BUILDERS and
SANJEEV ACHARYA,

16 Defendants.

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

**NOTICE AND MOTION OF RECEIVER,
DAVID STAPLETON, FOR AN ORDER
AUTHORIZING THE RECEIVER TO
ENTER INTO A SETTLEMENT
AGREEMENT WITH AMIT KHETAN**

**[Memorandum of Points and
Authorities Filed Concurrently]**

Hearing:

Date: December 1, 2023

Time: 10:00 a.m.

Ctrm.: 1 – 17th Floor (Hearing via Zoom)

Judge: Susan Illston

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1 **TO ALL PARTIES IN INTEREST:**

2 **PLEASE TAKE NOTICE** that David Stapleton, the Court-appointed receiver (the
3 "Receiver") over SiliconSage Builders, LLC, and its subsidiaries and affiliates (together
4 the "Receivership Entities"), is seeking court approval to enter into a settlement
5 agreement with Amit Khetan ("Khetan"). After finishing its analysis, the Receiver's
6 forensic accountant has concluded that the Receivership Entities extensively commingled
7 funds. Based on this review, the Receiver has concluded that the Receivership Entities
8 were used to operate a Ponzi scheme and that Khetan, along with other investors,
9 received funds in excess of the amount they invested. Under Ninth Circuit precedent,
10 investors in a Ponzi scheme are not entitled to keep funds they receive in excess of their
11 total investment.

12 The Receiver and Khetan have resolved their dispute over the excess funds that
13 Khetan received. Under the settlement agreement, Khetan will pay the Receiver
14 \$76,813.24—approximately 80% of the amount the Receiver demanded Khetan return.
15 The settlement avoids unnecessary litigation that could prove time-consuming and costly,
16 with litigation costs likely exceeding any ultimate recovery. Ultimately, the settlement
17 agreement guarantees a return and is in the best interest of the receivership estate. A
18 copy of the settlement agreement is attached to the concurrently filed Memorandum of
19 Points and Authorities.

20 Unless the Court issues an order in advance of the hearing, the Court will be
21 conducting the hearing by Zoom, and instructions for appearing at the hearing will be
22 posted approximately two days prior to the hearing. **Pursuant to Local Rule 7-3(a), any
23 written opposition to the relief sought in this motion must be filed with the Court
24 and served on counsel for the moving party by no later than fourteen (14) days
25 after the filing of this motion, which is occurring on October 27, 2023.**

26 Concurrently with this motion, the Receiver is filing his Memorandum of Points and
27 Authorities in support of the motion and the supporting declaration of David Stapleton
28 (together, the "Memorandum"). Pursuant to the order limiting notice in this case, both the

1 motion and the Memorandum are available on the website for this receivership, which is
2 www.siliconsagereceivership.com, or by contacting proposed counsel for the Receiver at
3 kandrassy@swelawfirm.com.

4 Based on the foregoing and for the reasons set forth in the Memorandum of Points
5 and Authorities, the Receiver seeks entry of an order:

- 6 1. Granting the motion and approving the terms and conditions of the
7 settlement agreement with Khetan;
- 8 2. Authorizing the Receiver to enter into the settlement agreement with Khetan
9 and any documents and take any actions he deems reasonably necessary to
10 consummate the settlement; and
- 11 3. Granting such other and further relief as the Court may deem just and
12 proper.

13 DATED: October 27, 2023

Respectfully submitted,

SMILEY WANG-EKVALL, LLP

16 By: /s/ Kyra E. Andrassy
17 KYRA E. ANDRASSY
18 Attorneys for David Stapleton, Receiver
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SERVICE LIST

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