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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 INCURRED BY
RATZLAFF TAMBERI & WONG
ACCOUNTANCY CORPORATION, TAX
ACCOUNTANTS FOR THE RECEIVER,
FOR THE PERIOD FROM OCTOBER 1,
2022, THROUGH SEPTEMBER 30, 2023;
DECLARATION OF CHRIS RATZLAFF
IN SUPPORT OF THE APPLICATION**

Date: January 5, 2024
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 second fee application for
5 the period from October 1, 2022, to September 30, 2023 (the "Application Period"), as
6 required by the *Order on Plaintiff Securities and Exchange Commission's Motion for*
7 *Appointment of Receiver* (the "Receivership Order"). Through this Application, the Firm
8 seeks interim allowance of \$13,483.50 in fees incurred in connection with the preparation
9 of tax returns for certain of the entities under receivership. The Firm seeks authorization
10 for the Receiver to use funds on hand to pay 80% of these fees, or \$10,786.80, on an
11 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 in 2022
19 to prepare tax returns for certain of the entities under receivership. During the
20 Application Period, it prepared returns for three entities and worked on various other
21 issues, including adjustment of the Franchise Tax Board's application of payments pre-
22 receivership. The Firm incurred \$13,483.50 in fees in connection with tax return
23 preparation during the Application Period and seeks allowance of these fees on an
24 interim basis and authorization for the Receiver to pay 80% of the allowed fees at this
25 time.

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1 **II. SERVICES RENDERED DURING THE APPLICATION PERIOD**

2 During the Application Period, the Firm incurred \$13,483.50 in fees in connection
3 with the preparation of federal and state returns for the Almaden Terrace Homeowners'
4 Association, which was required to get the entity back in good standing with the California
5 Secretary of State. The Firm also prepared returns for 1821 Almaden, LLC, and Osgood,
6 LLC. The services performed by the Firm during the Application Period are described in
7 the Firm's invoice, which is attached hereto as Exhibit "1."

8
9 **III. THE COURT HAS THE AUTHORITY AND DISCRETION TO APPROVE THE**
10 **REQUESTED INTERIM FEES AND EXPENSES.**

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

20 Where, as here, the fees requested are reasonable and "where both the
21 magnitude and the protracted nature of a case impose economic hardships on
22 professionals rendering services to the estate[,]" an interim award of fees is appropriate.
23 *Consumer Fin. Prot. Bureau v. Pension Funding, LLC*, 2016 U.S. Dist. LEXIS 187607, at
24 *4 (C.D. Cal. July 7, 2016). Interim allowances are necessary "to relieve counsel and
25 others from the burden of financing lengthy and complex [] proceedings." *In re Rose*
26 *Way, Inc.*, 1990 Bankr. LEXIS 3028, at *9 (Bankr. S.D. Iowa Mar. 1, 1990) (citing *In re*
27 *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 three
3 entities during the Application Period. It also worked with the Franchise Tax Board to
4 adjust its application of pre-receivership payments. The billing statements of the Firm
5 have been submitted to the SEC for review prior to the filing of this Application, without
6 objection.

7
8 **IV. CONCLUSION**

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

- 10 1. Allowing on an interim basis the Firm's fees for the Application Period
- 11 totaling \$13,483.50;
- 12 2. Authorizing the Receiver to pay 80% of the fees, or \$10,786.80, from funds
- 13 on hand; and
- 14 3. For such other and further relief the Court deems just and appropriate.

15
16 DATED: November 27, 2023

Respectfully submitted,

SMILEY WANG-EKVALL, LLP

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

I, Christopher Ratzlaff, declare as follows:

1. I am a partner with Ratzlaff Tamberi & Wong Accountancy Corporation, the tax accountants retained by David Stapleton, the Receiver for SiliconSage Builders, LLC, and its affiliates and subsidiaries (together, the "Receivership Entities"). I am submitting this declaration in support of my Firm's application for fees for the period from October 1, 2022, through September 30, 2023 (the "Application"). Unless otherwise defined in this declaration, all terms defined in the Application are incorporated herein by this reference.

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

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

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4. The Firm has no fee sharing arrangement, understanding, or compensation sharing arrangement with any other entity, and no part of the attorneys' fees or expenses awarded to the Firm will be paid to any other entity.

5. I have reviewed the Application and to the best of my knowledge, information and belief, the facts set forth in the Application are true and correct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on this ___th day of November, 2023, at Fresno, California.



Christopher Ratzlaff

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EXHIBIT "1"

Silicon Sage Builders LLC

Date	Person	Description	Hours	Charges
11/21/2023	Chris Ratzlaff	Preparation of 2019 through 2021 returns of Almaden Terrace Homeowners Association in order to obtain revivor.	4.5	235.00 1,057.50
11/22/2023	Chris Ratzlaff	Continued preparation of 2019 through 2021 returns of Almaden Terrace Homeowners Association in order to obtain revivor.	1.2	235.00 282.00
12/6/2023	Chris Ratzlaff	Research ownership of property to be sold, in order to complete 593.	0.4	235.00 94.00
7/13/2023	Chris Ratzlaff	Savant at Irvington FTB issue and respond to FTB notice.	0.4	250.00 100.00
8/10/2023	Chris Ratzlaff	Review information currently on hand before beginning preparation of tax returns for various entities.	1.2	250.00 300.00
8/21/2023	Chris Ratzlaff	Preparation for conference, telephone conference with Stapleton team re: tax return filings.	0.4	250.00 100.00
9/4/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2020 tax return 138 Balbach LLC.	2.5	250.00 625.00
9/5/2023	Chris Ratzlaff	Review of information received from Matthew Flahive re: asset inventory.	0.7	250.00 175.00
9/5/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2020 tax return 138 Balbach LLC.	4.8	250.00 1,200.00
9/5/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2021 tax return 138 Balbach LLC.	1.7	250.00 425.00
9/6/2023	Chris Ratzlaff	Correspondence with Jake Diiorio re: FTB tax claim.	0.2	250.00 50.00
9/6/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2021 tax return 138 Balbach LLC.	5.5	250.00 1,375.00
9/7/2023	Chris Ratzlaff	Lengthy telephone call with FTB, correcting application of 2019-2021 tax payments, and abating penalties/interest accrued since.	0.8	250.00 200.00
9/12/2023	Chris Ratzlaff	Correspondence with attorney for receiver, review documents re: ownership structure.	1.2	250.00 300.00
9/13/2023	Chris Ratzlaff	Telephone conference with Matthew Flahive and attorney.	0.4	250.00 100.00
9/13/2023	Chris Ratzlaff	Review of documents relating to new ownership structure in Osgood and Almaden. Research to establish cost basis in two projects. Begin detailed review of accounting records.	2.5	250.00 625.00
9/15/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2020 tax return Osgood LLC.	1.8	250.00 450.00
9/20/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2020 tax return 1821 Almaden LLC.	2.4	250.00 600.00
9/21/2023	Chris Ratzlaff	Work relating to accounting for Osgood LLC and 1821 Almaden LLC.	2.6	250.00 650.00
9/25/2023	Chris Ratzlaff	Correspondence with Matthew Flahive re: Balbach LLC.	0.1	250.00 25.00
9/27/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2022 tax return 138 Balbach LLC.	3.6	250.00 900.00
9/28/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2020 tax return 1821 Almaden LLC.	5.5	250.00 1,375.00
9/28/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2021 tax return 1821 Almaden LLC.	2.2	250.00 550.00
9/29/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2021 tax return 1821 Almaden LLC.	3.0	250.00 750.00
9/29/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2022 tax return 1821 Almaden LLC.	1.5	250.00 375.00
9/30/2023	Chris Ratzlaff	Preparation of adjusted trial balance and 2022 tax return 1821 Almaden LLC.	3.2	250.00 800.00

54.3		13,483.50
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PROOF OF SERVICE

STATE OF CALIFORNIA, DISTRICT COURT, NORTHERN DISTRICT

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626.

On **11/27/2023**, I served true copies of the following document(s) described **APPLICATION FOR ALLOWANCE AND PAYMENT OF FEES INCURRED BY RATZLAFF TAMBERI & WONG ACCOUNTANCY CORPORATION, TAX ACCOUNTANTS FOR THE RECEIVER, FOR THE PERIOD FROM OCTOBER 1, 2022, THROUGH SEPTEMBER 30, 2023; DECLARATION OF CHRIS RATZLAFF IN SUPPORT OF THE APPLICATON** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

(X) (BY COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)) – Pursuant to United States District Court, Northern District of California, the foregoing document will be served by the court via NEF and hyperlinked to the document. On **11/27/2023**, I checked the CM/ECF docket for this case and determined that the aforementioned person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated.

(X) (BY U.S. MAIL). I enclosed the document(s) in a sealed envelope or package and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Smiley Wang-Ekvall, LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with USPS in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Costa Mesa, California.

() (BY E-MAIL). By scanning the document(s) and then e-mailing the resultant pdf to the e-mail address indicated above per agreement. Attached to this declaration is a copy of the e-mail transmission.

() (BY FACSIMILE). I caused the above-referenced documents to be transmitted to the noted addressee(s) at the fax number as stated. Attached to this declaration is a "TX Confirmation Report" confirming the status of transmission. Executed on _____, at Costa Mesa, California.

() STATE I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

(X) FEDERAL I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 27, 2023, at Costa Mesa, California.

/s/ Lynnette Garrett

Lynnette Garrett

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SERVICE LIST

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