

RAINES FELDMAN LITTRELL LLP

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Counsel for David Stapleton, Receiver

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

SILICONSAGE BUILDERS, LLC aka
SILICON SAGE BUILDERS and SANJEEV
ACHARYA,

Defendants.

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

Assigned to: Hon. Susan Illston

**APPLICATION FOR ALLOWANCE
AND PAYMENT OF FEES AND COSTS
INCURRED BY COUNSEL FOR THE
RECEIVER FOR THE PERIOD FROM
JANUARY 1, 2024, THROUGH
MARCH 31, 2024; DECLARATION OF
KYRA E. ANDRASSY IN SUPPORT
THEREOF**

Date: August 23, 2024

Time: 10:00 a.m.

Ctrm: 1-17th Floor (Hearing by Zoom)

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

Raines Feldman Littrell LLP (the "Firm"), counsel for David Stapleton, the Receiver (the "Receiver"), submits its quarterly fee application for the period from January 1, 2024, to March 31, 2024 (the "Application Period"), as required by the *Order on Plaintiff Securities and Exchange Commission's Motion for Appointment of Receiver* (the "Receivership Order").

Through this Application, the Firm seeks interim allowance of \$6,807.60 in fees. Of the

1 \$6,807.60 in fees, \$3,568.50 were related to disputes with subcontractors at the condominium
2 projects and pursuant to a Court-approved agreement with Acres Loan Origination, the
3 construction lender, are to be paid by Acres. With respect to the balance of \$3,239.10, the
4 Firm seeks allowance of that amount and authorization for the Receiver to use funds on hand
5 to pay 80% of these fees, or \$2,591.28, on an interim basis.

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

8

9 **I. INTRODUCTION**

10 This receivership involves SiliconSage Builders, LLC, and approximately sixty
11 subsidiaries and affiliates and eleven different real estate projects that were in various stages of
12 completion when the Receiver was appointed. As of the filing of this Application, the units at
13 Osgood have all been sold and sales at the Almaden project are underway. During the
14 Application Period, the Firm communicated with special counsel for the Receiver regarding
15 claims against a financial institution, addressed issues with subcontractors at Osgood and
16 Almaden, prepared the status report for the fourth quarter of 2024, and communicated with the
17 Receiver's office regarding the claims process.

18 During this period, the Firm incurred fees of \$6,807.60, \$3,239.10 of which are the
19 responsibility of the receivership estate. \$3,568.50 was incurred in connection with addressing
20 issues related to contractor disputes that are likely to only benefit Acres and the Court has
21 approved a stipulation with Acres under which it is liable for those fees. With respect to the
22 \$3,239.10 balance, the Firm seeks allowance of the fees incurred and authorization for the
23 Receiver to pay 80%, or \$2,591.28.

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25 **II. SUMMARY BY CATEGORY OF FEES INCURRED**

26 The breakdown by category of the fees incurred during this period is as follows:

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Category	Hours	Amount
Asset Analysis and Recovery	1.00	\$549.00
Case Administration	3.80	\$2,086.20
Claims Administration	0.50	\$274.50
Osgood/Almaden	0.20	\$109.80
Osgood	0.10	\$54.90
Almaden	0.30	\$164.70
Contractor Disputes	6.50	\$3,568.50
Total	12.40	\$6,807.60

III. SERVICES RENDERED DURING THE APPLICATION PERIOD

During the Application Period, the fees incurred by the Firm totaled \$6,807.60. The services performed by the Firm during the Application Period are described below, and in more detail in the Firm's invoice, which is attached hereto as Exhibit "1."

A. Asset Analysis and Recovery (Code D01)

[0.50 Hours; Total Fees \$549.500]

During the Application Period, the Firm communicated with special litigation counsel that was retained to investigate and pursue potential claims against Chase Bank to provide information to special litigation counsel to assist them with the preparation of the complaint.

B. Case Administration (Code D04)

[3.80 Hours; Total Fees \$2,086.20]

The Firm incurred fees in this category preparing the status report for the fourth quarter of 2024, attending the status conference, communicating with counsel for the government regarding the investor claims, and attending to other administrative issues.

C. Clams Administration (Code D05)

[0.50 Hours; Total Fees \$274.50]

1 The Firm incurred fees in this category communicating with the Receiver's office to
2 provide guidance on their claim review and drafting an email to claimants regarding the status
3 of the claim review.

4 **D. Osgood/Almaden (Code F01)**

5 [0.20 Hours; Total Fees \$109.80]

6 The Firm incurred a small amount of fees in this category communicating with the
7 Receiver regarding an indemnity agreement requested by Orange Coast Title in connection
8 with the Osgood and Almaden projects.

9 **E. Osgood (Code F02)**

10 [0.10 Hours; Total fees \$54.90]

11 The Firm incurred a small amount of time in connection with the request of a buyer
12 whose purchase agreement was rejected during the receivership case.

13 **F. Almaden (Code F03)**

14 [0.30 Hours; Total Fees \$164.70]

15 The Firm incurred a small amount of time assisting the Receiver's team with a buyer's
16 request to cancel and with a buyer who paid for but did not receive upgrades.

17 **G. Subcontractor Disputes**

18 [6.50 Hours; Total Fees \$3,568.50]

19 During this Application Period, the Firm incurred time addressing disputes with a
20 couple of subcontractors whose deficient work caused the Receiver to incur additional costs in
21 correcting that work. The Firm was involved because of the potential for the subcontractors to
22 file mechanic's liens against the projects, which would cause issues with the title company.
23 Pursuant to a stipulation with Acres Loan Origination, the lender funding the construction
24 costs, these fees are to be paid by Acres because they are likely to ultimately benefit Acres.

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1 **IV. THE COURT HAS THE AUTHORITY AND DISCRETION TO APPROVE**
2 **THE REQUESTED INTERIM FEES**

3 Decisions regarding the timing and amount of an award of fees and expenses to the
4 Receiver and his professionals are committed to the sound discretion of the Court. *See SEC v.*
5 *Elliot*, 953 F.2d 1560, 1577 (11th Cir. 1992) (rev'd in part on other grounds, 998 F.2d 922
6 (11th Cir. 1993)). In determining the reasonableness of fees and expenses requested in this
7 context, the Court should consider the time records presented, the quality of the work
8 performed, the complexity of the problems faced, and the benefit of the services rendered to
9 the Estate, along with the Commission's position on the request, which is entitled to "great
10 weight." *SEC v. Fifth Ave. Coach Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973).

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

19 Here, the Firm is assisting the Receiver with a variety of complex legal issues, the
20 resolution of which will impact the outcome of this case. During this Application Period, the
21 Firm assisted special litigation counsel to provide information required for the preparation of
22 its complaint, provided guidance to the Receiver's office on the claim review process,
23 prepared a status report to provide information to the Court and investors about the
24 receivership, addressed some minor issues at the two condominium projects, and helped to
25 address issues with subcontractors. The Firm's billing rates are comparable to those charged in
26 the community on similarly complex receivership matters and reflect a 10% reduction in the
27 Firm's standard fees for non-receivership work, with the billing rate frozen at the 2021 level.
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1 Further, the billing statements of the Firm have been submitted to the SEC for review prior to
2 the filing of this Application, without objection.

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4 **V. CONCLUSION**

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

6 1. Allowing on an interim basis the Firm's fees for the Application Period totaling
7 \$6,807.60;

8 2. Providing that \$3,568.50 of these fees are the responsibility of Acres pursuant
9 to the *Order Approving Stipulation Between David Stapleton, Receiver, and Acres Loan*
10 *Origination, LLC, to Amend Construction Funding Agreement to Facilitate Resolution of*
11 *Disputes with Contractors;*

12 3. With respect to the \$3,239.10 balance of the fees, authorizing the Receiver to
13 pay 80%, or \$2,591.28; and

14 4. For such other and further relief the Court deems just and appropriate.

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Respectfully submitted,

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Dated: July 17, 2024

RAINES FELDMAN LITTRELL LLP

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By: /s/ Kyra E. Andrassy
Kyra E. Andrassy
Counsel for David Stapleton, Receiver

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DECLARATION OF KYRA E. ANDRASSY

I, Kyra E. Andrassy, declare as follows:

1. I am a partner with Raines Feldman Littrell LLP (the “Firm”), counsel for David Stapleton, the Court-appointed receiver for SiliconSage Builders, LLC, and its subsidiaries and affiliates. I am licensed to practice before this Court and the courts of the State of California. I know each of the following facts to be true of my own personal knowledge, except as otherwise stated and, if called as a witness, I could and would competently testify with respect thereto. I make this declaration in support of the application of the Firm for the allowance and payment of fees for the period from January 1, 2024, through March 31, 2024 (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 kept a record of all time expended by its professionals and para-professionals in the rendering of professional services on a computerized billing system as follows: At or near the time the professional services were rendered, attorneys and other professionals of the Firm recorded (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 was then transcribed into the Firm's computer billing system. The Firm's computer billing system kept 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 multiplied the time expended by each professional by the respective professional's billing rate to calculate the amount of the fee. The Firm conducted its business in reliance on the accuracy of such business records.

EXHIBIT "1"



1900 Avenue of the Stars, 19th Floor
 Los Angeles, CA 90067
 (310) 440-4100
 www.raineslaw.com
 Federal Tax ID: 20-4515337

Invoice Date: 4/11/2024
Invoice Number: 118492

David Stapleton, Receiver
 Jake Diiorio
 c/o Stapleton Group
 514 Via De La Valle, Suite 210
 Solano Beach, CA 92075

7471-001 / SiliconSage Builders, LLC

Professional Services			Hours	Rate	Amount
01/22/2024	KEA	Exchange of correspondence with Cooley regarding subpoena regarding TriGate litigation against Acharya (Stapleton/SiliconSage)	0.10	549.00	54.90
01/22/2024	KEA	Review closing letter from EBSA regarding 401k plan (Stapleton/SiliconSage)	0.20	549.00	109.80
01/29/2024	KEA	Exchange of correspondence with J. Diiorio regarding investor inquiry regarding information in the public domain (Stapleton/SiliconSage)	0.10	549.00	54.90
01/31/2024	KEA	Telephone call with D. Kieffer and team re subcontractor issues and status of sales (SiliconSage - Almaden)	0.30	549.00	164.70
02/01/2024	KEA	Telephone call with D. Kieffer regarding subcontractor issue	0.10	549.00	54.90
02/01/2024	KEA	Review correspondence from N. Hoffman regarding time sensitivity of subcontractor issue; prepare correspondence to counsel regarding extension	0.10	549.00	54.90
02/07/2024	KEA	Prepare stipulation with Acres re contractor disputes and forward same to Mark Mersel	0.50	549.00	274.50
02/08/2024	KEA	Exchange of correspondence with J. Diiorio regarding correspondence to claimants who need to provide additional documentation to support claims	0.10	549.00	54.90
02/08/2024	KEA	Review correspondence from Mark Mersel regarding stipulation approval	0.10	549.00	54.90
02/08/2024	KEA	Prepare correspondence to SEC regarding stipulation regarding contractor issues and fees incurred related to same	0.10	549.00	54.90

02/09/2024	KEA	Prepare order regarding stipulation to amend CFA to require Acres to pay fees incurred regarding contractor disputes	0.20	549.00	109.80
02/09/2024	JF	Efiled Receiver Stipulation with Acres and related Order	0.10	0.00	No Charge
02/09/2024	JF	Drafted Proof of service for Stipulation with Acres	0.10	0.00	No Charge
02/12/2024	KEA	Exchange of correspondence with client regarding NC Marble issue and Vintage update	0.10	549.00	54.90
02/12/2024	KEA	Review entered order approving stipulation regarding contractor dispute fees and forward to client	0.10	549.00	54.90
02/19/2024	KEA	Prepare correspondence to special litigation counsel re status of investigation to include in status report	0.10	549.00	54.90
02/19/2024	KEA	Begin preparation of 11th quarterly status report	0.70	549.00	384.30
02/20/2024	KEA	Review email from special litigation counsel regarding status of investigation and forward same to client and incorporate into status report	0.20	549.00	109.80
02/20/2024	KEA	Prepare response letter to Tyler Kelly regarding NC Marble	0.80	549.00	439.20
02/23/2024	KEA	Revise and finalize status report	0.60	549.00	329.40
02/23/2024	KEA	Prepare order regarding status report and RFL employment	0.20	549.00	109.80
02/27/2024	KEA	Revise NC Marble letter and circulate to client	0.90	549.00	494.10
02/27/2024	KEA	Exchange of correspondence with Receiver's office regarding buyer whose contract was rejected wanting signed cancellation	0.10	549.00	54.90
02/28/2024	KEA	Revise NC Marble letter to incorporate client's comments and recirculate	0.10	549.00	54.90
02/28/2024	KEA	Finalize letter to NC Marble and send to counsel by email	0.30	549.00	164.70
02/28/2024	KEA	Review Western Alliance claim and exchange of correspondence with its counsel and Receiver's team regarding same	0.10	549.00	54.90
03/04/2024	KEA	Review correspondence regarding claim review status	0.10	549.00	54.90
03/05/2024	KEA	Telephone call with G. Hire regarding case status	0.20	549.00	109.80
03/05/2024	KEA	Prepare 48 hour notice to NC Marble	0.60	549.00	329.40
03/05/2024	KEA	Review memo from special counsel re analysis of potential claims; prepare correspondence to counsel re call to discuss same	0.50	549.00	274.50
03/05/2024	KEA	Finalize letter to NC Marble and send to counsel	0.10	549.00	54.90

03/11/2024	KEA	Review emails from N. Hoffman to NC Marble regarding deficiencies	0.20	549.00	109.80
03/13/2024	KEA	Telephone call with special litigation counsel regarding claims against Chase	0.50	549.00	274.50
03/14/2024	KEA	Finalize demand letter to Vintage	0.30	549.00	164.70
03/15/2024	KEA	Review emails regarding issue with MCH Electric	0.10	549.00	54.90
03/18/2024	KEA	Telephone call with Mark Mersel regarding Osgood lien releases and stipulation regarding funds recovered from contractor disputes	0.30	549.00	164.70
03/18/2024	KEA	Prepare correspondence to collection agent for Vintage/NuWood regarding demand	0.10	549.00	54.90
03/19/2024	KEA	Revise draft email to claimants with update on claim allowance process	0.20	549.00	109.80
03/20/2024	KEA	Review indemnity agreement from Orange Coast Title requested to be signed and prepare correspondence to Receiver's office regarding prior one and scope of new proposed one	0.20	549.00	109.80
03/25/2024	KEA	Exchange of multiple emails with Matthew Flahive re Vintage/NuWood dispute	0.10	549.00	54.90
03/26/2024	KEA	Review email from client regarding buyer wanting to cancel contract and status of deposit	0.10	549.00	54.90
03/27/2024	KEA	Review Almaden contract re buyer cancelling unit purchase and prepare correspondence to N. Hoffman re same	0.10	549.00	54.90
03/27/2024	KEA	Review and analysis of correspondence regarding issues with NuMarble and nonpayment of subs	0.20	549.00	109.80
03/28/2024	KEA	Exchange of correspondence with client regarding buyer that closed pre-receivership and is requesting paid for upgrades	0.10	549.00	54.90
03/28/2024	KEA	Prepare stipulation with Acres regarding recoveries from contractor disputes	0.40	549.00	219.60
03/28/2024	KEA	Review correspondence from D. Kieffer regarding mechanic's liens; review order regarding free and clear language	0.20	549.00	109.80
03/28/2024	KEA	Exchange of correspondence with client regarding NC Marble and subs it is not paying	0.10	549.00	54.90
03/28/2024	KEA	Telephone call with M. Flahive and N. Hoffman regarding mechanic's lien issues and potential issues with subs	0.30	549.00	164.70
03/29/2024	KEA	Analysis of status of claims review and calculations in advance of status conference this afternoon	0.30	549.00	164.70
03/29/2024	KEA	Exchange of various correspondence regarding contractor disputes and strategy and call regarding same	0.10	549.00	54.90

03/29/2024	KEA	Prepare for status conference	0.40	549.00	219.60
03/29/2024	KEA	Attend status conference	0.30	549.00	164.70
03/29/2024	KEA	Prepare correspondence to Receiver regarding status conference	0.10	549.00	54.90

Sub-total Fees: \$6,807.60

Total Current Billing: **\$6,807.60**

Total Now Due: \$6,807.60

Rate Summary

Kyra E. Andrassy	12.40 hours at \$549.00/hr	\$6,807.60
Ja'Nita Fisher	0.20 hours at \$0.00/hr	\$0.00
Total hours:	<u> </u> 12.60	<u> </u> \$6,807.60

Payment Terms: Due Upon Receipt

Payment Options:

Pay Online:

Bill.com: <https://app.bill.com/p/rainesfeldmanllp>

Credit Card: <https://secure.lawpay.com/pages/rainesfeldman/operating>

Pay by Wire/ACH:

Wells Fargo Bank, N.A.
Routing No.: 0248
Account No.: 1821
BIC/Swift Code: US6S
Account Title: Raines Feldman Littrell LLP
Client Name & Invoice #

Pay by Check via Mail:

Raines Feldman Littrell LLP
PO Box 848574
Los Angeles, CA 90084-8574

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PROOF OF SERVICE

I am over the age of 18 and not a party to the within action; I am employed by Raines Feldman Littrell LLP and its business address is 3200 Park Center Drive, Suite 250, Costa Mesa, California 92626.

On July 17, 2024, I served the following document(s) described as **APPLICATION FOR ALLOWANCE AND PAYMENT OF FEES AND COSTS INCURRED BY COUNSEL FOR THE RECEIVER FOR THE PERIOD FROM JANUARY 1, 2024, THROUGH MARCH 31, 2024; DECLARATION OF KYRA E. ANDRASSY IN SUPPORT THEREOF**

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

SEE ATTACHED SERVICE LIST

BY COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”): Pursuant to United States District Court, Northern District of California, Local Civil Rule 5, the foregoing document will be served by the court via NEF and hyperlinked to the document. On July 17, 2024, 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.

BY MAIL: I placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of Raines Feldman Littrell LLP, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of Raines Feldman Littrell LLP for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.

BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed in the attached service list.

BY OVERNIGHT DELIVERY: I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of Raines Feldman Littrell LLP, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by _____ to receive said documents, with delivery fees provided for. I am readily familiar with the practices of Raines Feldman Littrell LLP for collection and processing of documents for overnight delivery, and said envelope(s) will be deposited for receipt by _____ on said date in the ordinary course of business.

BY FACSIMILE: I caused the above-referenced document to be transmitted to the interested parties via facsimile transmission to the fax number(s) as stated on the attached service list.

BY PERSONAL SERVICE: I delivered such envelope(s) by hand to the offices of the addressee(s) in the attached service list.

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

1 (Federal) I declare that I am employed in the office of a member of the bar of this
2 court at whose direction the service was made. I declare under penalty of
perjury that the above is true and correct.

3 Executed July 17, 2024 at Costa Mesa, California.

4 Ja’Nita Fisher
5 Type or Print Name

/s/ Ja’Nita Fisher
Signature

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SERVICE LIST

BY COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”):

- **Kyra Elizabeth Andrassy**
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- **Marie Gisele Quashnock**
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- **Brian G. Selden**
bgselden@jonesday.com,mreyes@jonesday.com
- **Steven Jude Sibley**
sjs@dslaw.net
- **Benjamin Samuel Taylor**
btaylor@taylorlawfirm.com
- **Donna Renee Tobar**
dtobar@lynberg.com,fvillalobos@grsm.com,ecravey@grsm.com

1 **RAINES FELDMAN LITTRELL LLP**

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4 Michael L. Simon, SBN 300822
5 msimon@raineslaw.com
6 3200 Park Center Drive, Suite 250
7 Costa Mesa, CA 92626
8 Telephone: (310) 440-4100
9 Facsimile: (310) 691-1943

6 Counsel for David Stapleton, Receiver

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 SECURITIES AND EXCHANGE
12 COMMISSION,

12 Plaintiff,

13 v.

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

16 Defendants.

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

Assigned to: Hon. Susan Illston

**[PROPOSED] ORDER APPROVING
APPLICATION FOR ALLOWANCE
OF FEES AND COSTS INCURRED BY
COUNSEL FOR THE RECEIVER FOR
THE PERIOD FROM JANUARY 1,
2024, THROUGH MARCH 31, 2024**

Date: August 27, 2024
Time: 10:00 a.m.
Ctrm: 1-17th Floor (Hearing by Zoom)

20 At the above date and time, the Court held a hearing on the *Application for Allowance*
21 *and Payment of Fees and Costs Incurred by Counsel for the Receiver for the Period From*
22 *January 1, 2024, Through March 31, 2024* (the “Application”). Any appearances were as
23 noted on the record. For the reasons set forth in the Application and the Court having found
24 that notice of the Application was proper,

25 **IT IS ORDERED AS FOLLOWS:**

- 26 1. Raines Feldman Littrell LLP is allowed fees of \$6,807.60 for the first quarter of
27 2024;

