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12 WILLIAM J. HOFFMAN

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

16 SECURITIES AND EXCHANGE
COMMISSION,
17 Plaintiff,
18
19 v.
20 NATIONWIDE AUTOMATED
SYSTEMS, INC.; JOEL GILLIS; and
EDWARD WISHNER,
21 Defendants,
22 OASIS STUDIO RENTALS, LLC;
23 OASIS STUDIO RENTALS #2, LLC;
and OASIS STUDIO RENTALS #3, LLC
24 Relief Defendants.
25

Case No. CV-14-07249-SJO (FFMx)

**NOTICE OF MOTION AND
MOTION FOR DISCHARGE OF
RECEIVER AND APPOINTMENT
OF SUCCESSOR RECEIVER;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: March 9, 2019
Time: 10:00 a.m.
Ctrm: 10C
Judge: Hon. S. James Otero

1 **TO ALL INTERESTED PARTIES:**

2 **PLEASE TAKE NOTICE** that on March 9, 2020, at 10:00 a.m. in
3 Courtroom 10C of the above-entitled Court, located at 350 West 1st Street,
4 Los Angeles, California 90012, William J. Hoffman of Trigild, Inc. ("Receiver"),
5 the Court-appointed permanent receiver for Nationwide Automated Systems, Inc.
6 ("NASI"), Oasis Studio Rentals, LLC, Oasis Studio Rentals #2, LLC, Oasis Studio
7 Rentals #3, LLC, and their subsidiaries and affiliates ("Receivership Entities"), will
8 and hereby does move the Court to discharge him as receiver and appoint Aaron
9 Kudla as successor Receiver, with the same receiver duties, responsibilities, and
10 powers under the Court's existing orders ("Motion").

11 This Motion is based on this Notice of Motion and Motion, the attached
12 Memorandum of Points and Authorities, the Declaration of Aaron J. Kudla, the
13 documents and pleadings already on file in this action, and upon such further oral
14 and documentary evidence as may be presented at the time of the hearing.

15 **Procedural Requirements:** If you oppose this Motion, you are required to
16 file your written opposition with the Office of the Clerk, United States District
17 Court, at 312 North Spring Street, Los Angeles, California 90012, and serve the
18 same on the undersigned no later than 21 calendar days prior to the hearing.

19 **IF YOU FAIL TO FILE AND SERVE A WRITTEN OPPOSITION** by the
20 above date, the Court may grant the requested relief without further notice. This
21 motion is made following conference of counsel pursuant to Local Rule 7-3.

22
23 Dated: February 6, 2020

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: /s/ Edward Fates
EDWARD G. FATES
Attorneys for Receiver
WILLIAM J. HOFFMAN

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 After a long and distinguished career as a federal and state court receiver and
4 trustee, the Receiver, William Hoffman, is now retiring. Fortunately, Mr. Hoffman
5 has a very experienced and capable staff at Trigild, Inc. that, under his direction, has
6 been administering this receivership from its inception, which team has been
7 supervised by Aaron Kudla. Mr. Kudla, who is both a Certified Public Accountant
8 and a licensed attorney in California, has been intimately involved with all aspects
9 of this receivership from its inception, including handling the day-to-day operations
10 of the receivership. Mr. Hoffman, therefore, requests that he be fully discharged as
11 receiver and Mr. Kudla appointed successor receiver. It is anticipated that the work
12 necessary to wind up the receivership will be completed in 2020 and Mr. Kudla, as
13 successor receiver, will then seek to distribute the remaining funds in the
14 receivership estate, conclude the receivership, and be discharged himself.

15 **II. BACKGROUND FACTS**

16 At the request of the Securities and Exchange Commission ("Commission"),
17 Mr. Hoffman was first appointed receiver in this case on a temporary basis on
18 September 30, 2014. Dkt. 17. He was then appointed permanent receiver on
19 October 29, 2014. Dkt. 42.

20 Mr. Kudla has worked directly under Mr. Hoffman's supervision and control
21 and headed up a group that worked on all aspects of the receivership, including the
22 investigation and forensic accounting, identification of profiting investors and
23 pursuit of fraudulent transfer claims ("Clawback Claims") and settlements, pursuit
24 of claims against City National Bank ("CNB") and related parties, operation and
25 sale of NASI's limited ATM business, formulation of claim procedures and
26 administration of investor claims, and distribution of receivership estate funds.¹ The

27
28 ¹ Mr. Kudla's central role in the receivership and intimate knowledge of the facts is demonstrated by his more than 30 declarations filed in support of motions filed

1 results have been extremely successful – from a receivership estate that started with
2 less than \$500,000, a total of \$31.5 million has already been distributed to investor
3 victims. With respect to the CNB global settlement, another approximately
4 \$22.5 million has been distributed to investor victims. Declaration of Aaron Kudla
5 filed herewith ("Kudla Decl."), ¶ 2.

6 Mr. Kudla is imminently qualified to serve as successor receiver in this
7 matter, as both a licensed CPA and licensed attorney in California, with extensive
8 experience in complex receivership matters over the last eight years at Trigild, Inc.
9 Mr. Kudla's professional biography is attached to the Kudla Decl. as Exhibit A.
10 Mr. Kudla will use the same experienced and qualified team at Trigild that has
11 provided assistance throughout the receivership, as well as the same experienced
12 attorneys at Allen Matkins to provide legal services. The transition will be
13 essentially seamless – no changes of personnel, address, telephone numbers, contact
14 persons, offices, or website will be necessary – which is very important in terms of
15 maintaining contact with investor victims to ensure distribution checks are received.
16 Finally, there will be no change in the receiver's hourly rate as both Mr. Hoffman
17 and Mr. Kudla bill their time at \$350 per hour. Kudla Decl., ¶ 3.

18 There is limited work left to be done in the receivership. There are some
19 outstanding Clawback demands to be resolved, some existing Clawback settlements
20 that have remaining payments due under them, and some Clawback judgments,
21 which will likely be resolved via settlements with the judgment debtors or sold to a
22 debt collection company. The Receiver must also distribute a relatively small
23 amount (approximately \$397,000) recovered from the sale of Defendant Joel Gillis'
24 home pursuant to the restitution order in the related criminal case. Once these tasks
25 are completed, Mr. Kudla, as successor receiver, will seek authority to distribute the
26 remaining funds in the receivership estate pursuant to the Court-approved

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by the Receiver in this Court, which does not include declarations in Clawback
actions filed in state court.

1 Distribution Plan, have final tax returns for the receivership estate prepared and
2 filed, and conclude the receivership. Final fee applications for the Receiver and
3 Allen Matkins, including amounts held back from interim fee applications, will be
4 filed in connection with the motion to make a final distribution and conclude the
5 receivership. Kudla Decl., ¶ 4.

6 **Meet and Confer.** The Receiver's counsel has discussed this matter with
7 counsel for the Commission. The Receiver is advised that the Commission has no
8 objection to Mr. Hoffman being fully discharged or Mr. Kudla being appointed
9 successor receiver and supports the Motion.

10 III. DISCUSSION

11 "The power of a district court to impose a receivership or grant other forms of
12 ancillary relief does not in the first instance depend on a statutory grant of power
13 from the securities laws. Rather, the authority derives from the inherent power of a
14 court of equity to fashion effective relief." *SEC v. Wencke*, 622 F.2d 1363, 1369
15 (9th Cir. 1980). The "primary purpose of equity receiverships is to promote orderly
16 and efficient administration of the estate by the district court for the benefit of
17 creditors." *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir 1986). As the appointment
18 of a receiver is authorized by the broad equitable powers of the court, any
19 distribution of assets must also be done equitably and fairly. *See SEC v. Elliot*,
20 953 F.2d 1560, 1569 (11th Cir. 1992).

21 District courts have the broad power of a court of equity to determine the
22 appropriate action in the administration and supervision of an equity receivership.
23 *See SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005). The Ninth
24 Circuit explained:

25 A district court's power to supervise an equity receivership
26 and to determine the appropriate action to be taken in the
27 administration of the receivership is extremely broad. The
28 district court has broad powers and wide discretion to
determine the appropriate relief in an equity receivership.
The basis for this broad deference to the district court's
supervisory role in equity receiverships arises out of the
fact that most receiverships involve multiple parties and

1 complex transactions. A district court's decision
2 concerning the supervision of an equitable receivership is
reviewed for abuse of discretion.

3 *Id.* (citations omitted); *see also CFTC. v. Topworth Int'l, Ltd.*, 205 F.3d 1107, 1115
4 (9th Cir. 1999) ("This court affords 'broad deference' to the court's supervisory role,
5 and 'we generally uphold reasonable procedures instituted by the district court that
6 serve th[e] purpose' of orderly and efficient administration of the receivership for
7 the benefit of creditors."). Accordingly, the Court has broad discretion in the
8 administration of the receivership estate.

9 Mr. Kudla is the logical and best choice to succeed Mr. Hoffman as receiver.
10 Mr. Kudla has been a skilled and dedicated member of the receivership team under
11 Mr. Hoffman and has the respect, trust and confidence of Mr. Hoffman to act as
12 Receiver to complete the remaining tasks. Mr. Kudla's central role in the
13 receivership since its inception gives him the intimate knowledge necessary to
14 efficiently and effectively complete the remaining tasks and conclude the
15 receivership. Indeed, substantially efficiency would be lost if Mr. Hoffman and
16 Mr. Kudla had to educate a new person on the extensive history, investigation,
17 accounting, claims process, distribution and numerous other details of the
18 receivership. Mr. Kudla has the skill, experience, and team in place at Trigild to
19 seamlessly transition in as successor receiver, efficiently complete the remaining
20 tasks, and bring a successful conclusion to this receivership.

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IV. CONCLUSION

For the foregoing reasons, the Receiver requests that he be fully discharged of all duties, responsibilities, and liabilities associated with the receivership and that Mr. Kudla be appointed successor receiver, with the same receiver duties, responsibilities, and powers under the Court's existing orders.

Dated: February 6, 2020

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: /s/ Edward Fates

EDWARD G. FATES
Attorneys for Receiver
WILLIAM J. HOFFMAN