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13 Attorneys for Receiver  
14 WILLIAM J. HOFFMAN

15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**

17  
18 SECURITIES AND EXCHANGE  
COMMISSION,

19 Plaintiff,

20 v.

21 NATIONWIDE AUTOMATED  
22 SYSTEMS, INC.; JOEL GILLIS; and  
EDWARD WISHNER,

23 Defendants,

24 OASIS STUDIO RENTALS, LLC;  
25 OASIS STUDIO RENTALS #2, LLC;  
and OASIS STUDIO RENTALS #3, LLC

26 Relief Defendants.  
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Case No. CV-14-07249-CJC-FFM

**NOTICE OF MOTION AND  
MOTION FOR AUTHORITY TO  
SELL OUTSTANDING CLAWBACK  
JUDGMENTS; MEMORANDUM OF  
POINTS AND AUTHORITIES**

Date: August 10, 2020  
Time: 1:30 p.m.  
Ctrm: 9B  
Judge: Hon. Cormac J. Carney

1 **TO ALL INTERESTED PARTIES:**

2 **PLEASE TAKE NOTICE** that on August 10, 2020, at 1:30 p.m. in  
3 Courtroom 9B of the above-entitled Court, located at 411 West Fourth Street, Santa  
4 Ana, CA 92701, Aaron J. Kudla ("Receiver"), the Court-appointed permanent  
5 receiver for Nationwide Automated Systems, Inc. ("NASI"), Oasis Studio  
6 Rentals, LLC, Oasis Studio Rentals #2, LLC, Oasis Studio Rentals #3, LLC, and  
7 their subsidiaries and affiliates ("Receivership Entities"), will and hereby does move  
8 the Court for an order for authority to sell outstanding clawback judgments  
9 ("Motion").

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

14 **Procedural Requirements:** If you oppose this Motion, you are required to  
15 file your written opposition with the Office of the Clerk, United States District  
16 Court, 350 West 1st Street, Los Angeles, California 90012 and serve the same on  
17 the undersigned no later than 21 calendar days prior to the hearing.

18 **IF YOU FAIL TO FILE AND SERVE A WRITTEN OPPOSITION** by the  
19 above date, the Court may grant the requested relief without further notice.

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21 Dated: July 13, 2020

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

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By:           /s/ Edward Fates          

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EDWARD G. FATES  
Attorneys for Receiver  
AARON J. KUDLA

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

As discussed in the interim reports filed by the Receiver, the vast majority of claims of the receivership estate to recover profits and other amounts paid to investors above and beyond the amounts they invested with NASI ("Clawback Claims") have been resolved through settlement. Not all profiting investors settled the Clawback Claims against them, however, and the receivership therefore brought a number of lawsuits to prosecute Clawback Claims. The lawsuits that were not settled resulted in judgments in favor of the receivership ("Clawback Judgments").

The Receiver has been able to enforce and/or settle some of these Clawback Judgments, but others remain unsolved. The collectability of the remaining Clawback Judgments is unknown. Meanwhile, the Receiver will soon be in a position to make a final distribution to investors with allowed claims and conclude the receivership. Enforcing the remaining Clawback Judgments would involve considerable expense, the recovery would be uncertain, and the enforcement process would substantially delay the final distribution and conclusion of the receivership. Therefore, instead of enforcing the Remaining Clawback Judgments himself, the Receiver seeks authority to market and sell them, as provided below.

**II. RELEVANT FACTS**

**A. The Receiver's Appointment**

On September 17, 2014, the Securities and Exchange Commission ("SEC") filed a complaint against Defendants Nationwide Automated Systems, Inc. ("NASI"), Joel Gillis, and Edward Wishner ("SEC Action"). On September 30, 2014, the Court appointed the Receiver as temporary receiver over NASI, its subsidiaries and affiliates ("Receivership Entities"). Dkt. No. 17. On October 29, 2014, the Court entered a Preliminary Injunction Order, making the Receiver's appointment permanent. Dkt. No. 42.

1           **B. The Remaining Clawback Judgments**

2           There are a total of 11 outstanding Clawback Judgments against investors  
3 who received profits or other amounts above and beyond the amounts they invested  
4 with NASI ("Remaining Clawback Judgments"). The total face amount of the  
5 Remaining Clawback Judgments is approximately \$2.4 million. As discussed  
6 above, the collectability of the Remaining Clawback Judgments is unknown. The  
7 Receiver has gathered information about the assets of the judgment debtors. While  
8 a recovery may be possible on at least some of the Remaining Clawback Judgments,  
9 the enforcements costs and delay involved could be considerable. The Receiver  
10 believes that delaying the final distribution of receivership estate assets and the  
11 conclusion of the receivership in order to enforce the Remaining Clawback  
12 Judgments is not warranted considering the costs and uncertain net recovery.  
13 Accordingly, the Receiver submits that marketing and selling the Remaining  
14 Clawback Judgments is the best course of action. Declaration of Aaron J. Kudla  
15 filed herewith ("Kudla Decl."), ¶ 2.

16           **C. Proposed Marketing and Sale Process**

17           The Receiver has already made contact with a number of collection attorneys  
18 and other investors located in Southern California who purchase and enforce money  
19 judgments on a regular basis. The Receiver has also researched and been in touch  
20 with multiple online services that widely market and sell judgments to buyers  
21 around the country for a commission ranging from 8% to 15%. Kudla Decl., ¶ 3.

22           The Receiver initially plans to market the Remaining Clawback Judgments to  
23 known prospective buyers in Southern California, evaluate the offers received and  
24 negotiate with the prospective buyers. The Receiver also plans to market the  
25 Remaining Clawbacks Judgments more broadly through one or more online  
26 databases. For the online listings, the Receiver will either (1) set a reserve amount  
27 sufficient to ensure that the online price (net of the commission) would exceed the  
28 highest direct offer from a known buyer (if a reserve amount is available), or (2) not

1 accept a winning bid that is lower than the highest direct offer from known buyer (if  
2 a reserve amount is not available). Through this process, the Receiver will be able  
3 to broadly market the Remaining Clawback Judgments and maximize the net  
4 recovery for the receivership estate. Kudla Decl., ¶ 4.

### 5 **III. ARGUMENT**

#### 6 **A. Broad Equitable Powers of the Court**

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

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

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

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

8 **B. The Proposed Marketing and Sale Process Should be Approved**

9 The Receiver believes that marketing the Remaining Clawback Judgments  
10 both directly to known prospective buyers and through one or more online services  
11 will expose the opportunity to numerous prospective purchasers and maximize the  
12 net recovery for the receivership estate. Considering the limited value of the  
13 Remaining Clawback Judgments, the Receiver does not believe engaging a broker,  
14 conducting a public auction or taking other steps to market the Clawback Judgments  
15 would result in a greater net recovery. To the contrary, such actions would add  
16 considerable administrative expenses, as well as a substantial broker commission, to  
17 the transaction with little or no corresponding benefit. As such, the Receiver  
18 believes the proposed marketing and sale will achieve the goal of obtaining the  
19 highest net recovery from the Clawback Judgments. Kudla Decl. ¶ 5.

20 As noted above, the proposed sale is not subject to overbids or an auction.  
21 This approach is permissible under 28 U.S.C. § 2004, which gives the Court  
22 discretion to approve the private sale of personal property, such as the Clawback  
23 Judgments, without the need for publication of notice, appraisals, or an auction if, as  
24 is the case here, such additional steps are unlikely to provide any material benefit to  
25 the receivership estate. *See SEC v. Wilson*, 2013 WL 1283437 \*1 (E.D. Mich.  
26 2013); *SEC v. T – Bar Resources LLC*, 2008 WL 4790987 \*3 (N.D. Tex. 2008).

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1 **IV. CONCLUSION**

2 For the reasons set forth herein, the Receiver respectfully requests entry of an  
3 order authorizing him to market and sell the Remaining Clawback Judgments.

4  
5 Dated: July 13, 2020

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

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7 By:           /s/ Edward Fates          

8 EDWARD G. FATES  
9 Attorneys for Receiver  
10 AARON J. KUDLA  
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11 Attorneys for AARON J. KUDLA, Receiver

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

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15 SECURITIES AND EXCHANGE  
16 COMMISSION,

17 Plaintiff,

18 v.

19 NATIONWIDE AUTOMATED  
SYSTEMS, INC.; JOEL GILLIS; and  
20 EDWARD WISHNER,

21 Defendants,

22 OASIS STUDIO RENTALS, LLC;  
OASIS STUDIO RENTALS #2, LLC; and  
23 OASIS STUDIO RENTALS #3, LLC,

24 Relief Defendants.  
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Case No. CV-14-07249-CJC-FFM

**DECLARATION OF AARON J.  
KUDLA IN SUPPORT OF MOTION  
FOR AUTHORITY TO SELL  
OUTSTANDING CLAWBACK  
JUDGMENTS**

Date: August 10, 2020  
Time: 1:30 p.m.  
Ctrm: 9B  
Judge: Hon. Cormac J. Carney



1 I, Aaron J. Kudla, declare as follows:

2 1. I am the Court-appointed receiver for Defendant Nationwide  
3 Automated Systems, Inc. ("NASI"), and its subsidiaries and affiliates ("Receivership  
4 Entities"). I make this declaration in support of my Motion for Authority to Sell  
5 Outstanding Clawback Judgments. I have personal knowledge of the facts stated  
6 herein, and if called upon to do so, I could and would personally and competently  
7 testify to them.

8 2. There are a total of 11 outstanding Clawback Judgments against  
9 investors who received profits or other amounts above and beyond the amounts they  
10 invested with NASI ("Remaining Clawback Judgments"). The total face amount of  
11 the Remaining Clawback Judgments is approximately \$2.4 million. The  
12 collectability of the Remaining Clawback Judgments is unknown. With the  
13 assistance of counsel, I have gathered information about the assets of the judgment  
14 debtors. While a recovery may be possible on at least some of the Remaining  
15 Clawback Judgments, the enforcements costs and delay involved could be  
16 considerable. My belief is that delaying the final distribution of receivership estate  
17 assets and the conclusion of the receivership in order to enforce the Remaining  
18 Clawback Judgments is not warranted considering the costs and uncertain net  
19 recovery. Accordingly, I submit that marketing and selling the Remaining  
20 Clawback Judgments is the best course of action.

21 3. I have already made contact with a number of collection attorneys and  
22 other investors located in Southern California who purchase and enforce money  
23 judgments on a regular basis. I have also researched and been in touch with  
24 multiple online services that widely market and sell judgments to buyers around the  
25 country for a commission ranging from 8% to 15%.

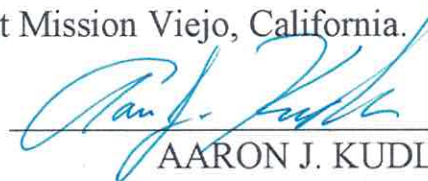
26 4. I initially plan to market the Remaining Clawback Judgments to known  
27 prospective buyers in Southern California, evaluate the offers received and negotiate  
28 with the prospective buyers. I also plan to market the Remaining Clawbacks

1 Judgments more broadly through one or more online databases. For the online  
2 listings, I will either (1) set a reserve amount sufficient to ensure that the online  
3 price (net of the commission) would exceed the highest direct offer from a known  
4 buyer (if a reserve amount is available), or (2) not accept a winning bid that is lower  
5 than the highest direct offer from known buyer (if a reserve amount is not available).  
6 Through this process, I will be able to broadly market the Remaining Clawback  
7 Judgments and maximize the net recovery for the receivership estate.

8       5. I believe that marketing the Remaining Clawback Judgments both  
9 directly to known prospective buyers and through one or more online services will  
10 expose the opportunity to numerous prospective purchasers and maximize the net  
11 recovery for the receivership estate. Considering the limited value of the Remaining  
12 Clawback Judgments, I do not believe engaging a broker, conducting a public  
13 auction or taking other steps to market the Clawback Judgments would result in a  
14 greater net recovery. To the contrary, such actions would add considerable  
15 administrative expenses, as well as a substantial broker commission, to the  
16 transaction with little or no corresponding benefit. As such, I believe the proposed  
17 marketing and sale will achieve the goal of obtaining the highest net recovery from  
18 the Clawback Judgments.

19       I declare under penalty of perjury under the laws of the United States of  
20 America that the foregoing is true and correct.

21       Executed this 13<sup>th</sup> day of July 2020, at Mission Viejo, California.

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24 AARON J. KUDLA

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