

1 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
2 DAVID R. ZARO (BAR NO. 124334)
TIM C. HSU (BAR NO. 279208)
3 865 South Figueroa Street, Suite 2800
Los Angeles, California 90017-2543
4 Phone: (213) 622-5555
Fax: (213) 620-8816
5 E-Mail: dzaro@allenmatkins.com
thsu@allenmatkins.com

6 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
7 EDWARD G. FATES (BAR NO. 227809)
8 One America Plaza
600 West Broadway, 27th Floor
9 San Diego, California 92101-0903
Phone: (619) 233-1155
10 Fax: (619) 233-1158
E-Mail: tfates@allenmatkins.com

11 Attorneys for Receiver
12 KRISTA L. FREITAG

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

16 Consumer Financial Protection Bureau
and Linda A. Lacewell, Acting
17 Superintendent of the New York State
Department of Financial Services,

18 Plaintiffs,

19 vs.

20 Pension Funding, LLC; Pension Income,
21 LLC; Steven Covey; Edwin Lichtig; and
Rex Hofelter,

22 Defendants.
23
24
25
26
27
28

Case No. 8:15-cv-1329

**DECLARATION OF KRISTA L.
FREITAG REGARDING
ACCOUNTING OF RESERVE AND
COMPLETION OF CLOSING
TASKS; REQUEST FOR ENTRY OF
ORDER DISCHARGING RECEIVER
AND CLOSING RECEIVERSHIP**

Ctrm.: 10A
Judge: Hon. Josephine L. Staton

I, Krista L. Freitag, declare:

1. I am the permanent receiver for Defendants Pension Funding, LLC, Pension Income, LLC, and their subsidiaries, affiliates, and successors-in-interest (collectively, "Receivership Entities").

2. This declaration is made pursuant to my Motion to Conclude Receivership ("Motion to Conclude") (Dkt. 207) and Order to Conclude Receivership ("Order to Conclude"). Dkt. 210. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify to such facts under oath.

3. As laid out in my Motion to Conclude and approved by the Court in the Order to Conclude, I have completed the tasks remaining to close the receivership, including (a) issuing final distributions to claimants with approved claims pursuant to the Claims Order and approved Distribution Plan and allowing the required 120 days for claimants to negotiate their checks, (b) paying Court-approved expenses, and fees and costs of professionals, and (c) making arrangements with the Consumer Financial Protection Bureau ("Bureau") regarding turnover of the remaining balance in the receivership estate to the United States Treasury. I have also directed that the final tax returns for the receivership estate be completed, which will be ready to be filed upon entry of the proposed Discharge Order lodged herewith.

Final Accounting of Receivership Estate Funds

4. The final accounting of funds remaining in the receivership estate as of the date the Order to Conclude was entered is as follows:

	Projected Amounts in Motion to Conclude		Actual Cash Activity through November 26, 2019	
Actual Cash on Hand 2.26.19	302,792		302,792	
Potential and Actual Pensioner Deposits and Other Income	0		18,991	
Potential and Actual Interest Income	0		88	

1	Cash Available for Final Distribution before Reserve and Administrative Costs		\$302,792		\$321,871
2					
3	Projected and Actual Final Tax and Return Preparation Fees	6,000		6,000	
4	Projected and Actual Storage and Document Destruction Fees	170		105	
5	Contingency	5,000		4,197	
6	Total Projected & Actual Disbursements (Non-Administrative RESERVE)		(11,170)		(\$10,302)
7					
8	Projected and Actual Receiver Fees and Expenses	28,500		28,500	
9	Projected and Actual Receiver Legal Fees and Expenses	12,000		12,000	
10					
11	Disbursements (Administrative RESERVE) – Projected and Actual Fees and Expenses		(40,500)		(\$40,500)
12					
13	Receiver Fees Incurred and Paid (Q4 2018)	9,864		9,864	
14	Receiver Legal Fees Incurred and Paid (Q4 2018)	5,749		5,749	
15	Disbursements (Administrative) – Fees and Expenses Incurred and Paid		(15,613)		(\$15,613)
16					
17	Receiver 20% Holdback from Interim Fee Applications	91,358		91,358	
18	Receiver Legal 20% Holdback from Interim Fee Applications	69,964		69,964	
19	Disbursements (Administrative) – Holdbacks		(161,322)		(\$161,322)
20					
21	Projected Minimum Cash Available for Final Distribution		\$74,187		
22	Final Distribution Payments				(\$79,149)
23	Total and Actual Cash Remaining		\$0		\$14,985

Fees and Costs for Additional Legal Work

25 5. At the time the Motion to Conclude was filed, Allen Matkins and I
26
27 estimated that the legal fees and costs necessary to close the receivership would be
28 approximately \$12,000. The actual fees and costs ended up being slightly over that

1 amount, primarily due to working with counsel for certain pensioners regarding pay
2 off of their outstanding lump sum balances. These efforts resulted in greater
3 pensioner collections, thus, these additional fees and costs were more than offset by
4 the additional amounts collected from pensioners.

5 6. I believe Allen Matkins' additional work was necessary and appropriate
6 and the fees and costs are fair and reasonable. I have discussed this matter with
7 counsel for the Bureau, as well as counsel for the New York State Department of
8 Financial Services, and have been advised that neither of them oppose payment of
9 these fees and costs to Allen Matkins. Accordingly, I request authority to pay up to
10 \$5,000 to Allen Matkins and have included such relief in the proposed Order
11 Discharging Receiver and Closing Receivership ("Discharge Order") submitted
12 herewith.

13 **Fees and Costs for Additional Receiver Work**

14 7. For a variety of reasons, including additional collections, the final
15 number of hours to complete wrap-up of this receivership is estimated to be slightly
16 greater than my original estimate in the Motion to Conclude. Accordingly, I'm
17 requesting authority to pay my company, E3 Advisors, up to \$3,000.00 for fees and
18 costs incurred above and beyond the pre-approved amount. I have discussed this
19 matter with counsel for the Bureau, as well as counsel for the New York State
20 Department of Financial Services, and have been advised that neither of them oppose
21 payment of these fees and costs. Accordingly, I have included such relief in the
22 proposed Discharge Order submitted herewith.

23 **Entry of Discharge Order**

24 8. With all tasks remaining under the Order to Conclude having been
25 completed, and the receivership estate having been fully administered and the
26 approved distribution process completed, I request entry of the proposed Discharge
27 Order submitted herewith and closure of the receivership.

28

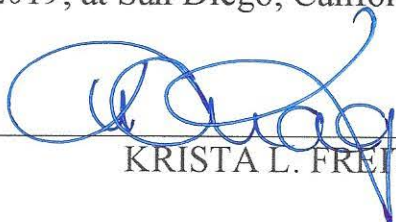
1 9. If the proposed payments for administrative expenses discussed above
2 are approved, a total of \$6,985 will remain in the receivership estate
3 (\$14,985 - \$8,000 = \$6,985).

4 10. With \$6,985 in cash in the receivership estate, I do not believe it would
5 be worthwhile or advisable to make further rounds of distributions. The costs of
6 calculating and processing each round of distribution checks are significant and the
7 economic benefit to investors at this stage would be marginal. Accordingly, I
8 recommend that the remaining funds in the receivership estate be turned over to the
9 United States Treasury, pursuant to the Court-approved Distribution Plan.

10 11. In summary, in this case, approximately \$5.06 million in recoveries
11 were made, from which approximately \$698,000 of lump sum overpayments were
12 returned to pensioners, approximately \$66,000 was used to support business
13 operations, approximately \$907,000 was paid in administrative expenses (if the
14 proposed additional payments above are made), approximately \$3.382 million in
15 distributions to those with allowed claims were made and, if authorized by the Court,
16 a total of \$6,985 will be turned over to the United States Treasury.

17 I declare under penalty of perjury under the laws of the United States that the
18 foregoing is true and correct.

19 Executed this 2nd day of December, 2019, at San Diego, California.

20
21 
22 KRISTA L. FREITAG
23
24
25
26
27
28