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9 Tax Accountants for Receiver
10 Thomas C. Hebrank

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 SOUTHERN DIVISION

14 SECURITIES AND EXCHANGE
15 COMMISSION,

16 Plaintiff,

17 vs.

18 LOUIS V. SCHOOLER and FIRST
19 FINANCIAL PLANNING
20 CORPORATION d/b/a WESTERN
21 FINANCIAL PLANNING
22 CORPORATION,

23 Defendants.

Case No. 3:12-cv-02164-GPC-JMA

**FINAL APPLICATION FOR
APPROVAL OF PAYMENT OF
FEES TO DUFFY
KRUSPODIN, LLP, AS TAX
ACCOUNTANTS FOR RECEIVER**

Date: October 1, 2021
Time: 1:30 p.m.
Ctrm: 2D
Judge: Hon. Gonzalo P. Curiel

Duffy, Kruspodin, LLP ("Duffy"), tax accountants for Thomas C. Hebrank ("Receiver"), Court-appointed receiver for First Financial Planning Corporation d/b/a Western Financial Planning Corporation ("Western"), and its subsidiaries and the General Partnerships listed in Schedule 1 to the Preliminary Injunction Order entered on March 13, 2013 (collectively, "Receivership Entities"), hereby submits this final application for approval of and payment of professional fees for work in preparing the 2019 and 2020 work in process federal and state tax returns for Western and WFP Receivership QSF Trust ("WFP Receivership").

Duffy seeks approval of the total fees and costs incurred for the receivership in the amount of \$1,010,536.47, which includes the following:

- Approval and payment of fees incurred during the period from January 1, 2020, through May 31, 2021 ("Final Application Period") of \$8,666.30;
- Final approval of Duffy's eleven interim fee applications¹ and of the \$982,620.17 (\$910,926.87 of fees and \$71,693.30 of expenses) previously paid in connection with those applications; and
- Approval of estimated fees and costs of up to \$19,250 for remaining tax work to conclude the receivership.

I. OVERVIEW

The Temporary Restraining Order ("TRO") and the Preliminary Injunction Order vests the Receiver with authority to employ professionals to assist in his efforts. TRO, Dkt. No. 10, Part VII.C. and G; Preliminary Injunction, Dkt. No. 174, Part III.C. and G. Pursuant to that authority, the Receiver engaged Duffy as tax accountants to provide tax advice and prepare tax returns for the Receivership Entities.

¹ Duffy's eleven interim fee applications, along with bills reflecting the work performed during each period can be found at Dkt. Nos. 202, 568, 820, 1098, 1128, 1331, 1523, 1560, 1655, 1692, and 1760 and are incorporated herein by this reference.

II. FINAL FEE APPLICATION PERIOD

The fees incurred by Duffy during the Final Application Period total \$8,666.30. Detailed descriptions of the services rendered by entity are contained in Exhibit A attached hereto. Exhibit B is a summary of Duffy staff total hours and corresponding rates. During the Application Period, Duffy spent 39.6 hours on behalf of the Receiver at an overall blended billing rate of \$218.85 per hour. Duffy has discounted all fees by ten percent (10%) from regular hourly billing rates as they were in 2017.

Duffy spent time during the Application Period in the following categories:

A. Preparation of 2019 and 2020 Income Tax Returns for Western

B. Preparation of 2019 and 2020 Income Tax Return for WFP
Receivership

A. Preparation of 2019 and 2020 Income Tax Returns for Western

1. General Engagement Services

Time in this category pertains to general communication and meetings for the 2019 and 2020 engagement. Duffy was in contact with the Receiver through phone calls and emails with the purpose of establishing the engagement and to agree upon procedures and reporting timelines. Furthermore, various other emails and phone calls were exchanged between Duffy and the Receiver regarding engagement timing, status, and special circumstances arising from the receivership.

2. Preparation of 2019 and 2020 Form 1096 and 1099 Informational Returns

The work in this category involves the preparation of the annual Forms 1096 and 1099s for all as required by tax law. The time spent included the following:

- a) verifying accounting fees in comparison to the Western records for 1099 reporting;

- 1 b) input of the 2019 and 2020 Form 1099 amounts and verifying all
2 other informational data included on the form, such as names,
3 addresses, and ID numbers for the receivership entities;
4 c) reviewing 1099 recipient's names, addresses, and ID numbers;
5 d) and electronic filing of the 1099s for the receivership entities;

6 3. Preparation 2019 and 2020 Income Tax Returns for Western

7 Time in this category was spent preparing the income tax returns as follows:

- 8 a) processing the initial receipt of the Western books and records;
9 b) formatting and organizing the files with the current year data;
10 c) verifying cash receipts and disbursements for the year and
11 scanning detail for reporting accuracy and consistency;
12 d) checking balance sheet account balances variances compared to
13 prior year;
14 e) reviewing input sheets of information entered into tax software;
15 f) manager level review of the above areas, as well as, overall
16 review of tax return forms and input;
17 g) manager level verification of reporting accuracy, formatting, and
18 adherence to current federal and state corporate tax laws;
19 h) staff and manager communication as needed to answer return
20 discrepancies or additional information needed to complete the
21 tax return;
22 i) partner level review of the above areas, as well as, overall review
23 of tax return forms and input;
24 j) partner level verification of reporting accuracy, formatting, and
25 adherence to current federal and state partnership tax laws;
26 k) finalizing of tax return and accompanying letters and schedules

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- l) printing tax return copies for each of the receivership entities and for government filing;
- m) electronic filing of the 2019 and 2020 corporate returns; and
- n) printing acceptance letters for the tax files to verify successful submittal and receipt by government agencies.

	Hours	Fees	Average Hourly Rate
TOTAL	4.4	\$ 827.10	\$ 187.98

B. Preparation 2019 and 2020 Work in Process Income Tax Return for WFP Receivership

Time in this category was spent preparing the income tax return as follows:

- a) processing the initial receipt of the WFP Receivership books and records;
- b) formatting and organizing the files with the current year data;
- c) verifying cash receipts and disbursements for the year and scanning detail for reporting accuracy and consistency;
- d) verifying balance sheet account balances for reporting purposes and tracking for file;
- e) reviewing input sheets of information entered into tax software;
- f) partner level review of the above areas, as well as, overall review of tax return forms and input;
- g) partner level verification of reporting accuracy, formatting, and adherence to current federal and state tax laws;
- h) finalizing of tax return and accompanying letters and schedules;
- i) printing tax return copies for the receivership entity and for government filing; and

j) sending paper filing of the 2019 return to receiver for signature and mailing.

	Hours	Fees	Average Hourly Rate
TOTAL	35.2	\$ 7,839.20	\$ 222.70

III. APPROVAL OF PRIOR INTERIM FEE APPLICATIONS

Duffy respectfully requests that the Court grant final approval of its eleven interim fee applications, which fees and costs were paid on an interim basis, pursuant to orders of the Court, as follows:

FEE APPLICATION	FEES PAID	COSTS PAID
First	\$78,050.12	\$7,016.89
Second	\$23,844.04	\$0.00
Third	\$92,854.89	\$6,994.99
Fourth	\$22,843.48	\$0.00
Fifth	\$103,874.40	\$14,895.24
Sixth	\$135,207.00	\$15,108.77
Seventh	\$180,528.75	\$13,597.08
Eighth	\$36,622.07	\$0.00
Ninth	\$189,096.66	\$14,080.33
Tenth	\$37,490.22	\$0.00
Eleventh	\$10,515.24	\$0.00
TOTAL	\$910,926.87	\$71,693.30

IV. ESTIMATED FEES FOR REMAINING TAX WORK

Duffy requests that the Court approve payment of up to \$19,250 in fees for remaining tax work to close the receivership. This work includes completing the 2020 tax returns for Western and WFP Receivership (which are already in process), preparing 2021 tax returns, and preparing final tax returns, which are expected to be needed in early 2022 (once the proposed final distribution to investors has been completed).

V. THE REQUESTED FEES ARE REASONABLE AND SHOULD BE ALLOWED

In its Order Granting in Part First Interim Fee Applications, the Court analyzed the case law regarding approval of interim fee applications in regulatory receiverships and determined that the following factors should be considered: (1) the complexity of the task; (2) the fair value of the time, labor, and skill measured by conservative business standards; (3) the quality of work performed, including the results obtained and the benefit to the receivership estate; (4) the burden the receivership estate may safely be able to bear; and (5) the Commission's opposition or acquiescence.

A. Complexity of Tasks

Duffy's preparation of Western and WFP Receivership's tax returns are considered complex in nature. The complexity lies in the QSF tax return reporting for the Western entities. The volume has decreased from prior years due to the finalization of the partnership returns. As a result, there is less time spent for the 2019 and 2020 tax returns.

B. Fair Value of Time, Labor & Skill

There are various levels of staff that worked on the engagement. For this fee application, the firm's 2017 rates were used for all staff levels. Thane F. Kelton, CPA, the partner on the engagement, was billed at an hourly rate of \$400, Livia Benjamin, CPA, the manager on the engagement, was billed at an hourly rate of \$255, Andra Antwan, CPA, Baldev Chhokar, Douglas Shaw, Inessa Stysis, CPA, and Jackson Pranskevich, the staff preparers on the engagement, were billed at an hourly rate ranging from \$125 to \$150. The remaining administrative staff that worked on the engagement were billed at a rate of \$70. These rates represent typical rates in California for CPAs of similar experience and expertise for the 2017 year. All compensation based on billing rates was discounted by ten percent (10%). The

1 blended hourly rate for all services provided by Duffy during the Application Period
2 is \$218.85. A summary of Duffy staff that worked on the engagement is included as
3 Exhibit B.

4 **C. Quality of Work Performed**

5 Duffy has provided the client with quality tax preparation and ancillary
6 services, with a high level of professionalism and excellent customer service. Duffy
7 worked diligently to ensure timely filing and was prompt in its completion of all of
8 the returns for 2019 and 2020, as applicable, as they were received during one of the
9 busiest times of year. Duffy was able to complete the corporate tax returns for 2019
10 and 2020, guaranteeing compliance with government agencies.

11 **D. Receivership Estate's Ability to Bear Burden of Fees**

12 The receivership estate is currently holding approximately \$5,460,284 in
13 cash, so the estate has the ability to pay the requested fees.

14 **E. Commission's Opposition of Acquiescence**

15 Prior to filing, Duffy, through the Receiver's counsel, provided this fee
16 application to counsel for the Commission in substantially final form. Counsel for
17 the Commission advised that the Commission has no opposition to the fees
18 requested.

19 Accordingly, the five considerations identified by the Court for considering
20 interim fee applications all support interim approval and payment of the requested
21 fees and costs.

22 **VI. CONCLUSION**

23 Duffy has ensured that Western and WFP Receivership have been able to
24 fulfill their responsibilities to the federal and state governments with respect to their
25 tax filings.

26 Duffy therefore respectfully requests this Court enter an Order:
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- 1 1. Approving the Duffy's total fees and costs for the receivership in the
- 2 amount of \$1,010,536.47, including:
- 3 a. Approval and authority to pay fees of \$8,666.30 for the Final
- 4 Application Period;
- 5 b. Approval, on a final basis of the \$982,620.17 (\$910,926.87 of
- 6 fees and \$71,693.30 of expenses) paid to Duffy pursuant to its
- 7 eleven interim fee applications; and
- 8 c. Approval and authority to pay projected fees and costs from the
- 9 reserve in the amount of up to \$19,250 to complete remaining tax
- 10 work to conclude the receivership; and
- 11 2. Granting such other and further relief as the Court deems appropriate.

12 Dated: July 19, 2021

13 By: 
 14 THANE F. KELTON, CPA
 15 DUFFY KRUSPODIN, LLP
 16 Certified Public Accountants
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EXHIBIT INDEX

Exhibit A	Detailed Time Reports	11
Exhibit B	Summary of Duffy Hours and Rate by Employee	14

EXHIBIT A

EXHIBIT A

SEC - Western Financial
First Financial Planning

Date	Last Name	Memo	Hours	Original Amount	Discounted Amount
03/08/2020	Benjamin, CPA, Livia	2019 Tax Return	1.3	331.50	298.35
03/09/2020	Shelton, Travis	Assembly	0.2	14.00	12.60
03/11/2020	Esparza, Crystal	Review 2019 assembly	0.1	7.00	6.30
03/11/2020	Kelton, CPA, Thane	Sign and Final 2019 Return	0.2	80.00	72.00
03/12/2020	Esparza, Crystal	Upload via SF/RS	0.1	7.00	6.30
03/14/2020	Rianzares, Anika	Efile Tax Return 2019	0.1	7.00	6.30
04/15/2020	Hansen, Briana	Verify Efile Acceptance & Save in engagement	0.2	14.00	12.60
3/8/2021	Benjamin, CPA, Livia	2020 Tax Return	1.2	306.00	275.40
3/8/2021	Stysis, CPA, Inessa	Several calls to FTB for verification of tax payment	0.2	25.00	22.50
3/9/2021	Sawiris, Nardine	Assembly	0.2	14.00	12.60
3/9/2021	Legaspi, Karla	Review 2020 Assembly	0.1	7.00	6.30
3/9/2021	Stysis, CPA, Inessa	Call to FTB to confirm CA tax payments	0.1	12.50	11.25
3/10/2021	Legaspi, Karla	Upload via SF/RS	0.1	7.00	6.30
3/10/2021	Kelton, CPA, Thane	Sign and Final 2020 Return	0.2	80.00	72.00
3/12/2021	Legaspi, Karla	Efile Tax Return 2020	0.1	7.00	6.30
Total before discount			4.4	919.00	
Total discounted invoice amount				<u>\$</u>	<u>827.10</u>

Summary by Employee:

Benjamin, CPA	2.5	\$	637.50	\$	573.75
Esparza	0.2		14.00	\$	12.60
Hansen	0.2		14.00	\$	12.60
Kelton, CPA	0.4		160.00	\$	144.00
Legaspi	0.3		21.00	\$	18.90
Rianzares	0.1		7.00	\$	6.30
Sawiris	0.2		14.00	\$	12.60
Shelton	0.2		14.00	\$	12.60
Stysis	0.3		37.50	\$	33.75
	4.4	\$	919.00	\$	827.10

SEC - Western Financial
WFP Receivership

Date	Last Name	Memo	Hours	Original Amount	Discounted Amount
01/13/2020	Kim, Jaeha	Workstream setup 2019	0.1	7.00	\$ 6.30
01/17/2020	Benjamin, CPA, Livia	2019 1099s request	0.1	25.50	22.95
01/21/2020	Shaw, Douglas	Assigned 1099 to staff.	0.2	25.0	22.50
01/22/2020	Benjamin, CPA, Livia	1099s for 2019	0.1	25.50	22.95
01/22/2020	Chhokar, Baldev	CFS assistance	0.3	45.0	40.50
01/22/2020	Nelson, Victoria	Preparing 1099	1.3	91.00	81.90
01/22/2020	Antwan, CPA, Andra	Review & Adjust 1099	0.5	62.50	56.25
01/23/2020	Antwan, CPA, Andra	Update 1099 information	0.2	25.0	22.50
01/24/2020	Rianzares, Anika	E-file 1099	0.1	7.0	6.30
01/27/2020	Rianzares, Anika	Verify Efile Acceptance - Scan in Engagement	0.1	7.0	6.30
02/15/2020	Benjamin, CPA, Livia	Status 2019 return	0.2	51.00	45.90
02/20/2020	Benjamin, CPA, Livia	Information for the 2019 return	0.2	51.00	45.90
02/24/2020	Kelton, CPA, Thane	2019 Tax return	0.5	200.0	180.00
03/07/2020	Rianzares, Anika	Scan Job	0.1	7.0	6.30
03/09/2020	Pranskevich, Jackson	2019 return IT support	0.2	25.0	22.50
04/13/2020	Benjamin, CPA, Livia	2019 return preparation	3.1	790.50	711.45
04/16/2020	Benjamin, CPA, Livia	Correspondence regarding return	0.4	102.00	91.80
05/15/2020	Kelton, CPA, Thane	2019 Review	1.9	760.0	684.00
07/06/2020	Benjamin, CPA, Livia	2019 return preparation	6.4	1,632.00	1,468.80
07/07/2020	Benjamin, CPA, Livia	Finalized 2019 return	1.4	357.00	321.30
07/07/2020	Kelton, CPA, Thane	2019 final review and sign and final	2.4	960.0	864.00
07/07/2020	Rianzares, Anika	Assemble T/R	0.4	28.0	25.20
07/08/2020	Rianzares, Anika	Deliver T/R	0.1	7.0	6.30
07/09/2020	Legaspi, Karla	certified postage	-	8.25	8.25
1/19/2021	Benjamin, CPA, Livia	2020 1099s request	0.2	51.00	45.90
1/20/2021	Shaw, CPA, Douglas	Assigned 1099 to staff	0.2	25.00	22.50
1/20/2021	Benjamin, CPA, Livia	1099s for 2020	0.2	51.00	45.90
1/20/2021	Mendoza, Kristabel	Preparing 1099	0.8	56.00	50.40
1/21/2021	Antwan, CPA, Andra	Review 1099 and make changes to forms and letter.	0.8	100.00	90.00
1/21/2021	Benjamin, CPA, Livia	Review & Adjust 1099	0.3	76.50	68.85
1/22/2021	Ramirez, Melissa	delivery	0.1	7.00	6.30
1/22/2021	Ramirez, Melissa	efiled 1099	0.3	21.00	18.90
1/22/2021	Benjamin, CPA, Livia	review 2020 1099s after corrections	0.3	76.50	68.85
1/22/2021	Antwan, CPA, Andra	Update 1099 information per Livia	0.2	25.00	22.50
1/26/2021	Ramirez, Melissa	obtained acceptance	0.1	7.00	6.30
3/8/2021	Benjamin, CPA, Livia	email to Tom regarding info needed for 2020	0.1	25.50	22.95
3/22/2021	Benjamin, CPA, Livia	2020 tax preparation	2.9	739.50	665.55
3/23/2021	Benjamin, CPA, Livia	2020 return and timing of 2021	0.2	51.00	45.90
4/13/2021	Benjamin, CPA, Livia	2020 Return	1.6	408.00	367.20
4/14/2021	Benjamin, CPA, Livia	IRS address issue	0.2	51.00	45.90
4/14/2021	Cockerel, Chandaleer	certified mail form 7004 2020 ext	-	6.35	6.35
5/27/2021	Benjamin, CPA, Livia	2020 tax return, property sales and matching to cost basis	6.4	1,632.00	1,468.80
Total before discount			35.2	\$ 8,708.60	

Total discounted invoice amount

\$ 7,839.20

Summary by Employee:

Antwan, CPA	1.7	212.50	191.25
Benjamin, CPA	24.3	\$ 6,196.50	\$ 5,576.85
Chhokar	0.3	45.00	40.50
Cockerel	-	6.35	6.35
Kelton, CPA	4.8	1,920.00	1,728.00
Kim	0.1	7.00	6.30
Legaspi	-	8.25	8.25
Mendoza	0.8	56.00	50.40
Nelson	1.3	91.00	81.90
Pranskevich	0.2	25.00	22.50
Ramirez	0.5	\$ 35.00	\$ 31.50
Rianzares	0.8	\$ 56.00	\$ 50.40
Shaw	0.4	50.00	45.00
	35.2	\$ 8,708.60	\$ 7,839.20

EXHIBIT B

EXHIBIT B

Rate Summary	Hours	Rate/hr	Original Amount	Discounted rate (10%)	Discounted Amount
Andra Antwan, CPA	1.7	125.00	212.50	112.50	191.25
Anika Rianzares	0.9	70.00	63.00	63.00	56.70
Baldev Chhokar	0.3	150.00	45.00	135.00	40.50
Briana Hansen	0.2	70.00	14.00	63.00	12.60
Chandaleer Cockerel	-	70.00	6.35	63.00	6.35
Crystal Esparza	0.2	70.00	14.00	63.00	12.60
Douglas Shaw	0.4	125.00	50.00	112.50	45.00
Inessa Stysis	0.3	125.00	37.50	112.50	33.75
Jackson Pranskevich	0.2	125.00	25.00	112.50	22.50
Jaeha Kim	0.1	70.00	7.00	63.00	6.30
Karla Legaspi	0.3	70.00	29.25	63.00	27.15
Kristabel Mendoza	0.8	70.00	56.00	63.00	50.40
Livia Benjamin, CPA	26.8	255.00	6,834.00	229.50	6,150.60
Melissa Ramirez	0.5	70.00	35.00	63.00	31.50
Nardine Sawiris	0.2	70.00	14.00	63.00	12.60
Thane F. Kelton, CPA	5.2	400.00	2,080.00	360.00	1,872.00
Travis Shelton	0.2	70.00	14.00	63.00	12.60
Victoria Nelson	1.3	70.00	91.00	63.00	81.90
	<u>39.6</u>		<u>\$ 9,627.60</u>		<u>\$ 8,666.30</u>
Average blended hourly rate			\$ 243.12		
Average blended hourly rate with 10% discount					\$ 218.85