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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

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

Date: June 5, 2020  
Time: 1:30 p.m.  
Ctm: 9D  
Judge: Hon. Gonzalo P. Curiel

24 Duffy, Kruspodin, LLP (“Duffy”), tax accountants for Thomas C. Hebrank  
25 (“Receiver”), the Court-appointed permanent receiver for First Financial Planning  
26 Corporation d/b/a Western Financial Planning Corporation (“Western”), and related  
27 entity, WFP Receivership (collectively, the “Receivership Entities”), hereby submits  
28 this eleventh interim application for approval and payment of professional fees for  
work in preparing the 2018 federal and state tax returns for Western and WFP  
Receivership QSF Trust (“WFP Receivership”).

Duffy incurred \$10,515.24 in fees for this Application Period and seeks  
interim approval and payment of these fees. Detailed descriptions of the services

1 rendered by entity are contained in Exhibit A attached hereto. Exhibit B is a  
2 summary of Duffy staff total hours and corresponding rates. During the Application  
3 Period, Duffy spent 44.2 hours on behalf of the Receiver at an overall blended  
4 billing rate of \$237.90 per hour. Duffy has discounted all fees by ten percent (10%)  
5 from regular hourly billing rates as they were in 2017.

## 6 I. OVERVIEW

7 The Temporary Restraining Order (“TRO”) and the Preliminary Injunction  
8 Order vests the Receiver with authority to employ professionals to assist in his  
9 efforts. TRO, Dkt. No. 10, Part VII.C. and G; Preliminary Injunction, Dkt. No. 174,  
10 Part III.C. and G. Pursuant to that authority, the Receiver engaged Duffy as tax  
11 accountants to prepare the 2018 income tax and informational filings for Western  
12 and WFP Receivership. The Receiver selected Duffy after a discussion took place  
13 regarding the preparation of the tax returns.

## 14 II. FEE APPLICATION

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

- 16 A. Preparation of 2018 Income Tax Returns for Western
- 17 B. Preparation of 2018 Income Tax Return for WFP Receivership

### 18 A. Western, Real Asset Locators, and related Entities

#### 19 1. General Engagement Services

20 Time in this category pertains to general communication and meetings for the  
21 2018 engagement. Duffy was in contact with the Receiver through phone calls and  
22 emails with the purpose of establishing the engagement and to agree upon  
23 procedures and reporting timelines. Furthermore, various other emails and phone  
24 calls were exchanged between Duffy and the Receiver regarding engagement  
25 timing, status, and special circumstances arising from the receivership. Additional  
26 time was spent in 2019 due to a Franchise Tax Board Notice that was received for  
27 Western.

28

1                   2.     Preparation of 2018 Form 1096 and 1099 Informational Returns

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

- 4                   a)     verifying accounting fees in comparison to the Western records  
5                   for 1099 reporting;
- 6                   b)     input of the 2018 Form 1099 amounts and verifying all other  
7                   informational data included on the form, such as names,  
8                   addresses, and ID numbers for the receivership entities;
- 9                   c)     reviewing 1099 recipient's names, addresses, and ID numbers;
- 10                  d)     and electronic filing of the 1099s for the receivership entities;

11                  3.     Preparation 2018 Income Tax Returns for Western

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

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

- 1 j) partner level verification of reporting accuracy, formatting, and
- 2 adherence to current federal and state partnership tax laws;
- 3 k) finalizing of tax return and accompanying letters and schedules
- 4 l) printing tax return copies for each of the receivership entities and
- 5 for government filing;
- 6 m) electronic filing of the 2018 corporate returns;
- 7 n) printing acceptance letters for the tax files to verify successful
- 8 submittal and receipt by government agencies;

	Hours	Fees	Average Hourly Rate
TOTAL	6.3	\$ 1,402.20	\$ 222.57

9

10

11 **B. Preparation 2018 Income Tax Return for WFP Receivership**

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

- 13 a) processing the initial receipt of the WFP Receivership books and
- 14 records;
- 15 b) formatting and organizing the files with the current year data;
- 16 c) verifying cash receipts and disbursements for the year and
- 17 scanning detail for reporting accuracy and consistency;
- 18 d) verifying balance sheet account balances for reporting purposes
- 19 and tracking for file;
- 20 e) reviewing input sheets of information entered into Lacerte;
- 21 f) partner level review of the above areas, as well as, overall review
- 22 of tax return forms and input;
- 23 g) partner level verification of reporting accuracy, formatting, and
- 24 adherence to current federal and state tax laws;
- 25 h) finalizing of tax return and accompanying letters and schedules;
- 26 i) printing tax return copies for the receivership entity and for
- 27 government filing;
- 28

1 j) ending paper filing of the 2018 return to receiver for signature  
2 and mailing;

	<b>Hours</b>	<b>Fees</b>	<b>Average Hourly Rate</b>
TOTAL	37.9	\$ 9,113.04	\$ 240.45

3  
4  
5 **III. THE REQUESTED FEES ARE REASONABLE AND SHOULD BE**  
6 **ALLOWED**

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

15 **A. Complexity of Tasks**

16 Duffy's preparation of Western and WFP Receivership's tax returns are  
17 considered complex in nature. The complexity lies in the QSF tax return reporting  
18 for the Western entities. The volume has decreased from prior years due to the  
19 finalization of the partnership returns. As a result, there is less time spent for the  
20 2018 tax returns.

21 **B. Fair Value of Time, Labor & Skill**

22 There are various levels of staff that worked on the engagement. For this fee  
23 application, the 2017 rates were used for all staff levels. Thane F. Kelton, CPA, the  
24 partner on the engagement, was billed at an hourly rate of \$400, Livia Benjamin,  
25 CPA, the manager on the engagement, was billed at an hourly rate of \$255, Geoff  
26 Pope, CPA, Julia Jeong, CPA, Lauren Timan, and Raquel Guluarte, the staff  
27 preparers on the engagement, were billed at an hourly rate ranging from \$125 to  
28 \$190. The remaining administrative staff that worked on the engagement were billed

1 at a rate of \$70. These rates represent typical rates in California for CPAs of similar  
2 experience and expertise for the 2017 year. All compensation based on billing rates  
3 was discounted by ten percent (10%). The blended hourly rate for all services  
4 provided by Duffy during the Application Period is \$237.90. A summary of Duffy  
5 staff that worked on the engagement is included as Exhibit B.

6 **C. Quality of Work Performed**

7 Duffy has provided the client with quality tax preparation and ancillary  
8 services, with a high level of professionalism and excellent customer service. Duffy  
9 worked diligently to ensure timely filing and was prompt in its completion of all of  
10 the returns for 2018, as applicable, as they were received during one of the busiest  
11 times of year. Duffy was able to complete the corporate tax returns for 2018,  
12 guaranteeing compliance with government agencies.

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

14 At the conclusion of the fourth quarter, the receivership estate held  
15 \$3,484,009 in funds, with \$19,000,000 having previously been distributed to  
16 investors pursuant to the Court's orders. Additional proceeds from the sale of  
17 properties have been received during the first quarter and further sales are pending.  
18 A reserve sufficient to pay the fees and costs of the receivership was specifically  
19 provided for in the Receiver's motions for authority to make distributions.  
20 Therefore, the receivership estate has sufficient funds available to pay the requested  
21 fees.

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

23 Prior to filing, Duffy, through the Receiver's counsel, provided this fee  
24 application to counsel for the Commission in substantially final form. Counsel for  
25 the Commission advised that the Commission has no opposition to the fees  
26 requested.

27  
28

1 Accordingly, the five considerations identified by the Court for considering  
2 interim fee applications all support interim approval and payment of the requested  
3 fees and costs.

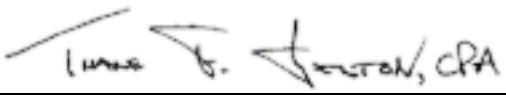
4 **IV. CONCLUSION**

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

8 WHEREFORE, Duffy respectfully requests an order:

- 9 1. Approving payment of \$10,515.24 in fees incurred by Duffy during the  
10 Application Period, and authorizing payment of \$10,515.24 from receivership estate  
11 cash, as discussed above; and  
12 2. Granting such other and further relief as is appropriate.

13  
14 Dated: April 17, 2020

15 By:   
16 THANE F. KELTON, CPA  
17 DUFFY, KRUSPODIN &  
18 COMPANY, LLP  
19 Certified Public Accountants  
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**EXHIBIT INDEX**

Exhibit A	Detailed Time Reports	9
Exhibit B	Summary of Duffy Hours and Rate by Employee	12



# EXHIBIT A

# EXHIBIT A

SEC - Western Financial  
 First Financial Planning

Date	Last Name	Memo	Hours	Original Amount	Discounted Amount
11/26/2018	Pope, Geoffrey	CSA Conversion to update file	0.3	\$ 57.00	\$ 51.30
11/28/2018	Jeong, Julia	CSA Conversion to update file	0.2	38.00	34.20
1/17/2019	Benjamin, CPA, Livia	1099 filing 2018	0.1	25.50	22.95
3/4/2019	Benjamin, CPA, Livia	2018 return	0.5	127.50	114.75
3/5/2019	Benjamin, CPA, Livia	2018 Extension	0.2	51.00	45.90
3/11/2019	Benjamin, CPA, Livia	status with Alica	0.1	25.50	22.95
3/15/2019	Benjamin, CPA, Livia	Emails with Alica and Geno re 2018 return	0.2	51.00	45.90
3/21/2019	Santana, Estephene	Prep and send extension voucher	0.1	7.00	6.30
9/12/2019	Benjamin, CPA, Livia	Final review, in assembly	0.2	51.00	45.90
9/12/2019	Shelton, Travis	Assembly	0.2	14.00	12.60
9/12/2019	Rianzares, Anika	Review and edit Assembly	0.1	7.00	6.30
9/12/2019	Kelton, CPA, Thane	Review, sign and final return	1.5	600.00	540.00
9/13/2019	Rianzares, Anika	Deliver Tax Return	0.1	7.00	6.30
9/13/2019	Rianzares, Anika	E-File Tax Return	0.1	7.00	6.30
9/15/2019	Rianzares, Anika	E-File Complete	0.1	7.00	6.30
11/7/2019	Benjamin, CPA, Livia	Email to Tom regarding notice for 2018 payment due	0.1	25.50	22.95
11/11/2019	Benjamin, CPA, Livia	Emails to Raquel to call regarding penalty	0.2	51.00	45.90
11/12/2019	Guluarte, Raquel	Phone call to FTB to correct payment applied to wrong tax year	0.5	95.00	85.50
11/12/2019	Benjamin, CPA, Livia	FTB notice followup	0.3	76.50	68.85
11/13/2019	Guluarte, Raquel	Multiple calls to CA FTB regarding 2019 10/22 tax notice	0.3	57.00	51.30
11/14/2019	Guluarte, Raquel	FTB phone call with agent, Zainab Hammonds regarding 2018 tax payment	0.8	152.00	136.80
11/14/2019	Benjamin, CPA, Livia	Communication regarding FTB notice	0.1	25.50	22.95
Total before discount			6.3	1,558.00	
				<b>Total discounted invoice amount</b>	<b>\$ 1,402.20</b>

**Summary by Employee:**

Benjamin, CPA	2.0	\$ 510.00	\$ 459.00
Guluarte	1.6	304.00	273.60
Jeong, CPA	0.2	38.00	34.20
Kelton, CPA	1.5	600.00	540.00
Pope, CPA	0.3	57.00	51.30
Rianzares	0.4	28.00	25.20
Santana	0.1	7.00	6.30
Shelton	0.2	14.00	12.60
	<b>6.3</b>	<b>\$ 1,558.00</b>	<b>\$ 1,402.20</b>

SEC - Western Financial  
WFP Receivership

Date	Last Name	Memo	Hours	Original Amount	Discounted Amount
12/24/2018	Aviles, Rossana	Transferring workpapers into engagement.	0.1	7.00	\$ 6.30
1/17/2019	Benjamin, CPA, Livia	1099 filing 2018	0.2	51.00	45.90
1/18/2019	Benjamin, CPA, Livia	email to Geno re amounts paid for 1099 filing	0.2	51.00	45.90
1/31/2019	Timan, Lauren	Preparing 2018 1096 & 1099MISC	0.4	50.00	45.00
1/31/2019	Timan, Lauren	Phone call with Livia and intake	0.1	12.50	11.25
1/31/2019	Benjamin, CPA, Livia	2018 1099s	0.5	127.50	114.75
1/31/2019	Ochoa, Vanessa	1099 e-filing	0.1	7.00	6.30
2/8/2019	Benjamin, CPA, Livia	Interest statement for 2018	0.1	25.50	22.95
2/21/2019	Benjamin, CPA, Livia	2018 tax return	0.2	51.00	45.90
3/4/2019	Benjamin, CPA, Livia	2018 information/extension	0.3	76.50	68.85
4/12/2019	Benjamin, CPA, Livia	Extension of time to file	0.2	51.00	45.90
4/13/2019	Ochoa, Vanessa	Postage.	0	5.60	5.04
9/21/2019	Benjamin, CPA, Livia	2018 Tax Return	2.4	612.00	550.80
9/23/2019	Benjamin, CPA, Livia	emails with Alica re 2018 info	0.2	51.00	45.90
10/5/2019	Benjamin, CPA, Livia	2018 Preparation	4.3	1,096.50	986.85
10/6/2019	Benjamin, CPA, Livia	2018 Preparation	4.5	1,147.50	1,032.75
10/10/2019	Benjamin, CPA, Livia	2018 Preparation	4.7	1,198.50	1,078.65
10/11/2019	Benjamin, CPA, Livia	2018 Preparation	3.6	918.00	826.20
10/12/2019	Benjamin, CPA, Livia	2018 Preparation	0.9	229.50	206.55
10/14/2019	Benjamin, CPA, Livia	2018 Final review	4.2	1,071.00	963.90
10/14/2019	Kelton, CPA, Thane	Meet regarding tax returns and various issues and review	2.5	1,000.00	900.00
10/14/2019	Benjamin, CPA, Livia	Met with Thane to discuss return filing and reporting	2.5	637.50	573.75
10/15/2019	Benjamin, CPA, Livia	Finalized 2018 return, assembly to client	3.4	867.00	780.30
10/15/2019	Allen, Amanda	Assemble 2018 return.	0.2	14.00	12.60
10/15/2019	Kelton, CPA, Thane	Completion of tax return, sign and final review	1.6	640.00	576.00
11/27/2019	Benjamin, CPA, Livia	QSF treatment question with worthless land	0.5	127.50	114.75
Total before discount			37.9	<u>\$ 10,125.60</u>	
<b>Total discounted invoice amount</b>					<b>\$ 9,113.04</b>

Summary by Employee:

Aviles	0.2	14.00	12.60
Aviles	0.1	7.00	6.30
Benjamin, CPA	32.9	\$ 8,389.50	\$ 7,550.55
Kelton, CPA	4.1	1,640.00	1,476.00
Ochoa	0.1	12.60	11.34
Timan	0.5	62.50	56.25
	<u>37.9</u>	<u>\$ 10,125.60</u>	<u>\$ 9,113.04</u>

# **EXHIBIT B**

# **EXHIBIT B**

<b>Rate Summary</b>	Hours	Rate/hr	Original Amount	Discounted rate (10%)	Discounted Amount
Amanda Allen	0.2	70.00	14.00	63.00	12.60
Anika Rianzares	0.4	70.00	28.00	63.00	25.20
Estephene Santana	0.1	70.00	7.00	63.00	6.30
Geoff Pope, CPA	0.3	190.00	57.00	171.00	51.30
Julia Jeong, CPA	0.2	190.00	38.00	171.00	34.20
Lauren Timan	0.5	125.00	62.50	112.50	56.25
Livia Benjamin, CPA	34.9	255.00	8,899.50	229.50	8,009.55
Raquel Guluarte	1.6	190.00	304.00	171.00	273.60
Rossanna Aviles	0.1	70.00	7.00	63.00	6.30
Thane F. Kelton, CPA	5.6	400.00	2,240.00	360.00	2,016.00
Travis Shelton	0.2	70.00	14.00	63.00	12.60
Vanessa Ochoa	0.1	70.00	12.60	63.00	11.34
	<u>44.2</u>		<u>\$ 11,683.60</u>		<u>\$ 10,515.24</u>
Average blended hourly rate			\$ 264.33		
Average blended hourly rate with 10% discount				\$ 237.90	