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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

2. Preparation of 2018 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;
- b) input of the 2018 Form 1099 amounts and verifying all other informational data included on the form, such as names, addresses, and ID numbers for the receivership entities;
- c) reviewing 1099 recipient's names, addresses, and ID numbers;
- d) and electronic filing of the 1099s for the receivership entities;

3. Preparation 2018 Income Tax Returns for Western

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

- a) processing the initial receipt of the Western 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) checking balance sheet account balances variances compared to prior year;
- e) reviewing input sheets of information entered into Lacerte;
- f) manager level review of the above areas, as well as, overall review of tax return forms and input;
- g) manager level verification of reporting accuracy, formatting, and adherence to current federal and state corporate tax laws;
- h) staff and manager communication as needed to answer return discrepancies or additional information needed to complete the tax return;
- i) partner level review of the above areas, as well as, overall review of tax return forms and input;

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

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

B. Preparation 2018 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 Lacerte;
- 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;

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

| | Hours | Fees | Average Hourly Rate |
|-------|-------|-------------|---------------------|
| TOTAL | 37.9 | \$ 9,113.04 | \$ 240.45 |

III. 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 2018 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 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, Geoff Pope, CPA, Julia Jeong, CPA, Lauren Timan, and Raquel Guluarte, the staff preparers on the engagement, were billed at an hourly rate ranging from \$125 to \$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 |
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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 | |
| Total discounted invoice amount | | | | \$ | <u><u>1,402.20</u></u> |

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 |
| | 6.3 | \$ 1,558.00 | \$ 1,402.20 |

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 Alicia 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> | |
| Total discounted invoice amount | | | | | <u>\$ 9,113.04</u> |

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 |
| | 37.9 | \$ | 10,125.60 | \$ | 9,113.04 |

EXHIBIT B

EXHIBIT B

| Rate Summary | 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 |