

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

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

10 Attorneys for Receiver
11 THOMAS HEBRANK

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

14
15 SECURITIES AND EXCHANGE
COMMISSION,

16 Plaintiff,

17 v.

18 PACIFIC WEST CAPITAL GROUP,
19 INC.; ANDREW B CALHOUN IV;
PWCG TRUST; BRENDA CHRISTINE
20 BARRY; BAK WEST, INC.; ANDREW B
CALHOUN JR.; ERIC CHRISTOPHER
21 CANNON; CENTURY POINT, LLC;
MICHAEL WAYNE DOTTA; and
22 CALEB AUSTIN MOODY (dba SKY
STONE),

23 Defendants.
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Case No. 2:15-cv-02563-DDP-FFM

**STIPULATION REGARDING
REMOVAL OF MILLS
POTOCZAK & COMPANY AS
TRUSTEE OF PWCG TRUST AND
APPOINTMENT OF RECEIVER
AS SUBSTITUTE TRUSTEE**

Ctrm.:9C
Judge:Hon. Dean D. Pregerson

1 The Securities and Exchange Commission, Thomas Hebrank ("Receiver"), the
2 Court-appointed receiver for the PWCG Trust, and Mills Potoczak & Company
3 ("MPC") (collectively, the "Parties"), by and through their respective counsel, hereby
4 stipulate and agree as follows:

5 **WHEREAS**, MPC has been the Trustee for PWCG Trust since PWCG Trust
6 was formed in 2004;

7 **WHEREAS**, PWCG Trust was placed in receivership on February 16, 2018
8 pursuant to the Judgment as to Defendant PWCG Trust ("Judgment") (Dkt. 145);

9 **WHEREAS**, Section VI of the Judgment provides for a stay of all legal
10 proceedings against PWCG Trust and its Trustee ("Litigation Stay");

11 **WHEREAS**, in order to maintain the life insurance policies held by PWCG
12 Trust as efficiently as possible, the Receiver has continued to use the services of
13 MPC since his appointment, while also engaging a consultant, ITM Twentyfirst
14 ("21st"), to assist in servicing the Policies, analyzing/evaluating the Policies,
15 obtaining life expectancy reports (or "LE Reports") and premium optimization
16 schedules, and providing related services;

17 **WHEREAS**, certain investors in pending actions in Los Angeles Superior
18 Court have asserted various claims against MPC for liability arising from its alleged
19 acts and omissions as Trustee of PWCG Trust and MPC has disputed the investors'
20 claims;

21 **WHEREAS**, the Receiver has asserted various claims against MPC for
22 liability arising from its alleged acts and omissions as Trustee of PWCG Trust
23 (although the Receiver has not yet commenced an action against MPC) and MPC has
24 disputed the Receiver's claims;

25 **WHEREAS**, the Receiver, the investors in the pending cases, and MPC have
26 agreed to attend a mediation scheduled for April 14, 2020 (the "Mediation");

27 **WHEREAS**, the Receiver has determined that the services of MPC are no
28 longer necessary to the efficient maintenance and management of the portfolio of life

1 insurance policies held by PWCG Trust, and therefore it is in the best interests of the
2 receivership estate to remove MPC as Trustee, substitute the Receiver in as Trustee,
3 and have the Receiver continue to maintain and manage the portfolio with the
4 assistance of 21st;

5 **WHEREAS**, the Parties agree the Receiver should be authorized to amend the
6 Trust Agreement for PWCG Trust to remove MPC as Trustee and substitute in the
7 Receiver as Trustee;

8 **WHEREAS**, the Parties agree that the Litigation Stay should remain in effect
9 as to MPC, even after its removal as Trustee, but only through April 14, 2020 (unless
10 the Parties subsequently agree otherwise for good reason), at which time the
11 Litigation Stay under the Judgment shall no longer apply to MPC in any manner; and

12 **WHEREAS**, the Parties agree that MPC may continue to seek Court approval
13 of its reasonable fees and costs for its services via noticed fee applications, as it has
14 throughout the receivership, until such time as the transition of Trustee duties to the
15 Receiver has been completed.

16 **THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND**
17 **REQUESTED**, by and between the Parties, that:

- 18 1. The Receiver should be authorized to amend the Trust Agreement for
19 PWCG Trust to remove MPC as Trustee and substitute in the Receiver
20 as Trustee; and
- 21 2. The Court is requested by this Stipulation to keep the Litigation Stay in
22 effect as to MPC, even after its removal as Trustee, but only through
23 April 14, 2020, at which time the Litigation Stay under the Judgment
24 shall no longer apply to MPC in any manner. Notwithstanding the
25 previous sentence, if the scheduled April 14, 2020 Mediation date is
26 rescheduled to a subsequent date at the request of the Receiver or any
27 participant in the Mediation (other than MPC), the Parties agree to meet
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1 and confer in good faith regarding a possible continuation of the
2 Litigation Stay through the rescheduled Mediation date.

3 3. MPC may seek Court approval of its reasonable fees and costs via
4 noticed fee applications, as it has throughout the receivership, for its
5 services until such time as the transition of all Trustee duties to the
6 Receiver has been completed.

7 **SO STIPULATED.**

8 Dated: February 11, 2020

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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By: /s/ Edward G. Fates

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EDWARD G. FATES
Attorneys for Receiver
THOMAS HEBRANK

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Dated: February 11, 2020

U.S. SECURITIES AND EXCHANGE
COMMISSION

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By: /s/ Gary Leung

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GARY LEUNG
Attorneys for Plaintiff
U.S. SECURITIES AND EXCHANGE
COMMISSION

17

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Dated: February 11, 2020

ROOSA CO., LPA

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By: /s/ James K. Roosa

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JAMES K. ROOSA
Attorney for MILLS POTOCZAK &
COMPANY

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SIGNATURE ATTESTATION

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I hereby attest that all signatories listed above, on whose behalf this stipulation

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is submitted, concur in the filing's content and have authorized the filing.

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Dated: February 11, 2020

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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By: /s/ Edward G. Fates

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EDWARD G. FATES
Attorneys for Receiver
THOMAS HEBRANK