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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12
13 **SECURITIES AND EXCHANGE**
COMMISSION,

14 Plaintiff,

15 vs.

16 **PACIFIC WEST CAPITAL GROUP,**
17 **INC., et al.,**

18 Defendants.

Case No. 2:15-CV-02563-FMO-FFM

RESPONSE OF SECURITIES AND
EXCHANGE COMMISSION TO
MOTION FOR AUTHORITY TO:

(A) ENGAGE PORTFOLIO
MANAGEMENT AND VALUATION
CONSULTANT;

(B) TERMINATE MILLS,
POTOCZAK & COMPANY; AND

(C) USE PWCG TRUST RESERVE
FUNDS TO COVER UNFUNDED
PREMIUM PAYMENTS FOR AN
ADDITIONAL FIVE MONTHS

Date: May 31, 2018
Time: 10:00 a.m.
Place: Ctrm 6D
Hon. Fernando M. Olguin

1 Plaintiff Securities and Exchange Commission (“SEC”) supports the motion by
2 the Court-appointed receiver, Thomas Hebrank, for an authority to take certain steps
3 for the management of the receivership assets (Dkt. No. 153).

4 First, the receiver seeks authority to employ ITM Twentyfirst (“21st”) for both
5 portfolio management and valuation services, including providing life expectancy
6 reports (“LE Reports”) for each of the insureds that are the subject of policies held by
7 the PWCG Trust. Formulating a long-term plan for management of the receivership
8 assets requires current LE Reports and valuation data. While the policies have a
9 substantial face value, that must be weighed against the cost of keeping the policies in
10 place, which involves complex actuarial calculations. The proposed retention of a
11 firm with expertise in LE Reports and managing life settlements is a prudent step.
12 Moreover, the Receiver solicited bids from several firms, so that the process was
13 competitive.

14 Second, the Receiver proposes to replace Mills, Potoczak & Company as the
15 servicer of the policies with 21st, because it can provide more services at a lower
16 cost, including the valuation services necessary for the proper administration of the
17 portfolio. In order to maintain continuity at this stage, Mills, Potoczak will remain as
18 the Trustee of PWCG Trust. This is a reasonable step to rationalize the ongoing
19 management of the portfolio.

20 Third, the Receiver seeks authority to borrow \$3.37 million from the existing
21 contractually identified reserves to pay premiums on 63 policies with a face value of
22 approximately \$126 million, which do not have sufficient reserves to pay premiums
23 for the period from June through October 2018. At this stage, it is prudent to keep
24 the policies in force while a long-term plan is formulated, and the Receiver states that
25 such this period of time should be sufficient to permit the work to be completed to
26 formulate specific recommendations to the Court concerning management of the
27 receivership assets.

28 These are reasonable requests designed to promote the orderly and efficient

1 administration of this complex receivership estate, and therefore are entirely within
2 the discretion of the Court. *See, e.g., SEC v. Capital Consultants, LLC*, 397 F.3d 733,
3 738 (9th Cir. 2005) (recognizing district court’s broad powers to supervise an equity
4 receivership); *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986) (district court has
5 broad powers for orderly and efficient administration of receivership estate).

6 Accordingly, the SEC supports the relief requested by the Court-appointed
7 receiver in its Motion.

8
9 Respectfully submitted,

10
11 Dated: May 10, 2018

/s/ John B. Bulgozdy
John B. Bulgozdy
Gary Y. Leung
Attorneys for Plaintiff
Securities and Exchange Commission

PROOF OF SERVICE

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION,
444 S. Flower Street, Suite 900, Los Angeles, California 90071
Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

On May 10, 2018, I caused to be served the document entitled **RESPONSE OF SECURITIES AND EXCHANGE COMMISSION TO MOTION FOR AUTHORITY TO: (A) ENGAGE PORTFOLIO MANAGEMENT AND VALUATION CONSULTANT; (B) TERMINATE MILLS, POTOCZAK & COMPANY; AND (C) USE PWCG TRUST RESERVE FUNDS TO COVER UNFUNDED PREMIUM PAYMENTS FOR AN ADDITIONAL FIVE MONTHS** on all the parties to this action addressed as stated on the attached service list:

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency’s practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

PERSONAL DEPOSIT IN MAIL: By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

EXPRESS U.S. MAIL: Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

UNITED PARCEL SERVICE: By placing in sealed envelope(s) designated by United Parcel Service (“UPS”) with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

E-FILING: By causing the document to be electronically filed via the Court’s CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

FAX: By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: May 10, 2018

/s/ John B. Bulgozdy
John B. Bulgozdy

