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Tax Accountants for Receiver
Thomas C. Hebrank

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

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

Defendants,

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

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

Date: May 3, 2021
Time: 10:00 a.m.
Cttrm: 9C
Judge: Hon. Dean D. Pregerson

Duffy Kruspodin, LLP ("Duffy"), tax accountants for Thomas C. Hebrank ("Receiver"), the Court-appointed receiver for PWCG Trust, hereby submits this second interim application for approval and payment of professional fees for work in preparing the 2019 federal and state tax returns for PWCG and related research and consultation for 2019 and 2020 tax years. This Application covers the period from January 1, 2020 through December 31, 2020 ("Application Period").

1 Duffy incurred \$11,686.95 in fees for this Application Period and seeks
 2 interim approval and payment of these fees. Detailed descriptions of the services
 3 are contained in Exhibit A attached hereto. Exhibit B is a summary of Duffy staff
 4 total hours and corresponding rates. During the Application Period, Duffy spent
 5 34.7 hours on behalf of the Receiver at an overall blended billing rate of \$336.80
 6 per hour. Duffy has discounted all fees by ten percent (10%) from regular hourly
 7 billing rates.

8 I. FEE APPLICATION

9 Duffy's work during the Application Period focused on preparation of 2019
 10 Income Tax Returns for PWCG Trust and associated research and consultation for
 11 2019 and 2020 with receiver and attorneys.

12 A. PWCG Trust 2019 Income Tax Returns:

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

- 14 a) processing the initial receipt of the PWCG Trust books and
 15 records;
- 16 b) formatting and organizing the files with the current year data;
- 17 c) verifying cash receipts and disbursements for the year and
 18 scanning detail for reporting accuracy and consistency;
- 19 d) extensive evaluation and calculations in conjunction with
 20 attorneys regarding state fiduciary rules and residency of the
 21 trust;
- 22 e) research and meetings regarding reporting of specialized entity
 23 for Federal and State agencies, as well as discussion of proper
 24 reporting for the net operating loss in relation to the CARE
 25 provisions passed into law;
- 26 f) reviewing input sheets of information entered into Axxess Tax;
- 27
- 28

- g) partner level review of the above areas, as well as, overall review of tax return forms and input;
- h) partner level verification of reporting accuracy, formatting, and adherence to current federal and state tax laws;
- i) finalizing of tax return and accompanying letters and schedules;
- j) printing tax return copies for the receivership entity and for government filing;
- k) electronic filing of the 2019 return to Receiver for signature.

	Hours	Fees	Average Hourly Rate
TOTAL	34.7	\$11,686.95	\$336.80

II. THE REQUESTED FEES ARE REASONABLE AND SHOULD BE ALLOWED

In considering interim requests for payment of fees in federal receivership matters, the following factors have been considered by other Courts: (1) the complexity of the tasks performed; (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 Securities and Exchange Commission's opposition or acquiescence. *See SEC v. Schooler*, S.D. Cal., Case No. 12-cv-02164-GPC-JMA (March 7, 2013), Dkt. 169.

A. Complexity of Tasks

Duffy's preparation of PWCG Trust tax returns are considered complex in nature. The complexity lies in the structure of the trust and the determination of proper filing for the 2019 tax year dependent on the highly unique circumstances in this court proceeding. Time spent on research and discussion with the other advisors involved was expended to establish proper filing in light of prior Court orders and an accurate reporting of trust assets.

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

2 There are various levels of staff that worked on the engagement, but mostly
 3 highly experienced and skilled CPAs versed in tax research. For this fee
 4 application, the 2020 rates were used for all staff levels. Thane F. Kelton, CPA, the
 5 partner on the engagement, was billed at an hourly rate of \$475, Livia Benjamin,
 6 CPA, the manager and tax researcher on the engagement, was billed at an hourly
 7 rate of \$375, Cameron Williams, CPA, Freda Fiedler, CPA, and Shawna Meskimen,
 8 CPA, the tax consultants on the engagement, were billed at an hourly rate ranging
 9 from \$195 to \$450. The remaining administrative staff that worked on the
 10 engagement were billed at a rate of \$90 to 175. These rates represent typical rates in
 11 California for CPAs of similar experience and expertise for the 2020 year. All
 12 compensation based on billing rates was discounted by ten percent (10%). The
 13 blended hourly rate for all services provided by Duffy during the Application Period
 14 is \$336.80. A summary of Duffy staff that worked on the engagement is included as
 15 Exhibit B.

16 **C. Quality of Work Performed**

17 Duffy has provided the client with quality tax preparation and ancillary
 18 services, with a high level of professionalism and excellent customer service. Duffy
 19 worked diligently to ensure it was prompt in its completion of all of the returns for
 20 2019 and/or requests based on the Receivers requests.

21 **D. Commission's Opposition of Acquiescence**

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

26 Accordingly, the five considerations identified by the Court for considering
 27 interim fee applications all support interim approval and payment of the requested
 28 fees and costs.

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III. CONCLUSION

Duffy has ensured that PWCG Trust has been able to fulfill their responsibilities to the federal and state governments with respect to their tax filings.

WHEREFORE, Duffy respectfully requests an order:

1. Approving payment of \$11,686.95 in fees incurred by Duffy during the Application Period, and authorizing payment of \$11,686.95 from receivership estate cash, as discussed above; and
2. Granting such other and further relief as is appropriate.

Dated: April 5, 2021

By: 
THANE F. KELTON, CPA
DUFFY KRUSPODIN, LLP
Certified Public Accountants

EXHIBIT A

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PWCG Trust
2020 Consultation and 2019 Return Preparation

Date	Staff ID	Memo	Hours	Original Amount	Discounted Amount
04/07/2020	LM2	2019 Return setup and rollover	1.6	600	\$ 540.00
04/13/2020	LM2	2019 communication regarding extension	0.2	75	67.50
04/15/2020	LM2	2019 Return	0.2	75	67.50
07/07/2020	LM2	2019 Request for information	0.3	112.5	101.25
07/14/2020	LM2	2019 Finalization of extension	1	375	337.50
07/15/2020	LM2	Email to Tom regarding extension	0.2	75	67.50
08/20/2020	LM2	Request 2019 information	0.2	75	67.50
09/08/2020	LM2	2019 tax return, emails with Tom	0.2	75	67.50
09/09/2020	LM2	2019 return and call with Tom	0.5	187.5	168.75
09/19/2020	LM2	2019 return preparation	2.3	862.5	776.25
09/21/2020	LM2	2019 return preparation	1.6	600	540.00
09/22/2020	LM2	2019 return - call with Cameron regarding NOL and CARES election	0.8	300	270.00
		Review and research issues. Electing the application of the CARE provisions regarding the limitation on noncorporate business losses and the excess nonbusiness expenses over nonbusiness income in calculating the NOL for the current year.			
09/22/2020	CW1	Phone call with Livia regarding trust filings	1.1	495	445.50
09/22/2020	CW1		0.5	225	202.50
09/23/2020	LM2	2019 tax return	0.3	112.5	101.25
09/25/2020	LM2	2019 return update	1.9	712.5	641.25
09/28/2020	TK1	Business vs Non business expenses discussion	1.5	712.5	641.25
09/28/2020	LM2	2019 return, call with Tom and email to Kate	3.2	1200	1,080.00
09/29/2020	LM2	2019 calls regarding the deductions in the trust and the carryover waiver election	3.2	1200	1,080.00
09/29/2020	TK1	Expense allocation issue	0.6	285	256.50
09/30/2020	SM2	Keying in return to Axxcess Tax.	1.4	273	245.70
		Discussion with Livia about the business/non-business reporting of the operating expenses of the receiver			
09/30/2020	CW1		0.2	90	81.00
09/30/2020	LM2	2019 return finalization	1.8	675	607.50
09/30/2020	TK1	Sign and final return	0.5	237.5	213.75
09/30/2020	AR4	Assemble T/R	0.2	21	18.90
09/30/2020	KL3	Deliver return	0.1	9	8.10
09/30/2020	KL3	Received signed efile forms	0.1	9	8.10
09/30/2020	AR4	Efile Return	0.1	10.5	9.45
10/01/2020	TJ2	Verify eFile Acceptance	0.1	17.5	15.75
10/08/2020	LM2	2020 planning for tax gain	2.6	975	877.50
10/13/2020	LM2	Email to David regarding conference call	0.1	37.5	33.75
10/14/2020	LM2	2020 planning call with attorneys and Tom	0.7	262.5	236.25
10/26/2020	LM2	Emails with Kate regarding 2020 planning issues	0.2	75	67.50
		Research OH and CA fiduciary rules, call with Kate, Dave, Vanessa and Tom to discuss QSF v Trust, state issues, distributions			
10/28/2020	LM2		2.3	862.5	776.25
10/28/2020	FF1	Discuss filing of a CA trust income tax return and implications.	0.2	63	56.70
10/29/2020	LM2	Research regarding CA/OH trust filing	0.5	187.5	168.75
10/31/2020	LM2	Research regarding OH and CA and email with assumptions/findings	1.7	637.5	573.75
11/03/2020	LM2	Update numbers and emails with Tom regarding 2020 taxes due	0.5	187.5	168.75
Total before discount			34.7	12,985.50	
Total discounted invoice amount					<u><u>\$ 11,686.95</u></u>

Summary by Employee:

Rianzares (AR4)	0.3	\$ 31.50	\$ 28.35
Williams, CPA (CW1)	1.8	810.00	\$ 729.00
Fiedler (FF1)	0.2	63.00	\$ 56.70
Legaspi (KL3)	0.2	18.00	\$ 16.20
Benjamin, CPA (LM2)	28.1	10,537.50	\$ 9,483.75
Meskimen, CPA (SM2)	1.4	273.00	\$ 245.70
Johnson (TJ2)	0.1	17.50	\$ 15.75
Kelton, CPA (TK1)	2.6	1,235.00	\$ 1,111.50
	34.7	\$ 12,985.50	\$ 11,686.95

EXHIBIT B

EXHIBIT B

Rate Summary	Hours	Rate/hr	Original Amount	Discounted rate (10%)	Discounted Amount
Anika Rianzares	0.3	105.00	31.50	94.50	28.35
Cameron Williams, CPA	1.8	450.00	810.00	405.00	729.00
Freda Fiedler, CPA	0.2	315.00	63.00	283.50	56.70
Karla Legaspi	0.2	90.00	18.00	81.00	16.20
Livia Benjamin, CPA	28.1	375.00	10,537.50	337.50	9,483.75
Shawna Meskimen, CPA	1.4	195.00	273.00	175.50	245.70
Tamara Johnson	0.1	175.00	17.50	157.50	15.75
Thane F. Kelton, CPA	2.6	475.00	1,235.00	427.50	1,111.50
	<u>34.7</u>		<u>\$ 12,985.50</u>		<u>\$ 11,686.95</u>
Average blended hourly rate			\$ 374.22		
Average blended hourly rate with 10% discount					\$ 336.80