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9 Tax Accountants for Receiver
10 Thomas C. Hebrank

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

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

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

26 Defendants,

Case No. 2:15-cv-02563 DDP (ASx)

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

Date: January 22, 2024
Time: 10:00 a.m.
Ctm: 9C
Judge: Hon. Dean D. Pregerson

27 Duffy Kruspodin, LLP ("Duffy"), tax accountants for Thomas C. Hebrank
28 ("Receiver"), the Court-appointed receiver for PWCG Trust, hereby submits this
fifth interim application for approval and payment of professional fees for work in
preparing the 2022 federal and state tax returns for PWCG and related research.
This Application covers the period from August 5, 2022 through October 2, 2023
("Application Period").

1 Duffy incurred \$3,038.85 in fees for this Application Period and seeks interim
 2 approval and payment of these fees. Detailed descriptions of the services are
 3 contained in Exhibit A attached hereto. Exhibit B is a summary of Duffy staff total
 4 hours and corresponding rates. During the Application Period, Duffy spent 8.6
 5 hours on behalf of the Receiver at an overall blended billing rate of \$353.35
 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 2022
 10 Income Tax Returns for PWCG Trust.

11 A. PWCG Trust 2022 Income Tax Returns:

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

- 13 a) processing the initial receipt of the PWCG Trust 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) reviewing input sheets of information entered into Axxess Tax;
- 19 e) 1099-R reporting discrepancies and related communications;
- 20 f) partner level review of the above areas, as well as, overall review
 21 of tax return forms and input;
- 22 g) partner level verification of reporting accuracy, formatting, and
 23 adherence to current federal and state tax laws;
- 24 h) finalizing of tax return and accompanying letters and schedules;
- 25 i) printing tax return copies for the receivership entity and for
 26 government filing;
- 27 j) electronic filing of the 2022 return to Receiver for signature.

	Hours	Fees	Average Hourly Rate
TOTAL	8.6	\$3,038.85	\$353.35

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 2022 tax year dependent on the highly unique circumstances in this court proceeding.

B. Fair Value of Time, Labor & Skill

There are various levels of staff that worked on the engagement, but mostly highly experienced and skilled CPAs versed in tax research and trust filings. For this fee application, the 2022 rates were used for all staff levels. Thane F. Kelton, CPA, the partner on the engagement, was billed at an hourly rate of \$630, Livia Benjamin, CPA, the manager on the engagement, was billed at an hourly rate of \$400. The remaining administrative staff that worked on the engagement were billed at a rate of \$145. These rates represent typical rates in California for CPAs of similar experience and expertise for the 2023 year. All compensation based on billing rates was discounted by ten percent (10%). The blended hourly rate for all

1 services provided by Duffy during the Application Period is \$353.35. A summary
2 of Duffy staff that worked on the engagement is included as Exhibit B.

3 **C. Quality of Work Performed**

4 Duffy has provided the client with quality tax preparation and ancillary
5 services, with a high level of professionalism and excellent customer service. Duffy
6 worked diligently to ensure it was prompt in its completion of all of the returns for
7 2022 based on the Receivers requests.

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

9 Prior to filing, Duffy, through the Receiver's counsel, provided this fee
10 application to counsel for the Commission in substantially final form. Counsel for
11 the Commission advised that the Commission has no opposition to the fees
12 requested.

13 Accordingly, the five considerations identified by the Court for considering
14 interim fee applications all support interim approval and payment of the requested
15 fees and costs.

16 **III. CONCLUSION**

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

19 WHEREFORE, Duffy respectfully requests an order:

20 1. Approving payment of \$3,038.85 in fees incurred by Duffy during the
21 Application Period, and authorizing payment of \$3,038.85 from receivership estate
22 cash, as discussed above; and

23 2. Granting such other and further relief as is appropriate.

24 Dated: December 14, 2023

25 By: 
26 THANE F. KELTON, CPA
27 DUFFY KRUSPODIN, LLP
28 Certified Public Accountants

EXHIBIT A

EXHIBIT A

PWCG Trust
2022 Return Preparation

Date	Staff ID	Memo	Hours	Original Amount	Discounted Amount
8/5/2022	TK1	Sign court document	0.2	126	\$ 113.40
4/15/2023	LM2	2022 extension of time to file	0.2	80	72.00
4/15/2023	AP5	Efile 2022 extension.	0.1	14.5	13.05
5/17/2023	LM2	2022 tax return	1.1	440	396.00
6/26/2023	LM2	2022 1099-r reporting emails	0.2	80	72.00
6/28/2023	LM2	2022 return - call with Tom regarding 1099Rs, follow up email	0.3	120	108.00
6/28/2023	LM2	2022 return	1.8	720	648.00
7/20/2023	LM2	2022 return	0.2	80	72.00
8/23/2023	LM2	2022 information	0.1	40	36.00
9/14/2023	LM2	2022 return	2.7	1080	972.00
9/26/2023	LM2	2022 final review	0.8	320	288.00
9/27/2023	VF1	Assemble return.	0.2	29	26.10
9/27/2023	VF1	Review assembly.	0.1	14.5	13.05
9/27/2023	TK1	Sign and final review	0.3	189	170.10
9/28/2023	VF1	Deliver return.	0.1	14.5	13.05
9/29/2023	VF1	Efile return.	0.1	14.5	13.05
10/2/2023	VF1	Verify efile acceptance.	0.1	14.5	13.05

Total before discount	8.6	3,376.50
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Total discounted invoice amount	<u><u>\$ 3,038.85</u></u>
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Summary by Employee:

Allen (AP5)	0.1	14.5	\$ 13.05
Benjamin, CPA (LM2)	7.4	2,960.0	\$ 2,664.00
Kelton, CPA (TK1)	0.5	315.0	\$ 283.50
Frandsen (VF1)	0.6	87.0	\$ 78.30
	<u>8.6</u>	<u>\$ 3,376.50</u>	<u>\$ 3,038.85</u>

EXHIBIT B

EXHIBIT B

<i>Rate Summary</i>	Hours	Rate/hr	Original Amount	Discounted rate (10%)	Discounted Amount
Amanda Allen	0.1	145.00	14.50	130.50	13.05
Livia Benjamin, CPA	7.4	400.00	2,960.00	360.00	2,664.00
Thane F. Kelton, CPA	0.5	630.00	315.00	567.00	283.50
Victoria Frandsen	0.6	145.00	87.00	130.50	78.30
	<u>8.6</u>		<u>\$ 3,376.50</u>		<u>\$ 3,038.85</u>
Average blended hourly rate			\$ 392.62		
Average blended hourly rate with 10% discount					\$ 353.35