

1 JOHN B. BULGOZDY (Cal. Bar No. 219897)
Email: bulgozdyj@sec.gov
2 GARY Y. LEUNG (Cal. Bar No. 302928)
Email: leungg@sec.gov
3 DAVID J. VAN HAVERMAAT (Cal Bar No. 175761)
Email: vanhavermaatd@sec.gov

4 Attorneys for Plaintiff
5 Securities and Exchange Commission
Michele Wein Layne, Regional Director
6 John W. Berry, Associate Regional Director
Amy Jane Longo, Regional Trial Counsel
7 444 S. Flower Street, Suite 900
Los Angeles, California 90071
8 Telephone: (323) 965-3998
Facsimile: (213) 443-1904

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

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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-FFMx

**PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S
STATEMENT OF NON-OPPOSITION
TO:**

**(A) SECOND INTERIM APPLICATION
FOR APPROVAL AND PAYMENT OF
FEES AND COSTS TO THOMAS C.
HEBRANK, AS RECEIVER (Dkt. No.
213); AND**

**(B) SECOND INTERIM APPLICATION
OF ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS, LLP,
GENERAL COUNSEL TO THE
RECEIVER, FOR PAYMENT OF FEES
AND REIMBURSEMENT OF
EXPENSES (Dkt. No. 214); AND**

**(C) SECOND INTERIM APPLICATION
FOR APPROVAL AND PAYMENT OF
FEES AND COSTS TO MILLS,
POTOCZAK & COMPANY, AS
TRUSTEE OF PWCG TRUST (Dkt. No.
217)**

Date: November 15, 2018
Time: 10:00 a.m.
Ctrm: 6D
Judge: The Hon. Fernando M. Olguin

1 Plaintiff Securities and Exchange Commission (“SEC”) respectfully submits
2 this consolidated statement of non-opposition to interim fee applications of the
3 Receiver, Thomas C. Hebrank (Dkt. No. 213); the Receiver’s counsel, Allen Matkins
4 (Dkt. No. 214); and Mills, Potoczak, as Trustee of PWCG Trust (Dkt. No. 217).

5 The SEC reviewed the fee amounts and supporting documentation, and
6 whether the fees were reasonable and necessary to the efficient conduct of the
7 receivership estate. The Receiver is managing a complex portfolio of insurance
8 policies in an effort to maximize the value for investors who were the victims of
9 fraud by the Defendants. Nonetheless, the interim fees are reasonable, demonstrating
10 that the Receiver is working efficiently to manage the portfolio and expenses, for the
11 benefit of the investors.

12 It is well established that the determination if and when to award fees and
13 expenses to a court-appointed receiver and the professionals employed by the
14 receiver are within the Court’s sound discretion. *See Drilling & Exploration Corp. v.*
15 *Webster*, 69 F.2d 416, 418 (9th Cir. 1934). The “compensation is usually determined
16 according to the circumstances of the particular case, and corresponds with the degree
17 of responsibility and business ability required in the management of the affairs” and
18 the difficulty involved in that management. *Stuart v. Boulware*, 133 U.S. 78, 81-82,
19 10 S. Ct. 242, 33 L. Ed. 568 (1890). An award of interim fees may be appropriate
20 where a receiver or the professionals employed by the receiver “regularly devote[] a
21 portion of his time, either daily or weekly, to the administration of the estate[.]” *See*
22 *In Re McGann Mfg. Co.*, 188 F.2d 110, 112 (3d Cir. 1951) (interim fees to
23 bankruptcy trustee or his counsel). *See also In re Alpha Telcom, Inc.*, No. CV 01-
24 1283-PA, 2006 WL 3085616, at *3 (D. Or. Oct. 27, 2006). It is not unusual for
25 courts in the Central District of California to approve interim fee payments in SEC
26 enforcement actions, when the SEC does not oppose the applications.

27 The SEC does not oppose the applications.
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Dated: October 25, 2018

Respectfully submitted,

/s/ John B. Bulgozdy
John B. Bulgozdy
Gary Y. Leung
David J. Van Havermaat
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 October 25, 2018, I caused to be served the document entitled **PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S STATEMENT OF NON-OPPOSITION TO: (A) SECOND INTERIM APPLICATION FOR APPROVAL AND PAYMENT OF FEES AND COSTS TO THOMAS C. HEBRANK, AS RECEIVER (Dkt. No. 213); AND (B) SECOND INTERIM APPLICATION OF ALLEN MATKINS LECK GAMBLE MALLORY & NATSIS, LLP, GENERAL COUNSEL TO THE RECEIVER, FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES (Dkt. No. 214); AND (C) SECOND INTERIM APPLICATION FOR APPROVAL AND PAYMENT OF FEES AND COSTS TO MILLS, POTOCZAK & COMPANY, AS TRUSTEE OF PWCG TRUST (Dkt. No. 217)** 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.

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: October 25, 2018

/s/ John B. Bulgozdy

John B. Bulgozdy

