

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS,  
WILLIAM STENGER,  
JAY PEAK, INC.,  
Q RESORTS, INC.,  
JAY PEAK HOTEL SUITES L.P.,  
JAY PEAK HOTEL SUITES PHASE II. L.P.,  
JAY PEAK MANAGEMENT, INC.,  
JAY PEAK PENTHOUSE SUITES, L.P.,  
JAY PEAK GP SERVICES, INC.,  
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,  
JAY PEAK GP SERVICES GOLF, INC.,  
JAY PEAK LODGE AND TOWNHOUSES L.P.,  
JAY PEAK GP SERVICES LODGE, INC.,  
JAY PEAK HOTEL SUITES STATESIDE L.P.,  
JAY PEAK GP SERVICES STATESIDE, INC.,  
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,  
AnC BIO VERMONT GP SERVICES, LLC,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC.,  
GSI OF DADE COUNTY, INC.,  
NORTH EAST CONTRACT SERVICES, INC.,  
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants.

Q BURKE MOUNTAIN RESORT, HOTEL  
AND CONFERENCE CENTER, L.P.,  
Q BURKE MOUNTAIN RESORT GP SERVICES, LLC<sup>1</sup>,  
AnC BIO VT, LLC,<sup>2</sup>

Additional Receivership Defendants.

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<sup>1</sup>See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No. 60].

<sup>2</sup>See Order Granting Receiver's Motion for Entry of an Order Clarifying that AnC Bio VT, LLC is included in the Receivership or in the Alternative to Expand the Receivership to include AnC Bio VT, LLC, *Nunc Pro Tunc* dated September 7, 2018 [ECF No. 493].

**RECEIVER’S TENTH INTERIM OMNIBUS APPLICATION FOR  
ALLOWANCE AND PAYMENT OF PROFESSIONALS’ FEES  
AND REIMBURSEMENT OF EXPENSES FOR  
SEPTEMBER 1, 2020 – JULY 31, 2021**

Michael I. Goldberg (the “Receiver”), in his capacity as the court-appointed Receiver, pursuant to the *Order Granting Plaintiff Securities and Exchange Commission’s Motion for Appointment of Receiver* (the “Receivership Order”) [ECF No. 13] dated April 13, 2016, hereby files this *Tenth Interim Omnibus Application for Allowance and Payment of Professionals’ Fees and Reimbursement of Expenses* (the “Application”) for September 1, 2020 – July 31, 2021 (the “Application Period”), and in support, states as follows:

**Preliminary Statement**

The actions of the Receiver and his professionals during this Application Period have preserved the going concern value of the two largest assets of receivership estate—namely, the Jay Peak Resort and the Burke Mountain Resort. Both the Jay Peak Resort and the Burke Mountain Resort were shut down in mid-March of 2020 due to the COVID-19 pandemic. Both resorts have since reopened and resumed operations that comply with all governmental mandates and COVID-19 guidelines. In an exercise of the Receiver’s business judgment, as informed by management, the reopening of both resorts has been done on a restricted basis, with management operating only those outlets that produce positive margins, implementing a reduction in hours across many assets, opening fully across only the highest compressed periods and eliminating all under-performing assets and activities.

Notwithstanding the COVID-19 pandemic, the Receiver and his professionals also continued to work with the receivership estate’s financial advisor to market and sell the Jay Peak Resort during this Application Period. The Receiver and his professionals have been actively engaged in sale discussions with several interested parties whereby draft forms of asset purchase

agreements have been exchanged. The intent is to conclude a transaction, subject to Court approval, and after an auction process, as soon as a buyer is identified and an asset purchase agreement finalized.

During this Application Period, the Receiver and his professionals negotiated and consummated a lease and the sale of several stand-alone properties grossing more than \$750,000 for the benefit of the receivership estate. The Receiver and his professionals also continued to aggressively pursue claims against third parties liable to the receivership estate for their pre-receivership conduct, recovering \$50,525,000 in settlement proceeds. Finally, during this Application Period, the Receiver and his professionals continued to work with investors and their attorneys in responding to USCIS's requests for evidence in support of their citizenship applications.

As a result of these foregoing, the Receiver and his professionals incurred fees and expenses and seek Court approval to pay the sum of \$692,891.50 in professional fees. This amount represents a discount of \$642,332 from the professionals' standard billing rates. The Receiver also seeks the authority to reimburse the professionals the sum of \$37,783.57 in expenses, for a total payment of \$730,675.07 to the Receiver and his professionals.

## **I. Background**

On April 12, 2016, the Securities and Exchange Commission ("SEC") filed a complaint [ECF No. 1] in the United States District Court for the Southern District of Florida (the "Receivership Court") against the Receivership Defendants,<sup>3</sup> the Relief Defendants,<sup>4</sup> William

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<sup>3</sup> The "Receivership Defendants" are Jay Peak, Inc., Q Resorts, Inc., Jay Peak Hotel Suites L.P., Jay Peak Hotel Suites Phase II L.P., Jay Peak Management, Inc., Jay Peak Penthouse Suites L.P., Jay Peak GP Services, Inc., Jay Peak Golf and Mountain Suites L.P., Jay Peak GP Services Golf, Inc., Jay Peak Lodge and Townhouse L.P., Jay Peak GP Services Lodge, Inc., Jay Peak Hotel Suites Stateside L.P., Jay Peak Services Stateside, Inc., Jay Peak Biomedical Research Park L.P., and AnC Bio Vermont GP Services, LLC.

<sup>4</sup> The "Relief Defendants" are Jay Construction Management, Inc., GSI of Dade County, Inc., North East Contract

Stenger and Ariel Quiros, alleging that the Defendants violated the Securities Act of 1933 and the Securities Exchange Act of 1934 by among other things, making false or materially misleading representations to foreign investors who invested \$500,000 in the limited partnerships set up by the Receivership Entities pursuant to the federal EB-5 immigration program.

On April 13, 2016, upon the SEC's Motion for Appointment of Receiver [ECF No. 7], the Court entered the Receivership Order and selected Michael Goldberg as the Receiver of the Receivership Defendants and the Relief Defendants. Relevant to this Application, the Receivership Order authorizes the Receiver to appoint professionals to assist him in "exercising the power granted by this Order ..." *See* Receivership Order at ¶ 4. Moreover, the Receiver and his professionals are entitled to reasonable compensation from the assets of the Receivership Defendants, subject to approval of the Court. *See* Receivership Order at ¶14.

## **II. Information about Applicant and the Application**

This Application has been prepared in accordance with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission (the "Billing Instructions"). Pursuant to the Billing Instructions, the Receiver states as follows:

- (a) **Time period covered by the Application:** September 1, 2020 – July 31, 2021
- (b) **Date of Receiver's appointment:** April 13, 2016
- (c) **Date services commenced:** April 4, 2016
- (d) **Names and rates of all professionals:** See Exhibit 4(a) – (e)
- (e) **Interim or Final Application:** Interim

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Services, Inc., and Q Burke Mountain Resort, LLC. Later, Q Burke Mountain Resort, Hotel and Conference Center, L.P., Q Burke Mountain Resort GP Services, LLC and AnC Bio VT, LLC were added as "Additional Receivership Defendants". The Receivership Defendants, Relief Defendants, and Additional Receivership Defendants are collectively referred to as the "Receivership Entities."

**(f) Records supporting fee application:** See below

The following exhibits are provided in accordance with the Billing Instructions:

Exhibit 1: Receiver's Certification

Exhibit 2: Total compensation and expenses

Exhibit 2(a): Total compensation and expenses requested for this Application

Exhibit 2(b): Summary of total compensation and expenses previously awarded

Exhibit 2(c): Amounts previously requested and total compensation and expenses previously awarded

Exhibit 3: Fee Schedule: Names and Hourly Rates of Professionals and Paraprofessionals & Total Amount Billed for each Professional and Paraprofessional:

Exhibit 3(a): Akerman LLP

Exhibit 3(b): Levine Kellogg Lehman Schneider + Grossman LLP

Exhibit 3(c): KapilaMukamal

Exhibit 3(d): Klasko Immigration Law Partners, LLP

Exhibit 4: Time records by professional for the time period covered by this Application, sorted in chronological order, including a summary and breakdown of the requested reimbursement of expenses:

Exhibit 4(a): Akerman LLP

Exhibit 4(b): Levine Kellogg Lehman Schneider + Grossman LLP

Exhibit 4(c): KapilaMukamal

Exhibit 4(d): Klasko Immigration Law Partners, LLP

Exhibit 5: Standardized Fund Accounting Report [Period: 9/1/20 – 7/31/21]

### **III. Case Status**

#### **(a) Cash on hand/Cash Position Since the Last Fee Application**

The amount of cash in the Receivership general bank accounts as of the date of filing this Application is approximately \$23,548,479.19.<sup>5</sup> These amounts do not include the funds used to maintain and operate the Jay Peak Resort, the Burke Mountain Hotel and related properties.

#### **(b) Summary of creditor claims proceedings**

The principal investment of the investors in Jay Peak Hotel Suites L.P. (“Phase I”) have been fully satisfied. The Receiver is actively marketing the Jay Peak Resort for sale and intends to distribute the proceeds of the sale on a pro-rata basis to the Phase II – Phase VI investors.<sup>6</sup> The Receiver has provided refunds of the principal investment of the investors in the Jay Peak Biomedical Research Park L.P. (“Phase VII”) who cannot qualify for citizenship and those Phase VII investors who have chosen not to redeploy their investment. The Receiver has also assisted other Phase VII investors in redeploying their principal investment into another qualifying project. The Receiver continues to operate the Burke Mountain Hotel in order to generate more jobs as required under the EB-5 program for the benefit of the investors in Additional Receivership Defendant, Burke Mountain Resort, Hotel and Conference Center, L.P. (“Phase VIII”) and is not currently listing the Burke Mountain Hotel for sale. The Receiver has satisfied the past-due trade debt owed by the Jay Peak Resort and the Burke Mountain Hotel and paid the allowed claims of the contractors and suppliers involved in the construction of the Burke Mountain Hotel.

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<sup>5</sup> A portion of these funds are held in restricted accounts.

<sup>6</sup> The partnerships are Receivership Defendants Jay Peak Hotel Suites Phase II L.P., Jay Peak Penthouse Suites L.P., Jay Peak Golf and Mountain Suites L.P., Jay Peak Lodge and Townhouses L.P. and Jay Peak Hotel Suites Stateside L.P.

**(c) Description of assets/liquidated and unliquidated claims held by the Receiver**

In addition to the information provided herein, detailed descriptions of the assets and claims are provided in the periodic Status Reports filed in this case. The Receiver continues to sell receivership properties. The Receiver continues to review potential causes of action against pre-receivership professionals and various third parties who may have wrongly profited from the Receivership Entities. These claims may include common law claims and claims under fraudulent transfer statutes. While the Receiver cannot yet predict the likelihood, amount or cost-effectiveness of particular claims or the claims as a whole, the Receiver continues to diligently evaluate claims against third parties.

**IV. The Professionals**

**(a) Akerman LLP**

The Receiver is a partner at the law firm of Akerman LLP (“Akerman”) and a founding member of Akerman’s Fraud & Recovery Practice Group. The Receiver has practiced law for thirty years and specializes in receivership and bankruptcy cases. The Receiver has been appointed receiver in more than 20 state and federal court receivership cases and has represented receivers and trustees in many other cases. The Receiver is working with a team of attorneys and paralegals at Akerman to administer this case. Since Akerman employs more than 700 lawyers and government affairs professionals through a network of 24 offices, the Receiver has ready access to professionals who specialize in litigation, real estate, corporate affairs, and other pertinent matters and has used their expertise to administer the receivership estate.

The Receiver has agreed to reduce his billing rate and the rates of his professionals for this case. Instead of their standard billing rates, which range from \$550.00 to \$800.00, all partners are billed at \$395.00, associate rates are capped at \$260.00, paralegals and paraprofessionals are capped at \$175.00, resulting in a blended rate of \$265.81 and a reduction of fees in the sum of

\$243,141.00 (if billed at the standard rates). The Receiver further reduced time billed to preparing Status Reports and fee applications, and time billed for matters more clerical rather than administrative in nature. These discounts equate to a reduction in Akerman's fees of approximately \$24,143.50. During the Application Period, the Receiver and Akerman billed 1,104.10 hours and seek payment of fees in the sum of \$293,489.50 and reimbursement of expenses in the sum of \$3,331.32, for a total of \$296,820.82.

**(b) Levine Kellogg Lehman Schneider + Grossman LLP**

Jeffrey Schneider, a partner at the law firm Levine Kellogg Lehman Schneider + Grossman LLP ("LKLSG" or "Special Counsel") and a team of LKLSG attorneys and paralegals provide special litigation and conflicts litigation services for the Receiver. Mr. Schneider is a trial lawyer whose practice focuses on complex commercial litigation and receiverships. Mr. Schneider has served as a receiver himself in several cases. Mr. Schneider has agreed to reduce the rates of his professionals for this case. Instead of the standard billing rates of \$555.00 to \$695.00 per hour, all partners are billed at \$250.00 to \$260.00 per hour, all associates rates are reduced from the standard rates of \$345.00 to \$425.00 per hour, to \$200.00 per hour, and all paraprofessionals are billed at \$125.00 per hour, resulting in a blended rate of \$242.06. This represents a significant reduction from Special Counsel's standard billing rates and a savings of approximately \$362,798.50 for the receivership estate. During the Application Period, Special Counsel billed 956.10 hours and seeks payment of fees in the sum of \$231,438.50 and reimbursement of expenses in the sum of \$29,021.01, for a total of \$260,459.51.<sup>7</sup>

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<sup>7</sup> In the attached Exhibits 3(b) and 4(b), Special Counsel breaks down its time and expenses among separate litigation matters.



**(c) KapilaMukamal**

Soneet Kapila, CPA, and the accounting firm KapilaMukamal (“KM” or the “Accountants”) provide accounting and forensic work for the Receiver. Mr. Kapila’s practice is focused on restructuring, creditors’ rights, bankruptcy, fiduciary matters and financial transactions litigation. He has conducted numerous forensic and fraud investigations, and has worked in conjunction with the SEC, the Federal Bureau of Investigation and the United States Attorney’s Office. Mr. Kapila is also a panel trustee for the United States Bankruptcy Court for the Southern District of Florida.

Mr. Kapila has agreed to reduce the rates of his professionals in this case to amounts not to exceed \$395.00 per hour, resulting in a blended rate of \$323.40. This represents a savings for the Receivership Estate in the sum of \$9,648.00. During the Application Period, KM billed 361.60 hours and seeks payment of fees in the sum of \$116,943.00 and reimbursement of expenses in the sum of \$3,390.42, for a total of \$120,333.42.

**(d) Klasko Immigration Law Partners, LLP**

The attorneys of Klasko Immigration Law Partners, LLP (“Klasko”) have national reputations for cutting-edge immigration law practice, including working with immigrant investors applying for permanent residence status through the EB-5 program. Their experience working on EB-5 immigrant investor cases includes both representation of pooled investment companies and representation of individual investors investing in pooled investment companies, approved regional centers and their own companies. They used this experience to assist the Receiver and the investors in providing information to the United States Citizenship and Immigration Services (“USCIS”) in support of the investors’ I-829 petitions.

The Klasko professionals bill at rates from \$240.00 to \$995.00, but have reduced partners’ rates to \$495.00, resulting in a blended rate of \$375.15 per hour for this case. These discounts

equate to a reduction of approximately \$26,744.50 from Klasko's standard rates. During the period covered by this Application, Klasko seeks payment in the sum of \$51,020.50 for 136.00 hours and reimbursement of expenses in the sum of \$2,040.82, for a total of \$53,061.32.

**V. Summary of Services Rendered During the Application Period**

Summaries of the services rendered during the Application Period are provided below. More detailed information is included in the time records attached hereto as Exhibits 4(a) – (d).

**(a) The Receiver and Akerman LLP**

The Receiver and the Akerman professionals have separated their time into the activity categories provided in the Billing Instructions. Narrative summaries of these activity categories are provided below.

Asset Disposition

Asset Disposition relates to sales, leases, abandonment and related transactional work.

- The Court previously entered an Order [ECF No. 522] authorizing the Receiver to retain a financial advisor to assist with the sale of the Jay Peak resort. The Receiver and his counsel prepared for and corresponds regularly with potential purchasers and with the investment banker regarding the potential sale of the Jay Peak Resort. The Receiver's counsel has commenced worked on the corresponding asset purchase agreement.
- On July 8, 2020, the Receiver's counsel filed a *Motion to Approve Building and Rooftop Lease Agreement with Bell Atlantic Mobile Systems LLC and Supporting Memorandum of Law* [ECF No. 606] wherein the Receiver sought authorization to enter into a Building and Rooftop Lease Agreement with Bell Atlantic which authorizes Bell Atlantic to install and operate communications equipment on a portion of the Burke Mountain Hotel for a period of five years, with three automatic extensions. The Lease Agreement provides the receivership estate with rental payments at an annual rate of \$26,400, which will increase annually. As additional consideration, Bell Atlantic agreed to pay a one-time, non-refundable, lump-sum signing bonus of \$7,000. On July 18, 2020, the Court entered the *Order Granting Receiver's Motion to Approve Building and Rooftop Lease Agreement* [ECF No. 608].
- On October 30, 2020, the Receiver's counsel filed a *Second Motion for Authorization to Sell 22 Acres A/K/A 00 Victory Road (From the 71 Acre Tract of Land Owned by Burke 2000 LLC) and Supporting Memorandum of Law* [ECF No.

616] wherein the Receiver sought the Court's approval of the sale on one of the four lots known as 00 Victory Road "As Is" for \$56,500. On November 3, 2020, the Court entered an *Amended Order Granting Receiver's Second Motion for Authorization to Sell 22 Acres A/K/A 00 Victory Road (From the 71 Acre Tract of Land Owned by Burke 2000 LLC)* [ECF No. 618].

- On December 29, 2020, the Receiver's counsel filed a *Motion for Authorization to Sell Aircraft Hangar Located at the Northeast Kingdom International Airport in Coventry, Vermont and Supporting Memorandum of Law* [ECF No. 624] wherein the Receiver sought the Court's authorization to enter into a contract to sell the receivership estate's rights, title, and interest in and to that certain aircraft storage hanger located at the Northeast Kingdom International Airport, 2628 Airport Road in Coventry, Vermont by private sale for consideration totaling \$90,000. On January 4, 2021, the Court entered the *Order Granting Receiver's Motion for Authorization to Sell Aircraft Storage Hangar Located at the Northeast Kingdom International Airport in Coventry, Vermont* [ECF No. 628].
- On March 2, 2021, the Receiver's counsel filed a *Motion for Authorization to Sell 1.51 Acre Parcel of Land (Located Off Town Highway #41) Owned by Burke 2000 LLC and Supporting Memorandum of Law* [ECF No. 642] wherein the Receiver sought the Court's authorization to sell a 1.51 acre parcel of land by private sale "As Is" for \$45,300. On March 4, 2021, the Court entered an *Order Granting Receiver's Motion for Authorization to Sell 1.51 Acre Parcel of Land (Located Off Town Highway #41) Owned by Burke 2000 LLC and Supporting Memorandum of Law* [ECF No. 643].
- On Mach 23, 2021, the Receiver 's counsel filed a *Motion for Authorization to Sell Unit 320 in North Village and Supporting Memorandum of Law* [ECF No. 649] wherein the Receiver sought the Court's authorization to sell Unit 320 in the North Village by private sale "As Is" for \$560,000. On March 26, 2021, the Court entered the *Order Granting Receiver's Motion for Authorization to Sell Unit 320 in North Village and Supporting Memorandum of Law* [ECF No. 651].
- On April 14, 2021, the Receiver's counsel filed a *Motion for Authorization to Enter into Boundary Line Agreement and Supporting Memorandum of Law* [ECF No. 659] wherein the Receiver sought the Court's authorization to enter into an agreement transferring the estate's right, title, and interest in and to a small strip of land abutting (i) the southerly and southeasterly boundaries of a residential home and (ii) the real property owned by Burke 2000, LLC, necessary for the operation of the Burke Mountain hotel and ski area by private sale to "As Is" for \$18,000 in total consideration. On April 23, 2021, the Court entered the *Order Granting Receiver's Motion for Authorization to Enter Boundary Line Agreement and Supporting Memorandum of Law* [ECF No. 661].

### Business Operations

Business Operations cover the issues related to operation of an ongoing business.

- The Receiver continues to work with the court-approved management company, Leisure Hotels, LLC (“Leisure”) who operates the Jay Peak Resort and the Burke Mountain Hotel, along with Jay Peak’s General Manager, Steven Wright and Burke Mountain Resort’s General Manager, Kevin Mack. The Receiver confers with the Leisure management team, Steven Wright and Kevin Mack on a regular basis to monitor the resorts’ operations.
- The Receiver also works with Leisure and the management team on budgets, financial projections and capital improvements to enhance the operations of the Receivership Entities. The Receiver engaged in extensive conferences with management regarding the respective closure and reopening of the resorts due to the COVID-19 pandemic; analyzed the prospective budget for operations during the shutdown and reopening; and has prepared for and attended numerous meetings to discuss emergency budget and cash flow analysis.
- The Receiver conferred with management regarding the availability of emergency relief funds. The Receiver and counsel reviewed and analyzed the CARES Act Paycheck Protection Program (“PPP”) to determine PPP eligibility. Accordingly, on July 30, 2020, the Receiver's counsel filed a *Motion for Authorization to Execute Paycheck Protection Program Loan Under Coronavirus Aid, Relief, and Economic Security Act and Supporting Memorandum of Law* [ECF 609] wherein the Receiver sought the Court’s approval to close on a loan under the CARES Act Paycheck Protection Program, as codified under the Small Business Act, 15 U.S.C. § 636(a) so that the proceeds are available to supplement the Resort’s cash flow, specifically as it relates to payroll expense, so that they can hopefully weather the COVID-19 storm substantially impacting all travel related businesses. On August 2, 2020, the Court entered an Order [ECF No. 610] approving the motion.

### Case Administration

Case Administration includes coordination and compliance activities, preparation of reports and responding to investor inquiries.

- The Receiver and his staff continue to communicate with investors, creditors, government officials and other interested parties. The Receiver continues to maintain a toll-free investor hotline, an email address for general inquiries, and a website to provide information for investors and interested parties.
- The Receiver and his staff continue to respond to inquiries from investors regarding a wide range of matters, including immigration inquiries and the sale of the Jay Peak Resort.

- The Receiver continued to work with immigration counsel verifying job creation in support of the investors' citizenship petitions. The Receiver and immigration counsel continue to work with investors with a pending I-526 petitions or a pending I-829 petitions.
- The Receiver and Akerman researched and prepared Status Reports and complied with other reporting requirements.

#### Claims Administration and Objections

Claims Administration and Objections relates to formulating, gaining approval of and administering claims procedure.

- The Receiver and Akerman staff continued to review and respond to inquiries about pre-receivership claims.

#### Tax Matters

- The Receiver and Akerman analyzed correspondence from the IRS and worked with the accountants to respond to inquiries from taxing authorities.
- The Receiver reviewed and executed federal and state tax returns.
- The Receiver and Akerman worked to provide investors with copies of current and historical K-1s.

#### Litigation/Contested Matters

- The Receiver has actively and extensively worked with his Special Counsel on all litigation matters, with the support of Akerman, when necessary. Specifically, Akerman has provided administrative support to Special Counsel with meeting the comprehensive noticing concerns attendant to settlement motions and has handled issues arising from any and all proposed distributions derived from settlement of litigation matters.
- The Receiver, through Akerman, filed a Complaint against William Kelly, the former owner of Relief Defendant North East Contract Services, Inc. ("NECS"), *Goldberg v. Kelly*, Case No. 17-cv-62157 (S.D. Fla.). Upon motion by Kelly's attorney, the Court has stayed the case pending the outcome of the criminal proceedings against him. Now that Kelly has plead guilty to Counts 1 and 10 of the Indictment, the Court has issued an *Order to Show Cause why the Stay Should Not be Lifted*. [ECF Nos. 62 and 64]. The Receiver and Akerman intend to pursue the case once the Court terminates the stay.

Document Review and Discovery

- The Receiver and Akerman continued to research and analyze records responsive to discovery requests, reviewed and identified responsive documents and reviewed documents for privilege.

**(b) Levine Kellogg Lehman Schneider + Grossman LLP**

Special Counsel represents the Receiver in certain litigation matters and are lead counsel to litigation filed against third parties.

**Active Litigations**

- The Receiver, through his Special Counsel, sued Quiros' former attorneys, Mitchell Silberberg & Knupp, LLP ("MSK") in the United States District Court for the Southern District of Florida, *Goldberg v. Mitchell Silberberg & Knupp, LLP et al.*, Case No. 1:19-cv-21862-MGC (C.D. of Fla.). The United States Attorney's Office for Vermont moved to intervene in this action in December 2019 and requested that it be stayed as a result of the pending criminal action against Quiros and others. The Court granted that motion and stayed the case. However, the parties engaged in meaningful settlement negotiations that resulted in a \$32,500,000.00 settlement agreement that was submitted to this Court for approval [ECF No. 667] and later approved on July 29, 2021 [ECF No. 690]. Quiros objected to the settlement, and subsequently appealed the Court order approving it. [ECF No. 692]. In conjunction with the appeal, the Receiver requested that the Court require Quiros to post a \$250,000 appellate bond. [ECF No. 695]. On September 6, 2021, the Court entered a paperless order granting the Receiver's request and ordering Quiros to post a bond totaling \$250,000 [ECF No. 696]. Shortly thereafter, Quiros voluntarily dismissed the appeal. [ECF No. 697].
- At the request of investors who had initiated this suit in Vermont, the Receiver, through Special Counsel, intervened and became the remaining plaintiff in a case brought against former owners of the Jay Peak resort—Saint-Sauveur Valley Resorts, Inc. This case was pending in the United States District Court, District Court of Vermont, Case No. 2:17-cv-00061. The parties engaged in multiple mediations and agreed to settle the matter for \$800,000, and this Court approved that settlement on February 25, 2021 [ECF No. 641].
- This Court previously approved the final settlement with Raymond James & Associates, Inc. ("Raymond James") [ECF No. 353] However, the parties engaged in negotiations resulted in two amendments to the previously approved settlement agreement. The first amendment amended the provisions from the original settlement agreement that addressed the amounts that will be distributed to Raymond James as a result of litigation or settlements accomplished by the Receiver and certain targets, and narrowed the scope of those actions that would be subject to distributions to Raymond James. This Court approved that first

amendment on April 28, 2021 [ECF No. 663]. The second amendment addressed the management of the Phase VIII escrow requirement established by the original settlement agreement. This Court approved that second amendment on June 1, 2021 [ECF No. 666].

- Prior to initiating a lawsuit, but after having served a presuit demand related to claims resulting from legal work performed by prior counsel to the Receivership Entities, the Receiver and Special Counsel participated in settlement negotiations with those former attorneys: Edward J. Carroll, Mark H. Scribner, and their former and current law firms, along with certain putative class plaintiffs. The parties entered into a settlement agreement for \$8,000,000 that was approved by this Court [ECF No. 657]. This settlement also included a bar order against future claims made against Messrs. Carroll and Scribner and their law firms
- Prior to initiating a lawsuit, but after having served a presuit demand related to claims resulting from the banking activities that took place for the Receivership Entities at People's United Bank, N.A., the Receiver and Special Counsel participated in settlement negotiations with the bank, along with putative class plaintiffs. The parties entered into a settlement agreement for \$1,750,000, for which the Receiver has sought approval by this Court [ECF No. 662]. The settlement was approved by the Court on July 1, 2021 [ECF No. 675].

**(c) KapilaMukamal**

KM separated their time into the activity categories provided in the Billing Instructions.

Narrative summaries of these activity categories are provided below.

- During the period September 1, 2020 through July 31, 2021, KM spent considerable time assisting the Receiver with the (i) preparation of tax returns, (ii) responded to tax agency notices, (iii) reviewed, analyzed and prepared reports, memos, and transfer schedules to assist the Receiver with recoveries for the benefit of the estate, and (iv) assisted immigration counsel with schedules to support costs and job creation for the various limited partnerships, further detailed below.
- KM coordinated with the Jay Peak accounting and management company teams to compile the required financial data for the limited partnerships to prepare the FYE tax returns, partnership K-1's and extensions. In addition, KM reviewed and responded to tax agency notices.
- KM reviewed, analyzed and prepared reports, memos and transfer schedules and supporting records to assist the Receiver with adversary proceedings and recoveries for the benefit of the estate. In addition, KM assisted immigration counsel by preparing reports and accompanying exhibits to support the costs and job creation for the benefit of the investors.

**(d) Klasko Immigration Law Partners, LLP**

The Klasko professionals continued to work with the Receiver, the accountants and economists to gather and analyze information needed by the investors for preparation of their I-829 Petitions and respond to inquiries from the USCIS.

- Immigration counsel drafted and the Receiver filed two mandamus complaints in federal court on behalf of investors with the goal of compelling USCIS to adjudicate the long-pending I-526 and I-829 petitions in various phases of the Jay Peak resort development. The mandamus complaints were filed after concluding that there was little likelihood of USCIS adjudicating Jay Peak related petitions in the foreseeable future. The filing of the mandamus complaints led to discussions with the U.S. attorney representing the government and, ultimately the adjudication of the petitions of the investors who chose to participate in the mandamus actions.
- As anticipated and discussed with the investors, the adjudication of the investors' petitions resulted in the issuance of Requests for Evidence (RFEs), and Notices of Intent to Deny (NOID). The Receiver and immigration counsel created and updated template responses for use by the investors and their attorneys. The Receiver and immigration counsel continued to communicate with investors via phone, email and notice of the Receiver's website regarding immigration developments and next steps for investors. The normal course of events following the issuance of an I-829 petition denial is the issuance of a Notice to Appear ("NTA"), which results in the scheduling of a removal proceeding before an immigration judge. At this time, the Receiver is not aware of any NTA being issued. In the meantime, denied investors remain conditional permanent residents and should continue to seek I-551 stamps as needed.
- In addition to the response templates, the Receiver and immigration counsel prepared template Motions to Reopen (MTR) for the investors in the Q Burke project who received I-526 petition denials and template responses to the Notices of Intent to Revoke received by those investors in Q Burke that had previously approved I-526 petitions.
- In an effort to help investors in Q Burke and Stateside who have not yet commenced the period of conditional residence, the Receiver and immigration counsel negotiated with another regional center, New England Regional Center, to potentially sponsor the projects.

**VI. Memorandum of Law**

The Receiver and his professionals are entitled to reasonable compensation and expenses, pursuant to the Receivership Order. Receivership courts have traditionally determined



reasonableness by utilizing the familiar lodestar approach, calculating a reasonable hourly rate in the relevant market and the reasonable number of hours expended. *See, e.g., S.E.C. v. Aquacell Batteries, Inc.*, No. 6:07-cv-608-Orl-22DAB, 2008 WL 276026, \*3 (M.D. Fla. Jan 31, 2008); *see also Norman v. Hous. Auth.*, 836 F.2d 1292, 1299-1302 (11th Cir. 1988).<sup>8</sup> The hourly rates billed by the Receiver and his professionals are reasonable for professionals practicing in the Southern District of Florida. The Receiver reduced his standard rate by \$405.00 per hour and lowered the rates of the Akerman professionals anywhere from by \$15.00 an hour to \$570.00 an hour (depending on the individual's standard rate). The LKLSG professionals also reduced their rates by \$100.00 to \$350.00 from their standard rates. These are the same hourly rates already approved by the Court in prior fee applications. Moreover, these reductions have resulted in a substantial savings to the receivership estate, in the amount of \$643,718.00 during the Application Period.

“In general, a reasonable fee is based on all circumstances surrounding the receivership.” *SEC v. W. L. Moody & Co., Bankers*, 374 F. Supp. 465, 480 (S.D. Tex. 1974), *aff'd*, 519 F.2d 1087 (5th Cir. 1975); (“[T]he court may consider all of the factors involved in a particular receivership in determining an appropriate fee.” *Gaskill v. Gordon*, 27 F.3d 248, 253 (7th Cir. 1994). “In determining the amount of their compensation, due consideration should be given to the amount realized, as well as the labor and skill needed or expended, and other circumstances having a bearing on the question of the value of the services.” *Sec. & Exch. Comm'n v. Striker Petroleum, LLC* (N.D. Tex., 2012) citing *City of New Orleans v. Malone*, 12 F.2d 17, 19 (5th Cir. 1926). Part of “determining the nature and extent of the services rendered,” however, includes an analysis as

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<sup>8</sup> The law in this circuit for assessing the reasonableness of fees is set out in *Norman v. Hous. Auth. of Montgomery*, 836 F.2d 1292. (11th Cir. 1988). According to *Norman*, the starting point in determining an objective estimate of the value of professional services is to calculate the “lodestar” amount, by multiplying a reasonable hourly rate by the number of hours reasonably expended. *Id.* at 1299 (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433, 103 S.Ct. 1933, 76 L.Ed.2d 40 (1983)).

to the reasonableness of the services rendered, bearing in mind the nature of a receivership. As the Supreme Court has noted:

The receiver is an officer of the court, and subject to its directions and orders . . . . [H]e is . . . permitted to obtain counsel for himself, and counsel fees are considered as within the just allowances that may be made by the court. . . . So far as the allowances to counsel are concerned, it is a mere question as to their reasonableness. The compensation is usually determined according to the circumstances of the particular case, and corresponds with the degree of responsibility and business ability required in the management of the affairs intrusted to him, and the perplexity and difficulty involved in that management.

*Stuart v. Boulware*, 133 U.S. 78, 81-82 (1890).

The Receiver, with the assistance of his professionals, continues to oversee the operations of the Jay Peak Resort and the Burke Mountain Hotel and related amenities. Both the Jay Peak Resort and the Burke Mountain Hotel were shut down in mid-March of 2020 due to the COVID-19 pandemic. The State of Vermont, in addition to other New England states have continued aggressive COVID-19 policies that limit gatherings including that of Jay Peak and Burke Mountain Resorts. Additionally, the Federal and Canadian governments have continued to keep the international border closed which adversely impacts over 50% of the resorts' business. Both resorts have since reopened and resumed operations that comply with all governmental mandates and COVID-19 guidelines. Additionally, both resorts have applied for and received several different state and local grants to assist with additional costs associated with COVID-19 compliance. Notwithstanding the resumption of operations and grants received, the COVID-19 pandemic has had and will likely continue to have substantial impact on the resorts' finances. In light of the foregoing, and in an exercise of the Receiver's business judgment, as informed by management, the resorts have implemented restrictive operating plans, operating only those outlets that produce positive margins, reducing hours across many assets, opening fully across only the highest compressed periods, and eliminating under-performing assets and activities.

The Receiver and his professionals have also continued to work with the receivership estate's financial advisor to prepare to market Jay Peak Resort for sale during this Application Period. Following the COVID-19 pandemic and the shutdown of the Resorts in the spring of 2020, the Receiver concluded that 2020 was not an ideal time to pursue a sale given the vast uncertainty in the market, particularly in the hotel/resort/ski industry. In early 2021, Houlihan Lokey updated the marketing materials for Jay Peak Resort and recommenced its marketing efforts. Since then the Receiver and his professionals have been actively engaged in sale discussions with several interested parties whereby draft forms of asset purchase agreements have been exchanged. The intent is to conclude a transaction, subject to Court approval, and after an auction process, as soon as a buyer is identified and an asset purchase agreement finalized.

Notwithstanding the COVID-19 pandemic, during this Application Period, the Receiver and his professionals also negotiated and consummated a lease and the sale of several stand-alone properties grossing more than \$750,000 for the benefit of the receivership estate. The Receiver and his professionals have also continued to aggressively pursue claims against third parties liable to the receivership estate for their pre-receivership conduct, recovering \$50,525,000 in settlement proceeds. Finally, during this Application Period, the Receiver and his professionals have continued to work with investors and their attorneys in responding to USCIS's requests for evidence in support of their citizenship applications. The Receiver does the foregoing, as always, with the goal of maximizing both job creation as well as amounts repaid to investors and creditors.

In addition to fees, the receiver is "also entitled to be reimbursed for the actual and necessary expenses" that the receiver "incurred in the performance of [its] duties." *Fed. Trade Comm'n v. Direct Benefits Grp., LLC*, No. 6:11-cv-1186-Orl-28TBS, 2013 WL 6408379, at \*3 (M.D. Fla. Dec. 6, 2013). The Receiver and his professionals support their claims for reimbursement of expenses with "sufficient information for the Court to determine that the

expenses are actual and necessary costs of preserving the estate.” *Sec. & Exch. Comm’n v. Kirkland*, No. 6:06-cv-183-Orl-28KRS, 2007 WL 470417, at \*2 (M.D. Fla. Feb. 13, 2007) (citing *In re Se. Banking Corp.*, 314 B.R. 250, 271 (Bankr. S.D. Fla. 2004)).

A receiver appointed by a court who reasonably and diligently discharges his duties is entitled to be fairly compensated for services rendered and expenses incurred. *See SEC v. Byers*, 590 F.Supp.2d 637, 644 (S.D.N.Y. 2008); *see also SEC v. Elliott*, 953 F.2d 1560 (11th Cir. 1992) (“[I]f a receiver reasonably and diligently discharges his duties, he is entitled to compensation.”). As more fully described herein and supported by the time records, the Receiver and his professionals have reasonably and diligently discharged their duties, and provided a benefit to the receivership estate, the investors and creditors.

**WHEREFORE**, the Receiver seeks entry of an Order granting this motion and awarding the Receiver and his professionals their interim fees, reimbursement of costs, which shall be paid from available cash to the extent such funds are in the receivership estate, and for such other relief that is just and proper.

**LOCAL RULE CERTIFICATION**

Pursuant to Local Rule 7.3, the Receiver hereby certifies that he has conferred with counsel for the SEC, the plaintiff in this case, who has no objection to the Application. A hearing is requested only in the event that someone files an objection thereto.

Respectfully submitted,

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By: /s/ Michael I. Goldberg  
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*Court-Appointed Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this 8th day of October, 2021, via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case as indicated on the attached Service List.

By: /s/ Michael I. Goldberg  
Michael I. Goldberg, Esq.

**SERVICE LIST**

**1:16-cv-21301-DPG Notice will be electronically mailed via CM/ECF to the following:**

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# **Exhibit 1**

## **CERTIFICATION**

**The undersigned, MICHAEL I. GOLDBERG** (the “Applicant”), hereby certifies as follows, and says:

1. The Applicant is a partner in the law firm of Akerman LLP (“Akerman”) and the Receiver in this action. This Certification is based on the Applicant’s first-hand knowledge of and review of the books, records and documents prepared and maintained by Akerman in the ordinary course of its business. The Applicant knows that the facts contained in this motion regarding work performed by the Receiver and his staff and the facts contained in this Certification are true, and the Applicant is authorized by Akerman to make this Certification. Having reviewed the time records and data which support the motion, the Applicant further certifies that said motion is well grounded in fact and justified.

2. The billing records of Akerman which are attached to this Application are true and correct copies of the records maintained by Akerman. These records were made at or near the time the acts, events, conditions or opinions described in such records occurred or were made. The Applicant knows that the records were made by persons with knowledge of the transactions or occurrences described in such records or that the information contained in the records was transmitted by a person with knowledge of the transactions or occurrences described in the records. The records were kept in the ordinary course of the regularly conducted business activity of Akerman and it is the regular business practice of Akerman to prepare these records.

3. To the best of the Applicant’s knowledge, information and belief formed after reasonable inquiry, this motion and all fees and expenses herein are true and accurate and comply with the Billing Instructions for Receivers in Civil Actions Commenced by the SEC.

4. All fees contained in this Application are based on the rates listed in the fee schedule attached hereto and such fees are reasonable, necessary and commensurate with the skill and experience required for the activity performed.

5. The Applicant has not included in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment, or capital outlay (except to the extent that any such amortization is included within the permitted allowable amounts set forth herein for photocopies and facsimile transmission).

6. In seeking reimbursement for a service which Akerman justifiably purchased or contracted for from a third party, the Applicant requests reimbursement only for a service which the Applicant justifiably purchased or contracted for from a third party, the Applicant requests reimbursement only for the amount billed to the Applicant by the third-party vendor and paid by the Applicant to such vendor. If such services are performed by the Applicant, the Applicant will certify that he is not making a profit on such reimbursable service.

By: /s/Michael I. Goldberg  
Michael I. Goldberg, Esq.  
Court Appointed Receiver

**Exhibit 2(a)****Total Compensation and Expenses Requested**

**10th Interim Fee Application  
September 1, 2020 - July 31, 2021**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	1,104.10	\$293,489.50	\$3,331.32	\$296,820.82
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	956.10	\$231,438.50	\$29,021.01	\$260,459.51
KapilaMukamal	Accountants	361.60	\$116,943.00	\$3,390.42	\$120,333.42
Klasko Immigration Law Partners, LLP	Attorneys	136.00	\$51,020.50	\$2,040.82	\$53,061.32
<b>Total</b>		<b>2,557.8</b>	<b>\$692,891.50</b>	<b>\$37,783.57</b>	<b>\$730,675.07</b>

**Exhibit 2(b)****Total Amounts Previously Requested, and  
Total Compensation and Expenses Previously Awarded****Summary of Prior Fee Applications**

<b>Fee Application</b>	<b>Period</b>	<b>Approved</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
1st [ECF No. 241]	4/13/2016 - 10/31/2016	12/13/2016 [ECF No. 248]	7,203.20	\$1,883,900.95	\$69,566.64	\$1,953,467.59
2nd [ECF No. 357]	11/1/2016 - 4/30/2017	7/14/2017 [ECF No. 373]	4,782.60	\$1,269,677.80	\$82,973.40	\$1,352,651.20
3rd [ECF No. 423]	5/1/2017 - 8/31/2017	10/26/2017 [ECF No. 424]	3,005.50	\$791,246.90	\$43,143.94	\$834,390.84
4th [ECF No. 470]	9/1/2017 - 1/31/2018	4/16/2018 [ECF No. 471]	3,069.90	\$839,251.00	\$67,703.55	\$906,954.55
5th [ECF No. 499]	2/1/2018 - 8/31/2018	10/16/2018 [ECF No. 500]	3,757.30	\$1,052,025.50	\$40,935.93	\$1,132,945.94
6th [ECF No. 565]	9/1/2018 - 2/28/2019	6/20/2019 [ECF No. 568]	2,288.40	\$640,717.50	\$54,888.27	\$695,605.77
7th [ECF No. 576]	3/1/2019 - 8/31/2019	10/25/2019 [ECF No. 577]	2737.00	\$737,307.00	\$58,912.86	\$796,219.86
8th [ECF No. 592]	9/1/2019 - 2/29/2020	6/15/2020 [ECF No. 601]	2,420.10	\$622,107.90	\$85,766.51	\$707,874.41
9th [ECF No. 614]	3/1/2020 - 8/31/2020	10/27/2020 [ECF No. 615]	659.90	\$630,895.20	\$97,902.91	\$728,798.11
<b>Total</b>			<b>29,923.90</b>	<b>\$8,467,129.75</b>	<b>\$8,467,129.75</b>	<b>\$601,794.01</b>

**Exhibit 2(c)****Amounts Previously Requested, and  
Total Compensation and Expenses Previously Awarded****1st Interim Fee Application  
April 13, 2016 - October 31, 2016**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	2,470.20	\$822,453.25	\$16,070.13	\$838,523.38
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	1,907.00	\$380,680.00	\$25,447.53	\$406,127.53
KapilaMukamal	Accountants	2,495.20	\$584,759.20	\$19,487.55	\$604,246.75
Gowling WLK	Attorneys	61.30	\$22,629.50	\$1,957.11	\$24,586.61
Klasko Immigration Law Partners, LLP	Attorneys	139.50	\$47,379.00	\$2,304.92	\$49,683.92
The McManus Group	Security	130.00	\$26,000.00	\$4,299.40	\$30,299.40
<b>Total</b>		<b>7,203.20</b>	<b>\$1,883,900.95</b>	<b>\$69,566.64</b>	<b>\$1,953,467.59</b>

**2nd Interim Fee Application  
November 1, 2016 - April 30, 2017**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	1,714.20	\$539,212.50	\$46,194.55	\$585,407.05
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	1,730.10	\$361,908.50	\$24,068.18	\$385,976.68
KapilaMukamal *	Accountants	1,093.90	\$284,361.10	\$9,499.29	\$293,860.39
Gowling WLK	Attorneys	5.20	\$2,741.20	\$1.20	\$2,742.40
Klasko Immigration Law Partners, LLP	Attorneys	233.20	\$80,254.50	\$3,210.18	\$83,464.68
Strouse & Bond PLLC	Attorneys	6.00	\$1,200.00	\$0.00	\$1,200.00
<b>Total</b>		<b>4,782.60</b>	<b>\$1,269,677.80</b>	<b>\$82,973.40</b>	<b>\$1,352,651.20</b>

\* The amount of expenses includes the sum of \$1,023.06 which was incurred in September and October 2016 but was inadvertently left out of the First Interim Fee Application.

**3rd Interim Fee Application  
May 1, 2017 - August 31, 2017**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	1,654.30	\$461,301.50	\$21,573.38	\$482,874.88
Levine Kellogg Lehman Schneider + Grossman LLP*	Attorneys	477.40	\$106,674.50	\$17,757.46	\$124,421.80
KapilaMukamal	Accountants	832.10	\$207,897.40	\$3,207.76	\$211,105.16
Klasko Immigration Law Partners, LLP	Attorneys	40.50	\$15,133.50	\$605.34	\$15,738.84
Strouse & Bond PLLC	Attorneys	1.20	\$240.00	\$0.00	\$240.00
<b>Total</b>		<b>3,005.50</b>	<b>\$791,246.90</b>	<b>\$43,143.94</b>	<b>\$834,380.68</b>

\* Includes a reduction of \$10.16 for prepaid funds.

**4th Interim Fee Application  
September 1, 2017 - January 31, 2018**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	1,378.00	\$420,126.50	\$29,716.94	\$449,843.44
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	1,177.30	\$252,603.50	\$35,210.61	\$287,814.11
KapilaMukamal	Accountants	452.10	\$143,755.50	\$1,879.80	\$145,635.30
Klasko Immigration Law Partners, LLP	Attorneys	60.70	\$22,405.50	\$896.20	\$23,301.70
Strouse & Bond PLLC	Attorneys	1.80	\$360.00	\$0.00	\$360.00
<b>Total</b>		<b>3,069.90</b>	<b>\$839,251.00</b>	<b>\$67,703.55</b>	<b>\$906,954.55</b>

**5th Interim Fee Application  
February 1, 2018 - August 31, 2018**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	1,977.40	\$591,125.00	\$39,584.51	\$630,709.51
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	966.30	\$206,625.00	\$35,390.27	\$242,015.27
KapilaMukamal	Accountants	706.60	\$217,441.50	\$4,056.30	\$221,497.80
Klasko Immigration Law Partners, LLP	Attorneys	107.00	\$37,234.00	\$1,489.36	\$38,723.36
<b>Total</b>		<b>3,757.30</b>	<b>\$1,052,425.50</b>	<b>\$80,520.44</b>	<b>\$1,132,945.94</b>

\* Includes an additional \$400 omitted from payment in the 4th Interim Fee Application due to a typographical error.

**6th Interim Fee Application**  
**September 1, 2018 - February 28, 2019**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	1099.00	\$352,643.00	\$40,763.95	\$393,406.95
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	747.30	\$143,391.00	\$11,474.57	\$154,865.57
KapilaMukamal	Accountants	392.30	\$124,853.50	\$1,856.55	\$126,710.05
Klasko Immigration Law Partners, LLP	Attorneys	49.80	\$19,830.00	\$793.20	\$20,623.20
<b>Total</b>		<b>2288.40</b>	<b>\$640,717.50</b>	<b>\$54,888.27</b>	<b>\$695,605.77</b>

**7th Interim Fee Application**  
**March 1, 2019 - August 31, 2019**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	1099.50	\$345,522.50	\$42,081.05	\$387,603.55
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	1008.40	\$209,418.00	\$12,272.67	\$221,690.67
KapilaMukamal	Accountants	461.7	\$149,414.00	\$3,456.43	\$152,870.43
Klasko Immigration Law Partners, LLP	Attorneys	83.70	\$26,664.50	\$1,066.58	\$27,731.08
Downs Rachlin Martin PLLC	Attorneys	83.70	\$6,288.00	\$36.13	\$6,324.13
<b>Total</b>		<b>2737.00</b>	<b>\$737,307.00</b>	<b>\$58,912.86</b>	<b>\$796,219.86</b>

**8th Interim Fee Application**  
**September 1, 2019 - February 29, 2020**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	749.50	\$198,122.00	\$21,784.05	\$219,906.05
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	1,246.80	\$260,760.00	\$60,629.51	\$321,389.51
KapilaMukamal	Accountants	310.8	\$106,367.90	\$1,295.39	\$107,663.29
Klasko Immigration Law Partners, LLP	Attorneys	96.70	\$51,439.00	\$2,057.56	\$53,496.56
Downs Rachlin Martin, PLLC	Attorneys	16.30	\$5,419.00	\$0.00	\$5,419.00
<b>Total</b>		<b>2,420.10</b>	<b>\$622,107.90</b>	<b>\$85,766.51</b>	<b>\$707,874.41</b>

**9th Interim Fee Application**  
**March 1, 2020 – August 31, 2020**

<b>Name</b>	<b>Specialty</b>	<b>Hours</b>	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
Receiver and Akerman LLP	Attorneys	659.90	\$181,644.50	\$9,005.24	\$190,649.74
Levine Kellogg Lehman Schneider + Grossman LLP	Attorneys	887.40	\$196,759.00	\$81,937.99	\$278,696.99
KapilaMukamal	Accountants	299.80	\$101,687.20	\$2,157.95	\$103,845.15
Klasko Immigration Law Partners, LLP	Attorneys	284.70	\$107,238.50	\$4,289.54	\$111,528.04
Downs Rachlin Martin, PLLC	Attorneys	113.70	\$43,566.00	\$512.19	\$44,078.19
<b>Total</b>		<b>2245.5</b>	<b>\$630,895.20</b>	<b>\$97,902.91</b>	<b>\$728,798.11</b>



## **Exhibit 3**

### **Fee Schedule: Names and Hourly Rates of Professionals And Paraprofessionals & Total Amount Billed For Each Professional and Paraprofessional**

**Exhibit 3(a)****Receiver and Akerman LLP**

<b>Name</b>	<b>Practice Area</b>	<b>Title</b>	<b>Year Licensed</b>	<b>Standard Rate</b>	<b>Reduced Rate</b>	<b>Total Hours</b>	<b>Billable Amount</b>
Cotler, Cheryl	Real Estate	Paralegal	n/a	\$325.00	\$175.00	42.20	\$7,385.00
Goldberg, Michael I.	Fraud & Recovery	Partner	1990	\$800.00	\$395.00	374.80	\$148,046.00
Kramer, Jennifer M.	Real Estate	Partner	2007	\$580.00	\$395.00	.80	\$316.00
Kretzschmar, Catherine D.	Bankruptcy and Reorganization	Special Counsel	2010	\$450.00	\$395.00	47.20	\$18,644.00
Levit, Joan	Fraud & Recovery	Of Counsel	1993	\$630.00	\$395.00	1.50	\$592.50
Mclaughlin, Amanda	Fraud & Recovery	Document Support	n/a	\$90.00	\$75.00	109.60	\$8,220.00
Nowels, Felicia L.	Government Affairs and Public Policy	Partner	2003	\$675.00	\$395.00	2.00	\$790.00
Rebak, Joseph	Litigation	Partner	1980	\$790.00	\$395.00	5.30	\$2,093.50
Robins, Andrew S.	Real Estate	Partner	1984	\$835.00	\$395.50	20.50	\$8,097.50
Samsa, Mary K.	Tax	Partner	1996	\$815.00	\$395.00	.20	\$79.00
Sigmon, S. Montaye	Tax	Partner	2013	\$530.00	\$395.00	5.30	\$2,093.50
Smiley, Kimberly A.	Fraud & Recovery	Paralegal	n/a	\$300.00	\$175.00	446.70	\$78,172.50
Surgeon, Naim	Litigation	Associate	2009	\$625.00	\$395.00	33.10	\$13,074.50
Wamsley, Andrew	Real Estate	Partner	2004	\$665.00	\$395.00	13.80	\$5,451.00
Wood, John B.	Real Estate	Partner	1979	\$965.00	\$395.00	1.10	\$434.50
<b>Blended Rate</b>					<b>\$265.81</b>	<b>1104.10</b>	
<b>Total</b>							<b>\$293,489.50</b>

**Exhibit 3(b)****Levine Kellogg Lehman Schneider + Grossman LLP**

<b>Name</b>	<b>Practice Area</b>	<b>Title</b>	<b>Year licensed</b>	<b>Standard Rate</b>	<b>Reduced Rate</b>	<b>Hours</b>	<b>Amount Billed</b>
Tal Aburos	Commercial Litigation	Associate	2018	\$345.00	\$200.00	17.20	\$3,440.00
Ana Maria Salazar	Receivership Support	Paralegal	n/a	\$255.00	\$125.00	94.70	\$11,837.50
Jeffrey C. Schneider	Receiver & Commercial Litigation	Partner	1992	\$695.00	\$260.00	624.60	\$162,396.00
Jezabel Lima	Commercial Litigation	Partner	2001	\$555.00	\$250.00	21.90	\$5,475.00
Stephanie Reed Traband	Commercial Litigation	Partner	1998	\$620.00	\$250.00	172.50	\$43,125.00
Alexander G. Strassman	Commercial Litigation	Associate	2014	\$425.00	\$200.00	14.50	\$2,900.00
Jason Kellogg	Commercial Litigation	Partner	2002	\$555.00	\$250.00	2.50	\$625.00
Gabriel Lievano	Commercial Litigation	Associate	2017	\$415.00	\$200	8.20	\$1,640.00
<b>Blended Rate</b>					<b>\$242.06</b>		
<b>Total</b>						<b>956.1</b>	<b>\$231,438.50</b>

**Exhibit 3(c)****KapilaMukamal**

<b>Name</b>	<b>Title</b>	<b>Year Licensed/ Experience</b>	<b>Hours</b>	<b>Standard Billing Rate</b>	<b>Discount Rate</b>	<b>Total Billed</b>
Lesley Johnson, CPA, CIRA	Partner/Tax	1984	58.20	\$490.00	\$395.00	\$22,989.00
Melissa Davis, CPA, CIRA, CFE	Partner	2002	31.50	\$530.00	\$395.00	\$12,442.50
Kevin McCoy, CPA, CFF, CIRA	Partner	2012	.30	\$450.00	\$395.00	\$118.50
Mark Parisi, CPA, CFE, CIRA	Consultant	2012	.20	\$370.00	\$370.00	\$74.00
Rachel Weiss, CPA, CFE	Consultant	2015	.80	\$350.00	\$350.00	\$280.00
Kathy Foster	Tax Consultant	33 years	146.50	\$330.00	\$330.00	\$48,345.00
Frank Diaz-Drago	Consultant	7 years	50.70	\$310.00	\$296.00-\$310.00 <sup>9</sup>	\$15,696.00
Jennifer Heider, CPA	Tax Consultant	2001	45.20	\$270.00	\$270.00	\$12,204.00
Ky Johnson	Forensic Analyst	8 years	28.20	\$170.00	\$170.00	\$4,794.00
<b>Blended Rate</b>					<b>\$323.40</b>	
<b>Total</b>			<b>361.6</b>			<b>\$116,943.00</b>

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<sup>9</sup> Rate adjustment, effective January 1, 2021.

**Exhibit 3(d)****Klasko Immigration Law Partners, LLP**

<b>Name</b>	<b>Practice Area</b>	<b>Year Licensed</b>	<b>Title</b>	<b>Standard Rate</b>	<b>Blended Rate</b>	<b>Time Billed</b>	<b>Billed Amount</b>
H. Ronald Klasko	Immigration	1974	Partner	\$ 995.00	\$495.00	16.40	\$8,118.00
Daniel B. Lundy	Immigration	2006	Partner	\$ 655.00	\$495.00	7.70	\$3,811.50
Jessica A. DeNisi	Immigration	2008	Associate	\$ 505.00	\$350.00	111.50	\$39,025.00
Iona Pal	Immigration	n/a	Paralegal	\$ 240.00	\$165.00	.40	\$66.00
<b>Total</b>						<b>136.00</b>	<b>\$51,020.50</b>

## **Exhibit 5**

### **Standardized Fund Accounting Report**

MICHAEL I. GOLDBERG, RECEIVER  
201 E. Las Olas Boulevard, Suite 1800  
Ft. Lauderdale, Florida 33301  
Tel: (954) 463-2700  
Fax: (954) 463-2224  
[jaypeak@akerman.com](mailto:jaypeak@akerman.com)  
[www.jaypeakreceivership.com](http://www.jaypeakreceivership.com)

# STANDARDIZED FUND ACCOUNTING REPORT

Civil – Receivership Fund

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SECURITIES & EXCHANGE COMMISSION

vs.

ARIEL QUIROS, et al.

Case No.: 16-cv-21301-GAYLES

Reporting Period: 9/1/2020 – 7/31/2021

STANDARDIZED FUND ACCOUNTING REPORT - Cash Basis (Receivership)

SEC v. Quiros, et al.

Case No.: 16-cv-21301-GAYLES

Reporting Period 09/01/2020 to 07/31/2021

FUND ACCOUNTING (See Instructions):				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 09/01/2020):	\$ -	\$ -	\$ 20,770,525.94
	<b>Increases in Fund Balance:</b>			
Line 2	Business Income	\$ -		
Line 3	Cash and Securities (UNrestricted)	\$ 8,431,121.76		
Line 3	Cash and Securities (RESTRICTED)	\$ -		
Line 4	Interest/Dividend Income	\$ 32,926.80		
Line 5	Business Asset Liquidation	\$ 718,727.34		
Line 6	Personal Asset Liquidation	\$ -		
Line 7	Third-Party Litigation Income	\$ -		
Line 8	Miscellaneous - Other	\$ -		
	<b>Total Funds Available (Lines 1 – 8):</b>			<b>\$ 29,953,301.84</b>
	<b>Decreases in Fund Balance:</b>			
Line 9	Disbursements to Investors			\$ -
Line 10	Disbursements for Receivership Operations			\$ -
Line 10a	Disbursements to Receiver or Other Professionals	\$ 380,926.02		
Line 10b	Business Asset Expenses	\$ 458,775.11		
Line 10c	Personal Asset Expenses	\$ -		
Line 10d	Investment Expenses	\$ -		
Line 10e	Third-Party Litigation Expenses	\$ -		
	1. Attorney Fees	\$ 3,033,846.78		
	2. Litigation Expenses	\$ -		
	3. Disbursement to Cason Plaintiffs DE 620/631	\$ 300,000.00		
	Total Third-Party Litigation Expenses	\$ -		
Line 10f	Tax Administrator Fees and Bonds	\$ -		
Line 10g	Federal and State Tax Payments	\$ 113,692.33		
	<b>Total Disbursements for Receivership Operations</b>			<b>\$ 4,287,240.24</b>
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:	\$ -		
	Fund Administrator.....	\$ -		
	Independent Distribution Consultant (IDC).....	\$ -		
	Distribution Agent.....	\$ -		
	Consultants.....	\$ -		
	Legal Advisers.....	\$ -		
	Tax Advisers.....	\$ -		
	2. Administrative Expenses	\$ -		
	3. Miscellaneous	\$ -		
	<b>Total Plan Development Expenses</b>			<b>\$ -</b>
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:	\$ -		
	Fund Administrator.....	\$ -		
	IDC.....	\$ -		
	Distribution Agent.....	\$ -		
	Consultants.....	\$ -		
	Legal Advisers.....	\$ -		
	Tax Advisers.....	\$ -		
	2. Administrative Expenses	\$ -		
	3. Investor Identification:	\$ -		
	Notice/Publishing Approved Plan.....	\$ -		
	Claimant Identification.....	\$ -		
	Claims Processing.....	\$ -		
	Web Site Maintenance/Call Center.....	\$ -		
	4. Fund Administrator Bond	\$ -		
	5. Miscellaneous	\$ -		
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses	\$ -		
	<b>Total Plan Implementation Expenses</b>			<b>\$ -</b>
	<b>Total Disbursements for Distribution Expenses Paid by the Fund</b>			<b>\$ -</b>
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees	\$ -		
Line 12b	Federal Tax Payments	\$ -		
	<b>Total Disbursements to Court/Other:</b>			<b>\$ -</b>
	<b>Total Funds Disbursed (Lines 9 – 11):</b>			<b>\$ 4,287,240.24</b>
Line 13	<b>Ending Balance (As of 07/31/2021):</b>			<b>\$ 25,666,061.60</b>
Line 14	Ending Balance of Fund – Net Assets:			\$ -
Line 14a	Cash & Cash Equivalents	\$ -		
Line 14b	Investments 2 Loan Collateral	\$ 1,500,000.00		\$ 24,166,061.60
Line 14c	Other Assets or Uncleared Funds	\$ -		\$ 24,166,061.60
	<b>Total Ending Balance of Fund – Net Assets</b>			<b>\$ 24,166,061.60</b>



**STANDARDIZED FUND ACCOUNTING REPORT - Cash Basis (Receivership)**


SEC v. Quiros, et al.

Case No.: 16-cv-21301-GAYLES

Reporting Period 09/01/2020 to 07/31/2021

OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
<b>Line 15</b>	<b>Report of Items NOT To Be Paid by the Fund:</b>			
	<b>Disbursements for Plan Administration Expenses Not Paid by the Fund:</b>			
<i>Line 15a</i>	<i>Plan Development Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator.....	\$ -		
	IDC.....	\$ -		
	Distribution Agent.....	\$ -		
	Consultants.....	\$ -		
	Legal Advisers.....	\$ -		
	Tax Advisers.....	\$ -		
	2. Administrative Expenses	\$ -		
	3. Miscellaneous	\$ -		
	<b>Total Plan Development Expenses Not Paid by the Fund</b>			\$ -
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator.....	\$ -		
	IDC.....	\$ -		
	Distribution Agent.....	\$ -		
	Consultants.....	\$ -		
	Legal Advisers.....	\$ -		
	Tax Advisers.....	\$ -		
	2. Administrative Expenses	\$ -		
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....	\$ -		
	Claimant Identification.....	\$ -		
	Claims Processing.....	\$ -		
	Web Site Maintenance/Call Center.....	\$ -		
	4. Fund Administrator Bond	\$ -		
	5. Miscellaneous	\$ -		
	6. FAIR Reporting Expenses	\$ -		
	<b>Total Plan Implementation Expenses Not Paid by the Fund</b>			\$ -
<i>Line 15c</i>	<i>Tax Administrator Fees &amp; Bonds Not Paid by the Fund</i>			\$ -
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			\$ -
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			
<i>Line 16a</i>	<i>Investment Expenses/CRIS Fees</i>	\$ -		
<i>Line 16b</i>	<i>Federal Tax Payments</i>	\$ -		
	<b>Total Disbursements to Court/Other Not Paid by the Fund:</b>			\$ -
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>			\$ -
<b>Line 18</b>	<b>No. of Claims:</b>			
<i>Line 18a</i>	<i># of Claims Received This Reporting Period.....</i>			0
	<i># of Claims Received Since Inception of Fund / Jay</i>			
<i>Line 18b</i>	<i>Peak Hotel Suites 1 (RJ Settlement)</i>	\$ 14,666,879.60	\$ 14,666,879.60	
	<i># of Claims Received Since Inception of Fund</i>			
<i>Line 18b</i>	<i>/Biomedical 7 Refunds (RJ Settlement)</i>	\$ 67,000,000.00	\$ 81,666,879.60	\$ 81,666,879.60
<b>Line 19</b>	<b>No. of Claimants/Investors:</b>			
<i>Line 19a</i>	<i># of Claimants/Investors Paid This Reporting Period.....</i>			0
	<i># of Claimants/Investors Paid Since Inception of</i>			
<i>Line 19b</i>	<i>Fund / Jay Peak Hotel Suites 1 (RJ Settlement)</i>	\$ 14,666,879.60	\$ 14,666,879.60	0
	<i># of Claimants/Investors Paid Since Inception of</i>			
<i>Line 19b</i>	<i>Fund / Biomedical 7 Refunds (RJ Settlement)</i>	\$ 66,500,000.00	\$ 81,166,879.60	\$ 81,166,879.60

Receiver:

By:   
(signature)

**Michael I. Goldberg**  
(printed name)

**Court Appointed Receiver**  
(title)

Date: 9/27/21