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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **WESTERN DIVISION**

18 SECURITIES AND EXCHANGE
19 COMMISSION,

20 Plaintiff,

21 v.

22 WORLD CAPITAL MARKET INC.;
23 WCM777 INC.; WCM777 LTD. d/b/a
24 WCM777 ENTERPRISES, INC.; and
25 MING XU a/k/a PHIL MING XU,

26 Defendants,

27 KINGDOM CAPITAL MARKET, LLC;
28 MANNA HOLDING GROUP, LLC;
29 MANNA SOURCE INTERNATIONAL,
30 INC.; WCM RESOURCES, INC.;
31 AEON OPERATING, INC.; PMX
32 JEWELS, LTD.; TOPACIFIC INC.;
33 TO PACIFIC INC.; VINCENT J.
34 MESSINA; and INTERNATIONAL
35 MARKET VENTURES,

36 Relief Defendants.

Case No. CV-14-2334-JFW-MRW

REPLY IN SUPPORT OF FIRST
INTERIM FEE APPLICATION OF
ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS, GENERAL
COUNSEL TO THE RECEIVER FOR
PAYMENT OF FEES AND
REIMBURSEMENT OF EXPENSES

Date: November 10, 2014

Time: 1:30 p.m.

Ctrm: 16

Judge: Hon. John F. Walter

Allen Matkins Leck Gamble Mallory & Natsis ("Allen Matkins"), general
counsel to Krista L. Freitag, the permanent-receiver for for Defendants World
Capital Market Inc., WCM777 Inc., and WCM777 Ltd. d/b/a WCM777 Enterprises,

1 Inc., Relief Defendants Kingdom Capital Market, LLC; Manna Holding Group,
2 LLC; Manna Source International, Inc.; WCM Resources, Inc.; ToPacific Inc.;
3 To_Pacific Inc.; and their subsidiaries and affiliates (collectively, "Receivership
4 Entities"), hereby submits this reply in support of its First Interim Fee Application
5 ("Fee Application") and in response to the opposition filed on October 20, 2014
6 ("Opposition"), by Nicholas Herrera and Ramiro Giron. The Opposition contains
7 factually incorrect contentions and fails to present any basis to deny or reduce the
8 fees requested in the Fee Application.

9 **I. THE REQUESTED FEES AND EXPENSES HAVE BEEN EXAMINED**
10 **AND APPROVED BY THE COMMISSION.**

11 Courts often consider the judgment and experience of the Securities and
12 Exchange Commission ("Commission") relating to compensation in receivership
13 matters. "[I]t is proper to [keep] in mind that the [Commission] is about the only
14 wholly disinterested party in [this] proceeding and that ... its experience has made it
15 thoroughly familiar with the general attitude of the Courts and the amounts of
16 allowances made in scores of comparable proceedings." *In re Philadelphia &*
17 *Reading Coal & Iron Co.*, 61 F. Supp. 120, 124 (D.C. Pa. 1945). Indeed, the
18 Commission's perspectives are not "mere casual conjectures, but are
19 recommendations based on closer study than a district judge could ordinarily give to
20 such matters." *Finn v. Childs Co.*, 181 F.2d 431, 438 (2d Cir. 1950) (internal
21 quotation marks omitted). In fact, "recommendations as to fees of the
22 [Commission] may be the only solution to the 'very undesirable subjectivity with
23 variations according to the particular judge under particular circumstances' which
24 has made the fixing of fees seem often to be 'upon nothing more than an ipse dixit
25 basis.'" *Id.* Thus, the Commission's perspective on the matter should indeed be
26 given "great weight," as observed by the court in *Fifth Avenue Coach Lines, Inc.*,
27 364 F. Supp. at 1222.

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1 Here, as set forth in the Commission's response filed on October 20, 2014, the
2 requested fees and expenses have been examined and are supported by the
3 Commission. (*See* Docket No. 238.) In particular, the Commission notes that the
4 fees and expenses are reasonable and that the Receiver and Allen Matkins have
5 recovered and secured more than \$15 million in cash and real estate, begun
6 investigation into loans totaling more than \$21 million, and commenced a forensic
7 accounting. *Id.* As the Commission points out, the requested fees and expenses
8 amount to approximately 3% of the cash recovery and only 1% of total assets
9 recovered thus far. *Id.*

10 As the *Philadelphia & Reading Coal & Iron Co.* court observed, the
11 Commission is "thoroughly familiar with ... the amounts of allowances made in
12 scores of comparable proceedings." 61 F.Supp. at 124. Thus, the Commission is
13 likely in the best position to measure the fees and costs requested here against those
14 incurred in other, similar proceedings, and cases of similar complexity. The
15 Commission's approval of the requested fees and expenses therefore merits
16 significant deference.

17 **II. ALLEN MATKINS FEES AND EXPENSES ARE REASONABLE AND**
18 **SHOULD BE APPROVED.**

19 In determining the reasonableness of fees and expenses requested in this
20 context, the Court should consider the time records presented, the quality of the
21 work performed, the complexity of the problems faced, and the benefit of the
22 services rendered to the receivership estate. *SEC v. Fifth Avenue Coach Lines, Inc.*,
23 364 F.Supp. 1220, 1222 (S.D.N.Y. 1973). In a practical sense, the Court should
24 begin by multiplying the number of hours expended by the identified hourly rates
25 charged for comparable services in other matters. *Southwestern Media, Inc. v. Rau*,
26 708 F.2d 419, 427 (9th Cir. 1983) (superseded on other grounds by statute as stated
27 in *In re Hokulani Square, Inc.*, 460 B.R. 763, 768 (9th Cir. BAP 2011)).

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1 Here, the Fee Application describes in detail the nature of the services
 2 rendered and the identity and billing rate of the individuals performing each task.
 3 (Docket No. 215, Ex. A.) Allen Matkins staffed each task as efficiently as possible
 4 in light of the level of experience required and the complexity of the issues
 5 presented. The fees and expenses requested reflect Allen Matkins' customary billing
 6 rates and the rates charged for comparable services in other matters, less a 10%
 7 discount. Factoring in the discount, the hourly rates of Allen Matkins' attorneys
 8 and staff range from \$220 to \$679.50¹ for this Fee Application, which are
 9 comparable to the range of hourly rates charged by firms with similar skill and
 10 experience handling SEC receivership matters in Southern California. (See Docket
 11 No. 215-1, Ex. A, p. 98 of 147.) For reference, a sample of attorney rates charged
 12 and approved in similar receivership matters in Southern California are as follows:

Case	Court and Case No.	Receiver's Counsel	Hourly Rates	Docket Nos.
SEC v. Lambert Van Tuig, et al.	USDC-CD Case No. 06-cv-00172	Sheppard Mullin Richter & Hampton LLP	\$290 - \$520	765/ 774
SEC v. Learn Waterhouse, Inc., et al.	USDC-SD Case No, 04-cv-02037	Ervin Cohen & Jessup LLP	\$235 - \$525	629/ 640
SEC v. Homestead Properties L.P., et al.	USDC-CD Case No. 09-cv-01331	McKenna Long & Aldridge LLP	\$306 - \$495	242/ 247
SEC v. Schooler, et al.	USDC-SD Case No. 12-cv-02164	Allen Matkins	\$297 - \$616	525/ 637

24 ¹ Only a total of 15.1 hours were charged at the hourly rate of \$679.50 for work
 25 performed by a very senior and experience partner, Daniel McIntosh, whose
 26 specialized expertise in the entertainment industry was required in negotiating
 27 terms for a documentary film project financed by the Receivership Entities. Due
 28 to the complexity of the film project terms, the skill and experience of a senior
 partner was required. Other than time spent on this this discrete issue, the
 highest hourly rate charged by Allen Matkins was \$616.50, which represents
 work performed by senior partner David Zaro, who provides supervision as a
 senior partner experienced with SEC receivership matters. (See Docket No. 215-
 1, Ex. A, pp. 97-98 of 147.)

1 As this table shows, Allen Matkins' hourly rates for representing the Receiver
2 in the instant action (discounted to \$220 to \$679.50 per hour) are comparable to
3 those approved in other SEC receivership matters. (Docket No. 215-1, Ex. A, p. 98
4 of 147.) Allen Matkins' blended hourly rate for the Fee Application is \$428, which
5 is well within the range of hourly rates approved in the SEC receivership matters
6 listed above.

7 In addition, Allen Matkins' rates in the SEC v. Schooler action listed above,
8 have been determined by that court to be reasonable and consistent with
9 professionals with similar skill and experience working in SEC receivership matters.
10 (Schooler, Docket No. 637, 9:5-8 ["The Court continues to find, as it has in previous
11 fee orders, that the rates charged by the Receiver, Allen Matkins, and Duffy are
12 comparable to rates charged in this geographic area and therefore represent a fair
13 value of the time, labor & skill provided."].) Thus, Allen Matkins' discounted
14 hourly rates are reasonable.

15 **III. Each Purported Issue Raised in Opposition Lacks Merit.**

16 *First*, the Opposition complains that there is no declaration authenticating the
17 billing records attached to the Fee Application. To assuage any concern regarding
18 the accuracy or authenticity of Allen Matkins' billing records, Allen Matkins hereby
19 submits the concurrently filed Declaration of Ted Fates ("Fates Decl.") in support of
20 its request. As set forth in the Fates Decl., the billing records submitted are kept in
21 the ordinary course of business and reflect the actual time spent and expenses
22 incurred by attorneys and staff in connection with Allen Matkins' employment as
23 general counsel for the Receiver. (Fates Decl., ¶ 3.) These time entries are entered
24 into the firm's billing system at or near the time the tasks are performed and are kept
25 in the regular course of Allen Matkins' business. *Id.* Thus, the billing records
26 accurately reflect the time spent and expenses incurred by Allen Matkins in this
27 matter. *Id.*

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1 *Second*, the contention that Allen Matkins did not staff tasks appropriately is
2 plainly incorrect on its face. As shown in the detailed billing records, Allen Matkins
3 staffed each task as efficiently as practicable and maximized the use of junior
4 associates and paralegals in performing less complex tasks. (Fates Decl., ¶ 4;
5 Docket No. 215-1, Ex. A.) In particular, the specific entries cited in the Opposition
6 are time entries of Tim Hsu, a junior associate with a discounted rate of \$297, and
7 Robyn William, a paralegal with a discounted rate of \$265. (Opposition, 1:17-21;
8 Docket No. 215-1, Ex. A. p. 97-98 of 147.) Thus, just as the Opposition suggests
9 and as similarly reflected through the billing records, these less complex tasks were,
10 in fact, handled by junior associates and paralegals to reduce the fees incurred.

11 In similar fashion, the claim that the Fee Application fails to describe the
12 experience, education and training of the attorneys ignores the fact that such bios
13 have previously been submitted to the Court by the Receiver. (Docket No. 61, Ex.
14 A.) For ease of reference, these bios, along with the bios of all other attorneys who
15 worked on this matter during the relevant time, including those who assisted in a
16 more limited capacity, are submitted concurrently with this Reply. (Fates Decl., ¶ 4,
17 Ex. A.)

18 Moreover, the observation raised in the Opposition that only one related
19 action has been initiated thus far by the Receiver has no bearing whatsoever to the
20 reasonableness of the fees and expenses requested. This is particularly true in light
21 of the complexity of this receivership which involves, "a complex offering fraud that
22 was operated through numerous companies in the United States and abroad,"
23 involving "tens of thousands of investors," and the administration of a large number
24 of entities with substantial cash, investments, loans and real property, including two
25 fully operational golf courses. (Docket No. 238, 1:8-10.)

26 *Third*, Herrera and Giron's claim that Allen Matkins' billing records are
27 "replete with block billing," is simply incorrect as demonstrated by the specific time
28 entries they cite in the Opposition. Review of these time entries, and indeed all time

1 entries in the 147 pages of bills, shows that, as much as is reasonably possible, each
2 task is broken out in the time descriptions with the time worked on each task
3 provided in parenthesis. All time is billed in 6-minute increments, as is standard in
4 the industry. (Fates Decl., ¶ 5.) Contrary to Herrera and Giron's assertions, Allen
5 Matkins' billing records contain no block billing and instead are task billed in great
6 detail. (Docket No. 215-1, Ex. A.)

7 *Finally*, the Opposition complains that terms like "analyze issues" and
8 "address issues" are used. However, the billing records submitted by Allen Matkins
9 are 147 pages of detailed time entries broken out by day, task, amount of time spent
10 and individual who performed the work. These entries each provide as much detail
11 regarding the tasks performed as reasonably possible. It is not reasonable or
12 appropriate to require Allen Matkins to state in detail each legal issue discussed or
13 analyzed. Such disclosures would likely result in a waiver of the attorney-client
14 privilege, which is not necessary or appropriate in seeking Court approval of fees.
15 The detailed time descriptions provide more than sufficient information for the
16 Commission and the Court to review and determine the reasonableness of the fees
17 requested, while preserving the attorney-client privilege.

18 **IV. CONCLUSION.**

19 Herrera and Giron's Opposition presents no basis upon which to deny any
20 portion of the fees and expenses requested by Allen Matkins which have previously
21 been reviewed and approved by the Commission. As general counsel to the
22 Receiver, Allen Matkins has diligently and efficiently assisted the Receiver in

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1 administering this complex receivership. Its fees and costs are reasonable and
2 should be approved.

3 Dated: October 27, 2014

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
DAVID R. ZARO
TED FATES
TIM C. HSU

6 By: /s/ Ted Fates

7 TED FATES
8 Attorneys for Court-appointed
Receiver
9 KRISTA L. FREITAG

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PROOF OF SERVICE

Securities and Exchange Commission v. World Capital Market Inc.;
WCM777 Inc, et al. USDC, Central District of California – Western Division
(Los Angeles) – Case No. 2:14-cv-02334-JFW-MRW

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is: 515 South Figueroa Street, 9th Floor, Los Angeles, California 90071-3309.

A true and correct copy of the foregoing document(s) described as:
REPLY IN SUPPORT OF FIRST INTERIM FEE APPLICATION OF ALLEN MATKINS LECK GAMBLE MALLORY & NATSIS, GENERAL COUNSEL TO THE RECEIVER FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES will be served in the manner indicated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On October 27, 2014, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

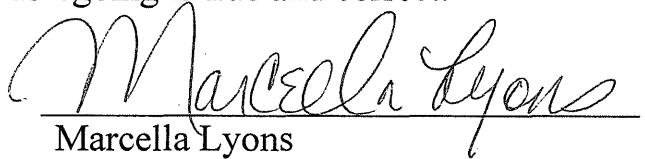
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22 2. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for**
23 **each person or entity served)**: On _____, I served the following person(s)
24 and/or entity(ies) in this case by placing a true and correct copy thereof in a
25 sealed envelope in the United States Mail, first class, postage prepaid, and/or
26 with an overnight mail service with delivery fees paid or provided for
27 addressed as follows. I am readily familiar with this firm's practice of
28 collection and processing correspondence for mailing. Under that practice it is
deposited with the U.S. postal service on that same day in the ordinary course
of business.

1 3. **SERVED BY PERSONAL DELIVERY OR FACSIMILE (indicate**
2 **method for each person or entity served)**: On ____, I served the following
3 person(s) and/or entity(ies) on the attached Service List at the last known
4 address(es) in this case by personal delivery, or by facsimile transmission.
5 Via Personal Delivery: I caused such envelope to be delivered by hand to the
6 offices of the addressee by delivering same to an employee of World Wide
7 Attorney Service located at 1533 Wilshire Boulevard, Los Angeles, California
8 90017. Via Fax by transmitting a true copy of said document from facsimile
9 machine whose telephone number is (213) 620-8816. There was no error was
10 reported by the machine. I caused the machine to print a record of the
11 transmission. Said fax transmission was directed to the facsimile numbers as
12 stated on the attached mailing list.

13 Executed on October 27, 2014. I declare under penalty of perjury under the laws of
14 the United States of America that the foregoing is true and correct.

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Marcella Lyons