

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 14-2334-JFW (MRWx)**

Date: September 27, 2018

Title: Securities and Exchange Commission -v- World Capital Market, Inc., et al.

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**PRESENT:**

**HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE**

**Shannon Reilly**  
Courtroom Deputy

**None Present**  
Court Reporter

**ATTORNEYS PRESENT FOR PLAINTIFF:**

None

**ATTORNEYS PRESENT FOR DEFENDANTS:**

None

**PROCEEDINGS (IN CHAMBERS):**

**ORDER GRANTING FEE APPLICATION OF KRISTA L. FREITAG, COURT-APPOINTED RECEIVER, FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES [filed 8/21/2018; Docket No. 573];**

**ORDER GRANTING APPLICATION OF ALLEN MATKINS LECK GAMBLE MALLORY & NATSIS LLP, GENERAL COUNSEL TO THE RECEIVER, FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES [filed 8/21/18; Docket No. 574];**

**ORDER GRANTING MOTION TO CONCLUDE RECEIVERSHIP AND FOR ORDER: (1) AUTHORIZING RECEIVER TO MAKE FINAL DISTRIBUTIONS TO APPROVED CLAIMANTS AND ESTABLISH RESERVE; (2) APPROVING FINAL ACCOUNTING AND REPORT; (3) APPROVING DISPOSITION OF BOOKS AND RECORDS; AND (4) CONDITIONALLY DISCHARGING RECEIVER [filed 8/21/2018; Docket No. 576]**

On August 21, 2018, Krista L. Freitag (the "Receiver"), the Court-appointed permanent receiver for Defendants World Capital Market Inc.; WCM777, Inc.; WCM777, Ltd. d/b/a WCM777 Enterprises, Inc.; and Relief Defendants Kingdom Capital Market, LLC; Manna Holding Group, LLC; Manna Source International, Inc.; WCM Resources, Inc.; ToPacific Inc.; To Pacific Inc.; and their subsidiaries and affiliates (collectively, "Receivership Entities"), filed an Application for Payment of Fees and Reimbursement of Expenses ("Final Fee Application"). On August 21, 2018, Allen Matkins Leck Gamble Mallory & Natsis LLP ("Allen Matkins"), general counsel to the

Receiver, filed an Application for Payment of Fees and Reimbursement of Expenses (“Final Application”). On August 21, 2018, the Receiver filed a Motion to Conclude Receivership and for Order: (1) Authorizing Receiver to Make Final Distributions to Approved Claimants and Establish Reserve; (2) Approving Final Accounting and Report; (3) Approving Disposition of Books and Records; and (4) Conditionally Discharging Receiver (“Motion to Conclude Receivership”). On September 9, 2018, Mr. Rigoberto Vasquez filed an Objection to Receiver’s Request to Destroy Electronic Records and Papers (the “Objection”), seeking an order from the Court requiring the Receiver to preserve documents at the expense of the receivership estate for use in separate litigation. On September 10, 2018, Plaintiff Securities and Exchange Commission (the “SEC”) filed a Consolidated Response to the Receiver’s Final Fee Application, Allen Matkins’ Final Fee Application, and the Motion to Conclude Receivership (the “SEC’s Consolidated Response”), advising the Court that it supports the Final Fee Applications and the Motion to Conclude Receivership but opposes Mr. Rigoberto Vasquez’s request to preserve documents at the expense of the receivership estate. On September 17, 2018, the Receiver filed a Reply in support of her Motion to Conclude Receivership.

Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that these matters are appropriate for decision without oral argument. The hearing calendared for October 1, 2018 is hereby vacated and the matters taken off calendar. After considering the Fee Applications, the Motion to Conclude Receivership, the Objection, the SEC’s Consolidated Response, the Receiver’s Reply, and the arguments therein, the Court rules as follows:

## **I. FINAL FEE APPLICATIONS**

In the Receiver’s Final Fee Application, the Receiver seeks approval of the total fees and costs incurred by the Receiver of \$2,282,311.61,<sup>1</sup> which consists of the following:

- \$67,031.76 (\$64,910.70 in fees and \$2,121.06 in costs) incurred from October 1, 2017 through June 30, 2018, but not yet paid;
- \$1,724,891.70 (\$1,609,302.18 in fees and \$115,589.52 in costs) paid to the Receiver on an interim basis pursuant to her previously-approved thirteen interim fee applications;
- \$402,325.55 in fees withheld from the Receiver’s previously-approved thirteen interim fee applications; and
- \$88,062.60 in estimated fees and costs to complete the remaining tasks set out in the Motion to Conclude Receivership.

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<sup>1</sup>In her Final Fee Application, the Receiver incorrectly reported the total costs already paid to the Receiver pursuant to her previously-approved fee applications as \$112,563.74. The Court has reviewed its prior orders and determined that the correct number is \$115,589.52. The Court has made the necessary adjustments to the relevant numbers.

In Allen Matkins' Final Fee Application, Allen Matkins seeks approval of the total fees and costs incurred by the firm for services rendered to the receivership in the amount of \$2,021,291.70,<sup>2</sup> which consists of the following:

- \$27,544.93 (\$27,453.60 in fees and \$91.33 in costs) incurred from October 1, 2017 through June 30, 2018, but not yet paid;
- \$1,590,926.58 (\$1,491,280.76 in fees and \$99,645.82 in costs) paid to Allen Matkins on an interim basis pursuant to the firm's previously-approved thirteen interim fee applications;
- \$372,820.19 in fees withheld from the firm's previously-approved thirteen interim fee applications;
- \$30,000 in estimated fees and costs for the remaining legal services to conclude the receivership, including the services rendered in July and August 2018 in connection with the Receiver's Motion to Conclude Receivership.

"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." *SEC v. Byers*, 590 F. Supp. 2d 637, 644 (S.D.N.Y. 2008). This entitlement to reasonable compensation extends to the professionals employed by the receiver. *See Drilling & Expl. Corp. v. Webster*, 69 F.2d 416, 418 (9th Cir. 1934). The determination of the amount to be awarded to a receiver and his professionals is in the district court's sound discretion and should be "reasonable under the circumstances." *In re Washington Public Power Supply Systems Sec. Litig.*, 19 F.3d 1291, 1296 (9th Cir. 1994). When awarding fees, a court should consider: (1) the complexity of the receiver's tasks; (2) the fair value of the receiver's time, labor, and skill measured by conservative business standards; (3) the quality of the 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 Commission's opposition or acquiescence. *See SEC v. Fifth Avenue Coach Lines*, 364 F.Supp. 1220, 1222 (S.D.N.Y.1973); *In re Alpha Telcom, Inc.*, 2006 WL 3085616, at \*3 (D. Or. Oct. 7, 2006); *SEC v. Schooler*, 2013 WL 5945051, at \*3 (S.D. Cal. Nov. 5, 2013).

After carefully reviewing the detailed Fee Applications and considering all of the relevant factors, the Court finds that the Receiver's and Allen Matkins' requested fees and costs are more than reasonable, especially in light of the results achieved. Indeed, the Receiver, with the assistance of counsel, recovered a total of approximately \$38.0 million consisting of: (1) \$10.5 million from Court-approved sales of real property; (2) \$22.2 million from other investments and transfers; and (3) \$5.3 million from the operation of two golf courses. These results are especially extraordinary given that: (1) the total combined fees of the Receiver and Allen Matkins amount to just 11% of the total recovery; and (2) the investors with approved claims will recover

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<sup>2</sup>In its Final Fee Application, Allen Matkins incorrectly reported the fees withheld from the firm's previously-approved fee applications as \$372,819.99. The Court has reviewed its prior orders and determined that the correct number is \$372,820.19. The Court has made the necessary adjustments to the relevant numbers.

approximately 50% of their investment. Accordingly, the Receiver's and Allen Matkins' Final Fee Applications are **GRANTED**. The Receiver and Allen Matkins shall file revised proposed orders consistent with the Court's ruling on or before **October 1, 2018**.

## **II. MOTION TO CONCLUDE RECEIVERSHIP**

In her Motion to Conclude Receivership, the Receiver moves the Court to conclude the receivership and for an order: (1) authorizing the Receiver to make final distributions to approved claimants and establish a reserve; (2) approving the final accounting and report; (3) approving disposition of books and records; and (4) conditionally discharging the Receiver. The SEC supports the requested relief.

For the reasons stated in the Receiver's Motion to Conclude Receivership and the SEC's Consolidated Response, the Receiver's Motion to Conclude Receivership is **GRANTED**.

With respect to the limited objection filed by Mr. Rigoberto Vasquez, the Court denies his request for an order requiring the Receiver to preserve documents at the expense of the receivership estate for use in a class action pending in the Southern District of New York. Indeed, as the Receiver notes, Mr. Vasquez fails to identify the claims in that action, fails to explain how the documents in the Receiver's possession support such claims, fails to identify any particular documents or categories of documents that he wants the Receiver to preserve, and fails to explain why all investors should bear the expense of preserving documents for his benefit. In absence of a specific showing that particular documents are material to his litigation, the Court concludes that Mr. Vasquez has failed to present a sufficient or meaningful basis to deny the Receiver's request to destroy the documents after 60 days.

The Receiver, however, does not object to providing copies of documents to Mr. Vasquez if: (1) he can identify specific documents or categories of documents he wants the Receiver to preserve within 60 days; and (2) he pays the costs of locating/copying such documents, as well as the costs of any review required by the Receiver and/or her counsel to redact personal investor information from such documents. The Court finds the Receiver's proposal reasonable and will defer to the parties to arrange for the production and copying of the documents.

The Receiver shall file a revised proposed order consistent with the Court's ruling on or before **October 1, 2018**.

IT IS SO ORDERED.