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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BIC REAL ESTATE DEVELOPMENT
CORPORATION and DANIEL R. NASE,
individually and d/b/a BAKERSFIELD
INVESTMENT CLUB,

Defendants,

BIC SOLO 401K TRUST and MARGARITA
NASE,

Relief Defendants.

Case No. 1:16-cv-00344-LJO-JLT

MEMORANDUM DECISION AND ORDER
GRANTING MOTION OF RECEIVER,
DAVID P. STAPLETON, FOR ORDER:
(1) ESTABLISHING SUMMARY CLAIMS
PROCEDURES; (2) SETTING CLAIMS BAR
DATE; AND (3) APPROVING PROPOSED
CLAIM FORM WITH MODIFICATION

The Court has reviewed the Motion for Order: (1) Establishing Summary Claims
Procedures; (2) Setting Claims Bar Date; and (3) Approving Proposed Claim Form (the “Motion”)
submitted by David P. Stapleton, (the “Receiver”), the Court-appointed permanent Receiver for
Defendant BIC Real Estate Development Corporation and its subsidiaries and affiliates, including
but not limited to WM Petroleum; Target Oil & Gas Drilling, Inc.; Tier 1 Solar Power Company;
Tier 1 Solar Power Company, LLC; and Home Sweet Holdings (collectively, the “Receivership

1 Entities”). (ECF Nos. 311, 312.) The Court has also reviewed the Securities and Exchange
2 Commission’s (“SEC”) response in support of the Receiver’s motion, (ECF No. 321), non-party
3 Sagar LLC’s (“Sagar”) opposition to the Receiver’s motion, (ECF No. 322), and the Receiver’s
4 reply, (ECF No. 323).

5 Sagar contributed \$694,500 towards the purchase of Target Oil, or 15% of the oil
6 company’s purchase price. (ECF No. 322 at 2.) In exchange, it received a 15% stake in WM
7 Petroleum, the holding company that purchased Target Oil. (*Id.*) Sagar argues that the Receiver’s
8 motion to establish summary claims procedures does not establish sufficiently clear criteria for
9 how claims will be evaluated and processed. (*Id.* at 3-4.) Sagar also posits that it is entitled to
10 preserve its 15% stake in WM Petroleum by receiving 15% of the assets from the liquidation of
11 Target Oil. (*Id.* at 5-6.) Although Sagar opposes the Receiver’s motion for summary claims
12 procedures, it also concedes that its concerns “may be premature,” and indicates its intention to
13 preserve its right to object to the ultimate recommended disposition of the Receivership Entities’
14 assets. (ECF No. 322 at 3.)

15 The Court agrees that these concerns are premature. The Receiver is asking the Court to
16 approve a process by which he can assess and evaluate the sum total of the claims against the
17 Receivership Entities. The process that he has proposed for doing so is thorough, efficient, and
18 reasonable. The true nature of Sagar’s concerns relate not to the claims procedures, but to the
19 ultimate disposition of Receivership Entities’ assets. Although the Receiver will make a
20 recommendation to the Court regarding how to distribute those assets, the final decision regarding
21 distribution rests with the Court. As the Court has previously indicated, interested third parties
22 will have a right to voice their concerns “after a reasonable effort to meet and confer with the
23 Receiver and/or the SEC to resolve any disputes informally.” (ECF No. 145.) At the time that the
24 Receiver makes a recommendation regarding the distribution of assets, the Court will hear from,
25 and weigh the concerns of, any interested parties, including Sagar. Any discussion of whether
26 Sagar is entitled to 15% of the liquidated assets in Target Oil Company is entirely premature, both
27 because those assets have not yet been liquidated and because the Receiver is still working to
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1 determine how best to fairly compensate all investors, including Sagar. (ECF No. 145 at 5 (“Sagar
2 has failed to show that the SEC and the Receiver do not adequately represent its interests”).)

3 Having considered the Receiver’s Motion and good cause appearing therefore, the Court
4 ORDERS as follows:

- 5 1. The Receiver’s Motion is GRANTED, in its entirety;
- 6 2. The use of summary proceedings for the determination of claims against the estate
7 of the Receivership Entities, as proposed and detailed in the Motion, is AUTHORIZED and
8 APPROVED;
- 9 3. The Receiver’s proposed means of noticing prospective claimants against the estate
10 of the Receivership Entities, including via his website, email, and a notice published in the
11 Bakersfield Californian within fifteen (15) days of the entry of this Order, is AUTHORIZED and
12 APPROVED;
- 13 4. A claims bar date of sixty (60) days from the date of the Receiver’s publication of
14 notice in the Bakersfield Californian, as referenced in Paragraph 3, above, is APPROVED and
15 ESTABLISHED; and
- 16 5. The Receiver’s proposed Claim Form, attached as **Exhibit A** to the Motion, is
17 AUTHORIZED and APPROVED with one MODIFICATION: the claims form indicates that this
18 matter is pending in the Central District of California instead of the Eastern District of California.
19 The Receiver is instructed to change the case caption to indicate that this matter is pending in the
20 Eastern District of California.

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22 IT IS SO ORDERED.

23 Dated: December 13, 2017

/s/ Lawrence J. O’Neill
UNITED STATES CHIEF DISTRICT JUDGE

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