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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 SECURITIES AND EXCHANGE
11 COMMISSION,

12 Plaintiff,

13 v.

14 PATH AMERICA, LLC, et al.,

15 Defendants.

CASE NO. C15-1350JLR

THIRD ORDER REGARDING
FEE APPLICATIONS

16 Before the court are nine fee applications: (1) the third quarterly application for
17 compensation from Receiver Michael A. Grassmueck's ("the Receiver") immigration
18 counsel, Baker Donelson, for \$31,760.00 in fees and \$126.34 in costs, seeking an order
19 authorizing disbursement of 80% of the total requested fees and costs (Dkt. # 395); (2)
20 the third quarterly application for compensation from the Receiver's local counsel, Karr
21 Tuttle Campbell, P.S. ("Karr Tuttle"), for \$48,651.50 in fees and \$313.70 in costs,
22 seeking an order authorizing disbursement of 80% of the total requested fees and costs

1 (Dkt. # 393); **(3)** the third interim fee application of Financial Forensics, the Receiver's
2 forensic accountants, for \$60,858.00 in fees and \$61.50 in costs, seeking an order
3 authorizing disbursement of 80% of the requested fees and costs (Dkt. # 402); **(4)** the
4 third interim fee application of the Receiver's general counsel, Allen Matkins Leck
5 Gamble Malory & Natsis, LLP ("Allen Matkins"), for \$551,939.85 in fees and \$3,796.30
6 in costs, seeking an order authorizing disbursement of 80% of the requested fees and
7 costs (Dkt. # 400); **(5)** the third interim fee application of McCullough Hill Leary, PS
8 ("McCullough"), the Receiver's counsel for the receivership entity Potala Tower Seattle,
9 LLC, for \$1,599.50 in fees and \$495.00 in costs, seeking an order authorizing
10 disbursement of 80% of the requested fees and 100% of the requested costs (Dkt. # 403);
11 **(6)** the first interim fee application of Peterson Sullivan LLP, tax accountants to the
12 Receiver, for \$99,343.10 in fees and \$2,171.30 in costs, seeking an order authorizing
13 disbursement of 80% of the requested fees and costs (Dkt. # 405); **(7)** the third interim
14 fee application of the Receiver for \$93,898.50 in fees and \$6,204.00 in costs, seeking an
15 order authorizing disbursement of 80% of the requested fees and costs (Dkt. # 398); **(8)**
16 the second interim fee application of Caron Architecture, LLC ("Caron"), contracted
17 architect for Relief Defendants Potala Shoreline, LLC, and Potala Village Kirkland, LLC,
18 for \$6,094.52 in fees and \$15.17 in costs, seeking an order authorizing disbursement of
19 80% of the requested fees and costs (Dkt. # 407); and **(9)** the second interim fee
20 application of Johns Monroe Mitsunaga Kolouskova PLLC ("JMMK"), counsel for
21 Relief Defendant Potala Village Kirkland, LLC, for \$1,657.50 in fees and \$39.95 in
22

1 costs, seeking an order authorizing disbursement of 80% of the requested fees and costs
2 (Dkt. # 409).

3 Counsel for the Receiver filed all of the foregoing motions on August 15, 2016,
4 and noted them on the court's calendar for September 2, 2016, which is the third Friday
5 after the filing date. (See Dkt. ## 393, 395, 398, 400, 402, 403, 405, 407, 409.)

6 Opposition papers for motions noted on the third Friday after filing are due "not later
7 than the Monday before the noting date." Local Rules W.D. Wash. LCR 7(d)(3).

8 Accordingly, opposition papers to the foregoing nine motions were due no later than
9 Monday, August 29, 2016. *See id.* No party has filed an opposition to any of the

10 foregoing motions.¹ (*See generally* Dkt.) The court considers the failure of the parties to
11 file any papers in opposition to the motions as an admission that the motions have merit.

12 Local Rules W.D. Wash. LCR 7(b)(2).

13 The court finds that the fees and costs requested in each of the foregoing
14 applications are reasonable and necessary, notice of the fee applications was appropriate,
15 the fee applications are in accord with the Order Appointing Receiver (Order (Dkt. # 88)
16 ¶¶ 55-59), and the services provided were of substantial benefit to the Receivership
17 Estate. Accordingly, the court GRANTS the fee applications listed above (Dkt. ## 393,
18 395, 398, 400, 402, 403, 405, 407, 409) and APPROVES on an interim basis the
19 following application amounts:

20 _____
21 ¹ On Tuesday, August 30, 2016, Plaintiff Securities and Exchange Commission filed a
22 statement of non-opposition to all of the fee applications at issue in this order. (SEC Resp. (Dkt.
416).)

1	Applicant:	Period:	Fees:	Costs:	Total:
2	Baker Donelson	April 1, 2016, through June 30, 2016	\$31,796.00	\$126.34	\$31,922.34
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4	Karr Tuttle	April 1, 2016, through June 30, 2016	\$48,651.50	\$313.70	\$48,965.20
5	Financial Forensics	April 1, 2016, through June 30, 2016	\$60,858.00	\$61.50	\$60,919.50
6					
7	Allen Matkins	April 1, 2016, through June 30, 2016	\$551,939.85	\$3,796.30	\$555,736.15
8	McCullough	April 1, 2016, through June 30, 2016	\$1,599.50	\$495.00	\$2,094.50
9					
10	Peterson Sullivan	January 13, 2016, through June 23, 2016	\$99,343.10	\$2,171.30	\$101,514.40
11	Receiver Michael A. Grassmueck	April 1, 2016, through June 30, 2016	\$93,898.50	\$6,204.00	\$100,102.50
12					
13	Caron	February 1, 2016, through June 30, 2016	\$6,094.52	\$15.17	\$6,109.69
14	JMMK	April 1, 2016, through June 30, 2016	\$1,657.50	\$39.95	\$1,697.45
15					

16 The court further AUTHORIZES the Receiver to disburse the following
17 percentages of the foregoing approved fees and costs at this time, as described below:

- 18 (1) The court AUTHORIZES the Receiver to disburse \$22,786.22 to Baker
19 Donelson and further AUTHORIZES Baker Donelson to apply the available
20 trust balance of \$2,751.65 to the approved fees and costs for a total of
21 \$25,537.87, which is 80% of the approved fees and costs;
22

1 (2) The court AUTHORIZES the Receiver to disburse \$39,172.16 to Karr Tuttle,
2 which is 80% of the approved fees and costs;²

3 (3) The court AUTHORIZES the Receiver to disburse \$48,735.60 to Financial
4 Forensics, which is 80% of the approved fees and costs;

5 (4) The court AUTHORIZES the Receiver to disburse \$444,588.92 to Allen
6 Matkins, which is 80% of the approved fees and costs;

7 (5) The court AUTHORIZES the Receiver to disburse \$1,774.60 to McCullough,
8 which is 80% of the approved fees and 100% of the approved costs;³

9 (6) The court AUTHORIZES the Receiver to disburse \$81,211.52 to Peterson
10 Sullivan, which is 80% of the approved fees and costs;

11 (7) The court AUTHORIZES the Receiver to disburse \$80,082.00 to the Receiver,
12 which is 80% of the approved fees and costs;

13 (8) The court AUTHORIZES the Receiver to disburse \$4,887.75 to Caron, which
14 is 80% of the approved fees and costs; and

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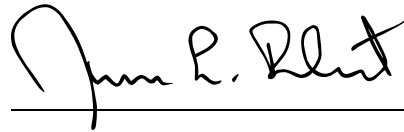
18 _____

19 ² In its application, Karr Tuttle sought a disbursement of \$39,110.00 stating that this
20 amount represented 80% of its total approved fees and costs of \$48,965.20. (Karr Tuttle Mot.
21 (Dkt. # 393) at 1-2.) Karr Tuttle's request for \$39,110.00 represents a mathematical error.
22 Accordingly, the court authorizes the Receiver to disburse a total of \$39,172.16 to Karr Tuttle.

³ Unlike the other applicants, McCullough requested a disbursement of 80% of its fees
and 100% of its costs. No party objected to this request. (*See generally* Dkt.) Accordingly, the
court grants it.

1 (9) The court AUTHORIZES the Receiver to disburse \$1,357.96 to JMMK, which
2 is 80% of the approved fees and costs.

3 Dated this 31st day of August, 2016.

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6 JAMES L. ROBART
7 United States District Judge
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