

1
2
3
4
5
6
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

FIFTH ORDER REGARDING FEE
APPLICATIONS

16 Before the court are six fee applications: **(1)** the fifth interim fee application of
17 Receiver Michael A. Grassmueck (“the Receiver”) for \$62,532.00 in fees and \$2,262.38
18 in costs, which seeks an order authorizing disbursement of 80% of the requested fees and
19 costs (Dkt. # 496); **(2)** the fourth interim fee application of Caron Architecture, LLC
20 (“Caron”), which is the contracted architect for the Potala Shoreline and Potala Village
21 Kirkland projects, for \$14,113.75 in fees and \$449.52 in costs, which seeks an order
22 authorizing disbursement of 80% of the requested fees and costs (Dkt. # 494); **(3)** the

1 fifth interim fee application of the Receiver’s general counsel, Allen Matkins Leck
2 Gamble Mallory & Natsis, LLP (“Allen Matkins”), for \$334,626.75 in fees and \$1,071.95
3 in costs, which seeks an order authorizing disbursement of 80% of the requested fees and
4 costs (Dkt. # 495); (4) the fifth interim fee application of Financial Forensics, the
5 Receiver’s forensic accountants, for \$13,014.00 in fees and \$12.45 in costs, which seeks
6 an order authorizing disbursement of 80% of the requested fees and costs (Dkt. # 497);
7 (5) the fifth quarterly application for compensation from the Receiver’s immigration
8 counsel, Baker Donelson, for \$7,438.50 in fees and \$23.67 in costs, which seeks an order
9 authorizing disbursement of 80% of the total requested fees and costs (Dkt. # 491); and
10 (6) the fifth quarterly fee application for the Receiver’s local counsel, Karr Tuttle
11 Campbell, P.S. (“Karr Tuttle”), for \$12,369.00 in fees and \$918.50 in costs, which seeks
12 an order authorizing disbursement of 80% of the total requested fees and costs (Dkt.
13 # 489).

14 Counsel for the Receiver filed all of the foregoing motions on February 14, 2017.
15 (See Dkt. ## 489, 491, 494-97.) Plaintiff Securities and Exchange Commission does not
16 oppose any of the fee applications. (SEC Resp. (Dkt. # 502) at 1.) Defendants Lobsang
17 Dargey and Relief Defendant Path Othello, LLC (collectively, “Defendants”) oppose the
18 fee applications in part, arguing that the Receiver and his attorneys and consultants have
19 engaged in “continued needless dissipation of assets.”¹ (Def. Resp. (Dkt. # 503) at 1.)

21 ¹ On March 3, 2017, the court entered final judgment against Mr. Dargey and Path
22 Othello, LLC. (Final Judg. (Dkt. # 509).) Nevertheless, the court considers Defendants’
objections to the fee applications at issue here.

1 Defendants also assert that there “has not been sufficient progress to justify” the
2 Receiver’s expenditures. (*Id.* at 3.) Defendants argue that, instead of awarding the
3 Receiver and Allen Matkins 80% of the requested amounts, as provided for in the Order
4 Appointing Receiver,² the court should award these two entities only 50% of their
5 requested fees and expenses. (*Id.* at 10.) Defendants cite no evidence in support of their
6 objection to these two fee applications. (*See generally id.*) In contrast to Defendants’
7 dearth of evidence, both the Receiver and Allen Matkins provide detailed descriptions of
8 the work they performed during the fourth quarter of 2016. (*See* Grassmueck Decl. (Dkt.
9 # 496-2); Grassmueck Group Invoice to Path America (Dkt. # 496-1); Allen Matkins Fee
10 App. Ex. A (attaching Preliminary Billing Form, which consists of almost 80 pages of
11 detailed time entries); Zaro Decl. (Dkt. # 495-2).) Accordingly, the court overrules
12 Defendants’ objections to the foregoing fee applications.

13 The court finds that (1) the fees and costs requested in each of the fee applications
14 listed above are reasonable and necessary, (2) the notice of the fee applications was
15 appropriate, (3) the fee applications are made in accordance with the Order Appointing
16 Receiver (*see* Ord. Appoint. Rec. ¶¶ 55-59), and (4) the services provided were of
17 substantial benefit to the Receivership Estate. Accordingly, the court GRANTS the fee
18 applications listed above (Dkt. ## 489, 491, 494-97) and APPROVES on an interim basis
19 the following application amounts:

20 _____

21 ² (*See* Ord. Appoint. Rec. (Dkt. # 88) ¶ 20 (“Quarterly Fee Applications may be subject to
22 a holdback in the amount of 20% of the amount of fees and expenses for each application filed
with the [c]ourt.”).)

Applicant:	Period:	Fees:	Costs:	Total:
Receiver Michael A. Grassmueck	October 1, 2016, through December 31, 2016	\$62,532.00	\$2,262.38	\$64,794.38
Caron	October 1, 2016, through December 31, 2016	\$14,113.75	\$449.52	\$14,563.27
Allen Matkins	October 1, 2016, through December 31, 2016	\$334,626.75	\$1,071.95	\$335,698.70
Financial Forensics	October 1, 2016, through December 31, 2016	\$13,014.00	\$12.45	\$13,026.45
Baker Donelson	October 1, 2016, through December 31, 2016	\$7,438.50	\$23.67	\$7,462.17
Karr Tuttle	October 22, 2016, through December 31, 2016	\$12,369.00	\$918.50	\$13,287.50

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

- (1) The court AUTHORIZES the Receiver to disburse \$51,835.50 to the Receiver, which is 80% of the approved fees and costs;
- (2) The court AUTHORIZES the Receiver to disburse \$11,650.62 to Caron, which is 80% of the approved fees and costs;
- (3) The court AUTHORIZES the Receiver to disburse \$268,558.96 to Allen Matkins, which is 80% of the approved fees and costs;

1 (4) The court AUTHORIZES the Receiver to disburse \$10,421.16 to Financial
2 Forensics, which is 80% of the approved fees and costs;

3 (5) The court AUTHORIZES the Receiver to disburse \$5,969.74 to Baker
4 Donelson, which is 80% of the approved fees and costs; and

5 (6) The court AUTHORIZES the Receiver to disburse \$10,630.00 to Karr Tuttle,
6 which is 80% of the approved fees and costs.

7 Dated this 23rd day of March, 2017.

8
9 

10 JAMES L. ROBART
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22