

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ANDY CHING FONG CHEN and AERO SPACE
PORT INTERNATIONAL GROUP, INC.

Defendants, and

NORTH AMERICAN FOREIGN TRADE ZONE
INDUSTRIES, LLC; WASHINGTON ECONOMIC
DEVELOPMENT CAPITAL, LLC; WASHINGTON
ECONOMIC DEVELOPMENT CAPITAL II, LLC;
EVF, INC; MOSES LAKE 96000 BUILDING LLC;
SUN BASIN ORCHARDS, LLC; JOHN CHEN, TOM
CHEN, BOBBY CHEN and HEIDI CHEN,

Relief Defendants.

Civil Action No. C17-0405JLR

[PROPOSED] ORDER JLR
APPOINTING A RECEIVER

This matter came before the Court on the motion of plaintiff Securities and Exchange Commission (the "Commission" or "SEC") for an order appointing a receiver over Washington Economic Development Capital III ("EDC III") to ensure that EDC III is properly managed after Defendants are enjoined from further participation in the U.S. Customs and Immigration Service's EB-5 Immigrant Investor Program ("EB-5 program"). Through such an order, the SEC seeks authority for the receiver to: determine the economic viability of EDC III; ensure the lawful operation of EDC III; manage any assets of EDC III; provide reports to the court as to the status of the receivership entities, the EDC III program, the receivership entities' business and financial activities, and major assets; and to ensure that the investors' assets are

1 independently controlled and preserved. In addition, the SEC seeks to have the receiver, if
2 necessary, establish processes whereby investors and non-investors may file claims against
3 EDC III, and/or the assets of EDC III are distributed to investors.

4 On the basis of the record, the Court finds that the appointment of a receiver in this
5 action is necessary and appropriate for all of the purposes identified by the SEC, as stated
6 above.

7 **NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED**
8 **THAT:**

9 1. This Court hereby takes exclusive jurisdiction and possession of the assets, of
10 whatever kind and wherever situated, of EDC III.

11 2. Until further Order of this Court, Geoffrey B. Winkler of American Fiduciary
12 Services is hereby appointed to serve without bond as receiver (the “Receiver”) for EDC III.

13 **I. General Powers and Duties of Receiver**

14 3. The Receiver shall have all powers, authorities, rights and privileges heretofore
15 possessed by the officers, directors, managers and general and limited partners of EDC III
16 under applicable state and federal law, by the governing charters, by-laws, articles and/or
17 agreements in addition to all powers and authority of a receiver at equity, and all powers
18 conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and
19 Fed.R.Civ.P. 66.

20 4. The trustees, directors, officers, managers, employees, investment advisors,
21 accountants, attorneys and other agents of EDC III are hereby dismissed and the powers of any
22 general partners, directors and/or managers, including but not limited to Coordinating
23 Managing Member Shibing Zhang, are hereby suspended. Such persons and entities shall have

1 no authority with respect to the EDC III's operations or assets, except to the extent as may
2 hereafter be expressly granted by the Receiver. The Receiver shall assume and control the
3 operation of EDC III and shall pursue and preserve all of its claims.

4 5. No person holding or claiming any position of any sort with EDC III shall
5 possess any authority to act by or on behalf of any of EDC III.

6 6. Subject to the specific provisions in Sections III through XIV, below, the
7 Receiver shall have the following general powers and duties:

8 A. To use reasonable efforts to determine the nature, location and value of
9 all property interests of EDC III, including, but not limited to, monies, funds, securities, credits,
10 effects, goods, chattels, lands, premises, leases, claims, rights and other assets, together with all
11 rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which
12 EDC III owns, possesses, has a beneficial interest in, or controls directly or indirectly
13 ("Receivership Property" or, collectively, the "Receivership Estate");

14 B. To take custody, control and possession of all Receivership Property and
15 records relevant thereto from EDC III; to sue for and collect, recover, receive and take into
16 possession from third parties all Receivership Property and records relevant thereto;

17 C. To manage, control, operate and maintain the Receivership Estate and
18 hold in his possession, custody and control all Receivership Property, pending further Order of
19 this Court;

20 D. To use Receivership Property for the benefit of the Receivership Estate,
21 making payments and disbursements and incurring expenses as may be necessary or advisable
22 in the ordinary course of business in discharging his duties as Receiver;

23 E. To take any action which, prior to the entry of this Order, could have
been taken by the officers, directors, partners, managers, trustees and agents of EDC III;

F. To engage and employ persons in his discretion to assist him in carrying
out his duties and responsibilities hereunder, including, but not limited to, accountants,
attorneys, securities traders, registered representatives, financial or business advisers,
liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers; the
retention of such persons, consistent with Paragraph 56 below, should follow the provisions for
"Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and
Exchange Commission" (the "Billing Instructions");

G. To take such action as necessary and appropriate for the preservation of
Receivership Property or to prevent the dissipation or concealment of Receivership Property;

1
2 H. The Receiver is authorized to issue subpoenas to compel testimony of
3 persons or production of records, consistent with the Federal Rules of Civil Procedure and
4 applicable Local Rules, except for the provisions of Fed.R.Civ.P. 26(d)(1), to the Defendants,
5 Relief Defendants, EDC III, and EDC III's past and/or present officers, directors, agents,
6 attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers and
7 general and limited partners, all of whom are hereinafter collectively referred to in this Order
8 Appointing Receiver as "Relevant Parties", and to any other person or entity, concerning any
9 subject matter within the powers and duties granted by this Order.

6 I. To bring such legal actions based on law or equity in any state, federal,
7 or foreign court as the Receiver deems necessary or appropriate in discharging his duties as
8 Receiver, provided, however, the Receiver first consults with SEC staff and obtains Court
9 approval for any such action;

8 J. To pursue, resist and defend all suits, actions, claims and demands which
9 may now be pending or which may be brought by or asserted against the Receivership Estate;
10 and,

11 K. To take such other action as may be approved by this Court.

12 II. Access to Information

13 7. The Relevant Parties, as well as those acting in their place, are hereby ordered
14 and directed to preserve and turn over to the Receiver forthwith all paper and electronic
15 information of, and/or relating to, EDC III and/or all Receivership Property; such information
16 shall include but not be limited to books, records, documents, accounts and all other
17 instruments and papers.

18 8. Within fourteen (14) days of the entry of this Order, the Relevant Parties shall
19 file with the Court and serve upon the Receiver and the Commission a sworn statement, listing:
20 (a) the identity, location and estimated value of all Receivership Property; (b) all employees
21 (and job titles thereof), other personnel, attorneys, accountants and any other agents or
22 contractors of EDC III; and, (c) the names, addresses and amounts of claims of all known
23 creditors of EDC III.

1 9. Within thirty (30) days of the entry of this Order, EDC III shall provide to the
2 Receiver and the Commission copies of EDC III's federal and state income tax returns for
3 2010-2020 with all relevant and necessary underlying documentation.

4 10. The Relevant Parties and other appropriate persons or entities shall answer
5 under oath to the Receiver all questions which the Receiver may put to them and produce all
6 documents as required by the Receiver regarding the business of EDC III, or any other matter
7 relevant to the operation or administration of the receivership or the collection of funds due to
8 EDC III. In the event that the Receiver deems it necessary to require the appearance of the
9 aforementioned persons or entities, the Receiver shall make its discovery requests in
10 accordance with the Federal Rules of Civil Procedure.

11 11. The Relevant Parties, and any other person affected by this Order, are required
12 to assist the Receiver in fulfilling his duties and obligations. As such, the Relevant Parties must
13 cooperate with and assist the Receiver in the performance of his duties, and respond promptly
14 and truthfully to all requests for information and documents from the Receiver.

15 **III. Access to Books, Records and Accounts**

16 12. The Receiver is authorized to take immediate possession of all assets, bank
17 accounts or other financial accounts, books and records and all other documents or instruments
18 relating to EDC III, including an EDC III account at the Seattle Credit Union. All persons and
19 entities having control, custody or possession of any Receivership Property are hereby directed
20 to turn such property over to the Receiver.

21 13. The Relevant Parties, as well as their agents, servants, employees, attorneys, any
22 persons acting for or on behalf of them, and any persons receiving notice of this Order by
23 personal service, facsimile transmission or otherwise, having possession of the property,

1 business, books, records, accounts or assets of EDC III are hereby directed to deliver the same
2 to the Receiver, his agents and/or employees.

3 14. All banks, brokerage firms, financial institutions, and other persons or entities
4 which have possession, custody or control of any assets or funds held by, in the name of, or for
5 the benefit of, directly or indirectly, and of EDC III that receive actual notice of this Order by
6 personal service, facsimile transmission or otherwise shall:

7 A. Not liquidate, transfer, sell, convey or otherwise transfer any assets,
8 securities, funds, or accounts in the name of or for the benefit of EDC III except upon
instructions from the Receiver;

9 B. Not exercise any form of set-off, alleged set-off, lien, or any form of
10 self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without
the permission of this Court;

11 C. Within five (5) business days of receipt of that notice, file with the Court
12 and serve on the Receiver and counsel for the Commission a certified statement setting forth,
with respect to each such account or other asset, the balance in the account or description of the
13 assets as of the close of business on the date of receipt of the notice; and,

14 D. Cooperate expeditiously in providing information and transferring funds,
assets and accounts to the Receiver or at the direction of the Receiver.

15 **IV. Access to Real and Personal Property**

16 15. The Receiver is authorized to take immediate possession of all personal property
17 of EDC III, wherever located, including but not limited to electronically stored information,
18 computers, laptops, hard drives, external storage drives, and any other such memory, media or
19 electronic storage devices, books, papers, data processing records, evidence of indebtedness,
20 bank records and accounts, savings records and accounts, brokerage records and accounts,
21 certificates of deposit, stocks, bonds, debentures, and other securities and investments,
22 contracts, mortgages, furniture, office supplies and equipment.

23 16. The Receiver is authorized to take immediate possession of all real property of

1 EDC III, wherever located, including but not limited to all ownership and leasehold interests
2 and fixtures. Upon receiving actual notice of this Order by personal service, facsimile
3 transmission or otherwise, all persons other than law enforcement officials acting within the
4 course and scope of their official duties, are (without the express written permission of the
5 Receiver) prohibited from: (a) entering such premises; (b) removing anything from such
6 premises; or, (c) destroying, concealing or erasing anything on such premises.

7 17. In order to execute the express and implied terms of this Order, the Receiver is
8 authorized to change door locks to the premises described above. The Receiver shall have
9 exclusive control of the keys. The Relevant Parties or any other person acting or purporting to
10 act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate
11 keys made, nor shall they have keys in their possession during the term of the receivership.

12 18. The Receiver is authorized to open all mail directed to or received by or at the
13 offices or post office boxes of EDC III, and to inspect all mail opened prior to the entry of this
14 Order, to determine whether items or information therein fall within the mandates of this Order.

15 **V. Notice to Third Parties**

16 19. The Receiver shall promptly give notice of his appointment to the Relevant
17 Parties, and any other person as appropriate, as the Receiver deems necessary or advisable to
18 effectuate the operation of the receivership.

19 20. All persons and entities owing any obligation, debt, or distribution with respect
20 to an ownership interest to EDC III shall, until further ordered by this Court, pay all such
21 obligations in accordance with the terms thereof to the Receiver and its receipt for such
22 payments shall have the same force and effect as if EDC III had received such payment.

23 21. In furtherance of his responsibilities in this matter, the Receiver is authorized to

1 communicate with, and/or serve this Order upon, any person, entity or government office that
2 he deems appropriate to inform them of the status of this matter and/or the financial condition
3 of the Receivership Estate. All government offices which maintain public files of security
4 interests in real and personal property shall, consistent with such office's applicable procedures,
5 record this Order upon the request of the Receiver or the SEC.

6 22. The Receiver is authorized to instruct the United States Postmaster to hold
7 and/or reroute mail which is related, directly or indirectly, to the business, operations or
8 activities of EDC III (the "Receiver's Mail"), including all mail addressed to, or for the benefit
9 of, EDC III. The Postmaster shall not comply with, and shall immediately report to the
10 Receiver, any change of address or other instruction given by anyone other than the Receiver
11 concerning the Receiver's Mail. EDC III shall not open any of the Receiver's Mail and shall
12 immediately turn over such mail, regardless of when received, to the Receiver. All personal
13 mail of EDC III, and/or any mail appearing to contain privileged information, and/or any mail
14 not falling within the mandate of the Receiver, shall be released to the named addressee by the
15 Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity,
16 of any private mail box, depository, business or service, or mail courier or delivery service,
17 hired, rented or used by the Receivership Defendants. EDC III shall not open a new mailbox, or
18 take any steps or make any arrangements to receive mail in contravention of this Order,
19 whether through the U.S. mail, a private mail depository or courier service.

20 23. Subject to payment for services provided, any entity furnishing water, electric,
21 telephone, sewage, garbage or trash removal services to EDC III shall maintain such service
22 and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

23 24. The Receiver is authorized to assert, prosecute and/or negotiate any claim under

1 any insurance policy held by or issued on behalf of EDC III, or its officers, directors, agents,
2 employees or trustees, and to take any and all appropriate steps in connection with such
3 policies.

4 **VI. Injunction Against Interference with Receiver**

5 25. EDC III and all persons receiving notice of this Order by personal service,
6 facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any
7 action or causing any action to be taken, without the express written agreement of the Receiver,
8 which would:

9 A. Interfere with the Receiver's efforts to take control, possession, or
10 management of any Receivership Property; such prohibited actions include but are not limited
11 to, using self-help or executing or issuing or causing the execution or issuance of any court
12 attachment, subpoena, replevin, execution, or other process for the purpose of impounding or
13 taking possession of or interfering with or creating or enforcing a lien upon any Receivership
14 Property;

15 B. Hinder, obstruct or otherwise interfere with the Receiver in the
16 performance of his duties; such prohibited actions include but are not limited to, concealing,
17 destroying or altering records or information;

18 C. Dissipate or otherwise diminish the value of any Receivership Property;
19 such prohibited actions include but are not limited to, releasing claims or disposing,
20 transferring, exchanging, assigning or in any way conveying any Receivership Property,
21 enforcing judgments, assessments or claims against any Receivership Property or EDC III,
22 attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of
23 any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by
EDC III or which otherwise affects any Receivership Property; or,

D. Interfere with or harass the Receiver, or interfere in any
manner with the exclusive jurisdiction of this Court over the Receivership Estate.

26. The Receiver shall promptly notify the Court and SEC counsel of any failure or
apparent failure of any person or entity to comply in any way with the terms of this Order.

27. The Relevant Parties, and any other person who has custody and/ or control of
Receivership Property, shall immediately transfer to the Receiver all Receivership Property

1 outside of the United States held jointly or singly or under their direct or indirect ownership or
2 control, in whole or in part, with such Receivership Property to be transferred to one or more
3 accounts as may be instructed by the Receiver or in such other manner as the Receiver may
4 direct. EDC III, its successors and assigns, and its officers, agents, servants, employees,
5 affiliates, and attorneys, and all persons in active concert or participation with EDC III, are
6 hereby enjoined from taking any action, directly or indirectly, which may result in the
7 encumbrance or dissipation of foreign Receivership Property, or in the hindrance of the
8 repatriation required by this Order.

9 **VII. Stay of Litigation**

10 28. As set forth in detail below, the following proceedings, excluding the instant
11 proceeding and all police or regulatory actions and actions of the Commission related to the
12 above-captioned enforcement action, are stayed until further Order of this Court:

13 All civil legal proceedings of any nature, including, but not limited to, bankruptcy
14 proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other
15 actions of any nature involving: (a) the Receiver, in his capacity as Receiver; (b) any
16 Receivership Property, wherever located; (c) EDC III, including subsidiaries and
17 partnerships; or, (d) EDC III's past or present officers, directors, managers, agents, or
18 general or limited partners sued for, or in connection with, any action taken by them
19 while acting in such capacity of any nature, whether as plaintiff, defendant, third-party
20 plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred
21 to as "Ancillary Proceedings").

22 29. The parties to any and all Ancillary Proceedings are enjoined from commencing
23 or continuing any such legal proceeding, or from taking any action, in connection with any
such proceeding, including, but not limited to, the issuance or employment of process.

30. All Ancillary Proceedings are stayed in their entirety, and all Courts having any
jurisdiction thereof are enjoined from taking or permitting any action until further Order of this
Court. Further, as to a cause of action accrued or accruing in favor of EDC III against a third

1 person or party, any applicable statute of limitation is tolled during the period in which this
2 injunction against commencement of legal proceedings is in effect as to that cause of action.

3 **VIII. Managing Assets**

4 31. The Receiver shall establish one or more custodial accounts at a federally
5 insured bank to receive and hold all cash equivalent Receivership Property (the “Receivership
6 Funds”).

7 32. The Receiver’s deposit account shall be entitled “Receiver’s Account, Estate of
8 Washington Economic Development Capital III” together with the name of the action.

9 33. The Receiver may, without further Order of this Court, transfer, compromise, or
10 otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of
11 business, on terms and in the manner the Receiver deems most beneficial to the Receivership
12 Estate, and with due regard to the realization of the true and proper value of such Receivership
13 Property.

14 34. Subject to Paragraph 36, immediately below, the Receiver is authorized to
15 locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take
16 all necessary and reasonable actions to cause the sale or lease of all real property in the
17 Receivership Estate, either at public or private sale, on terms and in the manner the Receiver
18 deems most beneficial to the Receivership Estate, and with due regard to the realization of the
19 true and proper value of such real property.

20 35. Upon further Order of this Court, pursuant to such procedures as may be
21 required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the
22 Receiver will be authorized to sell, and transfer clear title to, all real property in the
23 Receivership Estate.

1 36. The Receiver is authorized to take all actions to manage, maintain, and/or wind-
2 down business operations of the Receivership Estate, including making legally required
3 payments to creditors, employees, and agents of the Receivership Estate and communicating
4 with vendors, investors, governmental and regulatory authorities, and others, as appropriate.

5 **IX. Investigate and Prosecute Claims**

6 37. Subject to the requirement, in Section VI., above, that leave of this Court is
7 required to resume or commence certain litigation, the Receiver is authorized, empowered and
8 directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise,
9 and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in
10 his discretion, and in consultation with SEC counsel, be advisable or proper to recover and/or
11 conserve Receivership Property.

12 38. Subject to his obligation to expend receivership funds in a reasonable and cost-
13 effective manner, the Receiver is authorized, empowered and directed to investigate the manner
14 in which the financial and business affairs of EDC III were conducted and (after obtaining
15 leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf
16 of the Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver may
17 seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement
18 of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection
19 of debts, and such other relief from this Court as may be necessary to enforce this Order.
20 Where appropriate, the Receiver should provide prior notice to Counsel for the Commission
21 before commencing investigations and/or actions.

22 39. The Receiver hereby holds, and is therefore empowered to waive, all privileges,
23 including the attorney-client privilege, held by EDC III.

1 40. The receiver has a continuing duty to ensure that there are no conflicts of
2 interest between the Receiver, his Retained Personnel (as that term is defined below), and the
3 Receivership Estate.

4 **X. Bankruptcy Filing**

5 41. The Receiver may seek authorization of this Court to file voluntary petitions for
6 relief under Title 11 of the United States Code (the “Bankruptcy Code”) for EDC III. If EDC
7 III is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to
8 operate the Receivership Estate as, a debtor in possession. In such a situation, the Receiver
9 shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy
10 Code to the exclusion of any other person or entity. Pursuant to Paragraph 3 above, the
11 Receiver is vested with management authority for EDC III and may therefore file and manage a
12 Chapter 11 petition.

13 42. The provisions of Section VII., above, bar any person or entity, other than the
14 Receiver, from placing EDC III in bankruptcy proceedings, except where such party seeks
15 permission to do so by filing a motion in this Court. In no event
16 may such party file a voluntary or involuntary bankruptcy petition pertaining to any of the
17 assets under the jurisdiction of this Court unless they provide a showing to this Court, with five
18 (5) days’ advance notice to the SEC staff assigned to this case, that such a petition is
19 appropriate and would benefit investors or administration of this action. No voluntary or
20 involuntary petition for bankruptcy may be filed unless this Court grants such motion.

21 **XI. Liability of Receiver**

22 43. Until further Order of this Court, the Receiver shall not be required to post bond
23 or give an undertaking of any type in connection with his fiduciary obligations in this matter.

1 44. The Receiver and his agents, acting within scope of such agency (“Retained
2 Personnel”) are entitled to rely on all outstanding rules of law and Orders of this Court and
3 shall not be liable to anyone for their own good faith compliance with any order, rule, law,
4 judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone
5 for their good faith compliance with their duties and responsibilities as Receiver or Retained
6 Personnel nor shall the Receiver or Retained Personnel be liable to anyone for any actions
7 taken or omitted by them except upon a finding by this Court that they acted or failed to act as a
8 result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.

9 45. This Court shall retain jurisdiction over any action filed against the Receiver or
10 Retained Personnel based upon acts or omissions committed in their representative capacities.

11 46. In the event the Receiver decides to resign, the Receiver shall first give written
12 notice to the Commission’s counsel of record and the Court of its intention, and the resignation
13 shall not be effective until the Court appoints a successor. The Receiver shall then follow such
14 instructions as the Court may provide.

15 **XII. Recommendations, Reports, and Additional Duties of the Receiver**

16 47. The Receiver is authorized, empowered and directed to develop a plan for the
17 fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and
18 recoverable Receivership Property (the “Liquidation Plan”).

19 48. Consistent with Section IV above, the Receiver is authorized to take immediate
20 possession of the real property that has been referred to in this action as “ASPI Commerce Park
21 Building 3,” which is the property commonly known as 8396 Doolittle Drive, Moses Lake, WA
22 98837, to the extent that property is in the possession of EDC III as of the date of this Order
23 Appointing Receiver. The Receiver is authorized to consummate the sale of ASPI Commerce

1 Park Building 3 in exchange for EDC III's receipt of \$6 million, as described in Defendant's
2 Response To Plaintiff's Renewed Motion For Entry of Final Judgment Against The Defendants
3 (ECF No. 109) and Declaration of Andy Ching Fong Chen In Support Of Defendant's
4 Response To Motion For Final Judgment (ECF No. 110), filed in the above-captioned action on
5 September 7, 2021.

6 49. Within sixty (60) days of the entry date of this Order, the Receiver shall file in
7 the above-captioned action the following:

8 A. An accounting of the Receivership Estate, reflecting (to the best of the
9 Receiver's knowledge as of the period covered by the report) the existence, value, and location
10 of all Receivership Property, and of the extent of liabilities, both those claimed to exist by
11 others and those the Receiver believes to be legal obligations of the Receivership Estate.

12 B. A report on any sale or disposition of ASPI Commerce Park Building
13 that occurred on or after September 7, 2021. To the extent ASPI Commerce Park Building 3
14 remains in EDC III's possession and is under contract for sale, or subject to any other
15 previously negotiated transaction, a recommendation as to whether it is in the best interests of
16 the Receivership Estate to proceed with such a sale or transaction.

17 C. An Investor List that includes the following information: the name of
18 each individual who, at any time, invested in EDC III ("investor") under the EB-5 program
19 which was the subject of the above-captioned action; the date(s) of the investor's investment;
20 the amount of the invested funds, including any capital contributions and fees paid by the
21 investor ("invested funds"); whether the invested funds were held in an escrow account outside
22 the control of EDC III; whether the invested funds were transferred to an account controlled by
23 EDC III, and, if so, the date of the transfer; whether the investor has requested to withdraw
from the EB-5 program; the date(s) and amounts of any invested funds returned to the investor;
and, with respect to any investor who has requested to withdraw from the EB-5 program but
has not been repaid the entirety of his or her invested funds, the amount that is still owed the
investor (excluding interest).

D. A confirmation that the Receiver has established one or more accounts in
which to receive any additional funds to be paid by, or otherwise recovered from, Defendants
in the above-captioned action, upon further order of the Court.

50. Within ninety (120) days of the entry date of this Order, the Receiver shall file
the Liquidation Plan in the above-captioned action, with service copies to counsel of record.

The Liquidation Plan should consider, among other factors, (A) how best to expeditiously wind
up of the Receivership Estate and maximize assets for investors; (B) whether the Receivership

1 Estate has yet received all funds to be paid by, or otherwise recovered from, Defendant in the
2 above-captioned action; and (C) statements of investors, if any, that they wish to remain in the
3 EB-5 program for the purpose of obtaining their green cards. The Liquidation Plan will also
4 include a plan for addressing investors' requests to withdraw from the EB-5 program, and for
5 making a final distribution to investors (including both investors who have requested to
6 withdraw from the EB-5 program and investors who have not requested to withdraw from the
7 EB-5 program), of invested funds plus accrued interest that they are yet owed.

8 51. Within thirty (30) days after the end of each calendar quarter, the Receiver shall
9 file and serve a full report and accounting of the Receivership Estate (the "Quarterly Status
10 Report"), reflecting (to the best of the Receiver's knowledge as of the period covered by the
11 report) the existence, value, and location of all Receivership Property, and of the extent of
12 liabilities, both those claimed to exist by others and those the Receiver believes to be legal
13 obligations of the Receivership Estate.

14 52. The Quarterly Status Report shall contain the following:

- 15 A. A summary of the operations of the Receiver;
- 16 B. The amount of cash on hand, the amount and nature of accrued
17 administrative expenses, and the amount of unencumbered funds in the estate;
- 18 C. A schedule of all the Receiver's receipts and disbursements (attached as
19 Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and
20 a second column for the entire duration of the receivership;
- 21 D. A description of all known Receivership Property, including
22 approximate or actual valuations, anticipated or proposed dispositions, and reasons for
23 retaining assets where no disposition is intended;
- 24 E. A description of liquidated and unliquidated claims held by the
25 Receivership Estate, including the need for forensic and/or investigatory resources;
26 approximate valuations of claims; and anticipated or proposed methods of enforcing such
27 claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii)
28 collecting such judgments);

1 F. A list of all known creditors with their addresses and the amounts of
2 their claims;

3 G. The status of Creditor Claims Proceedings, after such proceedings have
4 been commenced; and,

5 H. An updated Investor List that includes all of the information identified in
6 Paragraph 53(C) above.

7 I. The Receiver's recommendations for a continuation or discontinuation of
8 the receivership and the reasons for the recommendations.

9 53. On the request of the Commission, the Receiver shall provide the Commission
10 with any documentation that the Commission deems necessary to meet its reporting
11 requirements, that is mandated by statute or Congress, or that is otherwise necessary to further
12 the Commission's mission.

13 **XIII. Fees, Expenses and Accountings**

14 54. Subject to Paragraphs 57 – 63 immediately below, the Receiver need not obtain
15 Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary
16 course of the administration and operation of the receivership. Further, prior Court approval is
17 not required for payments of applicable federal, state or local taxes.

18 55. Subject to Paragraph 58 immediately below, the Receiver is authorized to solicit
19 persons and entities ("Retained Personnel") to assist him in carrying out the duties and
20 responsibilities described in this Order. The Receiver shall not engage any Retained Personnel
21 without first obtaining an Order of the Court authorizing such engagement.

22 56. The Receiver and Retained Personnel are entitled to reasonable compensation
23 and expense reimbursement from the Receivership Estates as described in the Billing
Instructions agreed to by the Receiver. Such compensation shall require the prior approval of
the Court.

57. Within forty-five (45) days after the end of each calendar quarter, the Receiver
and Retained Personnel shall apply to the Court for compensation and expense reimbursement
from the Receivership Estate (the "Quarterly Fee Applications"). At least thirty (30) days prior

1 to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the
2 SEC a complete copy of the proposed Application, together with all exhibits and relevant billing
3 information in a format to be provided by SEC staff.

4 58. All Quarterly Fee Applications will be interim and will be subject to cost benefit
5 and final reviews at the close of the receivership. At the close of the receivership, the Receiver
6 will file a final fee application, describing in detail the costs and benefits associated with all
7 litigation and other actions pursued by the Receiver during the course of the receivership.

8 59. Quarterly Fee Applications will be subject to a holdback in the amount of 20%
9 of the amount of fees and expenses for each application filed with the Court. The total amounts
10 held back during the course of the receivership will be paid out at the discretion of the Court as
11 part of the final fee application submitted at the close of the receivership.

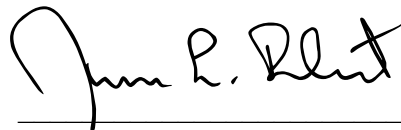
12 60. Each Quarterly Fee Application shall:

13 A. Comply with the terms of the Billing Instructions agreed to by the
14 Receiver; and,

15 B. Contain representations (in addition to the Certification required by the
16 Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best
17 interests of the Receivership Estate; and, (ii) with the exception of the Billing Instructions, the
18 Receiver has not entered into any agreement, written or oral, express or implied, with any
19 person or entity concerning the amount of compensation paid or to be paid from the
20 Receivership Estate, or any sharing thereof.

21 61. At the close of the Receivership, the Receiver shall submit a Final Accounting,
22 in a format to be provided by SEC staff, as well as the Receiver's final application for
23 compensation and expense reimbursement.

Dated, this 23rd day of November, 2021, at Seattle, Washington.



JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

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Presented By:

s/ Gregory N. Miller

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