

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:18-cv-61991-BB

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

1 GLOBAL CAPITAL LLC, and
CARL RUDERMAN,

Defendants, and

1 WEST CAPITAL LLC,
BRIGHT SMILE FINANCING, LLC,
BRR BLOCK INC.,
DIGI SOUTH LLC,
GANADOR ENTERPRISES, LLC,
MEDIA PAY LLC
PAY NOW DIRECT LLC, and
RUDERMAN FAMILY TRUST,

Relief Defendants.

**RECEIVER'S MOTION FOR APPROVAL TO PAY
SPECIAL COUNSEL IN CONNECTION WITH COURT-APPROVED
SETTLEMENT BETWEEN THE RECEIVER AND JPMORGAN CHASE BANK, N.A.**

Jon A. Sale, not individually, but solely in his capacity as the Court-appointed receiver (the "Receiver") for Pay Now Direct LLC, respectfully submits this Motion for Approval to Pay Damian & Valori LLP, the Receiver's Special Counsel, in connection with the Court-approved settlement with JPMorgan Chase Bank, N.A. ("Settlement"). [See D.E. 301].

The Securities and Exchange Commission does not object to the relief sought herein.

1. On August 21, 2019, the Court approved the Receiver's retention of Damian & Valori LLP as special counsel ("Special Counsel") for purposes of handling several clawback lawsuits on the Receiver's behalf. [D.E. 228].

2. Pursuant to Special Counsel's Court-approved retainer agreement, Special Counsel is entitled to "33% of any recovery by way of settlement, trial, or judgment after the filing of a response to [a] complaint." [D.E. 227-1].

3. On August 23, 2019, Special Counsel, on the Receiver's behalf, filed a complaint against JPMorgan Chase Bank, N.A. ("Chase") in the action styled *Jon Sale, Receiver, v. JP Morgan Chase Bank*, Case Number 19-23565-CV-JEM ("Chase Action"). [Chase Action, D.E. 1].

4. On October 21, 2019, Chase filed a motion to dismiss the Receiver's complaint with prejudice. [Chase Action, D.E. 16].

5. Chase's motion to dismiss was fully briefed by both parties. [Chase Action, D.E. 16, 18, 21].

6. Thereafter, on March 18, 2020, the Receiver voluntarily dismissed the Chase Action without prejudice pursuant to a joint stipulation with Chase. [Chase Action, D.E. 24]. However, the Receiver indicated his intention to refile the Claims asserted in the Chase Action.

7. In or about February 2022, the Receiver and Chase settled the Receiver's claims in connection with the sale of Defendant Carl Ruderman's condominium ("Condominium"), resolving the dispute between them, pending Court approval. [See D.E. 297-299].

8. As part of the Settlement, Chase agreed to reduce the payoff amount it would receive after the sale of Ruderman's Condominium by \$300,000 (the "Settlement Amount"). [D.E. 299 at 4]. Chase and Ruderman further agreed that the Receiver would obtain the full benefit of the \$300,000 Settlement Amount. *Id.*

9. On February 10, 2022, the Receiver and Chase jointly filed a motion for approval of the Settlement. [D.E. 299].

10. The Court approved the Settlement between the Receiver and Chase on February 11, 2022. [D.E. 301].

11. On February 18, 2022, the Court approved the disbursement of funds, including the \$300,000 Settlement Amount for the benefit of the Receivership, in connection with the closing of the sale of the Condominium. [D.E. 304].

12. The Receiver obtained the \$300,000 Settlement Amount on February 22, 2022.

13. Given the foregoing, pursuant to its Court-approved retainer [D.E. 227-1, 228], Special Counsel is entitled to an award of 33% of the \$300,000 Settlement Amount recovery, or \$100,000, for Special Counsel's representation of the Receiver in the Chase Action and in settlement negotiations with Chase thereafter.

CONCLUSION

Given the foregoing, the Receiver respectfully requests entry of an order approving payment to Special Counsel in the amount of \$100,000, for Special Counsel's representation of the Receiver in the Chase Action and in settlement negotiations with Chase thereafter.

Dated: April 5, 2022.

NELSON MULLINS BROAD AND CASSEL

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By: s/Daniel S. Newman
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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who are not authorized to receive electronically Notices of Electronic Filing.

s/Daniel S. Newman

Daniel Newman

SERVICE LIST

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