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Attorneys for Court-Appointed Receiver Peggy Hunt

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff.

V.

TRAFFIC MONSOON, LLC, a Utah Limited
Liability Company, and CHARLES DAVID
SCOVILLE, an individual,

Defendants.

**RESPONSE TO COURT ORDER TO
PROVIDE FURTHER EXPLANATION OF
RECEIVER'S MOTION TO ESTABLISH
ADMINISTRATIVE EXPENSE
PAYMENT PROCEDURES**

2:16-cv-00832-JNP

The Honorable Jill N. Parrish

Peggy Hunt, the Court-appointed Receiver in the above-captioned case (the “Receiver”), by and through counsel, submits this *Response* to the Court’s *Order* [Dkt. No. 98] requiring the Receiver to provide further explanation of certain proposed procedures in the *Receiver’s Motion to Establish Administrative Expense Payment Procedures* [[Dkt. No. 94](#)] (the “Motion”).

Capitalized terms used herein are defined in the Motion.

In the Motion, the Receiver requested that the Court approve proposed procedures (the “Procedures”) allowing her to pay, on an interim, monthly basis, Professionals employed to aid

her with administering the Receivership Estate. Under the Procedures, any Professional performing services on behalf of the Receivership Estate may make a monthly Request for payment of 80% of total fees for services rendered and 100% of out-of-pockets expenses. “The Professional must attach to each Request ‘Invoices’ that include a detailed and chronological listing of the services provided, identify the persons providing services, state the time expended by the Professionals who performed services, and describe the expenses incurred.” Motion, ¶ 16. Requests and Invoices will subsequently be filed with the Court.

Because the Invoices may contain certain sensitive or confidential information, the Receiver proposed that she be allowed to redact the Invoices before filing them with the Court. Details contained in the Invoices may relate to efforts of the Receiver and her attorneys, accountants, and other Professionals which, if released, could undermine the Receiver’s efforts on behalf of the victims and creditors of Traffic Monsoon. If made public, they could reveal, among other things, confidential information regarding the negotiating stances and legal theories being pursued by the Receiver, the identity of persons providing assistance to the Receiver, and the Receiver’s strategy with respect to various assets, claims, litigation, and liquidation processes. The Invoices may also contain privileged attorney-client and work product information that could provide an advantage to litigants opposing the Receivership Estate and the victims and creditors of Traffic Monsoon. Allowing the Receiver to redact the Invoices before publicly filing them protects this confidential and privileged information.

As the Court points out, DUCivR 5-2(a) states that “records of the Court are presumptively open to the public” and requires that counsel “be highly selective in filing documents under seal.” In keeping with this rule, the Receiver has not sought to file the Invoices

under seal, nor has the Receiver sought a “blanket protective order that allows [her] to designate documents as sealable.” *Id.* The Receiver is seeking to follow DUCivR 5-2(a)(3) by redacting “confidential portions” of the Invoices that “are not directly pertinent to the issues before the Court” rather than asking the Court each month for permission to file the entirety of the Invoices under seal.

Under the Procedures, the monthly Requests will provide summaries of total time and amounts billed for each Professional, and the quarterly Interim Fee Applications will provide further information about the Professionals’ activities. The Requests, the (possibly redacted) Invoices, and the Interim Fee Applications will all be filed publicly and served on any party which requests notice, allowing any party the opportunity to object. Motion, ¶¶ 18 and 26. Furthermore, the Court will be provided with unredacted Invoices so that it can fully evaluate the fees and expenses requested. *Id.* at ¶ 16.

The Receiver respectfully submits that the Procedures comply with DUCivR 5-2, will provide adequate notice to all parties, and will aid the speedy and efficient administration of the Receivership Estate. Accordingly, the Receiver requests that the Court grant the Motion and approve the Procedures. The Receiver submitted a proposed Order, which was attached as Exhibit D to the Motion. A copy of this Order will also be sent to chambers.

DATED this 6th day of June, 2017.

DORSEY & WHITNEY LLP

/s/ Michael F. Thomson
Peggy Hunt
Michael F. Thomson
John J. Wiest
Attorneys for Receiver, Peggy Hunt

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June, 2017, I caused the foregoing **RESPONSE TO COURT ORDER TO PROVIDE FURTHER EXPLANATION OF RECEIVER'S MOTION TO ESTABLISH ADMINISTRATIVE EXPENSE PAYMENT PROCEDURES** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all counsel of record in this case.

/s/ John J. Wiest