

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 21-61644-CIV-SINGHAL

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MJ CAPITAL FUNDING, LLC,
MJ TAXES AND MORE, INC., and
JOHANNA M. GARCIA,

Defendants.

**RECEIVER'S MOTION FOR AUTHORITY TO EMPLOY STRETTO, INC.
AS CONSULTANT AND SERVICE PROVIDER PURSUANT
TO SERVICES AGREEMENT**

Corali Lopez-Castro, as Receiver (the "Receiver") over MJ Capital Funding, LLC ("MJ Capital") and MJ Taxes and More, Inc. ("MJ Taxes") and other entities¹ (collectively, the "Receivership Entities"), hereby moves for the entry of an order substantially in the form as the proposed order attached hereto as **Exhibit 1** authorizing the Receiver to employ Stretto, Inc. ("Stretto") to provide the services described herein and to enter into the Services Agreement (the "Agreement") attached hereto as **Exhibit 2**, and states in support:

1. On August 9, 2021, the Securities and Exchange Commission (the "SEC") commenced this lawsuit against MJ Capital, MJ Taxes and Johanna M. Garcia. The SEC alleges that Ms. Garcia used MJ Capital and MJ Taxes to perpetuate a multi-million-dollar Ponzi scheme by, among other things: (a) tricking Investors into thinking the money they invested would be used

¹ The receivership has been expanded to include, and the receiver has been appointed over, the Pavel Ruiz MJCF LLC and UDM Remodeling, LLC pursuant to the Order Granting Receiver's Motion to Expand Receivership Estate [DE 79], which order is presently subject to a pending motion to vacate [DE 83].

to fund small business loans called Merchant Cash Advances (“MCAs”), and (b) promising high rates of annual return of between 120% - 180%. *See* Compl. ¶ 1-3, ECF 1. The SEC further alleges that representations that investor money would be used to fund MCAs were lies, and in reality the Investor “returns” were funded with money obtained from new Investors. *See id.* at ¶ 5, 33.

2. On August 12, 2021, the Court entered the Receivership Order appointing Corali Lopez-Castro as Receiver over MJ Capital and MJ Taxes. *See* ECF No. 17. Pursuant to the Receivership Order, the Receiver is charged with

marshaling and preserving all assets of the Defendants “Receivership Assets” that: (a) are attributable to funds derived from investors or clients of the Defendants; (b) are held in constructive trust for the Defendants; (c) were fraudulently transferred by the Defendants; and/or (d) may otherwise be includable as assets of the estates of the Defendants (collectively, the “Recoverable Assets”)[.]

Receivership Order 1-2, ECF No. 17.

3. The Receiver is further authorized, empowered and directed to “develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property[.]” *Id.* at 17.

4. In order to carry out her duties and responsibilities under the Receivership Order, the Receiver has the powers and duties to engage and employ persons under her discretion. *Id.* at 5. Paragraph 52 of the Receivership Order provides that the Receiver will obtain an Order of the Court authorizing any engagement with persons and entities who she seeks to hire to assist her in carrying out the duties and responsibilities describe in the Order. *Id.* at 19. In addition, retained personnel are entitled to reasonable compensation and expense reimbursement from the receivership estate subject to the SEC’s billing instructions, Court approval, and quarterly fee applications, which may be subject to a 20% holdback pending approval of a final fee application.

Id. at 19-20.

5. The Receiver has identified the need for the receivership estate to engage a consultant and service provider to provided services relating to investors, claims and distributions. As described in the Receiver's First Interim Report [ECF 94], the Receiver estimates that the number of investors that will assert formal claims against MJ Capital will exceed 5,500, and each claimant will likely submit supporting documentation. While the Receiver has established a dedicated webpage for investors at <https://kttlaw.com/mjcapital>, such webpage does not have the capacity to receive and maintain thousands of claims their related documents.

6. Therefore, the Receiver seeks to employ Stretto to assist with legal noticing, maintaining an investor and creditor mailing matrix, maintaining an electronic claims register that will receive and store claims and supporting documentation, updating and maintaining a website to facilitate communications with investors that will be connected to the Receiver's existing webpage, assisting with investor communications, providing banking and distribution support, and providing consulting services with respect to the foregoing, to the extent requested by the Receiver.

7. The Receiver has identified Stretto as an appropriate consultant and service provider for this case. Stretto partners with federal and state-appointed receivers to provide software support and other assistance in complex cases. She has consulted with Stretto as to the services she expects to need assistance with, and subject to the Agreement attached as Exhibit 2, Stretto has agreed to provide services to the Receivership Entities as described therein. Under the Agreement, Stretto would provide services to the Receivership Entities and thereafter make application to the Court for compensation in accordance with the terms of the Receivership Order, and the SEC's billing instructions.

8. The Receiver is informed and believes that Stretto personnel have the adequate

experience and knowledge necessary to perform the services required by the Receiver. The Receiver is further informed and believes that Stretto has previously been employed in other federal equity receivership cases, and has experience and expertise in performing the types of services described in the Agreement.

9. The Receiver is informed that Stretto's consulting rates range from \$275 per hour to \$595 per hour.² It is contemplated that Stretto will seek compensation based upon normal and usual hourly billing rates and for the cost of actual out-of-pocket expenses incurred performing services reasonably likely to benefit, or necessary to the administration of, the Receivership Entities. The Agreement provides for an initial retainer of \$10,000 to be applied to any Court-approved fees and expenses.

10. To the best of the Receiver's knowledge, Stretto does not hold or represent any interest adverse to the Receivership Entities. The Receiver has experience with Stretto because it is the software provider that she uses in her practice as counsel for a chapter 11 bankruptcy trustee.

11. For these reasons, the Receiver maintains that it would be in the best interests of the Receivership Entities to employ Stretto to assist the Receiver in performing her duties as set out in the Receivership Order. Accordingly, the Receiver requests that the Court approve Stretto as a consultant and service provider for the Receivership Entities, and enter the proposed order attached hereto as Exhibit 1.

WHEREFORE, the Receiver respectfully requests that the Court enter an Order: (a) granting this Motion, (b) approving the Receiver's employment of Stretto as a consultant and service provider to be compensated from the Receivership Entities upon approval of the

² The Receiver and Stretto have agreed to a discount to be applied to invoices issued to the receivership estate, and the Receiver has advised the SEC of the agreed upon discount.

application to the Court and in accordance with the Receivership Order, (c) authorizing the Receiver to enter into the Agreement, and (d) granting such other and further relief as the Court deems just and proper.

CERTIFICATION OF CONFERENCE WITH COUNSEL

The undersigned counsel for the Receiver certifies that she has conferred with counsel for the SEC and certifies that the SEC has no objection to the relief sought in the Motion.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 1, 2022, I electronically filed the foregoing document with the clerk of the Court using CM/ECF, and the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

By: /s/ Bernice C. Lee
Bernice C. Lee