

**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 TO APPROVE PAYMENT OF
HOLDBACK OF FEES FOR PROFESSIONALS**

Bernice C. Lee, as successor receiver (“Receiver”) over MJ Capital Funding, LLC (“MJ Capital”), MJ Taxes and More Inc. (“MJ Taxes,” and with MJ Capital, the “MJ Defendants”), Pavel Ruiz MJCF LLC, and UDM Remodeling, LLC (collectively, the “Receivership Entities”),¹ files this Motion to Approve Payment of Holdback of Fees for Professionals (the “Motion”).

Receiver’s Professionals and Holdback of Fees

Relevant to this Motion, pursuant to court orders, the Receiver hired: (a) the law firm of Kozyak Tropin & Throckmorton, LLP (“KTT”) to represent her in the performance of her duties [DE 35], (b) the forensic accounting firm of KapilaMukamal, LLP (the “Accountant”) to review, reconstruct, and analyze the Receivership Entities’ financial records and provide additional accounting services [DE 35], and (c) Stretto, Inc. (the “Claims Agent”) as a consultant and service provider to assist with the claims process [DE 117]. The Receiver, her counsel, and accountants agreed to substantial discounts from their usual hourly rates in connection with this

¹ The Court entered an Order appointing Bernice Lee as the successor receiver over the Receivership Entities on May 22, 2023 [DE 203].

engagement. The Receiver and her firm are billing at hourly rates of \$150-\$350, compared to usual hourly rates of \$285-\$1,050. The Receiver's accountants are billing at hourly rates of \$170-\$350, compared to usual hourly rates of \$170-\$690. Stretto has also discounted its hourly rates.

The Receiver filed 15 interim fee applications that sought approval of 100% of fees for professionals, payment of 80% of the approved amount and a 20% holdback [DE 107, 114, 133, 149, 167, 177, 202, 211, 221, 227, 234, 245, 271, 280, and 292], and the Court entered orders granting the fee applications, approving 100% of the fees and providing for a 20% holdback [DE 118, 126, 145, 155, 191, 195, 205, 212, 226, 228, 235, 246, 272, 281, 293]. A summary of the approved amounts and 20% holdback amounts is below:

Docket Entries for Fee Applications, Orders	Receiver - Approved and Holdback Amounts		KTT - Approved and Holdback Amounts		KapilaMukamal - Approved and Holdback Amounts		Stretto - Approved and Holdback Amounts	
	Approved	20% Holdback	Approved	20% Holdback	Approved	20% Holdback	Approved	20% Holdback
First [107, 118]	65,800.00	13,160.00	308,530.00	61,706.00	254,279.00	50,855.80	N/A	N/A
Second [114, 126]	13,475.00	2,695.00	120,515.00	24,103.00	166,219.00	33,243.80	N/A	N/A
Third [133, 145]	16,590.00	3,318.00	151,955.00	30,391.00	198,181.00	39,636.20	25,875.60	5,175.12
Fourth [149, 155]	17,430.00	3,486.00	131,265.00	26,253.00	120,016.00	24,003.20	401,438.40	80,287.68
Fifth [167, 191]	18,095.00	3,619.00	223,270.00	44,654.00	14,179.00	2,835.80	139,173.60	27,834.72
Sixth [177, 195]	6,615.00	1,323.00	279,890.00	55,978.00	22,600.00	4,520.00	2,130.00	426.00
Seventh [202, 205]	4,340.00	868.00	218,665.00	43,733.00	4,523.00	904.60	9,024.00	1,804.80
Eighth [211, 212]	48,405.00	9,681.00	75,660.00	15,132.00	2,782.00	556.40	2,384.00	476.80
Ninth [221, 226]	75,950.00	15,190.00	21,100.00	4,220.00	4,402.00	880.40	431.20	86.24
Tenth [227, 228]	87,745.00	17,549.00	37,125.00	7,425.00	28,653.00	5,730.60	2,317.20	463.44
Eleventh [234, 235]	55,125.00	11,025.00	27,405.00	5,481.00	16,595.00	3,319.00	2,454.40	490.88
Twelfth [245, 246]	54,180.00	10,836.00	28,595.00	5,719.00	2,886.00	577.20	3,422.40	684.48
Thirteenth [271, 272]	64,015.00	12,803.00	31,000.00	6,200.00	1,228.00	245.60	1,498.00	299.60
Fourteenth [280, 281]	61,005.00	12,201.00	56,630.00	11,326.00	20,071.00	4,014.20	828.80	165.76
Fifteenth [292, 293]	93,205.00	18,641.00	79,885.00	15,977.00	9,014.00	1,802.80	2,294.00	458.80
TOTALS		136,395.00		358,298.00		173,125.60		118,654.32

Request for Payment of Holdback of Fees

The Receiver and her professionals have provided substantial services to the receivership estate, including: (a) conducting an extensive claims review and reconciliation process that reduced the claims pool by \$74,087,382 in asserted claims, and accounted for \$12,420,473 in

payments received by claimants that had not been disclosed in their claim; (b) issuing initial distribution checks totaling over \$11.8 million dollars to over 6,100 investors under a pro rata rising tide analysis approved by the Court, which brought the recovery rate for all investors with allowed claims to 21.397% [DE 279, 288], and of the \$11.8 million in issued checks, as of October 1, 2025, investors have deposited checks totaling more than \$10.5 million dollars; (c) recovering more than \$22 million dollars consisting of funds from third parties who received improper transfers from the MJ Defendants and assets of the Receivership Entities; and (d) working with an investor class to obtain a \$26.625 million settlement with Wells Fargo Bank.

As of October 1, 2025, the receivership estate has unencumbered funds totaling more than \$8.7 million dollars, and the MJ Capital Wells Fargo Settlement Fund has funds totaling more than \$21.1 million dollars.

The Receiver seeks to pay the 20% holdback from the first through fifteenth fee applications totaling the following amounts: (a) \$136,395 to the Receiver, (b) \$358,298 to KTT as counsel for the Receiver, (c) \$173,125.60 to the Accountant, and (d) \$118,654.32 to the Claims Agent. As described above, the receivership estate and MJ Capital Wells Fargo Settlement Fund have accumulated significant funds to distribute to investors, the Court has approved the distribution plan, and the Receiver has issued over \$11.8 million dollars in initial distribution checks.

Counsel for the Securities and Exchange Commission (“SEC”) has advised the Receiver that the SEC has no objection to the Receiver seeking to pay the 20% holdback from all prior fee applications. The Receiver proposes that the holdback fees be paid from the funds currently held in the Receiver’s account.

Memorandum of Law

The Court has already approved 100% of the Receiver and her professionals' fees in the prior orders granting the first through fifteenth fee applications. The invoices relating to the 20% holdback amounts are attached as exhibits to the prior fee applications and the services rendered are reflected in the invoices.

The Receiver and her professionals are entitled to reasonable compensation and reimbursement of expenses pursuant to the Receivership Order. A receiver appointed by a court who reasonably and diligently discharges her duties is entitled to be fairly compensated for services rendered and expenses incurred. *See SEC v. Byers*, 590 F. Supp. 2d 637, 644 (S.D.N.Y. 2008); *see also SEC v. Elliott*, 953 F.2d 1560 (11th Cir. 1992) (“[I]f a receiver reasonably and diligently discharges his duties, he is entitled to compensation.”). Receivership courts have traditionally determined reasonableness of compensation by using the “lodestar” approach, calculating a reasonably hourly rate in the relevant market and the reasonable number of hours expended. *See, e.g., SEC v. Aquacell Batteries, Inc.*, Case No. 6:07-cv-608-Orl-22DAB, 2008 WL 276026, *3 (M.D. Fla. Jan. 31, 2008); *see also Norman v. Hous. Auth. of Montgomery*, 836 F.2d 1292, 1299-1302 (11th Cir. 1988). The hourly rates billed by the Receiver and her professionals are reasonable for professionals practicing in the Southern District of Florida, particularly in light of the reduced hourly rates described above, and the services were reasonably necessary to the Receiver’s performance of her duties as set forth in the Receivership Order.

WHEREFORE, Bernice C. Lee, as Receiver, respectfully requests that the Court enter an Order, substantially in the same form as the proposed order attached hereto as **Exhibit A**, authorizing payment of the 20% holdback of fees for the Receiver and her professionals from the first through fifteenth fee applications in the following amounts: (a) \$136,395 to the Receiver;

(b) \$358,298 to Kozyak, Tropin & Throckmorton LLP as counsel for the Receiver; (c) \$173,125.60 to KapilaMukamal, LLP; and (d) \$118,654.32 to Stretto, Inc.

CERTIFICATION OF CONFERENCE

The Receiver has discussed the relief requested herein with the SEC and is authorized to represent to this Court that, after reviewing the time records and other materials submitted herewith, the SEC does not oppose the relief sought in this Motion.

Respectfully submitted,

By: /s/ Bernice C. Lee

Bernice C. Lee

Receiver for the Receivership Entities

KOZYAK TROPIN & THROCKMORTON, LLP

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Coral Gables, Florida 33134

Tel: (305) 372-1800 / Fax: (305) 372-3508

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Florida Bar No. 0073535

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the clerk of the Court using CM/ECF, and the foregoing document has been served this 18th day of November, 2025: (i) via CM/ECF upon all counsel of record; (ii) via electronic mail on Johanna M. Garcia (johannaredondo@yahoo.com); and (iii) via first class U.S. mail on Johanna M. Garcia, 7814 S.W. 8 Court, North Lauderdale, Florida 33068.

By: /s/ Bernice C. Lee

Bernice C. Lee

EXHIBIT A

**UNITED STATES DISTRICT COURT
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SECURITIES AND EXCHANGE COMMISSION,

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v.

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

Defendants.

ORDER

THIS CAUSE is before the Court upon the Receiver's Motion to Approve Payment of Holdback of Fees for Professionals (DE []). In the instant motion, Bernice C. Lee, as Receiver (the "Receiver"), over MJ Capital Funding, LLC, MJ Taxes and More Inc., Pavel Ruiz MJCF LLC and UDM Remodeling, LLC, seeks authority to pay the 20% holdback of fees for professionals from the first through fifteenth fee applications, (DE [107]), (DE [114]), (DE [133]), (DE [149]), (DE [167]), (DE [177]), (DE [202]), (DE [211]), (DE [221]), (DE [227]), (DE [234]), (DE [245]), (DE [271]), (DE [280] and (DE [292]), and states that the Receiver has issued initial distribution checks totaling over \$11.8 million dollars to over 6,100 investors under the pro rata rising tide analysis approved by the Court (DE [288]), and as of October 1, 2025, investors have deposited initial distribution checks totaling more than \$10.5 million dollars. The Receiver further states that as of October 1, 2025, the receivership estate has unencumbered funds totaling more than \$8.7 million dollars, and the MJ Capital Wells Fargo Settlement Fund has funds totaling more than \$21.1 million dollars.

The Court previously found that the fees represent actual and necessary expenses incurred in the performance of the Receiver's duties, (DE [118]), (DE [126]), (DE [145]), (DE [155]), (DE [191]), (DE [195]), (DE [205]), (DE [212]), (DE [226]), (DE [228]), (DE [235]), (DE [246]), (DE [272]), (DE [281]) and (DE [293]), for which the Receiver and her professionals are entitled to compensation pursuant to the Order Appointing Receiver (DE [17]) and (DE [79]). Having considered the motion, the record, and finding good cause exists, it is hereby

ORDERED AND ADJUDGED as follows:

1. The Receiver's Motion to Approve Payment of Holdback of Fees for Professionals (DE []) is **GRANTED**.
2. The Receiver is authorized to pay the 20% holdback of approved fees from the assets held by the Receivership Estate as follows: (a) \$136,395 to the Receiver, (b) \$358,298 to Kozyak, Tropin & Throckmorton LLP as counsel for the Receiver (c) \$173,125.60 to KapilaMukamal, LLP, and (d) \$118,654.32 to Stretto, Inc.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this ____ day of _____, 2025.

RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished to counsel of record via CM/ECF