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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

ZACHARY J. HORWITZ and 1inMM  
CAPITAL, LLC,

Defendants.

Case No. 2:21-cv-02927-CAS-PD

**NOTICE OF MOTION AND  
UNOPPOSED MOTION OF  
RECEIVER MICHELE VIVES FOR  
ORDER CLARIFYING CLAIMS  
PROCEDURES ORDER**

Date: May 12, 2025  
Time: 10:00 a.m. PT  
Judge: Hon. Christina A. Snyder  
Courtroom: 8D

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, on May 12, 2025, at 10:00 a.m., or as soon thereafter as the matter may be heard in Courtroom 8D, located at the United States Courthouse, 350 West First Street, Los Angeles, California 90012, Michele Vives, not individually, but solely as the federal equity receiver of defendant 1inMM Capital, LLC and its subsidiaries, affiliates and over the assets more particularly described in the *Order on Appointment of Permanent Receiver*, dated January 14, 2022 [ECF #70], will and hereby does move the Court for entry of an order (the “Motion”) clarifying the *Order (1) Approving Procedures for the Administration of Claims Against the Receivership Estate, (2) Setting Bar Date and (3) Approving Claims Bar Date Notice and Proof of Claim Form*, dated January 9, 2025 [ECF #397] (the “Claims Procedures Order”).

The Motion is based on the Memorandum of Points and Authorities below and is supported by the *Declaration of Michele Vives*, dated April 10, 2025 (the “Vives Decl.”), copy attached as **Exhibit 1**.

This Motion is made following the Local Rule 7-3 conference of counsel which took place on April 2 and 9, 2025. **No party requests a hearing on the Motion.**

Dated: April 10, 2025

Respectfully submitted,

**KATTEN MUCHIN ROSENMAN LLP**

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**MEMORANDUM OF POINTS AND AUTHORITIES**

Michele Vives, the duly appointed permanent receiver (the “Receiver”) of 1inMM Capital, LLC and its subsidiaries and affiliates (“1inMM”), and over assets that are attributable to funds derived from investors or clients of the above-captioned defendants or were fraudulently transferred by the defendants (collectively, the “Estate”), by and through her counsel, hereby respectfully moves this Court for an order clarifying the Claims Procedures Order, as follows:

**Introduction**

In the Claims Procedures Order, the Court approved the Receiver’s proposed claims procedures, set a claims bar date and approved various forms associated therewith. In receivership cases with victim-investors, like this one, the claims process is a critical step to determine who may assert claims against the estate, in what amounts and for what reason. In her claims procedures motion, the Receiver proposed to send claims-related notices and claim forms to “prospective investor claimants,” but did not define who is or is not a prospective claimant.

As the Receiver has explained previously in her quarterly reports and settlement motions, 1inMM largely raised money indirectly, using intermediary feeder funds that the Receiver has referred to as “aggregators.” The Receiver’s extensive forensic accounting work, as described herein, demonstrates that the aggregators themselves were not investors in the 1inMM Ponzi scheme, but rather pass-throughs for their respective constituent investors. The Claims Procedures Order does not address how aggregators should be treated in the claims process.

Because the aggregators were mere conduits who transferred funds in and out of the 1inMM Ponzi scheme for the benefit of their respective constituent investors, the Receiver now asks the Court to clarify the Claims Procedures Order to authorize the Receiver to disregard aggregators in calculating net losses and determining the holders of allowed net loss claims. The Receiver bases this request principally on

1 her forensic accounting work, her review of the aggregators' agreements with  
2 investors and 1inMM and her understanding of applicable legal principles.

3 Recognizing that some aggregators may not agree with this proposed  
4 treatment (or may assert that they are not aggregators at all), the Receiver is giving  
5 notice of this Motion to all known or potential aggregators and inviting them to raise  
6 their unique issues with the Receiver. The Receiver expects to resolve many—if not  
7 all—of those potential objections on a case-by-case basis. However, to the extent  
8 that an aggregator does not object by the Objection Deadline (as defined below) to  
9 the treatment the Receiver proposes by this Motion, the Receiver asks the Court to  
10 grant the Motion and authorize the Receiver to disregard that aggregator in  
11 determining who holds allowed net loss claims against the Estate.

## 12 **Factual Background**

### 13 **A. The 1inMM Ponzi Scheme and appointment of the Receiver**

14 On April 5, 2021, the SEC commenced this action against Zachary J. Horwitz  
15 (“Horwitz”) and 1inMM (together, the “Defendants”), alleging that they committed  
16 an offering fraud and Ponzi scheme in violation of the federal securities laws (the  
17 “1inMM Ponzi Scheme”). Specifically, the SEC alleged that, since at least March  
18 2014 and continuing until at least December 2019, Defendants raised over \$690  
19 million from investors by selling promissory notes issued by 1inMM using  
20 fabricated agreements and fake emails with prominent third-party companies with  
21 whom Defendants had no actual business relationship.

22 Defendants represented to potential investors that the purpose of the offering  
23 was to finance 1inMM's acquisition and licensing of distribution rights in specific  
24 movies to major media companies, such as Netflix and Home Box Office (“HBO”).  
25 To induce investors to purchase 1inMM's promissory notes, Horwitz made various  
26 false and misleading statements about his experience and the involvement of major  
27 media corporations like Netflix and HBO as his “Strategic Partner[s],” and showed  
28 potential investors falsified documents and communications to make his statements



1 more believable. The reality, however, was that Defendants had no relationship with  
2 those corporations, and had never licensed any movie rights to any company.  
3 Instead, Horwitz used investor funds to pay purported returns on previous  
4 investments, as well as to spend lavishly on his lifestyle.

5 On January 14, 2022, the Court appointed the Receiver pursuant to the *Order*  
6 *on Appointment of Permanent Receiver*, dated January 14, 2022 [ECF #70].

7 **B. The Receiver’s forensic accounting work**

8 In connection with her duties, the Receiver and her staff conducted a  
9 comprehensive forensic accounting analysis of the financial transactions involving  
10 1inMM, Horwitz, their respective insiders and affiliates, as well as third parties who  
11 received transfers from Defendants. (Vives Decl. ¶ 5.) The Receiver determined that,  
12 throughout the duration of the 1inMM Ponzi Scheme, 1inMM engaged in tens of  
13 thousands of transactions totaling over \$750 million. (*Id.*)

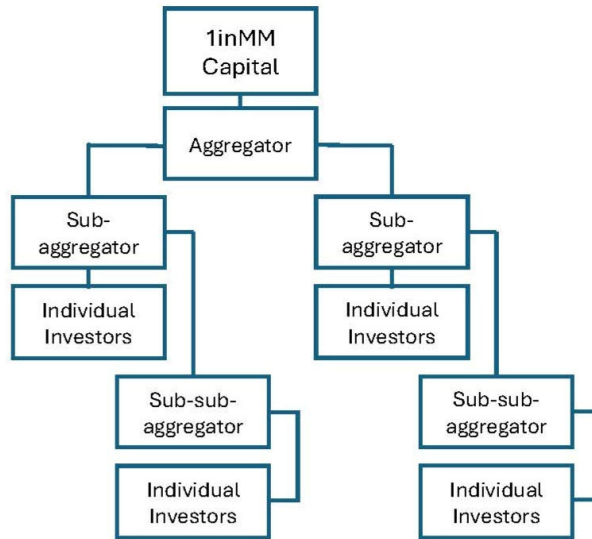
14 As there were no accounting records, the Receiver had no choice but to  
15 reconstruct 1inMM’s transaction history from scratch. (*Id.* ¶ 6.) The forensic  
16 accounting analysis has been a fundamental element of maximizing the Estate’s  
17 recovery, as it has enabled the Receiver to determine who may be liable to the Estate  
18 for receiving fraudulent transfers, identify previously unknown assets, and obtain  
19 information about 1inMM’s investors. (*Id.*)

20 Obtaining information about 1inMM’s investors—including the amounts  
21 each investor invested into and received from the 1inMM Ponzi Scheme—is  
22 particularly important, as this information serves as the basis for the Receiver’s  
23 determined claim amount for each investor and will be an integral part of the claims  
24 process (discussed in more detail below). (*Id.* ¶ 7.) The forensic accounting,  
25 therefore, will be a foundational part of ensuring that accurate claim amounts are  
26 accepted on behalf of the Estate. (*Id.*)



### C. The role of Aggregators in the 1inMM Ponzi Scheme

As the Receiver has reported previously, Horwitz generally operated the 1inMM Ponzi Scheme on a feeder fund model. (*Id.* ¶ 8.) In the context of a Ponzi scheme, the typical “feeder fund” is an investment vehicle that channels money from investors directly into the Ponzi scheme itself, essentially acting as a conduit to funnel funds to the fraudulent operator, allowing the operator to pay returns to earlier investors with money from new investors, thus perpetuating the scheme. (*Id.*) The Receiver has usually referred to such feeder funds as “aggregators.” (*Id.*) Certain feeder funds in a Ponzi scheme can also channel money from investors into one or more aggregators higher up the “chain” for eventual upstream investment in the fraudulent operator. (*Id.*) Here, the Receiver has usually referred to such feeder funds as “sub-aggregators” or “sub-sub-aggregators,” depending on how many levels removed they were from 1inMM. (*Id.*) In the 1inMM Ponzi Scheme, the aggregator model can be illustrated as follows:



(*Id.*)

Here, the Receiver determined that the 1inMM Ponzi Scheme ultimately involved 38 aggregators, sub-aggregators and sub-sub-aggregators (collectively, the “Aggregators”). (*Id.* ¶ 9.) A list of the Aggregators is attached as **Exhibit A** to the

1 Vives Declaration.<sup>1</sup> The Receiver has analyzed each Aggregator’s relationship with  
2 1inMM by, among other things, reviewing the applicable promissory notes, investor  
3 agreements and related documents and performing a detailed forensic accounting  
4 analysis of their financial transactions with 1inMM and their constituent  
5 investors/lenders. (*Id.* ¶ 10.)

6 The Receiver’s forensic accounting analysis indicated that the Aggregators,  
7 in fact, operated as pass-throughs (or “conduits”) for their respective investors’  
8 investments in 1inMM. (*Id.* ¶ 11) Put differently, the Aggregators simply passed  
9 money they received (or aggregated) from their investors up the chain to 1inMM,  
10 and then returned money from 1inMM (i.e., returned capital and profits) down the  
11 chain to their constituent investors. (*Id.*) It does not appear to the Receiver that any  
12 Aggregators held back or retained any substantial amount of money at the aggregator  
13 level for trading on their own accounts or for any other discernible purpose. (*Id.*)

14 This analysis generally demonstrates that the Aggregators collected money  
15 from their constituent lenders/investors, then loaned it to (or invested in) 1inMM in  
16 bulk sums for supposed particular film projects. (*Id.* ¶ 12.) 1inMM later repaid the  
17 loans with interest (or repaid the invested capital with a return) to the Aggregator,  
18 which then distributed those funds in the appropriate individualized amounts to its  
19 constituent lenders/investors. (*Id.*) The Receiver, therefore, concluded that the  
20 Aggregators generally functioned purely as pass-throughs/conduits for the investors,  
21 as opposed to functioning as investors themselves. (*Id.*)

22 The Receiver also observed that Aggregators (including the various sub-  
23 Aggregators) usually entered into some form of agreement, promissory note or other  
24

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25  
26  
27 <sup>1</sup> In compiling this list of Aggregators, the Receiver excluded entities which she has confirmed  
28 served as vehicles for an individual to invest in (or loan to) 1inMM, but did not aggregate money  
on behalf of multiple investors. To the extent the Receiver could not determine whether an entity  
aggregated investments for multiple individuals, she included it in the list of Aggregators. (*Id.*)

undertaking regulating various aspects of the investment/loan as to each supposed individual film project with (a) their constituent investors/lenders as well as (b) their upstream Aggregator (or, in the case of the Aggregators in the highest position of the “chain,” with 1inMM). (*Id.* ¶ 13.) These agreements varied in form and content from Aggregator to Aggregator. (*Id.*) The Receiver has not attempted to obtain copies of all such agreements from every Aggregator, as she does not believe it would be worthwhile to subpoena, review and analyze all such agreements. (*Id.*) For one thing, given the sheer number of Aggregators, this would be an administratively burdensome, time-consuming and costly endeavor. (*Id.*) But even more importantly, the Receiver’s forensic accounting work summarized above clearly indicates that the Aggregators, in practice, functioned as pass-throughs no matter what the written agreements might have said. (*Id.*)

In any event, as Horwitz himself admitted in his plea agreement, 1inMM did not use the investors’ funds as promised pursuant to any agreement. [ECF #45 at 12] And that was true regardless of whether that agreement was between (a) 1inMM and an Aggregator, (b) an Aggregator and a sub-Aggregator or (c) an Aggregator (or sub-Aggregator) and its constituent investors/lenders. (Vives Decl. ¶ 14.) Horwitz further admitted that, rather than using the investors’ funds to finance 1inMM’s acquisition and licensing of distribution rights in specific movies, 1inMM instead used those funds to make payments to prior investors, maintain 1inMM’s façade of legitimate operations and otherwise finance Horwitz’s lavish personal lifestyle. [ECF #45 at 12] As a result, even if an individual investor did not have a direct contractual relationship with 1inMM, any agreement the investor had with an Aggregator or sub-Aggregator was part of a larger series of agreements feeding up to 1inMM, which ultimately perpetuated the fraud and caused direct injury to the investor. (Vives Decl. ¶ 14.)

For purposes of the claims process, then, the Receiver believes that 1inMM’s individual investors/lenders—and not the Aggregators—are the only persons and

1 entities who should be permitted to assert net loss claims against the Estate. (*Id.* ¶  
2 15.) However, disregarding the Aggregators for claims allowance purposes is not  
3 intended to impact any other aspect of the Estate or any claims pursued by the  
4 Receiver for avoidance of fraudulent transfers, particularly where the Aggregators  
5 may have paid and received funds from 1inMM on behalf of the individual investors.  
6 (*Id.*) The purpose of this Motion, instead, is to eliminate duplicate claims by the  
7 Aggregators against the Estate for funds they paid into the 1inMM Ponzi Scheme on  
8 behalf of their respective individual constituent investors. (*Id.*)

9 **D. The Claims Procedures Order**

10 On December 20, 2024, the Receiver filed a motion to approve her proposed  
11 claims procedures, set a claims bar date and approve various forms associated  
12 therewith (the “Claims Procedures Motion”). [ECF #389] As the Receiver explained  
13 in the Claims Procedures Motion, the claims process is an integral step in  
14 determining and confirming the full scope of losses incurred by victims of the  
15 1inMM Ponzi Scheme, the ultimate goal of which is to reach an approved list of  
16 allowed claims as efficiently as possible, while also providing claimants an  
17 opportunity to be heard as to their respective claim amounts. [ECF #389 at 2]

18 Among other things, the Receiver proposed to send a Claims Notice Package  
19 (as defined in the Claims Procedure Motion) to “all prospective investor and non-  
20 investor claimants via email and United States Mail.” (*Id.* at 6.) At several points in  
21 the Claims Procedures Motion, the Receiver referred to the prospective claimants as  
22 the individual investors, not the Aggregators. (*Id.* at 2, 6.) The Receiver did not,  
23 however, expressly define who is or is not a prospective claimant, nor did she  
24 address how she intended to treat the Aggregators in the claims process.

25 On January 9, 2025, the Court entered an order granting the Claims  
26 Procedures Motion (i.e., the Claims Procedures Order). [ECF #397] Like the Claims  
27 Procedures Motion, the Claims Procedures Order did not define who is or is not a  
28

prospective claimant, nor did it address how the Receiver should treat the Aggregators in the claims process.

**E. Proposed definitions of “Aggregator,” “Investor,” “Conduit,” “Net Losses” and “Net Loss Claim”**

In light of the foregoing, the Receiver believes it is necessary and appropriate to clarify the Claims Procedures Order to address, using precise definitions, how she should treat Aggregators. (Vives Decl. ¶ 16.) The Receiver proposes that the Court use the following definitions in the order granting this Motion:<sup>2</sup> (*Id.*)

**1. “Aggregator”**

The term “Aggregator” means: (i) the entities listed on Exhibit A to Exhibit 1 to the Motion; or (ii) any other person or entity that the Receiver determines (A) pooled or accumulated funds it received from multiple Investors or other Aggregators, irrespective of whether such transactions were characterized as loans or investments, and (B) functioned as a Conduit to funnel such funds, either directly or indirectly, to and from 1inMM.

**2. “Conduit”**

The term “Conduit” has the meaning ascribed to it in *In re Walldesign, Inc.*, 872 F.3d 954 (9th Cir. 2017), *In re Incomnet, Inc.*, 463 F.3d 1064 (9th Cir. 2006), and similar decisions.<sup>3</sup>

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<sup>2</sup> As used in this Motion, these capitalized terms have the meanings ascribed to them in this section.

<sup>3</sup> As the Receiver has explained previously [*See, e.g.*, ECF #301 at 10-11; ECF #235 at 10-11], *Walldesign* and *Incomnet* are the leading decisions of the Ninth Circuit regarding the conduit issue. In these cases, the Ninth Circuit held that the “dominion test” applies to determine if a transfer recipient is a transferee or a mere conduit, which generally turns on whether the recipient had the ability “to freely appropriate the transferred funds.” *Walldesign*, 872 F.3d at 963.

1                   **3. “Investor”**

2           The term “Investor” means any person or entity that the Receiver determines  
3 sent funds to or received funds from 1inMM either directly or indirectly through one  
4 or more Aggregators but was not itself an Aggregator.

5                   **4. “Net Losses”**

6           The term “Net Losses” means a debt resulting from a claimant paying more  
7 into the 1inMM Ponzi Scheme than 1inMM returned to the claimant, whether  
8 directly or indirectly through an Aggregator, as calculated by the Receiver using the  
9 net investment method.

10                   **5. “Net Loss Claim”**

11           The term “Net Loss Claim” means a claim asserted against the Estate for Net  
12 Losses.

13                                   **Legal Standards**

14                   **A. Clarification of prior orders**

15           “The general purpose of a motion for clarification is to explain or clarify  
16 something ambiguous or vague, not to alter or amend.” *Yellow Rose Prods., Inc. v.*  
17 *Pandora Media, LLC*, No. 2:22-CV-809-MCS-MAR, 2023 WL 6932560, at \*2  
18 (C.D. Cal. Sept. 29, 2023) (quoting *United States v. All Assets Held at Bank Julius,*  
19 *Baer & Co.*, 315 F. Supp. 3d 90, 99 (D.D.C. 2018)). “A court may interpret and  
20 explain [an order] to guide the parties without express reliance on any particular  
21 statute or rule.” *Yellow Rose Prods.*, 2023 WL 6932560, at \*2 (quoting *In re Fontem*  
22 *US, Inc. Consumer Class Action Litig.*, No. SACV 15-01026-JVS-RAOX, 2017 WL  
23 10402988, at \*2 (C.D. Cal. Mar. 8, 2017)).

24           A district court may, for example, exercise its discretion to clarify a prior order  
25 “to reflect the implications of the original order and to ensure that the purpose is  
26 fully implemented and executed.” *Parker v. Alexander Marine Co. Ltd.*, No. SA CV  
27 12-1994-DOC (JCGX), 2019 WL 13551512, at \*1 (C.D. Cal. Mar. 18, 2019). One  
28 way courts provide such clarification is by defining the meaning of words used in a



1 prior order. *See, e.g., 2ONE Labs Inc. v. ITG Brands, LLC*, No. CV 24-08124-MWF  
2 (Ex), 2025 WL 506314, at \*1 (C.D. Cal. Jan. 16, 2025).

3 In any event, because the Claims Procedure Order is interlocutory in nature,  
4 the Court “possesses the inherent procedural power to reconsider, rescind, or modify  
5 [it] for cause seen by [the Court] to be sufficient.” *City of Los Angeles, Harbor Div.*  
6 *v. Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir. 2001) (emphasis removed);  
7 *see also* Fed. R. Civ. P. 54(b) (providing that interlocutory orders “may be revised  
8 at any time before the entry of a judgment”). So there is no question that the Court  
9 has the power to grant the relief the Receiver requests.

10 **B. The Court’s wide discretion and equitable power in receiverships**

11 District courts have “extremely broad” power and “wide discretion” in  
12 overseeing the administration of a receivership. *Sec. & Exch. Comm’n v. Peterson*,  
13 129 F.4th 599, 608 (9th Cir. 2025); *Sec. & Exch. Comm’n v. Hardy*, 803 F.2d 1034,  
14 1037 (9th Cir. 1986); *Sec. & Exch. Comm’n v. Wells Fargo Bank, N.A.*, 848 F.3d  
15 1339, 1343-44 (11th Cir. 2017). “The power of a district court to impose a  
16 receivership or grant other forms of ancillary relief does not in the first instance  
17 depend on a statutory grant of power from the securities laws. Rather, the authority  
18 derives from the inherent power of a court of equity to fashion effective relief.” *Sec.*  
19 *& Exch. Comm’n v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980). These broad  
20 powers include “the power to establish proof of claim procedures and set an effective  
21 claims bar date.” *Wells Fargo Bank*, 848 F.3d at 1344.

22 A court imposing a receivership assumes custody and control of all assets and  
23 property of the receivership, and it has broad equitable authority to issue all orders  
24 necessary for the proper administration of the receivership estate. *See, e.g., Sec. &*  
25 *Exch. Comm’n v. Credit Bancorp Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002); *Liberte*  
26 *Cap Grp. v. Capwill*, 854 F. Supp. 2d 478, 483 (N.D. Ohio 2012). The Ninth Circuit  
27 in particular “affords broad deference to the [district] court’s supervisory role” in  
28 receivership cases, and “generally uphold[s] reasonable procedures instituted by the



1 district court that serve th[e] purpose of orderly and efficient administration of the  
2 receivership for the benefit of creditors.” *Commodity Futures Trading Comm’n v.*  
3 *Topworth Int’l, Ltd.*, 205 F.3d 1107, 1115 (9th Cir. 1999) (cleaned up; quotations  
4 and citations omitted). Such procedures must be “practicable as well as equitable.”  
5 *Hardy*, 803 F.2d at 1039 (citations omitted).

6 Accordingly, “[o]nce assets are placed in receivership, a district court’s  
7 equitable purpose demands that the court be able to exercise control over claims  
8 brought against those assets.” *See, e.g., Sec. & Exch. Comm’n v. Champion-Cain*,  
9 No. 19-CV-1628-LAB-AHG, 2023 WL 2215955, at \*8 (S.D. Cal. Feb. 24, 2023)  
10 (quoting *Liberte v. Cap. Grp., LLC v. Capwill*, 462 F.3d 543, 551 (6th Cir. 2009)).  
11 “One of the primary purposes of equitable jurisdiction in the context of equity  
12 receiverships [is] to allow for the district court’s orderly and efficient administration  
13 of an estate to which numerous creditors have competing claims for the benefit of  
14 creditors.” *Champion-Cain*, 2023 WL 2215955, at \*8 (citing *Hardy*, 803 F.2d at  
15 1038) (cleaned up). A district court thus has broad discretion to control claims in an  
16 equity receivership involving “multiple parties and complex transactions.” *Hardy*,  
17 803 F.2d at 1037.

18 Finally, Local Rule 66-8 directs a receiver to “administer the estate as nearly  
19 as possible in accordance with the practice in the administration of estates in  
20 bankruptcy.” Accordingly, district courts sitting in receivership may look to  
21 bankruptcy law for guidance about the administration of a receivership. *See, e.g.,*  
22 *Sec. & Exch. Comm’n v. Cap. Consultants, LLC*, 397 F.3d 733, 745 (9th Cir. 2005)  
23 (bankruptcy law “analogous” and therefore persuasive in administration of  
24 receivership estates); *Wells Fargo Bank*, 848 F.3d at 1344 (“bankruptcy law is both  
25 analogous and instructive” with respect to receivership administration issues). This  
26 is largely because “the purpose of bankruptcy receiverships and equity receiverships  
27 is essentially the same—to marshal assets, preserve value, equally distribute to  
28 creditors, and, either reorganize, if possible, or orderly liquidate.” *Sec. & Exch.*

1 *Comm’n v. Stanford Int’l Bank, Ltd.*, 927 F.3d 830, 841 (5th Cir. 2019) (internal  
2 citation and quotations omitted).

3 **C. Appropriateness of summary proceedings**

4 A district court overseeing a receivership has “the general power to use  
5 summary procedure in allowing, disallowing, and subordinating claims of creditors”  
6 and, more broadly, in “determin[ing] appropriate relief in equity receivership.”  
7 *Hardy*, 803 F.2d at 1040 (quoting *United States v. Ariz. Fuel Corp.*, 739 F.2d 455,  
8 458 (9th Cir. 1984)). Resolving claim disputes via summary proceedings is “a  
9 reasonable and practicable attempt to administer the receivership” that “promotes  
10 judicial efficiency and reduces litigation costs to the receivership.” *Hardy*, 803 F.2d  
11 at 1040 (citations omitted); *see also Ariz. Fuel Corp.*, 739 F.2d at 460 (“A summary  
12 proceeding reduces the time necessary to settle disputes, decreases litigation costs,  
13 and prevents further dissipation of receivership assets.”); *Sec. & Exch. Comm’n v.*  
14 *Wencke*, 783 F.2d 829, 836-38 (9th Cir. 1986) (approving summary proceedings to  
15 adjudicate claims on receivership assets); *Sec. & Exch. Comm’n v. Universal Fin.*,  
16 760 F.2d 1034, 1037 (9th Cir. 1985) (same, and finding “distinction between  
17 summary and plenary proceedings” to be “of no consequence” where “district court  
18 offered [i]nvestors virtually all of the procedural protections which would have been  
19 available in plenary proceedings”).

20 **Relief Requested**

21 Because the Aggregators functioned as pass-throughs, the Receiver believes  
22 they did not themselves suffer Net Losses as a result of the 1inMM Ponzi Scheme.  
23 (Vives Decl. ¶ 17.) Instead, the Receiver has concluded that the financial reality of  
24 the matter is that Investors who sent their money to the Aggregators for eventual  
25 upstream investment in/loans to 1inMM are the ones who actually incurred the Net  
26 Losses. (*Id.*) The Receiver therefore respectfully submits that it is appropriate for the  
27 Court to clarify the Claims Procedures Order as specified below. (*Id.*)  
28

1 In the exercise of its wide discretion, “district courts supervising receiverships  
2 have the power to classify claims sensibly[.]” *Sec. & Exch. Comm’n v. Wealth Mgmt.*  
3 *LLC*, 628 F.3d 323, 333 (7th Cir. 2010) (internal citations and quotations omitted).  
4 This includes defining what categories of persons or entities are eligible to file  
5 claims. *See, e.g., Sec. & Exch. Comm’n v. Titanium Blockchain Infrastructure*  
6 *Servs., Inc.*, No. 18-CV-4315 DSF (JPRX), 2020 WL 13669017, at \*1 (C.D. Cal.  
7 Aug. 21, 2020) (granting receiver’s motion to define classes of eligible claimants  
8 and to divide them into several categories); *U.S. Commodity Futures Trading*  
9 *Comm’n v. AlphaMetrix, LLC*, No. 13 C 7896, 2015 WL 13653006, at \*3 (N.D. Ill.  
10 Sept. 30, 2015) (approving receiver’s proposal to distinguish between investors and  
11 creditors for purposes of claims process); *U.S. Commodity Futures Trading Comm’n*  
12 *v. RFF GP, LLC*, No. 4:13-CV-382, 2014 WL 491639, at \*2 (E.D. Tex. Feb. 4, 2014)  
13 (similar), *adopted*, No. 4:13-CV-382, 2014 WL 994928 (E.D. Tex. Mar. 10, 2014);  
14 *Sec. & Exch. Comm’n v. Cobalt Multifamily Invs. I, Inc.*, No. 06 CIV. 2360 (KMW)  
15 (MHD), 2007 WL 9810931, at \*14 n.21 (S.D.N.Y. Dec. 30, 2007) (similar),  
16 *adopted*, 542 F. Supp. 2d 277 (S.D.N.Y. 2008).

17 Here, the claims process is an integral step in developing a comprehensive  
18 distribution plan for holders of Net Loss Claims and other creditors. (Vives Decl. ¶  
19 18.) The Receiver’s forensic accounting analysis will determine the preliminary  
20 value of prospective claims held by Investor claimants and any potential non-  
21 Investor claimants. (*Id.*) The streamlined claims process that the Court has approved  
22 uses the Receiver’s extensive accounting work as its foundation. (*Id.*) It will allow  
23 the Receiver and the Court to efficiently determine the appropriate claim amounts  
24 for all Investors and other prospective claimants, which is a key step towards being  
25 able to make a fair and equitable distribution of Estate funds. (*Id.*)

26 linMM’s extensive use of Aggregators, however, could potentially  
27 complicate and even frustrate the claims process. (*Id.* ¶ 19.) As discussed above, the  
28 Receiver’s forensic accounting work clearly indicates that the Aggregators in fact

1 functioned as pass-throughs for their constituent Investors. (*Id.*) But upon receiving  
2 the claims materials, Aggregator representatives are likely to file Net Loss Claims  
3 even though the Aggregator itself was literally just bundling other Investors' money  
4 and upstreaming it. (*Id.*) Such claims would be entirely duplicative of their  
5 constituent Investors' claims for the very same Net Losses. (*Id.*) Thus, dealing with  
6 Aggregator claims during the claims process will almost certainly result in an  
7 administrative burden on the Estate and a concomitant delay in the Receiver's  
8 completion of claims review and reconciliation. (*Id.*)

9 The Receiver, therefore, proposes that the Court adopt the definitions of  
10 "Aggregator," "Investors," "Conduit," "Net Losses" and "Net Loss Claim" set out  
11 above and clarify the Claims Procedures Order in two important respects:

12 First, by ordering that all references therein to "all prospective investor  
13 claimants" (and similar references) mean Investors, not Aggregators; and

14 Second, by authorizing the Receiver—in generally carrying out the Claims  
15 Procedures Order and specifically when calculating Net Losses and determining who  
16 holds Net Loss Claims, to disregard Aggregators (and any claim for Net Losses an  
17 Aggregator may file) and treat each Investor as if he, she or it had sent/received  
18 funds directly to/from 1inMM. Aggregators would, however, be permitted to assert  
19 a claim against the Estate for debts other than Net Losses.

20 The Receiver submits that clarifying the Claims Procedures Order in these  
21 ways is well within the Court's wide discretion and equitable power to supervise  
22 receiverships generally and claims processes therein specifically, and that doing so  
23 will "reflect the implications" of the Claims Procedures Order and "ensure that [its]  
24 purpose is fully implemented and executed." *Parker*, 2019 WL 13551512, at \*1.  
25 (Vives Decl. ¶ 20.) To be clear, the Receiver's request to disregard the Aggregators  
26 would apply to the claims process only and is not intended to impact any other aspect  
27 of the Estate (such as, for example, claims pursued by the Receiver for avoidance of  
28

1 fraudulent transfers, particularly where the Aggregators may have paid and received  
2 funds from 1inMM on behalf of the individual investors). (Vives Decl. ¶ 20.)

### 3 Objection Procedures

4 The Receiver recognizes that some Aggregators may disagree with her  
5 conclusion and wish to challenge it. (Vives Decl. ¶ 21.) The Receiver also  
6 understands and respects the importance of giving Aggregators reasonable notice  
7 and an opportunity to be heard on this issue. (*Id.*)

8 “[T]he rights of creditors of a receivership must be balanced against the need  
9 for expeditious administration of the receivership.” *Hardy*, 803 F.2d at 1039; *see*  
10 *also Sec. & Exch. Comm’n v. Torchia*, 922 F.3d 1307, 1319 (11th Cir. 2019) (“the  
11 need for expediency and a district court’s authority to utilize summary proceedings  
12 in receivership do not outweigh an investor’s right to due process”). To afford due  
13 process, summary proceedings, at minimum, “must provide affected investors with  
14 necessary information, a meaningful opportunity to argue the facts and their claims  
15 and defenses, and an adjudication of their claims and defense.” *Torchia*, 922 F.3d at  
16 1319; *see also Sec. & Exch. Comm’n v. Elliott*, 953 F.2d 1560, 1567 (11th Cir. 1992)  
17 (holding that “a district court does not generally abuse its discretion if its summary  
18 procedures permit parties to present evidence when the facts are in dispute and to  
19 make arguments regarding those facts”).

20 The Receiver, therefore, proposes to proceed as follows: The Receiver will,  
21 in addition to the usual notice parties, give notice of this Motion to all Aggregators  
22 listed on Exhibit A to her declaration. (Vives Decl. ¶ 22.)<sup>4</sup> An accompanying notice  
23 will, among other things:

24  
25  
26  
27 <sup>4</sup> Exhibit A contains the names of the Aggregators but not their last-known addresses. Out of  
28 respect for their privacy, the Receiver does not think it appropriate to make the Aggregators’  
addresses public. The Receiver maintains a list of the Aggregators’ last-known mailing (and, if  
known, e-mail) addresses and will provide it to the Court upon request. (Vives Decl. ¶ 22 n.1.)

1           • Explain that the Motion asks the Court to declare that Aggregators are  
2 not permitted to assert Net Loss Claims, and the Receiver is authorized to disregard  
3 them (and any Net Loss Claims that they may file) for purposes of calculating Net  
4 Losses and determining who is entitled to hold a Net Loss Claim, but that they will  
5 still be permitted to file a claim for debts other than Net Losses;

6           • Instruct the Aggregators that, if they wish to challenge the Receiver’s  
7 determination that they were pass-throughs (i.e., Conduits) as opposed to Investors  
8 themselves, they must file an objection to the Motion stating all factual and legal  
9 grounds therefor **no later than seven (7) days before the hearing date** (the  
10 **“Objection Deadline”**);

11           • State that failing to file an objection by the Objection Deadline may  
12 result in the Court granting the Motion with respect to the applicable Aggregators  
13 without a hearing; and

14           • Invite Aggregators to contact the Receiver’s office to ask questions  
15 and/or to present documents, information and any arguments that they wish the  
16 Receiver to consider to avoid filing a formal objection. (Vives Decl. ¶ 22.)

17           The Receiver will, of course, work with any Aggregators who respond to  
18 avoid objections and reach individualized solutions. (*Id.* ¶ 23.) However, to the  
19 extent that an Aggregator receives notice but neither contacts the Receiver nor files  
20 an objection with the Court or otherwise requests a hearing, then the Receiver will  
21 ask the Court to grant the Motion and authorize her to disregard the Aggregators  
22 (and any Net Loss Claims that they may file) in determining who may assert a Net  
23 Loss Claim against the Estate. (*Id.*)

24           This proposed procedure is a form of “negative notice” and summary  
25 procedures. Negative notice refers to a procedure by which a debtor or receiver  
26 advises a claimant that if he or she does not respond and request a hearing within a  
27 time certain, the Court may enter an order without further hearing. *See, e.g., In re*  
28 *Marinez*, 589 F.3d 772, 775 (5th Cir. 2009) (“‘negative notice’ is language



1 customarily used in bankruptcy cases to indicate if and when a response is due and  
2 the consequences of failing to file a response”). “Negative notices shift the burden  
3 to an interested party...to evaluate his claim and the debtor’s objections, and then  
4 make his own decision whether an evidentiary hearing would be helpful, and request  
5 a hearing, if desired.” *In re Pierce*, 435 F.3d 891, 892 (8th Cir. 2006). Negative  
6 notice procedures comply with procedural due process so long as they offer the  
7 claimant an opportunity to be heard. *See, e.g., Pierce*, 435 F.3d at 892 (negative  
8 notice satisfied due process where claimant received notice, which was clear, but  
9 claimant failed to request an evidentiary hearing); *In re Haffey*, No. 5:21-cv-323-  
10 MMH, 2022 WL 950645, at \*7 (M.D. Fla. Mar. 30, 2022) (similar).

11 Ninth Circuit courts have approved the use of summary procedures under  
12 similar circumstances. *See, e.g., Champion-Cain*, 2023 WL 2215955, at \*9 (finding  
13 summary proceedings “more than satisf[ied]” due process where investors received  
14 notice of proposed distribution plan over 90 days prior to hearing, had almost 60  
15 days to file objections, and had full and fair opportunity to present objections at  
16 hearing); *cf. Wencke*, 783 F.2d at 838 (rejecting creditors’ arguments that due  
17 process rights were violated where notice was provided just 19 days before summary  
18 proceeding in which disgorgement order was issued).

### 19 Conclusion

20 Based on her experience in complex federal equity receivership matters, her  
21 forensic accounting work performed to date in this case and 1inMM’s extensive use  
22 of Aggregators to perpetuate the 1inMM Ponzi Scheme, the Receiver believes that  
23 it is necessary and appropriate for the Court to clarify who may assert Net Loss  
24 Claims before the claims process begins in earnest. (Vives Decl. ¶ 24.) Because the  
25 Aggregators functioned as pass-throughs for end Investors of the 1inMM Ponzi  
26 Scheme, the Receiver recommends that the Court should use its wide discretion and  
27 broad equitable power to administer claims processes in receiverships to authorize  
28



her to disregard the Aggregators in calculating Net Losses and determining who holds Net Loss Claims. (*Id.*)

### **Notice to Creditors**

As noted above, the Receiver will give notice of this Motion to all Aggregators listed on Exhibit A to the Vives Declaration. The Receiver will also give notice to all known creditors of the Estate. (*Id.* ¶ 25.)

“Creditors are entitled to ‘notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’” *Perez v. Safety-Kleen Sys., Inc.*, 253 F.R.D. 508, 518 (N.D. Cal. 2008) (quoting *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306, 314 (1950)). “[D]ue process...is not a technical conception with a fixed content unrelated to time, place and circumstances[.]” *Grimm v. City of Portland*, 971 F.3d 1060, 1065 (9th Cir. 2020). Instead, “due process is flexible and calls for such procedural protections as the particular situation demands.” *Muñoz v. United States Dep’t of State*, 50 F.4th 906, 922 (9th Cir. 2022). The Court may “exercise[] significant control over the time and manner” of any proceeding to hear a creditor’s objections. *Liberte Cap Grp.*, 462 F.3d at 552.

The Receiver will give notice of the Motion by: (a) CM/ECF to parties/interested parties; (b) email to all Aggregators listed on Exhibit A to the Vives Declaration and all known creditors of the Estate (or, if represented, their counsel) with a link to this Motion and supporting exhibits; and (c) posting it on the receivership website. (Vives Decl. ¶ 26.) These communications will include instructions on how to advise the Receiver of any objections to the Motion by no later than seven days before the hearing. (*Id.*) The Receiver will thereafter file a status report. (*Id.*)

The Court should deem this notice sufficient under the circumstances. *See, e.g., Fed. Trade Comm’n v. Cardiff*, 2020 WL 9938072, at \*4 (C.D. Cal. Mar. 10, 2020) (receiver’s notice of settlement satisfied due process where receiver posted

1 motion to its website and served on all parties, known creditors and interested  
2 parties); *Sec. & Exch. Comm'n v. Adams*, 2021 WL 8016843, at \*2 (S.D. Miss. Feb.  
3 25, 2021) (same, where receiver provided mail notice to interested parties,  
4 publicized settlement on receivership website and gave interested parties  
5 instructions how to submit comment or objection to settlement); *Sec. & Exch.*  
6 *Comm'n v. Nadel*, 2012 WL 12910648, at \*1 (M.D. Fla. Feb. 10, 2012) (same, where  
7 receiver published notice once in two newspapers).

8 **WHEREFORE**, the Receiver respectfully requests that the Court enter an  
9 order: (a) granting the Motion; (b) clarifying the Claims Procedures Order as  
10 discussed above; and (c) granting such other relief as is just and equitable.

11 Dated: April 10, 2025

Respectfully submitted,

12 **KATTEN MUCHIN ROSENMAN LLP**

13 By: */s/Terence G. Banich*  
14 Terence G. Banich

15 *Attorneys for the Receiver*  
16 Michele Vives  
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**Certificate of Compliance with L.R. 11-6.2**

The undersigned, counsel of record for the Receiver, Michele Vives, certifies that this brief contains 5,764 words, which complies with the word limit of L.R. 11-6.1.

Dated: April 10, 2025

Respectfully submitted,

/s/ Terence G. Banich  
Terence G. Banich  
Attorney for the Receiver

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**PROOF OF SERVICE**

**STATE OF ILLINOIS, COUNTY OF COOK**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Cook, State of Illinois. My business address is 525 W. Monroe St., Chicago, Illinois 60661. On April 10, 2025, I served the following document(s) described as:

**UNOPPOSED MOTION OF RECEIVER MICHELE VIVES FOR ORDER CLARIFYING CLAIMS PROCEDURES ORDER**

as follows:

**[ ] BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Katten Muchin Rosenman LLP practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

**[ ] BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused the document(s) to be sent from e-mail address [terence.banich@katten.com](mailto:terence.banich@katten.com) to the persons at the e-mail address(es) listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**[ ] BY OVERNIGHT MAIL (FedEx):** I enclosed said document(s) in an envelope or package provided by FEDEX and addressed to the persons at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of FEDEX or delivered such document(s) to a courier or driver authorized by FEDEX to receive documents.

**[X] E-FILING:** By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

I declare under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct. Executed on April 10, 2025, at Winnetka, Illinois.

/s/Terence G. Banich  
Terence G. Banich

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10 *Attorneys for the Receiver*  
11 Michele Vives

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 SECURITIES AND EXCHANGE  
15 COMMISSION,

16 Plaintiff,

17 v.

18 ZACHARY J. HORWITZ; and 1inMM  
19 CAPITAL, LLC,

20 Defendants.

Case No. 2:21-cv-02927-CAS-PD

**DECLARATION OF MICHELE  
VIVES**

Judge: Hon. Christina A. Snyder  
Courtroom: 8D

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1 I, Michele Vives, declare as follows:

2 1. I am over the age of eighteen years, am under no disability and am  
3 competent to testify to the matters set forth herein. Except as otherwise stated, all  
4 facts set forth in this declaration are based upon my personal knowledge and/or my  
5 review of documents. If called as a witness in this case, I could and would testify  
6 competently to the facts set forth in this declaration.

7 2. I submit this declaration in support of the *Motion of Receiver Michele*  
8 *Vives for Order Clarifying Claims Procedures Order*, dated April 10, 2025 (the  
9 “Motion”). Any capitalized terms not defined herein have the meanings ascribed to  
10 them in the Motion.

11 3. I am the President of the Douglas Wilson Companies (“DWC”), an  
12 advisory firm that assists companies and entities of all kinds, from financial  
13 institutions to operating companies, law firms, state and federal courts, corporations,  
14 partnerships, pension funds, REITs and more. DWC has been appointed as receiver  
15 or otherwise involved in hundreds of receiver cases over the last 30 years, and has  
16 served in other fiduciary roles, such as chapter 11 trustee, chapter 11 examiner,  
17 special master, liquidating trustee, assignee for the benefit of creditors and chief  
18 restructuring officer.

19 **A. My forensic accounting work**

20 4. On January 14, 2022, this Court entered the *Order on Appointment of*  
21 *a Permanent Receiver* [ECF #70] (the “Receiver Order”), which appointed me to be  
22 the federal equity receiver of defendant 1inMM Capital, LLC (“1inMM”) as well as  
23 assets that are attributable to investor or client funds or that were fraudulently  
24 transferred by 1inMM or Zachary J. Horwitz (“Horwitz,” and together with 1inMM,  
25 “Defendants”) (collectively, the “Estate”).

26 5. In connection with my duties, my staff and I conducted a  
27 comprehensive forensic accounting analysis of the financial transactions involving  
28 1inMM, Horwitz, their respective insiders and affiliates, as well as third parties who

1 received transfers from Defendants. I determined that, throughout the duration of the  
2 1inMM Ponzi Scheme, 1inMM engaged in tens of thousands of transactions totaling  
3 over \$750 million.

4 6. As there were no accounting records, I had no choice but to reconstruct  
5 1inMM's transaction history from scratch. The forensic accounting analysis has  
6 been a fundamental element of maximizing the Estate's recovery, as it has enabled  
7 me to determine who may be liable to the Estate for receiving fraudulent transfers,  
8 identify previously unknown assets, and obtain information about 1inMM's  
9 investors.

10 7. Obtaining information about 1inMM's investors—including the  
11 amounts each investor invested into and received from the 1inMM Ponzi Scheme—  
12 is particularly important, as this information serves as the basis for my determined  
13 claim amount for each investor and will be an integral part of the claims process  
14 (discussed in more detail below and in the Motion). The forensic accounting,  
15 therefore, will be a foundational part of ensuring that accurate claim amounts are  
16 accepted on behalf of the Estate.

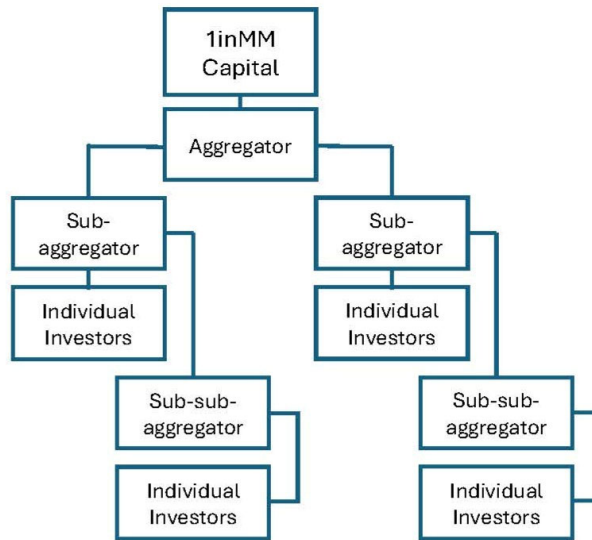
17 **B. The role of Aggregators in 1inMM Ponzi Scheme**

18 8. As I have reported previously, Horwitz generally operated the 1inMM  
19 Ponzi Scheme on a feeder fund model. In the context of a Ponzi scheme, the typical  
20 "feeder fund" is an investment vehicle that channels money from investors directly  
21 into the Ponzi scheme itself, essentially acting as a conduit to funnel funds to the  
22 fraudulent operator, allowing the operator to pay returns to earlier investors with  
23 money from new investors, thus perpetuating the scheme. I have usually referred to  
24 such feeder funds as "aggregators." Certain feeder funds in a Ponzi scheme can also  
25 channel money from investors into one or more aggregators higher up the "chain"  
26 for eventual upstream investment in the fraudulent operator. I have usually referred  
27 to such feeder funds as "sub-aggregators" or "sub-sub-aggregators," depending on  
28

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how many levels removed they were from 1inMM. In the 1inMM Ponzi Scheme, the aggregator model can be illustrated as follows:



9. Here, I determined that the 1inMM Ponzi Scheme ultimately involved 38 aggregators, sub-aggregators and sub-sub-aggregators (collectively, the “Aggregators”). A list of the Aggregators is attached hereto as **Exhibit A**. In compiling this list of Aggregators, I excluded entities which I have confirmed served as vehicles for an individual to invest in (or loan to) 1inMM, but did not aggregate money on behalf of multiple investors. To the extent I could not determine whether an entity aggregated investments for multiple individuals, I included it in the list of Aggregators.

10. I have analyzed each Aggregator’s relationship with 1inMM by, among other things, reviewing the applicable promissory notes, investor agreements and related documents and performing a detailed forensic accounting analysis of their financial transactions with 1inMM and their constituent investors/lenders.

11. My forensic accounting analysis indicated that the Aggregators, in fact, operated as pass-throughs (or “conduits”) for their respective investors’ investments in 1inMM. Put differently, the Aggregators simply passed money they received (or aggregated) from their investors up the chain to 1inMM, and then returned money from 1inMM (i.e., returned capital and profits) down the chain to their constituent

1 investors. It does not appear to me that any Aggregators held back or retained any  
2 substantial amount of money at the aggregator level for trading on their own  
3 accounts or for any other discernible purpose.

4 12. This analysis generally demonstrates that the Aggregators collected  
5 money from their constituent lenders/investors, then loaned it to (or invested in)  
6 1inMM in bulk sums for supposed particular film projects. 1inMM later repaid the  
7 loans with interest (or repaid the invested capital with a return) to the Aggregator,  
8 which then distributed those funds in the appropriate individualized amounts to its  
9 constituent lenders/investors. I, therefore, concluded that the Aggregators generally  
10 functioned purely as pass-throughs/conduits for the investors, as opposed to  
11 functioning as investors themselves.

12 13. I also observed that Aggregators (including the various sub-  
13 Aggregators) usually entered into some form of agreement, promissory note or other  
14 undertaking regulating various aspects of the investment/loan as to each supposed  
15 individual film project with (a) their constituent investors/lenders as well as (b) their  
16 upstream Aggregator (or, in the case of the Aggregators in the highest position of  
17 the “chain,” with 1inMM). These agreements varied in form and content from  
18 Aggregator to Aggregator. I have not attempted to obtain copies of all such  
19 agreements from each and every Aggregator, as I do not believe it would be  
20 worthwhile to subpoena, review and analyze all such agreements. For one thing,  
21 given the sheer number of Aggregators, this would be an administratively  
22 burdensome, time-consuming and costly endeavor. But even more importantly, my  
23 forensic accounting work summarized above and in the Motion clearly indicates that  
24 the Aggregators, in practice, functioned as pass-throughs no matter what the written  
25 agreements might have said.

26 14. In any event, 1inMM did not use the investors’ funds as promised  
27 pursuant to any agreement, regardless of whether that agreement was between (a)  
28 1inMM and an Aggregator, (b) an Aggregator and a sub-Aggregator or (c) an

1 Aggregator (or sub-Aggregator) and its constituent investors/lenders. As a result,  
2 even if an individual investor did not have a direct contractual relationship with  
3 1inMM, any agreement the investor had with an Aggregator or sub-Aggregator was  
4 part of a larger series of agreements feeding up to 1inMM, which ultimately  
5 perpetuated the fraud and caused direct injury to the investor.

6 15. For purposes of the claims process, then, I believe that 1inMM's  
7 individual investors/lenders—and not the Aggregators—are the only persons and  
8 entities who should be permitted to assert net loss claims against the Estate.  
9 However, disregarding the Aggregators for claims allowance purposes is not  
10 intended to impact any other aspect of the Estate or any claims pursued by me for  
11 avoidance of fraudulent transfers, particularly where the Aggregators may have paid  
12 and received funds from 1inMM on behalf of the individual investors. The purpose  
13 of this Motion, instead, is to eliminate duplicate claims by the Aggregators against  
14 the Estate for funds they paid into the 1inMM Ponzi Scheme on behalf of their  
15 respective individual constituent investors.

16 16. In light of the foregoing, in addition to other considerations described  
17 in the Motion, I believe it is necessary and appropriate to clarify the Claims  
18 Procedures Order using precise definitions to address how I should treat  
19 Aggregators. Those proposed definitions appear at pages 8-9 of the Motion.

### 20 **C. Relief Requested**

21 17. Because the Aggregators functioned as pass-throughs, I believe they  
22 did not themselves suffer Net Losses as a result of the 1inMM Ponzi Scheme.  
23 Instead, I have concluded that the financial reality of the matter is that Investors who  
24 sent their money to the Aggregators for eventual upstream investment in/loans to  
25 1inMM are the ones who actually incurred the Net Losses. I therefore respectfully  
26 submit that it is appropriate for the Court to clarify the Claims Procedures Order as  
27 specified in the Motion.  
28

1 18. Here, the claims process is an integral step in developing a  
2 comprehensive distribution plan for holders of Net Loss Claims and other creditors.  
3 My forensic accounting analysis will determine the preliminary value of prospective  
4 claims held by Investor claimants and any potential non-Investor claimants. The  
5 streamlined claims process that the Court has approved uses my extensive  
6 accounting work as its foundation. It will allow the Court and me to efficiently  
7 determine the appropriate claim amounts for all Investors and other prospective  
8 claimants, which is a key step towards being able to make a fair and equitable  
9 distribution of Estate funds.

10 19. 1inMM's extensive use of Aggregators, however, could potentially  
11 complicate and even frustrate the claims process. As discussed above and in the  
12 Motion, my forensic accounting work clearly indicates that the Aggregators in fact  
13 functioned as pass-throughs for their constituent Investors. But upon receiving the  
14 claims materials, Aggregator representatives are likely to file Net Loss Claims even  
15 though the Aggregator itself was literally just bundling other Investors' money and  
16 upstreaming it. Such claims would be entirely duplicative of their constituent  
17 Investors' claims for the very same Net Losses. Thus, dealing with Aggregator  
18 claims during the claims process will almost certainly result in an administrative  
19 burden on the Estate and a concomitant delay in my completion of claims review  
20 and reconciliation.

21 20. I respectfully submit that clarifying the Claims Procedures Order as  
22 proposed in the Motion is well within the Court's wide discretion and equitable  
23 power to supervise receiverships generally and claims processes therein specifically,  
24 and that doing so will reflect the implications of the Claims Procedures Order and  
25 ensure that its purpose is fully implemented and executed. To be clear, however, my  
26 request to disregard the Aggregators would apply to the claims process only and is  
27 not intended to impact any other aspect of the Estate (such as, for example, claims  
28 pursued by me for avoidance of fraudulent transfers, particularly where the

1 Aggregators may have paid and received funds from 1inMM on behalf of the  
2 individual investors).

3 **D. Objection Procedures**

4 21. I recognize that some Aggregators may disagree with my conclusion  
5 and wish to challenge it. I also understand and respect the importance of giving  
6 Aggregators reasonable notice and an opportunity to be heard on this issue.

7 22. I, therefore, propose to give notice of the Motion to all Aggregators  
8 listed on Exhibit A hereto, in addition to the usual notice parties.<sup>1</sup> An accompanying  
9 notice will, among other things:

10 ● Explain that the Motion asks the Court to declare that Aggregators are  
11 not permitted to assert Net Loss Claims, and I am authorized to disregard them (and  
12 any Net Loss Claims that they may file) for purposes of calculating Net Losses and  
13 determining who is entitled to hold a Net Loss Claim, but that they will still be  
14 permitted to file a claim for debts other than Net Losses;

15 ● Instruct the Aggregators that, if they wish to challenge my  
16 determination that they were pass-throughs (i.e., Conduits) as opposed to Investors  
17 themselves, they must file an objection to the Motion stating all factual and legal  
18 grounds therefor **no later than seven (7) days before the hearing date** (the  
19 “**Objection Deadline**”);

20 ● State that failing to file an objection by the Objection Deadline may  
21 result in the Court granting the Motion with respect to the applicable Aggregators  
22 without a hearing; and  
23  
24  
25  
26

27 <sup>1</sup> Exhibit A contains the names of the Aggregators but not their last-known addresses. Out of  
28 respect for their privacy, I do not think it appropriate to make the Aggregators’ addresses public.  
I maintain a list of the Aggregators’ last-known mailing (and, if known, e-mail) addresses and will  
provide it to the Court upon request.

1           ● Invite Aggregators to contact my office to ask questions and/or to  
2 present documents, information and any arguments that they wish me to consider to  
3 avoid filing a formal objection.

4           23. I will, of course, work with any Aggregators who respond to avoid  
5 objections and reach individualized solutions. However, to the extent that an  
6 Aggregator receives notice but neither contacts me nor files an objection with the  
7 Court or otherwise requests a hearing, then I will ask the Court to grant the Motion  
8 and authorize me to disregard the Aggregators in determining who may assert a Net  
9 Loss Claim against the Estate.

10           **E. Conclusion**

11           24. Based on my experience in complex federal equity receivership  
12 matters, my forensic accounting work performed to date in this case and 1inMM's  
13 extensive use of Aggregators to perpetuate the 1inMM Ponzi Scheme, I believe that  
14 it is necessary and appropriate for the Court to clarify who may assert Net Loss  
15 Claims before the claims process begins in earnest. Because the Aggregators  
16 functioned as pass-throughs for end Investors of the 1inMM Ponzi Scheme, I  
17 recommend that the Court should use its wide discretion and broad equitable power  
18 to administer claims processes in receiverships to authorize me to disregard the  
19 Aggregators in calculating Net Losses and determining who holds Net Loss Claims.

20           **F. Notice to Creditors**

21           25. As noted above and in the Motion, I will give notice of this Motion to  
22 all Aggregators listed on Exhibit A hereto. I will also give notice to all known  
23 creditors of the Estate.

24           26. I will give notice of the Motion by: (a) CM/ECF to parties/interested  
25 parties; (b) email to all Aggregators listed on Exhibit A hereto and all known  
26 creditors of the Estate (or, if represented, their counsel) with a link to this Motion  
27 and supporting exhibits; and (c) posting it on the receivership website. These  
28 communications will include instructions on how to advise me of any objections to

1 the Motion by no later than seven days before the hearing. I will thereafter file a  
2 status report.

3 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the  
4 laws of the United States of America that the foregoing is true and correct.

5 Executed on April 10, 2025  
6 in San Diego, California

/s/*Michele Vives*  
Michele Vives

KATTEN MUCHIN ROSENMAN LLP  
525 W. MONROE ST.  
CHICAGO, IL 60661  
(312) 902-5200



**Exhibit A**  
**List of Aggregators**

KATTEN MUCHIN ROSENMAN LLP  
525 W. MONROE ST.  
CHICAGO, IL 60661  
(312) 902-5200

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<b>Exhibit A -- List of Aggregators</b>
AFA Marketing & Investments
Altgeld Group SPE, LLC
Beepa Cheech Paulo, LLC
Breakout SPE, LLC
Centre & Broome LLC
CLA Investment, LLC
Cohen Distributions, LLC
Empirus, Inc.
FNG Capital Partners, LLC
G3 Capital Partners, LLC
Global Hospitality Concepts
Go Bucks Investments, LLC
Granite Holdings, LLC
Granite Ridge Investors, LLC
Ingen
IRVRU Company, LLC
JJMT Capital, LLC
JLSS Investments
Kim Capital, LLC
LPIW, LLC
Magna Capital, LLC
McBride Capital LLC
McLinden Family, LLC
Movie Fund, LLC
Nalpak Enterprises
Nalpak I
Nalpak II
New Traveler, Inc.
Next Generation Investment Group
Palace Court Capital, LLC
Private Client Capital Partners, LLC
PRL Venture I, LLC
Pure Health Enterprises, Inc.
QD Associates, LLC
Sekula Investments LLC
Sibleymov, LLC
SKI, LLC
Sync Investments, LLC