Terence G. Banich (SBN 212173)
terence.banich@katten.com
Allison E. Yager (*pro hac vice*)
allison.yager@katten.com
KATTEN MUCHIN ROSENMAN LLP
525 W. Monroe St.
Chicago, IL 60661
Telephone: (312) 902-5200
Facsimile: (312) 902-1061

Attorneys for the Receiver
Michele Vives

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 MOTION OF RECEIVER MICHELE VIVES FOR ORDER APPROVING SETTLEMENT WITH [redacted] AND FOR RELATED RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: October 20, 2025
Time: 10:00 a.m. PT
Judge: Hon. Christina A. Snyder
Courtroom: 8D

DOCUMENT FILED UNDER SEAL PURSUANT TO ORDER OF THE COURT DATED SEPTEMBER 19, 2025 [ECF #465]

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, on October 20, 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 (the "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] (the "Receiver Order"), will and hereby does move the Court for entry of an order approving the settlement with [redacted] and for related relief (the "Motion").

The Motion is based on the Memorandum of Points and Authorities below and is supported by: (a) the *Settlement Agreement and Mutual Release*, dated December 20, 2024 (the "Settlement Agreement"), copy attached as **Exhibit 1**; (b) the *Declaration of Michele Vives*, dated September 22, 2025 ("Vives Decl."), copy attached as **Exhibit 2**; (c) the *Declaration of* [redacted], dated August 29, 2025 ("[redacted] Decl."), copy attached as **Exhibit 3**; and (d) the *Declaration of* [redacted], dated September 22, 2025 ("[redacted] Decl."), copy attached as **Exhibit 4**.

This Motion is made following the Local Rule 7-3 conference of counsel which took place on September 17, 2025. **No party requests a hearing on the Motion.**

Dated: September 22, 2025

Respectfully submitted,

KATTEN MUCHIN ROSENMAN LLP

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

Attorneys for the Receiver
Michele Vives

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

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

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525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5200

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525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5200

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

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

MEMORANDUM OF POINTS AND AUTHORITIES

Factual Background

A. The Receiver; investigation of transfers

On April 5, 2021, the SEC commenced this action against Zachary J. Horwitz ("Horwitz") and 1inMM Capital, LLC ("1inMM"; together, "Defendants"), alleging that they committed an offering fraud and Ponzi scheme in violation of the federal securities laws ("Ponzi Scheme"). On January 14, 2022, the Court entered the Receiver Order, appointing Ms. Vives as receiver of 1inMM, its subsidiaries, affiliates and the assets that are attributable to funds derived from investors or clients of Defendants or were fraudulently transferred by Defendants (the "Estate"). The Receiver Order authorizes the Receiver, among other things, to prosecute claims.

B. The [redacted] Claims

The Receiver determined that Horwitz raised investor funds mostly using certain entities that pooled large amounts of money from many individual investors or lenders for upstream loans to, or investments in, 1inMM. One of these entities was [redacted], operating in conjunction with its affiliates, [redacted]. (Vives Decl. ¶9.)

[redacted] formed [redacted] for the purpose of financing 1inMM's acquisition of movie licensing rights. (*Id.* ¶10.) Based on the Receiver's analysis, the business purpose of [redacted] was for investment. (Vives Decl. ¶10.) [redacted] transactions with 1inMM and its investors typically involved a participation agreement between 1inMM and [redacted], and a corresponding profit-sharing agreement between [redacted] and its investors. (*Id.* ¶11.) [redacted] was the sole manager of [redacted], which structured their transactions as equity-participation investments. (*Id.*)

Through their unknowing participation in the 1inMM Ponzi Scheme, [redacted] realized significant fictitious profits that they passed through to [redacted]. (*Id.* ¶12.) Those unknowingly fictitious profits provided expense reimbursement for [redacted]. (*Id.*)

Beginning in 2021, multiple 1inMM investors ("Investors") [redacted] commenced several civil actions and arbitral proceedings, as listed in Schedule 2 to the Settlement Agreement (collectively, the "[redacted] Litigation"), alleging that [redacted] are liable to them for over $4,000,000 in connection with the Ponzi Scheme ("[redacted] Claims"). ([redacted] Decl. ¶¶4-5.) [redacted] denied liability, and some [redacted] Claims were dismissed on summary adjudication. ([redacted] Decl. ¶4.)

C. The Transfers and the Receiver Claims

The Receiver determined that, between February 22, 2017 and November 22, 2019, 1inMM made transfers to [redacted] "Transfers"). (Vives Decl. ¶13.)

The Receiver asserted that she may avoid the Transfers as actually fraudulent under §3439.04(a)(1) of the California Uniform Voidable Transactions Act, Cal. Civ. Code §§3439 *et seq.* ("UVTA"), and as unjust enrichment/restitution ("Receiver Claims"; collectively with the [redacted] Claims, "Claims"). The Receiver contended 1inMM and Horwitz made the Transfers with the actual intent to hinder, delay or defraud their creditors, as Horwitz pled guilty and admitted that he used 1inMM to operate a Ponzi scheme, which conclusively establishes intent for purposes of a UVTA actual fraudulent transfer claim. The Receiver argued that she could recover the Transfers from [redacted] under UVTA §3439.08(b)(1)(A) as

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

first transferees, because [redacted]. (*Id.* ¶14.) [redacted] asserted several defenses (discussed *infra*).

D. The Settlement

[redacted] wished to settle the Receiver Claims only if the Receiver could concurrently resolve the [redacted] Claims. (*Id.* ¶15.) After a mediation before [redacted], the Receiver and [redacted] reached a confidential settlement that the Investors later joined ("Settlement"), whereby [redacted] will pay $[redacted] to the Estate ("Settlement Payment") over 540 days to resolve all Claims. The parties will exchange mutual general releases, and the Receiver will ask the Court to enter an order ("Bar Order") permanently barring and enjoining all persons and non-governmental units from suing [redacted] on any claim arising out of or relating to the Ponzi Scheme. The Settlement is documented in the Settlement Agreement. (*Id.* ¶16.)

Because the Investors agreed that the Settlement Payment should be paid into the Estate for the benefit of all creditors, [redacted] has created a common fund from which a negotiated amount—$[redacted]—should be paid to [redacted] as expense reimbursement. (*Id.* ¶17.) As the parties agreed that [redacted] identities should remain confidential to prevent potential irreparable injury resulting from any public disclosure of the Claims, the Receiver filed an application requesting that this Motion, the Bar Order and all supporting documents be sealed, which the Court granted. [ECF #[●]] (*Id.* ¶18.)

E. Assessment of the Settlement

The Receiver believes the Settlement is in the best interest of the Estate. The Settlement constitutes a substantial recovery without the expense and risk of litigation and represents an equitable, good-faith resolution of all Claims. While the Receiver and the Investors were confident in their respective Claims, [redacted]

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525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5200

[redacted] asserted defenses that may have resulted in the Receiver and Investors recovering nothing. The Settlement thus avoids protracted litigation, conserving Estate resources. (*Id.* ¶¶19-20.)

The Settlement Payment also exceeds what [redacted] would have paid to resolve the Receiver Claims alone without a bar order. (*Id.* ¶21; [redacted] Decl. ¶5.) A critical component of the Settlement is that the Court enters the Bar Order, which is common for these sorts of settlements. Further, the Settlement resolves the [redacted] Claims, so [redacted] efforts enhanced the settlement value, which is flowing to the Estate. And because the Investors agreed that [redacted] should remit the entirety of the Settlement Payment to the Estate, [redacted] helped create a common fund. (Vives Decl. ¶22.)

The Settlement resolves a complex multiparty dispute. The Claims arise from the Ponzi Scheme, but the Investors had divergent objectives. They pursued [redacted] to remedy their own damages, while the Receiver focused on benefitting the Estate as a whole. Those goals often conflicted, resulting in various disagreements between the Receiver and the Investors. (*Id.* ¶23; [redacted] Decl. ¶8.)

The [redacted] Claims are, nonetheless, derivative of the Receiver Claims and compete with the Receiver for [redacted] assets. The Receiver and the Investors pursued the same parties arising out of the same facts. As such, every dollar the Investors managed to recover from [redacted] was arguably a dollar the Receiver could not recover from them. (Vives Decl. ¶24.)

[redacted] wanted finality, which they really could only achieve through the Receiver, and the Receiver did not think it advisable to exclude from those discussions the Investors, who constitute a significant percentage of the known population of net losing investors. [redacted], moreover, made clear that any settlement with the Receiver must include a bar order enjoining any further creditor suits against them arising from or relating to the Ponzi Scheme, so the Receiver continually focused on achieving a settlement that met the legal requirements for a

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

bar order. These factors, among others, made the litigation complex and particularly difficult to settle on a global basis. (*Id.* ¶25.)

Legal Standards

District courts have "extremely broad" power and "wide discretion" in overseeing the administration of a receivership. *SEC v. Peterson*, 129 F.4th 599, 608 (9th Cir. 2025); *SEC v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986). The Ninth Circuit "affords 'broad deference' to the [district] court's supervisory role" in receivership cases, and "generally uphold[s] reasonable procedures instituted by the district court that serve th[e] purpose of orderly and efficient administration of the receivership for the benefit of creditors." *CFTC v. Topworth Int'l, Ltd.*, 205 F.2d 1107, 1115 (9th Cir.1999) (cleaned up).

That broad authority to oversee the administration of a receivership includes approving settlements. "[N]o federal rules prescribe a particular standard for approving settlements in the context of an equity receivership; instead, a district court has wide discretion to determine what relief is appropriate." *Gordon v. Dadante*, 336 F. App'x 540, 549 (6th Cir. 2009) (citing *Liberte Cap. Grp., LLC v. Capwill*, 462 F.3d 543, 551 (6th Cir. 2006)); *see also SEC v. Kaleta*, 530 F. App'x 360, 362 (5th Cir. 2013) ("because this is a case in *equity*, it is neither surprising nor dispositive that there is no case law directly controlling" the district court's order approving receiver's settlement).

Local Rule 66-8 directs a receiver to "administer the estate as nearly as possible in accordance with the practice in the administration of estates in bankruptcy." District courts may look to bankruptcy law for guidance about the administration of a receivership. *See, e.g., SEC v. Cap. Consultants, LLC*, 397 F.3d 733, 745 (9th Cir. 2005) (bankruptcy law "analogous" and therefore persuasive in administration of receivership estates). This is largely because "the purpose of bankruptcy receiverships and equity receiverships is essentially the same—to marshal assets, preserve value, equally distribute to creditors, and, either reorganize,

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

if possible, or orderly liquidate." *SEC v. Stanford Int'l Bank, Ltd.*, 927 F.3d 830, 841 (5th Cir. 2019) (internal citation and quotations omitted).

Courts in this circuit typically apply bankruptcy principles to evaluate receivership settlements. *SEC v. Champion-Cain*, 2022 WL 126114, at *1 (S.D.Cal. Jan. 13, 2022) (applying bankruptcy principles to receivership settlement); *SEC v. Total Wealth Mgmt., Inc.*, 2019 WL 13179068, at *2 (S.D.Cal. Sept. 18, 2019) (same). Bankruptcy courts evaluate whether a compromise is "fair and equitable," considering "[a] the probability of success in litigation, [b] any difficulties that may be encountered in collection, [c] the complexity of the litigation, the expense, inconvenience, and delay necessarily attending, and [d] the interest of the receivership entities' creditors and their reasonable views." *Champion-Cain*, 2022 WL 126114, at *1 (quoting *In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988)); *see also Martin v. Kane (In re A&C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

"The analysis under these factors is holistic; the Court must canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness…[I]t is not necessary to satisfy each of these factors provided that the factors as a whole favor approving the settlement." *Total Wealth*, 2019 WL 13179068, at *3 (internal citations/quotations omitted). The Court should consider these factors "as a whole, and not individually in a vacuum, to ascertain whether the settlement is a good deal compared to litigation." *In re Open Med. Inst., Inc.*, 639 B.R. 169, 185 (B.A.P. 9th Cir. 2022). Further, the Court need not decide issues of disputed fact or questions of law raised in the controversies sought to be settled. *Burton v. Ulrich (In re Schmitt)*, 215 B.R. 417, 423 (B.A.P. 9th Cir. 1997).

Ultimately, "courts generally should give deference to a [receiver's] business judgment in deciding whether to settle a matter for the benefit of the estate." *In re Douglas J. Roger, M.D., Inc., APC*, 393 F.Supp.3d 940, 961 (C.D.Cal. 2019) (cleaned up); *see also In re Lahijani*, 325 B.R. 282, 289 (B.A.P. 9th Cir. 2005). "Approving a proposed compromise is an exercise of discretion that should not be

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

overturned except in cases of abuse leading to a result that is neither in the best interests of the estate nor fair and equitable for the creditors." *In re MGS Mktg.*, 111 B.R. 264, 266-67 (B.A.P. 9th Cir. 1990).

Argument

I. The Settlement is fair, equitable and in the best interests of the Estate.

The Receiver believes the Settlement satisfies the *A&C Properties* test. (Vives Decl. ¶26.)

A. Probability of success

The probability of success litigating the Claims is mixed. *See, e.g., Total Wealth*, 2019 WL 13179068, at *3 (court must determine whether settlement amount is commensurate to litigation risk). Assessing risk here is largely a function of evaluating [redacted] asserted defenses to the Receiver Claims.

1. Receiver Claims

The Receiver's potential claims against [redacted] arise under UVTA, the purpose of which is "to prevent debtors from placing, beyond the reach of creditors, property that should be made available to satisfy a debt by transferring that property to others." *RPB SA v. Hyla, Inc.*, 2021 WL 4980092, at *4 (C.D.Cal. June 24, 2021) (cleaned up). UVTA enables a creditor to bring an action to avoid a fraudulent transfer of an asset to the extent necessary to satisfy its claim. UVTA §3439.07(a)(1). A transfer is fraudulent—and thus avoidable—if the debtor transferred the asset either (1) with actual intent to hinder, delay, or defraud any of its creditors (i.e., "actual fraud"), or (2) without receiving reasonably equivalent value in exchange therefor when it had unreasonably small capital or was insolvent (i.e., "constructive fraud"). *Id.* §§3439.04(a)(1)-(2). A creditor may bring an action under UVTA against the "first transferee" of the asset, the person for whose benefit the transfer was made or any subsequent transferees. *Id.* §§3439.08(b)(1)(A)-(B).

Fraudulent transfer claims are among a receiver's most important tools to recover monies lost by Ponzi-scheme investors. *Donell v. Kowell*, 533 F.3d 762, 767

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525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5200

(9th Cir. 2008). The Ponzi-scheme operator is the "debtor," and each investor is a "creditor," although the investors who profited from the scheme on a net basis—sometimes called "net winners"—are the recipients of the Ponzi-scheme operator's fraudulent transfers and are thus liable under UVTA. *Id.* at 767-71. An equity receiver has standing to pursue fraudulent transfer claims "to redress injuries that [the receivership entity] suffered when its managers caused [it] to commit waste and fraud." *Id.* at 777; *see also Winkler v. McCloskey*, 83 F.4th 720, 727 (9th Cir. 2023) ("[A] receiver has standing to pursue a fraudulent transfer claim because the receiver is acting on behalf of the receivership entity, seeking to claw back transfers that the perpetrator of the scheme fraudulently made to the net winners.") The debtor's admission that it operated a Ponzi scheme *conclusively* establishes fraudulent intent for a UVTA actual fraud claim (*In re Slatkin*, 525 F.3d 805, 814 (9th Cir. 2008)), and financial distress for a UVTA constructive fraud claim (*Donell*, 533 F.3d at 770-71).

To determine whether a Ponzi-scheme investor is liable to the estate for receiving fraudulent transfers, courts apply the "netting rule," where "[a]mounts transferred by the Ponzi-scheme perpetrator to the investor are netted against the initial amounts invested by that individual. If the net is positive, the receiver has established liability[.]" *Donell*, 533 F.3d at 771. Generally, "innocent" investors may retain the payments they received up to the amount invested but must disgorge the "profits" received from the Ponzi scheme as they "do not represent a return on legitimate investment activity." *Id.* at 772, 777.

2. Defenses

[redacted] principally argued the Receiver Claims were time-barred because UVTA's one-year discovery rule was triggered no later than April 2022, when [redacted] first provided documentation to the Receiver purportedly evidencing they were "net winners" (the "2022 Materials"). The Receiver countered with cases holding that UVTA's discovery rule is only triggered when a receiver discovers, or

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

reasonably could have discovered, both (1) the transfer itself *and* (2) its fraudulent nature. *In re Ezra*, 537 B.R. 924, 933 (B.A.P. 9th Cir. 2015); *see also Donell v. Mojtahedian*, 976 F. Supp. 2d 1183, 1187 (C.D.Cal. 2013) (a receiver's "knowledge of an individual's status as an investor is insufficient to begin running the statute of limitations" under UVTA, as a defendant's "receipt of funds, alone, could not establish whether she received a net profit or a net loss from the Ponzi scheme"); *Gill v. Blessing*, 2014 WL 12573667, at *3 (C.D.Cal. Oct. 6, 2014) (UVTA discovery rule focuses on "the diligence of the receivers' investigations, not merely [on] the date that they obtain records").

Moreover, the Receiver has an independent, court-ordered duty to investigate the Estate's acts and transactions, which California federal courts uniformly recognize.[1] *See, e.g., Seaman v. Sedgwick*, 2011 WL 13393442, at *5 (C.D.Cal. Aug. 31, 2011) (receivers must have opportunity to develop "comprehensive understanding of the situation," as "it can take a significant amount of time…to trace funds and conclusively determine…the strength of any third party claims"); *Gill v. Blessing*, 2014 WL 12579788, at *1 (C.D.Cal. June 2, 2014) (denying motion to dismiss UVTA claims where receiver received only some records from defendants but could not discover fraudulent nature of transfers until conducting "massive undertaking" involving review of "a multitude of papers and documents…in a state of shambles"). *See also Fed. Deposit Ins. Co. v. O'Melveny & Myers*, 61 F.3d 17, 19 (9th Cir. 1995) (receiver should not be "punish[ed]" or prohibited from asserting certain arguments simply because she was thrust into the wrongdoer's shoes).

The Receiver asserted that the 2022 Materials did not trigger the one-year discovery period because, among other things, they contained only basic information

[1] The Court's receivership order directed the Receiver to "investigate and, where appropriate, institute, prosecute and pursue all claims" that the Estate may have. ECF #70, §II(I).

KATTEN MUCHIN ROSENMAN LLP
525 W. MONROE ST.
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(312) 902-5200

about [redacted] dealings with 1inMM but did not identify any individual transfers to [redacted], let alone the fraudulent nature of each transfer. At best, the 2022 Materials merely identified [redacted] investors, which was insufficient to start the one-year clock. [redacted] disagreed, maintaining that the 2022 Materials contained enough information to put the Receiver on notice of the existence of avoidable transfers. The Receiver countered that she could not simply accept the representations in the 2022 Materials at face value, as the Court had ordered her to "investigate" 1inMM's acts and transactions, so she pursued backup information from [redacted]. It took over a year before she had enough information to complete her analysis. (Vives Decl. ¶27.) Although [redacted] produced these additional documents, they nonetheless asserted that the Receiver's receipt of the 2022 Materials time-barred her UVTA claims.

Even if the Receiver's UVTA claims were time-barred, she argued that she could still recover the Transfers on an unjust enrichment theory under California law. UVTA is not the exclusive way to avoid a fraudulent transfer. UVTA §3439.12 ("the principles of law and equity, including…the law relating to…fraud…supplement [UVTA's] provisions"); *Donell v. Keppers*, 835 F. Supp. 2d 871, 879 (S.D.Cal. 2011) ("a suit under [UVTA] is not the exclusive remedy by which fraudulent transfers may be attacked" because common law remedies, such as unjust enrichment, remain available); *Damian v. A-Mark Precious Metals, Inc.*, 2017 WL 6940515 (C.D.Cal. Aug. 28, 2017) (considering UVTA and unjust enrichment claims filed by receiver, and acknowledging the latter as separate cause of action based on same transfers). Under California law, unjust enrichment is "an independent cause of action or…a quasi-contract claim for restitution," which requires the plaintiff to show (1) "the receipt of a benefit" and (2) the "unjust retention of the benefit at the expense of another." *ESG Cap. Partners, LP v. Stratos*, 828 F.3d 1023, 1038-39 (9th Cir. 2016); *Bhatia v. Silvergate Bank*, 725 F. Supp. 3d 1079, 1126 (S.D.Cal. 2024).

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Unlike UVTA, unjust enrichment claims are subject to a *three-year* discovery period. Cal. Code Civ. Proc. § 338(d) (statute of limitations for "[a]n action for relief on the ground of fraud" is three years from "the discovery, by the aggrieved party, of the facts constituting fraud or mistake"); *Macedo v. Bosio*, 86 Cal. App. 4th 1044, 1051 (1st Dist. 2001) (holding that if plaintiff uses common law unjust enrichment theory to avoid fraudulent transfer, "the applicable statute of limitations is section 338(d)," which accrues "depending upon the belated discovery issue"). So even if [redacted] were correct that the Receiver should have discovered her claims by April 2022, she could still pursue the Transfers via unjust enrichment claims, which would not expire until April 2025 at the earliest. [redacted] disagreed that the Receiver could avoid the Transfers under an unjust enrichment theory and contended that such a claim was time-barred in any event.

Given the arguments above, the limitations issue presented an important litigation risk for the Receiver. [redacted] transmission of the 2022 Materials to the Receiver—which was unique among 1inMM's net winners—made the limitations-period analysis particularly fact-intensive and novel. Neither side could rely on any authority that was dispositive or controlling. The Receiver believes [redacted] are liable as net winners, but litigation may not have resulted in the Receiver avoiding and recovering *all* of the Transfers. *Cf. In re ISE Corp.*, 2012 WL 1377085, at *8 (Bankr. S.D.Cal. Apr. 13, 2012) ("the success of litigation also entails consideration of the risk of uncertainty and the desire for expediency"). The Court may have sustained some of [redacted] defenses (particularly in light of the 2022 Materials), which would be an outcome worse than the Settlement. Rather than take that risk, the Receiver compromised. (Vives Decl. ¶28.) *See, e.g., SEC v. Cap. Cove Bancorp LLC*, 2016 WL 11752897, at *2 (C.D.Cal. Dec. 15, 2016) (approving settlement, reasoning it "provide[d] a recovery that is proportionate to the successful prosecution of this action when discounts are factored in for the risk, time, and expense of fully litigating the case, and maximize[d] the funds available for

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distribution to creditors"); *Open Med. Inst.*, 639 B.R. at 183-84 (same, where trustee averred the odds of success as a "coin flip" and "thought it was safer to settle").

For these reasons—and informed by [redacted] reactions to the arguments discussed above during the mediations—the Receiver concluded that the Settlement accounts for the mixed probability of success on the merits. (Vives Decl. ¶29.)

B. Collection difficulties

"Assessing the difficulties in collection is largely a bird-in-the-hand consideration that weighs the certainty of settlement against the potential uncertainty of collection even where a receiver secures a favorable judgment." *Total Wealth Mgmt.*, 2019 WL 13179068, at *3. The Receiver understands that [redacted], collectively and/or individually, do not have assets that would be sufficient to satisfy a judgment avoiding the Transfers, let alone that *plus* an adverse judgment entered in favor of the Investors. (Vives Decl. ¶30.) This factor weighs in favor of settling.

C. Complexity/expense

It would be complex, expensive and time-consuming for the parties to litigate the Claims. (*Id.* ¶31.) This factor is particularly important in liquidations like here where the goal is "obtaining the best possible realization upon the available assets and without undue waste by needless or fruitless litigation." *In re Law*, 308 F. App'x 152, 153 (9th Cir. 2009). For example, the Receiver's knowledge under UVTA's discovery rule is a question of fact, which necessarily entails discovery and trial to resolve, along with the associated time and expense.

Given the evidence and defense arguments, the Receiver believes litigation against [redacted] would be expensive and time-consuming, requiring extensive discovery, retention of experts and numerous witnesses. This is particularly due to the novel issues presented by the 2022 Materials. A trial and appeal would likely take at least two years to complete and cost the Estate several hundred thousand dollars in fees and expenses. (Vives Decl. ¶32.) This factor,

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therefore, weighs heavily in favor of approving the Settlement. *See, e.g., In re TBH19, LLC*, 2022 WL 16782946, at *3 (B.A.P. 9th Cir. Nov. 8, 2022) (complexity element weighed in favor of settlement where dispute would be expensive and take years to resolve).

D. Creditors

"The opposition of the creditors of the estate to approval of a compromise may be considered by the court, but is not controlling and will not prevent approval of the compromise where it is evident that the litigation would be unsuccessful and costly…In short, creditors have a voice but not a veto." *In re Bondanelli*, 2020 WL 1304140, at *4 (B.A.P. 9th Cir. Mar. 18, 2020). As discussed below, the Receiver is giving notice of this Motion to all known creditors of the Estate.

In sum, the Receiver believes the Settlement is fair, equitable and adequate under the circumstances to realize the value of the Claims. (Vives Decl. ¶33.) Litigation is, certainly, an alternative course, but "while the [Receiver] might do better in litigation, she is not likely to do so." *In re Tidwell*, 2018 WL 1162511, at *3 (Bankr. C.D.Cal. Mar. 1, 2018) (cleaned up).

II. The Court should approve the Bar Order.

A. The Court has the power to enter the Bar Order.

The Court's "extremely broad" power and "wide discretion" to determine the appropriate relief in an equity receivership includes the "inherent equitable authority to issue a variety of 'ancillary relief' measures in actions brought by the SEC to enforce the federal securities laws." *Hardy*, 803 F.2d at 1037; *SEC v. Hickey*, 322 F.3d 1123, 1131 (9th Cir. 2003). As the Ninth Circuit very recently recognized, "[o]ne way in which a district court overseeing an equitable receivership may aid a receiver in gathering and distributing the receivership's assets equitably among defrauded investors is by issuing bar orders[.]" *Peterson*, 129 F.4th at 608; *see also SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980) ("ancillary relief" in SEC

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enforcement actions may include "injunctions to stay proceedings by nonparties against the receivership").

"Courts use ancillary relief in the form of bar orders to secure settlements in receivership proceedings and…to bar claims against third parties settling with receiverships." *SEC v. Stanford Int'l Bank Ltd.*, 2017 WL 9989250, at *2 (N.D. Tex. Aug. 23, 2017), *aff'd*, 945 F.3d 883 (5th Cir. 2019) (bar orders may "foreclos[e] suit against third-party defendants with whom the receiver is also engaged in litigation"). In fact, the Ninth Circuit recently upheld two bar orders as part of a global settlement that a receiver reached with parties who were alleged to have aided a Ponzi scheme. *Peterson*, 129 F.4th at 608-16 (finding bar orders were necessary to preserve receivership estate by preventing third-party litigation from interfering with receiver's efforts to recover from settling parties for same losses arising from same fraudulent conduct).

Bar orders enable federal receivers "to curb investors' individual advantage-seeking in order to reach settlements for the aggregate benefit of investors under the court's supervision." *Zacarias v. Stanford Int'l Bank, Ltd.*, 945 F.3d 883, 896 (5th Cir. 2019). "The availability of such [bar] orders facilitates settlement, promotes equitable recoveries by creditors, and maximizes assets available to creditors in the aftermath of a Ponzi scheme." *SEC v. Aequitas Mgmt., LLC*, 2020 WL 7318305, at *1 (D. Or. Nov. 10, 2020); *see also Matter of Munford, Inc.*, 97 F.3d 449, 455 (11th Cir. 1996) (recognizing "[s]everal justifications for entering bar orders in bankruptcy cases," including encouragement of pretrial settlements, avoidance of burdensome litigation costs to estate, and protection of settling defendants against co-defendants' efforts to shift losses); *SEC v. Adams*, 2023 WL 8483660, at *2 (S.D. Miss. Nov. 14, 2023) (bar orders are "sometimes essential to guarantee finality during the receivership process" and effectuate settlements enabling "sizable distribution[s]…to all victims"). Bar orders have become a common feature in settlements with receivers in cases arising from violation of the federal securities

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(312) 902-5200

laws. *See, e.g., SEC v. DeYoung*, 850 F.3d 1172, 1183 n.5 (10th Cir. 2017) (collecting cases); *SEC v. Nadel*, 2012 WL 12910648, at *1 (M.D. Fla. Feb. 10, 2012) (same).

Federal courts generally require that bar orders be (1) fair, just, equitable and in the best interest of the estate, and (2) "necessary" to the proposed settlement. *See, e.g., Peterson*, 129 F.4th at 608, 612. The Bar Order here satisfies both elements.[2]

B. The Bar Order is fair, equitable and in the best interest of the Estate.

A bar order typically meets this first element if it facilitates a higher settlement value and/or avoids protracted litigation. *See, e.g., Peterson*, 129 F.4th at 610. A bar order is in the best interest of the receivership estate if it resolves "complex claims" and "rights and obligations of parties" that "are so inextricably intertwined that resolution of the claims independently, as opposed to collectively, would be difficult and inefficient, would substantially increase costs to the [r]eceivership [e]state, and would likely reduce the ultimate recovery to the [investors]." *DeYoung*, 850 F.3d at 1178; *accord SEC v. Alleca*, 2021 WL 4843987, at *13 (N.D. Ga. Sept. 9, 2021) (bar order was fair and equitable in light of amount defendants agreed to pay, as well as receiver's ability to avoid "the litigation risk…and the expenses associated with it"), *vacated on other grounds*, 2022 WL 16631325 (11th Cir. Nov. 2, 2022); *CFTC v. Bluprint LLC*, 2023 WL 5109447, at *4-5 (S.D. Fla. Aug. 2, 2023) (bar order was fair and equitable where case was "extremely complex," involving "speculative" and "tenuous" claims that were interrelated with other potential claims, and it was "extremely likely" that litigation of claims would require substantial, lengthy discovery and greatly deplete estate resources). Finally, a bar order is fair to creditors

[2] The Court has already approved bar orders in this case for similar reasons. [ECF #230 ¶4; ECF #273 ¶5]

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if it permits enjoined claims to be channeled to the receivership's claim process. *See, e.g., Peterson*, 129 F.4th at 613-14; *Kaleta*, 530 F.App'x at 362-63.

The Settlement meets these requirements. It avoids protracted litigation of the Claims, the outcome of which was uncertain due to [redacted] defenses. By settling, the Estate avoided significant expenses and time associated with litigating. The Bar Order also drove a higher settlement value, as [redacted] paid more to settle all Claims with a bar order than they would have paid to settle the Receiver Claims alone. (Vives Decl. ¶34; [redacted] Decl. ¶6.) *See, e.g., Peterson*, 129 F.4th at 610 (upholding bar orders that "benefitted the receivership estate as a whole by bringing in more than $24 million to pay defrauded investors' net losses"); *Nadel*, 2012 WL 12910648, at *1 (bar order warranted in part because it "facilitate[d] a higher settlement value and, therefore, a larger recovery for claimants tha[n] would otherwise be available without the bar order").

Moreover, the Bar Order helped resolve complex claims that would have been difficult—if not impossible—to resolve independently. (Vives Decl. ¶35; [redacted] Decl. ¶7.) Absent a settlement, the Receiver and the Investors would be left to litigate and, to the extent they obtained favorable judgments, compete for [redacted] assets, a result that would have "frustrat[ed] the receiver's pro rata distribution to investors—a core element of its draw upon equity." *Zacarias*, 945 F.3d at 900.

The Bar Order is also fair to those 1inMM net losing investors who would be enjoined from asserting claims against [redacted]. The scope of the Bar Order is appropriately tailored because it does not enjoin "independent" or "non-derivative" claims "that do not involve assets claimed by the receivership." *Peterson*, 129 F.4th at 607; *Zacarias*, 945 F.3d at 897. Instead, the Bar Order expressly enjoins ***only those claims that arise out of or relate to the Ponzi Scheme***, as more fully described in the Settlement Agreement and the Bar Order. Such claims are derivative of and dependent upon the Receiver Claims. *See, e.g., Peterson*, 129 F.4th at 612, 615 (approving bar orders where enjoined claims "substantially

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(312) 902-5200

overlapped" and "intertwined" with receiver's claims and sought damages for same Ponzi scheme losses); *Zacarias*, 945 F.3d at 897 (scope of bar order appropriate where enjoined claims were "derivative of and dependent on the receiver's claims, and their suits directly affect[ed] the receiver's assets"); *Stanford*, 2017 WL 9989250, at *2 (entering bar order permanently enjoining any other pending or future claims against settling defendants "arising from their relationship with [the Ponzi-scheme operator]").

The Bar Order is also fair because it channels any future claims against [redacted] to the Estate's claims process, which safeguards creditors' right to be heard. *See, e.g., Peterson*, 129 F.4th at 613 (affirming bar orders that channeled investors' claims to estate's claim process); *Zacarias*, 945 F.3d at 897 (same).

C. The Bar Order is necessary to the Settlement.

A bar order is necessary if it is "essential," meaning the parties otherwise would not have resolved their dispute without it. *See, e.g., Peterson*, 129 F.4th at 610. Here, the Bar Order is necessary because [redacted] would not have settled with the Receiver without a bar order enjoining all future claims against them arising out of or relating to the Ponzi Scheme. (Vives Decl. ¶36; [redacted] Decl. ¶8.); Indeed, entry of the Bar Order is a condition precedent under the Settlement Agreement. (Ex. 1 ¶2.) The Bar Order is, therefore, necessary. *See, e.g., Peterson*, 129 F.4th at 610 (upholding bar orders that were "necessary condition" of global settlement between receiver and settling parties, and where, absent bar orders, receiver "would have had to continue to expend receivership resources litigating against them," thus "depleting receivership resources"); *Gordon v. Dadante*, 2008 WL 1805787, at *14 (N.D. Ohio Apr. 18, 2008) (similar), *aff'd*, 336 F. App'x 540 (6th Cir. 2009); *Bluprint*, 2023 WL 51099447, at *3-4 (bar order necessary where settlement expressly stated it was "a necessary, integral, and essential" condition to agreement and that the parties' intent was to fully and finally resolve all claims relating to fraudulent scheme).

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III. The Court should approve the Administrative Claim.

The Investors' agreement that [redacted] should pay the entire amount of the Settlement Payment to the Estate for the benefit of all creditors will result in the Estate having more cash for administration and creditor claims. (Vives Decl. ¶37.) So the Receiver agreed that [redacted] should hold an allowed $[redacted] administrative claim as partial expense reimbursement in exchange for its contributions to the Estate ("Administrative Claim").[3] (*Id.* at ¶17.) After all, [redacted]—which functions like counsel to a creditors' committee in a bankruptcy case—and the Receiver are pursuing the same goal of maximizing Estate funds for the benefit of net losing investors. *Cf. Rodriguez v. Seabreeze Jetlev LLC*, 2022 WL 3327925, at *7 (N.D.Cal. Aug. 11, 2022) ("in bankruptcy cases, the debtor in possession and the committee of creditors share a duty to maximize the debtor's estate") (cleaned up).

The Settlement reflects these principles. In deciding whether to approve a settlement in a receivership, the Court is not constrained by a particular standard or set of rules but instead "has wide discretion to determine what relief is appropriate." *SEC v. Cap. Cove Bancorp*, 2017 WL 11643414, at *2 (C.D.Cal. Mar. 16, 2017). The Court could approve the Administrative Claim using its discretion alone.

The Court may also do so because [redacted] helped create a common fund in the Estate. Under the "common fund" doctrine, "a private plaintiff, or his attorney, whose efforts create, discover, increase or preserve a fund to which others also have a claim is entitled to recover from the fund the costs of his litigation, including attorneys' fees." *Vincent v. Hughes Air W., Inc.*, 557 F.2d 759, 769 (9th Cir. 1977); *accord Baten v. Mich. Logistics, Inc.*, 2023 WL 2440244, at *7 (C.D.Cal. Mar. 8,

[3] The Court has previously allowed [redacted] administrative claims for similar reasons. [ECF #230 ¶3; ECF #273 ¶6]

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(312) 902-5200

2023). The common-fund doctrine "is designed to spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone and the 'stranger' beneficiaries do not receive benefits at no cost to themselves." *Vincent*, 557 F.2d at 769.

The Ninth Circuit has held that where a lawyer for a creditor of an entity in receivership "undeniably caused the creation, discovery, increase, or preservation of a common fund that benefited investors," the receivership court must award the lawyer a reasonable fee under the common fund doctrine. *SEC v. Pritzker Levine LLP*, 2022 WL 671020, at *1 (9th Cir. Mar. 7, 2022). In *Pritzker*, the law firm Pritzker Levine LLP pursued certain litigation claims on behalf of a creditor that resulted in the identification of millions in assets that became part of a state court receivership. *Id.* Later, the SEC commenced a securities fraud action against the same defendants and the court appointed a federal receiver, who obtained the assets of the state receivership, including the funds realized from Pritzker's litigation efforts. *Id.* The Ninth Circuit held that because Pritzker helped create a fund that became part of the receivership estate, it should receive a reasonable fee award from the estate under the common fund doctrine, which "should be treated as an allowed administrative claim" paid "from the fund itself, as a prior charge before the beneficiaries receive it." *Id.* at *1-2.

Likewise, [redacted] played an essential role in increasing the amount of the Settlement Payment, all of which is coming into the Estate. The three-way nature of the settlement negotiations necessitated this. On the one hand, [redacted] sought finality with a settlement, which they really could only accomplish through a deal with the Receiver that would include a bar order. (Vives Decl. ¶38; [redacted] Decl. ¶9.) But as the Receiver was unwilling to settle over the objections of the Investors, any settlement had to resolve their claims too. (Vives Decl. ¶38.)

The Investors' agreement that [redacted] should make the Settlement Payment to the Estate was the lynchpin. (*Id.* ¶39.) It "undeniably caused

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the…increase" of the Estate's cash assets available for distribution to creditors beyond what the Receiver alone otherwise could have recovered. (*Id.*) *Pritzker*, 2022 WL 671020, at *1. [redacted], moreover, devoted a significant amount of work to this dispute ([redacted] Decl. ¶¶11-18.), which was a cause-in-fact benefitting the common fund in the Estate. *Pritzker*, 2022 WL 671020, at *1 ("the common fund doctrine requires that the work of the attorney seeking an extra fee be *a* cause-in-fact of any claimed benefit to the fund, but not the *only* cause-in-fact"). This is so even if one might speculate that the Receiver might have recovered the same amount on her own. *Id.* ("The district court's speculation that the funds…might still have been recovered by the federal receiver in the absence of [Pritzker's efforts]…does not demonstrate that Pritzker's efforts were not a 'cause-in-fact' of the creation, increase, or preservation of a common fund.").

Having created a common fund in the Estate, the Receiver's agreement to pay [redacted] approximately 7.6% of the Settlement Payment is reasonable and appropriate. *See, e.g., Jenson v. First Tr. Corp.*, 2008 WL 11338161, at *10-11 (C.D.Cal. June 9, 2008) (approving 33% fee award from common fund); *In re Heritage Bond Litig.*, 2005 WL 1594403, at *19 (C.D.Cal. June 10, 2005) (same); *In re Gen. Instrument Sec. Litig.*, 209 F. Supp. 2d 423, 431, 434 (E.D. Pa. 2001) (same).

"When all is said and done, the court can slice the pieces of this pie only so large. [Defendants] are to blame for the fact that the slices are so small. Had the professionals not persisted in their efforts, however, the pie would have been even smaller." *Gaskill v. Gordon*, 942 F. Supp. 382, 388 (N.D. Ill. 1996) (approving 38% fee award from common fund), *aff'd*, 160 F.3d 361 (7th Cir. 1998). The same is true here. Finding a way to compensate [redacted] for its efforts in augmenting the Estate was a hard-fought material term of the overall Settlement. The Receiver agreed to the Administrative Claim amount in the exercise of her business judgment, which she felt was necessary to achieve a global settlement. (Vives Decl. ¶40.) That decision

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CHICAGO, IL 60661
(312) 902-5200

is entitled to deference. *See, e.g., Roger*, 393 F. Supp. 3d at 961. For these reasons, the Receiver asks the Court to approve the Administrative Claim.

Notice to Creditors

"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 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. 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. The Receiver will thereafter file a status report. (Vives Decl. ¶41.)

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 motion to its website and served on all parties, known creditors and interested parties); *SEC v. Adams*, 2021 WL 8016843, at *2 (S.D.Miss. Feb. 25, 2021) (same, where receiver provided mail notice to interested parties, publicized settlement on

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525 W. MONROE ST.
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(312) 902-5200

receivership website and gave interested parties instructions how to submit comment or objection to settlement).

WHEREFORE, the Receiver respectfully requests the Court enter an order: (a) granting the Motion; (b) finding notice of the Motion is sufficient under the circumstances and satisfies due process, and waiving any further notice otherwise required by Local Rule 66-7; (c) approving the terms of the Settlement memorialized in the Settlement Agreement as fair and equitable, including without limitation, the Bar Order and the Administrative Claim; (d) authorizing the Receiver to take such further actions as may be necessary to consummate the transactions in the Settlement Agreement; and (e) granting such further relief as the Court deems necessary and appropriate.

Dated: September 22, 2025

Respectfully submitted,

KATTEN MUCHIN ROSENMAN LLP

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

Attorneys for the Receiver
Michele Vives

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

Certificate of Compliance with L.R. 11-6.2

The undersigned, counsel of record for the Receiver, Michele Vives, certifies that this brief contains 6,992 words, which complies with the word limit of L.R. 11-6.1.

Dated: September 22, 2025

Respectfully submitted,

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

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

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

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 September 22, 2025, I served the following document(s) described as:

MOTION OF RECEIVER MICHELE VIVES FOR ORDER APPROVING SETTLEMENT WITH [redacted] AND FOR RELATED RELIEF

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.

[X] BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused the document(s) to be sent from e-mail address 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.

[redacted]

[ ] 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 September 22, 2025, at Winnetka, Illinois.

/s/Terence G. Banich
Terence G. Banich

EXECUTION COPY

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (this "Agreement") is made and entered into as of this 20th day of December, 2024 (the "Effective Date"), between and among:

(a) Michele Vives, not individually, but solely as the receiver (the "Receiver") as more particularly described in the second recital of this Agreement;

(b) [redacted] and

(c) The persons and entities listed on Schedule 1 [redacted] (collectively, the "[redacted] Investors").

The Receiver, [redacted] and the [redacted] Investors are referred to collectively herein as the "Parties."

Recitals

WHEREAS, on April 6, 2021, the Securities and Exchange Commission commenced the civil action styled *Securities & Exchange Commission v. Horwitz*, No. 2:21-cv-02927-CAS(PDx) (the "Action"), in the United States District Court for the Central District of California (the "Court") against Zachary J. Horwitz ("Horwitz") and 1inMM Capital, LLC ("1inMM") and its subsidiaries and affiliates (collectively with 1inMM, the "Receivership Entities," and together with Horwitz, the "1inMM Defendants"), alleging that they conducted an offering fraud and Ponzi scheme in violation of federal securities laws (the "1inMM Ponzi Scheme");

WHEREAS, on January 14, 2022, the Court entered the *Order on Appointment of Permanent Receiver* (the "Appointment Order") in the Action that, among other things, appointed the Receiver to be the federal equity receiver of 1inMM and its subsidiaries and affiliates, as well as over the assets that are attributable to funds derived from investors or clients of the 1inMM Defendants or were fraudulently transferred by the 1inMM Defendants (the "Receivership Estate");

WHEREAS, the Appointment Order authorizes the Receiver to, among other things, investigate and prosecute claims and causes of action against persons and entities who may be liable to the Receivership Estate;

WHEREAS, the Receiver and her professional staff conducted a forensic accounting of the Receivership Entities' sources and uses of funds and the other assets of the Receivership Estate, including, without limitation, the amounts invested or deposited with the Receivership Entities by investors and other third parties and the amounts distributed or paid to or on behalf of investors, aggregators, insiders and other third parties;

WHEREAS, as a result of her forensic accounting analysis, the Receiver determined that Horwitz raised funds primarily from certain entities that aggregated large amounts of money from many individual investors for upstream loans to, or investments in, 1inMM, one of which was [redacted] which operated in conjunction with its affiliates, [redacted];

WHEREAS, following a diligent investigation, including the review and analysis of the books and records of the 1inMM Defendants as well as documents and information provided by [redacted], the Receiver determined that: (a) between February 22, 2017 and November 22, 2019, 1inMM made transfers to [redacted]

[redacted]; and (b) between February 22, 2017 and November 22, 2019, 1inMM made transfers to [redacted] the "Transfers");

WHEREAS, the Receiver contends that the Transfers are subject to avoidance and recovery under the Uniform Voidable Transactions Act as enacted in California (California Civil Code §§ 3439-3439.14) ("UVTA") as well as under common law principles of unjust enrichment/restitution, and that, consequently, she has, on behalf of the Receivership Estate, causes of action against [redacted] to avoid and recover the Transfers or their value (collectively, irrespective of how styled and inclusive of any and all claims that could have been but were not asserted against [redacted] by the Receiver, the "Receiver Claims");

WHEREAS, [redacted] have asserted various defenses to the Receiver Claims and deny that they are liable to the Receivership Estate on account of the Receiver Claims;

WHEREAS, the [redacted] Investors filed claims against [redacted] listed on Schedule 2 hereto (collectively, the "[redacted] Litigation"), and [redacted] deny that they are liable for those claims, and have asserted affirmative defenses to those claims (collectively, and irrespective of how styled, the "[redacted] Claims," and collectively with the Receiver Claims, the "Claims");

WHEREAS, the Claims and the amounts that the Receiver and the [redacted] Investors could seek on account thereof all arise out of and relate to the 1inMM Ponzi Scheme;

WHEREAS, on October 9, 2024, the Receiver and [redacted] attended a mediation before [redacted] (the "Mediation") which resulted in a settlement (the "Settlement"), and the [redacted] Investors later agreed to join in the Settlement on the terms as documented in this Agreement;

WHEREAS, although the [redacted] Investors are included in the definition of the "Parties," to avoid confusion, the Administrative Expense (as defined herein) is the sole obligation of the Receiver, and not the obligation of [redacted], and the sole obligation owing to the [redacted] Investors by [redacted] is executing this Agreement and granting the releases described in paragraph 10; and

WHEREAS, the Receiver, [redacted] and the [redacted] Investors, wishing to avoid the expense, delay and uncertainty of litigation of the Claims and to document the Settlement that resulted from the Mediation, have agreed to settle and resolve all pending and potential future claims and disputes between them arising out of or relating to the Receivership Entities, the 1inMM Ponzi Scheme, the Transfers, the Receiver Claims, the [redacted] Litigation and the [redacted] Claims (collectively, the "Disputes") on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which the Parties acknowledge, the Parties agree as follows:

Agreement

1. **Recitals Incorporated.** All of the foregoing recitals are true and correct and are incorporated herein as part of the Agreement for all purposes.

2. **Approval Order.** The validity of this Agreement, and the Parties' obligations hereunder, are subject to the condition precedent that the Court enters an order approving the material terms of the settlement documented in this Agreement, including the Bar Order described in paragraph 4 hereof (the "Approval Order," and the date that the Court enters the Approval Order on the docket of the Action, the "Approval Date"). If the Court declines to approve the settlement documented by this Agreement or declines to enter a Bar Order, then this Agreement (including the releases contained in paragraphs 7-10

hereof) will be void, and the Parties will retain all of their respective rights, claims and defenses as if this Agreement never existed.

3. **Settlement Payment.** In exchange for the Bar Order and the releases contained in paragraphs 7 and 9 of this Agreement, [redacted] agree to pay the sum of $[redacted] to the Receivership Estate (the "Settlement Payment"). [redacted] shall remit the Settlement Payment in immediately available United States Dollars by wire transfer per instructions that the Receiver will provide. [redacted] may remit the Settlement Payment in installments, as set forth in subparagraphs (a)-(c):

(a) No later than the 7th day after the Approval Date, the sum of $[redacted].

(b) No later than the 360th day after the Approval Date, the sum of $[redacted].

(c) No later than the 540th day after the Approval Date (the "Final Payment Date"), the sum of $[redacted].

(d) Notwithstanding paragraphs 3(a)-(c), [redacted] may remit the entire remaining amount of the Settlement Payment at any time prior to the 540th day after the Approval Date, in which case the date when they do so shall be the Final Payment Date.

(e) In the event [redacted] fail to make any payment listed in paragraph 5, the Receiver shall immediate or as soon as practicable notify [redacted], which upon receipt of such notice shall have a five (5) calendar day grace period within which to cure the payment default.

4. **Approval Motion; Bar Order.** The Receiver agrees to move the Court, as part of the relief requested in her motion to enter the Approval Order (the "Approval Motion"), to permanently enjoin and bar all persons, entities and non-governmental units from commencing or continuing a civil action or other proceeding against [redacted] in any jurisdiction alleging any claim, cause of action or request for relief arising out of or relating to the 1inMM Ponzi Scheme in the form of words appearing on, or substantially similar to, Schedule 3 hereto (the "Bar Order"). The Receiver is primarily responsible for prosecuting the Approval Motion and responding to any objections filed or asserted in opposition to it. [redacted] and the [redacted] Investors will support the entry of the Approval Order and will, upon the Receiver's reasonable request, submit declarations in support of, and attend any hearing on, the Approval Motion.

5. **Confidentiality.**

(a) Confidentiality of Settlement Information. Except as expressly provided in this Agreement or as may be waived by [redacted] in writing in their discretion, the Parties agree to keep the terms of the Settlement and the Agreement itself, including the amount of the Settlement Payment and the identity of [redacted] as the counterparties to the Settlement (collectively, the "Settlement Information"), confidential and not to disclose any Settlement Information other than as expressly provided in this Agreement.

(b) Permitted Disclosures. A Party may disclose Settlement Information: (i) if required by law or regulation; (ii) to a professional (such as an attorney or accountant) advising such Party as to 1inMM matters who owes a duty of confidentiality to such Party, so long as such Party advises the professional of the confidentiality protections that apply to this information; or (iii) as the Receiver and [redacted] may agree in writing.

(c) Confidentiality Procedure. If any person or entity contacts the Receiver and asks the Receiver to reveal any non-public Settlement Information, the Receiver shall refrain from disclosing any non-public Settlement Information to that person unless and until the Receiver or her counsel first

verifies that the person is a creditor of the Receivership Estate who is identified in the Receiver's records and then receives a signed non-disclosure agreement (the "NDA") from such person, with such NDA in substantially the form that is attached hereto as Schedule 4.

(d) Best Efforts. The Receiver shall to use her reasonable best efforts, pursuant to the procedures specified in Local Rule 79-5.2.2, to implement paragraph 5(a) of this Agreement by obtaining an order from the Court authorizing her to file the Approval Motion under seal and to serve on parties in interest redacted copies of the Approval Motion and its exhibits (including this Agreement) (a "Sealing Order"). *Provided, however*, [redacted] agree that obtaining a Sealing Order from the Court is not a condition precedent to the validity of this Agreement or their performance under it.

6. **Administrative Expense.**

(a) In exchange for the [redacted] Investors' accession to this Agreement, the releases exchanged in paragraphs 9 and 10 and the dismissal of the [redacted] Litigation, the Receiver agrees to move the Court, as part of the relief requested in the Approval Motion, to order that [redacted], holds an allowed administrative expense claim against the Receivership Estate in the amount of $[redacted] as reimbursement for a portion of the reasonable expenses incurred in the pursuit of the [redacted] Claims (the "Administrative Expense"), which the Receiver deems to have provided benefit to the Receivership Estate, and to authorize the Receiver to pay the same.

(b) The Receiver will pay the Administrative Expense to [redacted] within 10 days of receiving the payment specified in paragraph 3(a).

(c) The payment to [redacted] on account of the Administrative Expense is not a distribution to the [redacted] Investors, which shall occur only pursuant to an order of the Court approving a claims reconciliation and allowance process.

(d) [redacted] have no obligation to pay the Administrative Expense.

7. **Release of [redacted] by Receiver; Covenant Not to Sue.** The Receiver, on behalf of herself, the Receivership Estate and their respective agents, employees, officers, partners, managers, parents, subsidiaries, affiliates, insurers and attorneys (collectively, the "Receiver Releasing Parties"), hereby forever releases, remises and discharges [redacted] as well as their respective heirs, successors, assigns, agents, employees, officers, shareholders, managers, parents, subsidiaries, affiliates, insurers and attorneys (collectively, the "[redacted] Released Parties"), from any and all claims, counterclaims, actions, causes of action, lawsuits, proceedings, adjustments, offsets, contracts, obligations, liabilities, controversies, costs, expenses, attorney's fees and losses whatsoever, whether known or unknown, disclosed or concealed, asserted or unasserted, liquidated or unliquidated, contingent or absolute, accrued or unaccrued, matured or unmatured, insured or uninsured, joint or several, determined or undetermined, determinable or otherwise, whether in law, in admiralty, in bankruptcy, or in equity, and whether based on any federal law, state law, common law right of action or otherwise, from the beginning of time to the Effective Date of this Agreement arising out of or relating to the Disputes (collectively, the "Receiver Released Claims"), but specifically excluding any claims or causes of action arising out of or related to enforcement of this Agreement. The Receiver Releasing Parties hereby covenant not to sue any of the [redacted] Released Parties on account of any Receiver Released Claim.

8. **Release of the Receivership Estate by [redacted] Covenant Not to Sue.** [redacted], on behalf of themselves and their respective heirs, successors, assigns, agents, employees, officers, partners, managers, parents, subsidiaries, affiliates, insurers and attorneys (collectively, the "[redacted] Releasing Parties"), hereby forever release, remise and discharge the Receiver, the Receivership Estate as well as their agents, employees, officers, shareholders, managers, parents, subsidiaries, affiliates, insurers and attorneys (collectively, the "Receiver Released Parties"), from any and all claims, counterclaims, actions, causes of action, lawsuits, proceedings, adjustments, offsets, contracts, obligations, liabilities,

controversies, costs, expenses, attorney's fees and losses whatsoever, whether known or unknown, disclosed or concealed, asserted or unasserted, liquidated or unliquidated, contingent or absolute, accrued or unaccrued, matured or unmatured, insured or uninsured, joint or several, determined or undetermined, determinable or otherwise, whether in law, in admiralty, in bankruptcy, or in equity, and whether based on any federal law, state law, common law right of action or otherwise, from the beginning of time to the Effective Date of this Agreement arising out of or relating to the Disputes (collectively, the "[redacted] Released Claims"), but specifically excluding any claims or causes of action arising out of or related to enforcement of this Agreement. The [redacted] Releasing Parties hereby covenant not to sue any of the Receiver Released Parties on account of any [redacted] Released Claim.

9. **Release of [redacted] by the [redacted] Investors; Covenant Not to Sue.** The [redacted] Investors, on behalf of themselves and their respective heirs, successors, assigns, agents, employees, officers, partners, managers, parents, subsidiaries, affiliates, insurers and attorneys (collectively, the "Investor Releasing Parties"), hereby forever release, remise and discharge the [redacted] Released Parties from any and all claims, counterclaims, actions, causes of action, lawsuits, proceedings, adjustments, offsets, contracts, obligations, liabilities, controversies, costs, expenses, attorney's fees and losses whatsoever, whether known or unknown, disclosed or concealed, asserted or unasserted, liquidated or unliquidated, contingent or absolute, accrued or unaccrued, matured or unmatured, insured or uninsured, joint or several, determined or undetermined, determinable or otherwise, whether in law, in admiralty, in bankruptcy, or in equity, and whether based on any federal law, state law, common law right of action or otherwise, from the beginning of time to the Effective Date of this Agreement arising out of or relating to the Disputes (collectively, the "Investor Released Claims"), but specifically excluding any claims or causes of action arising out of or related to enforcement of this Agreement. The Investor Releasing Parties hereby covenant not to sue any of the [redacted] Released Parties on account of any Investor Released Claim.

10. **Release of the [redacted] Investors by [redacted]; Covenant Not to Sue.** The [redacted] Releasing Parties hereby forever release, remise and discharge the [redacted] Investors as well as their respective heirs, successors, assigns, agents, employees, officers, partners, managers, parents, subsidiaries, affiliates, insurers and attorneys (collectively, the "Investor Released Parties") from the [redacted] Released Claims, but specifically excluding any claims or causes of action arising out of or related to enforcement of this Agreement. The [redacted] Releasing Parties hereby covenant not to sue any of the Investor Released Parties on account of any [redacted] Released Claim.

11. **Section 1542 Waiver.** The Parties acknowledge that they have read and understand section 1542 of the California Civil Code (Cal. Civ. Code § 1542), which reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties hereby expressly waive and relinquish all rights and benefits under California Civil Code section 1542 with respect to the [redacted] Released Claims, the Receiver Released Claims and the Investor Released Claims.

12. **Effectiveness of Releases; Exclusions.**

(a) The releases in paragraphs 8, 9 and 10 of this Agreement become effective on the Approval Date. The releases in paragraph 7 of this Agreement become effective on the Final Payment Date.

(b) The Receiver Released Claims exclude any claims or causes of action that the Receivership Estate may have against any investor in or lender to 1inMM (through [redacted] or otherwise) other than the [redacted] Released Parties (collectively, "Other 1inMM Investors").

13. **Waiver of Claim and Distribution.**

(a) [redacted] hereby waive any right to file, and covenant not to file, a Proof of Claim. If, notwithstanding the immediately previous sentence, any of [redacted] files a Proof of Claim in the Action, then the Receiver may apply to or move the Court to enter an order disallowing that Proof of Claim, and [redacted] hereby waive any notice or opportunity to be heard on any such application or motion. [redacted] acknowledge and agree that none of them is entitled to any distributions whatsoever from the Receivership Estate.

(b) To avoid any ambiguity, other than [redacted], [redacted] are specifically excluded from the definition of [redacted] and thus are entitled to submit claims. Any person's status as [redacted] shall not be used as a basis to deny any distribution to any such person.

14. **Dismissal of the [redacted] Litigation.** No later than three business days after the Approval Date, the [redacted] Investors shall cause the [redacted] Litigation to be dismissed with prejudice. For the avoidance of any doubt, any claim for an award of attorney's fees under an applicable contractual fee-shifting clause that [redacted] claim to hold against any of the [redacted] Investors and/or [redacted] is an [redacted] Released Claim.

15. **Representations and Warranties.** The Parties warrant and represent to each other that: (a) each Party shall act in good faith seeking to accomplish the purpose of this Agreement; (b) each Party has not transferred, conveyed, released, pledged, assigned or made any other disposition of the claimed rights, interests, demands, actions or causes of action, obligations, or any other matter covered by this Agreement; (c) each Party has not relied upon any promises, agreements, representations, statements or warranties in entering into this Agreement, except those that are expressly set forth herein; (d) each signatory to this Agreement warrants that he, she or it has the authority to execute this Agreement and to bind the persons or entities on behalf of which he, she or it signs, including, without limitation, each of the [redacted] Releasing Parties, the Receiver Releasing Parties and the Investor Releasing Parties specified in paragraphs 7-10; and (e) EACH PARTY ACKNOWLEDGES THAT HE, SHE OR IT HAS READ THIS AGREEMENT IN ITS ENTIRETY AND THAT HE, SHE OR IT UNDERSTANDS AND APPRECIATES ITS CONTENTS AND SIGNIFICANCE AND HEREBY EXECUTES THE SAME AND MAKES THE RELEASE PROVIDED FOR IN THIS AGREEMENT VOLUNTARILY AND OF HIS, HER OR ITS OWN FREE WILL, HAVING FIRST HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL.

16. **Approval by [redacted] Investors.** [redacted] represents and warrants that all [redacted] Investors have approved the terms and conditions of this Agreement and have authorized [redacted] to execute and deliver this Agreement on their behalf. As evidence of this representation and warranty, [redacted] has provided a declaration, attached hereto as Schedule 5.

17. **Section 1341.** The Receiver will issue an appropriate written acknowledgement of her receipt of the Settlement Payment for purposes of [redacted] claim to any tax benefits under Section 1341 of the Internal Revenue Code with respect to all or part of the Settlement Payment.

18. **Enforcement of this Agreement.**

(a) If [redacted] or the Receiver files a motion or pleading against the other to enforce the terms of this Agreement (an "Enforcement Proceeding"), in addition to any other relief to

which the successful or prevailing party or parties (the "Prevailing Party") is entitled, the Prevailing Party is entitled to recover, and the non-Prevailing Party shall pay, all reasonable attorney's fees of the Prevailing Party, court costs, and expenses (even if not recoverable by law as court costs) incurred in that action, and all appellate proceedings related thereto. The Parties also agree that any dispute arising out of or related to this Agreement shall be decided only by the Court by application or motion filed in the Action. In connection with any action or proceeding to enforce, interpret or construe any provision of this Agreement, [redacted] and the [redacted] Investors hereby irrevocably and unconditionally (i) consent to the exercise of personal jurisdiction over her, him or it by the Court, and (ii) waive any defense of improper venue or forum non conveniens. Furthermore, the Parties agree that the Court shall retain exclusive jurisdiction over all matters relating to this Agreement.

(b) The [redacted] Investors (i) shall have no standing to file an Enforcement Proceeding and (ii) are excluded from paragraph 18(a). [redacted]'s sole recourse for any unpaid portion of the Administrative Expense is by filing a claim against the Estate.

19. **Binding on Successors and Assigns.** This Agreement is and shall be binding upon: (a) the officers, directors, successors, heirs and assigns of each Party; (b) each past, present, direct or indirect parent, subsidiary, division or affiliated entity of each Party; and (c) each past or present agent, representative or shareholder of each Party. Any person executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to enter into this Agreement on behalf of said Party.

20. **Fair Construction.** The Parties acknowledge that this Agreement is the manifestation of direct negotiation and represents the mutual and voluntary consent and understanding of each Party. As such, this Agreement shall be deemed to be the joint work product of the Parties without regard to the identity of the draftsperson, and any rule of construction that a document shall be interpreted or construed against the drafting Party shall not be applicable.

21. **No Third-Party Beneficiaries.** Nothing in this Agreement benefits, or is intended to benefit, or confers the power to enforce or claim any benefit under this Agreement, on any third party, including without limitation, the Other 1inMM Investors.

22. **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of this Agreement.

23. **Fees and Costs.** Each of the Parties will bear her, his or its own costs and attorney's fees incurred in connection with the negotiation and delivery of this Agreement.

24. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the Parties with regard to all matters addressed herein. This Agreement supersedes and replaces all prior commitments, negotiations, and all agreements proposed or otherwise, if any, whether written or oral, concerning the subject matters contained in this Agreement. The Parties expressly acknowledge that they have not relied on any prior or contemporaneous oral or written representations or statements by another Party in connection with the subject matter of this Agreement, except as expressly set forth herein.

25. **No Collateral Representations.** The consideration provided herein consists of the entire consideration to which the Parties are entitled. The Parties acknowledge that none of the Parties, their agents, attorneys, insurers, representatives, successors, assigns, heirs, beneficiaries, executors, administrators, parents, subsidiaries, affiliates, current and former directors, officers, employees and representatives (as appropriate for each Party) has made any promise, representation or warranty, expressed or implied, not expressly set forth in this Agreement, which has induced any Party to execute this Agreement.

26. **Exculpation**. The Receiver is executing this Agreement solely in her representative capacity as the Receiver appointed by the Court, and the Receiver's liability hereunder shall be limited to the assets of the Receivership Estate. Neither [redacted] nor any [redacted] Investor shall have or assert any claims against the Receiver in her personal capacity.

27. **Further Assurances**. The Parties will cooperate fully and execute all supplementary documents and take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

28. **Modification.** This Agreement may only be modified by a writing signed by all Parties.

29. **Governing Law.** This Agreement and the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflict-of-laws rules thereof.

30. **Time.** Time is of the essence as to all dates and time periods specified in this Agreement. All time periods in this Agreement shall be computed pursuant to Federal Rule of Civil Procedure 6(a).

31. **Tax Implications.** Each Party shall be responsible for seeking her, his, or its own individual tax advice and shall bear whatever tax liability she, he or it incurs in connection with the transactions contemplated by this Agreement. The Parties make no representations to each other about what tax consequences, if any, result from the transactions contemplated by this Agreement.

32. **Waiver.** No waiver of any right, obligation, or duty imposed by or under this Agreement shall be effective unless such waiver is reflected in a writing duly executed by all parties hereto. No waiver shall be effective based on conduct or oral statements. Waiver by any Party of any breach of this Agreement shall not be a waiver by such Party of any other breach of this Agreement.

33. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one in the same instrument. Facsimile or PDF signatures shall be deemed to have the same effect as original signatures.

34. **Compromise.** The Parties agree and acknowledge that this Agreement is the result of a compromise and a decision to settle all disputes between them relating to the Disputes. The Parties expressly agree that this Agreement is a compromise of disputed claims for the purposes of avoiding the expense, delay, uncertainty and burden of litigation. This Agreement is inadmissible in any proceeding for any purpose other than to enforce its terms. The Parties further agree that executing this Agreement and making the Settlement Payment is not, and shall never be construed as, an admission by [redacted] of any fact, liability, wrongdoing or violation of any law, statute or regulation.

35. **Notices.** Any and all notices under this Agreement shall be in writing, and shall be transmitted to the Parties by electronic mail or express overnight delivery service as follows:

If to the Receiver: KATTEN MUCHIN ROSENMAN LLP Terence G. Banich 525 W. Monroe St. Chicago, IL 60661 terence.banich@katten.com with a copy to: Michele Vives, Receiver 1620 Fifth Ave., Ste. 400 San Diego, CA 92101 mvives@douglaswilson.com	If to [redacted]: [redacted]
	If to the [redacted] Investors: [redacted]

EXECUTION COPY

IN WITNESS WHEREOF, the Parties hereby execute this Agreement as of the Effective Date.

MICHELE VIVES, Receiver, on behalf of herself and the Receiver Releasing Parties	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
THE [redacted] INVESTORS, on behalf of themselves and their respective Investor Releasing Parties [redacted]	[redacted]

Schedule 1

[redacted] Investors

The [redacted] Investors consist of the following persons and entities:

Schedule 2

[redacted] Litigation

The [redacted] Litigation consists of:

[redacted]

Schedule 3

Form of Bar Order

The Receiver shall insert the following decretal language in the proposed Approval Order (which shall state that all capitalized terms not defined therein shall have the meanings ascribed to them in the Agreement and Approval Motion):

"The Court hereby PERMANANTLY BARS, RESTRAINS and ENJOINS all persons and entities (except any governmental unit, as that term is defined by 11 U.S.C. § 101(27)), as well as their respective heirs, successors, assigns, officers, directors, representatives, agents and attorneys, from commencing or continuing any civil action, administrative proceeding, arbitration or other adversarial proceeding against [redacted] asserting any claim or cause of action, whether directly or derivatively, arising out of, in connection with or relating in any way to: (1) the 1inMM Ponzi Scheme; (2) acts or omissions relating to [redacted] (3) acts or omissions relating to the 1inMM Ponzi Scheme or the 1inMM Defendants; (4) acts or omissions relating to any investment, loan or transfer of money to [redacted] or 1inMM Capital, LLC and/or repayment or lack of repayment by [redacted] or the 1inMM Defendants (in whatever form and however denominated, a "1inMM Claim"). All 1inMM Claims are hereby channeled into the Receivership Estate's claims distribution process that the Court will establish by separate order. *Provided, however,* this order does not bar, restrain or enjoin the Receiver from asserting any claim or cause of action against Other 1inMM Investors (as that term is defined in paragraph 12(b) of the Settlement Agreement)."

Schedule 4

Form of NDA

CONFIDENTIAL NON-DISCLOSURE AGREEMENT

This Confidential Non-Disclosure Agreement (this "Agreement"), dated _____ (the "Effective Date"), is entered into by and between Michele Vives, the duly appointed permanent receiver (the "Receiver") of 1inMM Capital, LLC and its affiliates, and _____ (the "Receiving Party"). The Receiver and Receiving Party are referred together herein as the "Parties."

The Agreement sets forth the mandatory terms upon which the Receiver will disclose certain information concerning the identity of the parties who have agreed to settle and are the beneficiaries of an order barring all claims against those parties pursuant to the terms of a confidential settlement agreement and release (the "Confidential Information"). The Confidential Information to be shared with the Receiving Party is secret and not publicly available, and the Receiver not only considers it to be highly confidential and proprietary, but also has agreed to take steps to maintain the confidentiality of such information. The Confidential Information is being provided solely because the Receiving Party asserts an interest in knowing the identity of the party (the "Settling Party") who has agreed to settle and is the beneficiary of the bar order (the "Legitimate Purpose"), with the provision of such Confidential Information conditioned upon the Receiving Party's written commitment not to disclose any of the Confidential Information to anyone other than the Parties hereto. The Parties hereby agree as follows regarding such Confidential Information:

1. The Receiving Party agrees to protect the confidentiality of the Confidential Information and to use the Confidential Information solely for the Legitimate Purpose. The Receiving Party agrees not to disclose the Confidential Information to anyone else or use the information for any other purpose.

a. The Receiving Party further agrees to utilize proper internal control policies and procedures to protect the confidentiality of the Confidential Information.

b. To avoid any misunderstanding, it is further specifically agreed and understood that:

i. 10 business days after receipt of any disclosed Confidential Information, the Receiving Party must return all Confidential Information to the Receiver or destroy such material and not retain or create any copies. To be clear, Confidential Information includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Confidential Information. Whether the Confidential Information is returned or destroyed, the Receiving Party must submit a written certification to the Receiver by the 10-day deadline that (l) identifies all the Confidential Information that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries, or any other format reproducing or capturing any of the Confidential Information.

ii. The Receiving Party shall not orally or in writing disclose, summarize or in any way characterize or cause or authorize anyone else to disclose, summarize or in any way characterize any of the Confidential Information to anyone for any purpose.

iii. The Receiving Party shall be responsible for any breach of these provisions by he, she or it or his, her or its executives, employees, representatives, agents, attorneys, or members.

2. The Receiving Party shall exercise the highest degree of care in safeguarding the Confidential Information. The Receiving Party shall not share the Confidential Information with anyone, except the Receiving Party's attorney, and only if such attorney signs this Agreement and agrees to abide by all of its terms and conditions. The Receiving Party and his, her or its attorneys shall be jointly and severally responsible for any breach of this Agreement by any such attorney.

3. The restrictions on use or disclosure described in Paragraphs 1 and 2 above do not extend to any item of information which:

a. is publicly known at the time of its disclosure;

b. is lawfully received from a third party as a matter of right provided that, to the Receiving Party's knowledge, such source is not precluded by law or confidentiality obligations from disclosing the same to the Receiving Party;

c. is published or made known to the public by the Receiver in a manner not precluded by her obligations to the Settling Party under their written confidential settlement agreement;

d. is required by law or other legal authority to be disclosed, provided that the Receiving Party gives the Receiver prior notice of the alleged required disclosure sufficiently in advance of disclosure so that appropriate protective orders or other legal remedies may be sought and obtained, and the Receiving Party shall make no disclosure pending those efforts to obtain appropriate protective orders or other legal remedies.

4. Each Party agrees that the Settling Party are third-party beneficiaries of this Agreement and may seek specific performance of its terms or any other remedy that may be available at law or in equity for any actual or threatened breach of the Agreement. Each Party further agrees that money damages may not be a sufficient remedy for breach of this Agreement, as such violation could cause irreparable injury to the Receiver and/or the Settling Party. Accordingly, the Receiver and the Settling Party shall be entitled to seek an injunction or other appropriate or legal relief to restrain any breach or threatened breach of this Agreement.

5. The Receiver shall not provide, and the Receiving Party shall not use, Confidential Information in violation of any law, rule or regulation, nor the proprietary, privacy or other rights of the Settling Party or any third party.

6. This Agreement shall be binding on the Parties, their subsidiaries, successors and assigns. It shall be governed by and construed in accordance with the laws of the State of California. Any dispute arising under, relating to or in any way connected with this Agreement may be resolved solely by binding arbitration before [redacted] By agreeing to arbitrate, the Parties acknowledge and agree that they are giving up a right to a jury trial and other potential rights. The Parties agree that the arbitration proceedings, testimony, discovery, and documents filed in the course of such proceedings, including all filings, evidence, and testimony connected with the arbitration proceedings, and all relevant allegations and events leading up to the arbitration proceedings, will be treated as confidential to the extent they contain Confidential Information and will not be disclosed to the public or any third party, except the arbitrator and the arbitrator's staff, the disputing Parties' attorneys and their respective staff, and any experts retained by the Parties. The arbitration award will be binding upon the disputing Parties, and a judgment or decree upon the award may be entered in any court of competent jurisdiction in Los Angeles County, California, or, if the Parties have agreed to an alternate arbitral forum, any court of competent jurisdiction in that forum. This provision is intended to

provide the Receiving Party and the Receiver with the exclusive procedure for redressing grievances that arise under, relate to or are in any way connected to this Agreement, except the Receiver (or the Settling Party) shall be entitled to seek an injunction or other appropriate equitable or legal relief in a state or federal court to restrain any breach or threatened breach of this Agreement as provided for in Paragraph 4 above. Any arbitration proceeding conducted pursuant to this Paragraph 6 shall be strictly confidential, and any motion or petition to confirm an arbitration award shall be filed under seal.

7. In the event of a breach by the Receiving Party of any term of this Agreement, the Receiving Party shall indemnify, defend, and hold harmless the Receiver and the Settling Party and any of their affiliates, agents, or representatives, and pay, compensate and reimburse each of them for, all losses that any of them may at any time suffer or incur as a proximate result of the Receiving Party's breach of his, her or its obligations under this Agreement, including without limitation any damages assessed against the Receiver or any affiliate or agent of the Receiver, as well as any related expenses, including, but not limited to, the cost of defense. In the event this provision comes into effect, the Receiver and/or the Settling Party, and their affiliates, agents, and/or representatives shall have the right to select their own counsel.

8. In the event of an actual disclosure or use of Confidential Information in breach of this Agreement (an "Incident"), the Receiving Party shall, at the Receiving Party's sole expense (a) notify the Receiver of the Incident without undue delay after discovering the Incident, (b) take immediate steps to mitigate and remediate the Incident, including steps to prevent any further unauthorized use or disclosure of Confidential Information, (c) identify to the Receiver with particularity the Confidential Information impacted by the Incident, (d) provide the Receiver with reasonably available information regarding the cause, impact and other circumstances of the Incident, and (e) reasonably cooperate with the Receiver to investigate and remediate the Incident.

9. This Agreement shall commence as of the Effective Date.

10. No failure or delay by the Receiver or a Settling Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof. Any waiver of a provision hereof must be in writing and signed by all parties hereto.

11. Any notice or communication under this Agreement shall be in writing and shall be effective: (a) upon delivery if delivered in-person or by electronic mail, (b) three business days following deposit in the U.S. mail, certified or registered mail, return receipt request, or (c) the next business day following deposit with a nationally recognized overnight courier service, in each case sent to the party's address set forth below and addressed to the signatory to this Agreement (or to such other address or individual as designated in a notice sent in accordance with this Paragraph).

12. This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered (by facsimile, electronic mail or otherwise) to the other party, it being understood that all Parties need not sign the same counterpart. Any counterpart or other signature hereunder delivered by facsimile or electronic transmission, such as e-mail or PDF, shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

13. The Receiving Party acknowledges and agrees to maintain the confidentiality of the Confidential Information beyond the completion and termination of the Legitimate Purpose and never to divulge or discuss any Confidential Information unless specifically authorized or directed to do so by the Receiver.

14. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof, and there shall be no additions to or changes in the provisions hereof, nor any representations with respect to the subject matter hereof, except as shall be in writing signed by the Parties.

THE RECEIVING PARTY	MICHELE VIVES, as Receiver
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

Schedule 5

Declaration of [redacted]

I, [redacted], declare as follows:

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

2. I submit this declaration pursuant to paragraph 16 of the *Settlement Agreement and Mutual Release*, dated December 13, 2024 (the "Agreement"), to which this declaration is attached as Schedule 5. Any capitalized terms not defined herein have the meanings ascribed to them in the Agreement.

3. [redacted]

4. I represent the [redacted] Investors listed on Schedule 1 to the Agreement.

5. All [redacted] Investors have approved the terms and conditions of this Agreement, including the reimbursement of expenses described in paragraph 6, and have authorized [redacted] to execute and deliver this Agreement on their behalf.

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

Executed on December 13, 2024
in [redacted]

[redacted]

Terence G. Banich (SBN 212173)
terence.banich@katten.com
Allison E. Yager (*pro hac vice)*
allison.yager@katten.com
KATTEN MUCHIN ROSENMAN LLP
525 W. Monroe St.
Chicago, IL 60661
Telephone: (312) 902-5665
Facsimile: (312) 902-1061

Attorneys for the Receiver
Michele Vives

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

DECLARATION OF MICHELE VIVES

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

DOCUMENT FILED UNDER SEAL PURSUANT TO ORDER OF THE COURT DATED SEPTEMBER 19, 2025 [ECF #465]

I, Michele Vives, declare as follows:

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

2. I submit this declaration in support of the *Motion of Receiver Michele Vives for Order Approving Settlement with* [redacted] *and for Related Relief*, dated September 22, 2025 (the "Motion"). Any capitalized terms not defined herein have the meanings ascribed to them in the Motion.

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

A. The Receiver; investigation of transfers

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

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CHICAGO, IL 60661
(312) 902-5200

5. The Receiver Order confers on me "full powers of an equity receiver," and specifically authorizes and directs me to, among other things: take custody and control over all assets of 1inMM and its subsidiaries and affiliates; conduct an investigation and discovery as may be necessary to locate and account for the assets of or managed by 1inMM and its subsidiaries and affiliates; and investigate and, where appropriate, prosecute claims and causes of action that I may possess.

B. The [redacted] Claims

6. Pursuant to the authority conferred on me by the Receiver Order, and as I have discussed in my previous quarterly reports, my staff and I have devoted a great deal of time and effort to conducting a forensic accounting analysis of the financial transactions involving 1inMM, Horwitz and their respective insiders and affiliates. This project is critical to determine who may be liable to the Estate for receiving fraudulent transfers, to identify previously unknown assets and to obtain information about 1inMM's investors.

7. I have determined that 1inMM did not just transfer funds to investors and their feeder funds; 1inMM also transferred very large sums to various persons and entities who do not appear to have been investors and/or lenders in the Ponzi Scheme. I am investigating both types of transfers. In doing so, I will be able to identify potential fraudulent transfers to both investors and non-investors alike, thereby increasing the pool of potential recovery to the Estate. Settlements that I reach with such transferees are likely to be very significant Estate assets.

8. My professional staff and I have, therefore, devoted considerable time and attention to reviewing and analyzing tens of thousands of banking transactions and associated records associated with 1inMM and Horwitz to identify those persons and entities who may have received transfers that are subject to avoidance and recovery.

9. I determined, among other things, that Horwitz raised investor funds mostly using certain entities that pooled large amounts of money from many

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

individual investors or lenders for upstream loans to, or investments in, 1inMM. One of these entities was [redacted], operating in conjunction with its affiliates, [redacted].

10. [redacted] formed [redacted] for the purpose of financing 1inMM's acquisition of movie licensing rights. Based on my analysis, the business purpose of [redacted] was for investment.

11. [redacted] transactions with 1inMM and its investors typically involved a participation agreement between 1inMM and [redacted], and a corresponding profit-sharing agreement between [redacted] and its investors. [redacted] was the sole manager of [redacted], which structured their transactions as equity-participation investments.

12. Through their unknowing participation in the 1inMM Ponzi Scheme, [redacted] realized significant fictitious profits that they passed through to [redacted]. Those unknowingly fictitious profits provided expense reimbursement for [redacted].

C. The Transfers and the Receiver Claims

13. I determined that, between February 22, 2017 and November 22, 2019, 1inMM made transfers to [redacted] "Transfers").

14. I asserted that I may avoid the Transfers as actually fraudulent under §3439.04(a)(1) of the California Uniform Voidable Transactions Act, Cal. Civ. Code §§3439 et seq. ("UVTA"), and as unjust enrichment/restitution ("Receiver Claims";

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525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5200

collectively with the [redacted] Claims, "Claims"). I contended 1inMM and Horwitz made the Transfers with the actual intent to hinder, delay or defraud their creditors, as Horwitz pled guilty and admitted that he used 1inMM to operate a Ponzi scheme, which conclusively establishes intent for purposes of a UVTA actual fraudulent transfer claim. I argued that I could recover the Transfers from [redacted] under UVTA §3439.08(b)(1)(A) as their first transferee, because [redacted]

[redacted]

[redacted]

[redacted]. [redacted] asserted several defenses.

D. The Settlement

15. [redacted] wished to settle the Receiver Claims only if I could concurrently resolve the [redacted] Claims.

16. After a mediation before [redacted], [redacted] and I reached a confidential settlement that the Investors later joined ("Settlement"), whereby [redacted] will pay $[redacted] to the Estate ("Settlement Payment") over 540 days to resolve all Claims. The parties will exchange mutual general releases, and I will ask the Court to enter an order ("Bar Order") permanently barring and enjoining all persons and non-governmental units from suing [redacted] on any claim arising out of or relating to the Ponzi Scheme. The Settlement is documented in the Settlement Agreement.

17. Because the Investors agreed that the Settlement Payment should be paid into the Estate for the benefit of all creditors, [redacted] has created a common fund from which a negotiated amount—$[redacted]—should be paid to [redacted] as expense reimbursement.

18. As the parties agreed that [redacted] identities should remain confidential to prevent potential irreparable injury resulting from any public disclosure of the Claims, I filed an application requesting that this Motion, the Bar Order and all supporting documents be sealed, which the Court granted.

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CHICAGO, IL 60661
(312) 902-5200

E. Assessment of the Settlement

19. I believe the Settlement is in the best interest of the Estate.

20. The Settlement constitutes a substantial recovery without the expense and risk of litigation and represents an equitable, good-faith resolution of all Claims. While the Investors and I were confident in our respective Claims, [redacted] asserted defenses that may have resulted in the Investors and me recovering nothing. The Settlement thus avoids protracted litigation, conserving Estate resources.

21. The Settlement Payment also exceeds what [redacted] would have paid to resolve the Receiver Claims alone without a bar order. A critical component of the Settlement is that the Court enters the Bar Order, which is common for these sorts of settlements.

22. Further, the Settlement resolves the [redacted] Claims, so [redacted] efforts enhanced the settlement value, which is flowing to the Estate. And because the Investors agreed that [redacted] should remit the entirety of the Settlement Payment to the Estate, [redacted] helped create a common fund.

23. The Settlement resolves a complex multiparty dispute. The Claims arise from the Ponzi Scheme, but the Investors had divergent objectives. They pursued [redacted] to remedy their own damages, while I focused on benefitting the Estate as a whole. Those goals often conflicted, resulting in various disagreements between the Investors and me.

24. The [redacted] Claims are, nonetheless, derivative of the Receiver Claims and compete with me for [redacted] assets. The Investors and I pursued the same parties arising out of the same facts. As such, every dollar the Investors managed to recover from [redacted] was arguably a dollar I could not recover from them.

25. [redacted] wanted finality with a settlement, which they really could only achieve through me, and I did not think it advisable to exclude from those discussions the Investors, who constitute a significant percentage of the known

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CHICAGO, IL 60661
(312) 902-5200

population of net losing investors. [redacted], moreover, made clear that any settlement with me must include a bar order enjoining any further creditor suits against them arising from or relating to the Ponzi Scheme, so I continually focused on achieving a settlement that met the legal requirements for a bar order. These factors, among others, made the litigation complex and particularly difficult to settle on a global basis.

F. The Settlement is fair, equitable and in the best interests of the Estate.

1. Probability of success

26. I believe the Settlement satisfies the *A&C Properties* test.

27. The 2022 Materials contained only basic information about [redacted] dealings with 1inMM but did not identify any individual transfers to [redacted], let alone the fraudulent nature of each transfer. At best, the 2022 Materials merely identified [redacted] investors. I could not simply accept [redacted] representations at face value, as the Court had ordered me to "investigate" 1inMM's acts and transactions, so I pursued backup information from [redacted]. It took over a year before I had enough information to complete my analysis.

28. Given [redacted] arguments described in the Motion, the statute of limitations issue presented an important litigation risk for me. [redacted] transmission of the 2022 Materials to me—which was unique among 1inMM's net winners—made the limitations-period analysis particularly fact-intensive and novel. I believe [redacted] are liable as net winners, but litigation may not have resulted in me avoiding and recovering *all* of the Transfers. The Court may have sustained some of [redacted] defenses (particularly in light of the 2022 Materials), which would be an outcome worse than the Settlement. Rather than take that risk, I compromised.

29. For the reasons described in the Motion—and informed by [redacted] reactions to the arguments discussed during the mediations—I

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

concluded that the Settlement accounts for the mixed probability of success on the merits.

2. Collection difficulties

30. I understand that [redacted], collectively and/or individually, do not have assets that would be sufficient to satisfy a judgment avoiding the Transfers, let alone that *plus* an adverse judgment entered in favor of the Investors.

3. Complexity/expense

31. It would be complex, expensive and time-consuming for the parties to litigate the Claims.

32. Given the evidence and defense arguments described in the Motion, I believe litigation against [redacted] would be expensive and time-consuming, requiring extensive discovery, retention of experts and numerous witnesses. This is particularly due to the novel issues presented by the 2022 Materials. A trial and appeal would likely take at least two years to complete and cost the Estate several hundred thousand dollars in fees and expenses.

4. Creditors

33. I believe the Settlement is fair, equitable and adequate under the circumstances to realize the value of the Claims.

G. The Court should approve the Bar Order

34. The Settlement avoids protracted litigation of the Claims, the outcome of which was uncertain due to [redacted] defenses. By settling, the Estate avoided significant expenses and time associated with litigating. The Bar Order also drove a higher settlement value, as [redacted] paid more to settle all Claims with a bar order than they would have paid to settle the Receiver Claims alone.

35. Moreover, the Bar Order helped resolve complex claims that would have been difficult—if not impossible—to resolve independently.

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525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5200

36. The Bar Order is necessary because [redacted] would not have settled with me without a bar order enjoining all future claims against them arising out of or relating to the Ponzi Scheme.

H. The Court should approve the Administrative Claim

37. The Investors' agreement that [redacted] should pay the entire amount of the Settlement Payment to the Estate for the benefit of all creditors will result in the Estate having more cash for administration and creditor claims.

38. [redacted] played an essential role in increasing the amount of the Settlement Payment, all of which is coming into the Estate. The three-way nature of the settlement negotiations necessitated this. On the one hand, [redacted] sought finality with a settlement, which they really could only accomplish through a deal with me that would include a bar order. But as I was unwilling to settle over the objections of the Investors, any settlement had to resolve their claims too.

39. The Investors' agreement that [redacted] should make the Settlement Payment to the Estate was the lynchpin.

40. I agreed to the Administrative Claim amount in the exercise of my business judgment, which I felt was necessary to achieve a global settlement.

I. Notice to creditors

41. I will give notice of the Motion by: (a) CM/ECF to parties/interested parties; (b) email to all known creditors of the Estate (or, if represented, their counsel) with a link to the Motion and supporting exhibits; and (c) posting it on the receivership website. These communications will include instructions on how to advise me of any objections to the Motion by no later than seven days before the hearing. I will thereafter file a status report.

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

Executed on September 22, 2025 in San Diego, California

/s/*Michele Vives*
Michele Vives

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

Terence G. Banich (SBN 212173)
terence.banich@katten.com
Allison E. Yager (*pro hac vice)*
allison.yager@katten.com
KATTEN MUCHIN ROSENMAN LLP
525 W. Monroe St.
Chicago, IL 60661
Telephone: (312) 902-5665
Facsimile: (312) 902-1061

Attorneys for the Receiver
Michele Vives

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

DECLARATION OF [redacted]

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

DOCUMENT FILED UNDER SEAL PURSUANT TO ORDER OF THE COURT DATED SEPTEMBER 19, 2025 [ECF #465]

I, [redacted], declare as follows:

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

2. I submit this declaration in support of the *Motion of Receiver Michele Vives for Order Approving Settlement with* [redacted] *and for Related Relief*, dated September 22, 2025 (the "Motion"). Any capitalized terms not defined herein have the meanings ascribed to them in the Motion.

3. I am an attorney licensed to practice law in the State of California. I am [redacted]. Personally, I have specialized in [redacted]. I have represented [redacted]. I have also represented [redacted].

4. I represent [redacted] with respect to the Receiver Claims, the [redacted] Claims, the Settlement and other events described in the Motion. [redacted] denied any liability, and some of the [redacted] Claims were dismissed on summary adjudication.

5. The Settlement Payment exceeds what [redacted] would have paid to resolve the Receiver Claims alone without a bar order.

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

6. The Bar Order drove a higher settlement value, as [redacted] paid more to settle all Claims with a bar order than they would have paid to settle the Receiver Claims alone.

7. Moreover, the Bar Order helped resolve complex claims that would have been difficult—if not impossible—to resolve independently.

8. The Bar Order is necessary because [redacted] would not have settled with the Receiver without a bar order enjoining all future claims against them arising out of or relating to the Ponzi Scheme.

9. [redacted] sought finality with a settlement, which they really could only accomplish through a deal with the Receiver that would include a bar order.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 29, 2025
in [redacted]

[redacted]

Terence G. Banich (SBN 212173)
terence.banich@katten.com
Allison E. Yager (*pro hac vice)*
allison.yager@katten.com
KATTEN MUCHIN ROSENMAN LLP
525 W. Monroe St.
Chicago, IL 60661
Telephone: (312) 902-5665
Facsimile: (312) 902-1061

Attorneys for the Receiver
Michele Vives

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

DECLARATION OF [redacted]

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

DOCUMENT FILED UNDER SEAL PURSUANT TO ORDER OF THE COURT DATED SEPTEMBER 19, 2025 [ECF #465]

I, [redacted], declare as follows:

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

2. I submit this declaration in support of the *Motion of Receiver Michele Vives for Order Approving Settlement with* [redacted] *and for Related Relief*, dated September 22, 2025 (the "Motion"). Any capitalized terms not defined herein have the meanings ascribed to them in the Motion.

3. [redacted] represents a large group of investors in the Horwitz scheme.

4. Our clients who invested in [redacted] lost over $4,000,000 in connection with the Ponzi Scheme.

5. [redacted] was engaged by its clients to pursue recovery from [redacted]. Beginning in 2021, we commenced several civil actions and arbitral proceedings against [redacted], as listed in Schedule 2 to the Settlement Agreement, staffed with four attorneys from my firm with collectively 88 years of experience handling class actions and securities litigation.

6. Presenting the [redacted] Claims that included joint and several liability, potentially punitive damages and non-dischargeable liability with eight-figure risk, along with the Receiver Claims presenting seven-figure risk, enabled a total resolution for much more than negotiating a resolution of the Receiver Claims alone.

7. The potential litigation pursued by [redacted] could have drained nearly all of [redacted] resources if they were to litigate to judgment on multiple fronts.

KATTEN MUCHIN ROSENMAN LLP
525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5220

8. This situation of [redacted] representing a significant group of investors, along with a Receiver pursuing the same individuals with limited assets, could have been a disaster and spun into years of litigation and no recovery at all for investors. The investors pursued [redacted] to remedy their own damages, while the Receiver focused on benefitting the Estate as a whole. Those goals often conflicted, resulting in various disagreements between the Receiver and the investors.

9. Rather than spin into a morass, the Receiver thoughtfully came to Chicago and met with the counsel involved in person (ECF #93). Cooperation ensued in pursuit of the common goal of maximizing investor recovery.

10. The Receiver made a smart business decision to limit expense and utilize the [redacted] Claims and the Investors' counsel as a tool to maximize value rather than waste resources taking an adverse position to the vast majority of net losers.

11. [redacted] counseled its sophisticated clients to agree to allow the proceeds of any settlement with [redacted] to be paid through the Estate and to refrain from litigating to allow the newly-appointed Receiver to catch up and pursue the common goal of maximum recovery.

12. [redacted]'s organization and management of its large group of investor clients significantly contributed to the relatively prompt resolution of a very messy situation.

13. [redacted] spent countless hours working with its very sophisticated clients and sometimes their personal counsel, spouses, and beneficiaries to secure their assent to the arrangement with the Receiver to achieve an efficient resolution without any discord among the investor participants in this complex action.

14. [redacted] leveraged its mass of clients to gather evidence to strengthen the claims with facts not otherwise available to the other parties to the litigation.

15. [redacted] made significant sacrifices on fees in order to negotiate in unified demands based on both the extraordinary risk presented by the investor claims and solid but much smaller fraudulent transfer claims.

KATTEN MUCHIN ROSENMAN LLP
525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5220

16. The result of bringing the claims together into one resolution yielded an amount paid to the Receivership that was significantly greater than any amount offered to the Receiver alone with significantly reduced litigation expense.

17. [redacted]'s sophisticated clients with direct knowledge of the investments, aggressive investigation, retained experts, and business valuation experience made is possible to evaluate and then recommend this settlement to the vast majority of the claimants in the Estate.

18. While the [redacted] Claims presented tremendous upside, very little of the eight-figure upside could have been collected if the cases were litigated to judgment. [redacted] thoughtfully evaluated [redacted] ability to pay and secured the assent of its clients in order to secure a resolution.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 22, 2025
in [redacted]

KATTEN MUCHIN ROSENMAN LLP
525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5220

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

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

[PROPOSED] ORDER APPROVING SETTLEMENT WITH [redacted]

DOCUMENT FILED UNDER SEAL PURSUANT TO ORDER OF THE COURT DATED SEPTEMBER 19, 2025 [ECF #465]

Upon consideration of the *Motion of Receiver Michele Vives for Order Approving Settlement with* [redacted] dated September 22, 2025 (the "Motion"), the Court, having jurisdiction to hear and determine the Motion, has reviewed the Motion and accompanying memorandum of points and authorities and declarations in support thereof, considered the exhibits to the Motion and the objection(s) to the Motion, if any, and concluded that all parties in interest have due and sufficient notice of the Motion; after due deliberation and consideration of the Motion, and there being good cause to grant the relief provided herein; it is, pursuant to the Court's power to supervise equity receiverships and all other powers in that behalf so enabling, hereby ORDERED:

1. The Motion is GRANTED. Capitalized terms not defined herein have the meanings ascribed to them in the Motion or the Settlement Agreement.

2. Notice of the Motion is sufficient under the circumstances and satisfies due process, and any further notice otherwise required by Local Rule 66-7 is waived.

3. The terms of the Settlement with [redacted] memorialized in the Settlement Agreement are fair and equitable, including without limitation, the Bar Order and the Administrative Claim, and the Settlement Agreement and its terms are therefore APPROVED.

4. The Court hereby PERMANENTLY BARS, RESTRAINS and ENJOINS all persons and entities (except any governmental unit, as that term is defined by 11 U.S.C. § 101(27)), as well as their respective heirs, successors, assigns, officers, directors, representatives, agents and attorneys, from commencing or continuing any civil action, administrative proceeding, arbitration or other adversarial proceeding against [redacted]

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525 W. MONROE ST.
CHICAGO, IL 60661
(312) 902-5200

[redacted], asserting any claim or cause of action, whether directly or derivatively, arising out of, in connection with or relating in any way to: (1) the 1inMM Ponzi Scheme; (2) acts or omissions relating to [redacted]; (3) acts or omissions relating to the 1inMM Ponzi Scheme or the 1inMM Defendants; or (4) acts or omissions relating to any investment, loan or transfer of money to [redacted] or 1inMM Capital, LLC and/or repayment or lack of repayment by [redacted] or the 1inMM Defendants (in whatever form and however denominated, a "1inMM Claim"). All 1inMM Claims are hereby channeled into the Receivership Estate's claims distribution process that the Court will establish by separate order. *Provided, however*, this order does not bar, restrain or enjoin the Receiver from asserting any claim or cause of action against Other 1inMM Investors (as that term is defined in paragraph 12(b) of the Settlement Agreement).

5. The Receiver is AUTHORIZED to take such further actions as may be necessary to consummate the transactions in the Settlement Agreement, including without limitation, paying the Administrative Claim to the holder thereof in the amount specified in the Settlement Agreement.

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6. The Court retains exclusive jurisdiction to hear and determine any disputes arising out of or relating to the settlement approved by this order.

Dated:

United States District Judge

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