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

15 SECURITIES AND EXCHANGE
16 COMMISSION,

17 Plaintiff,

18 v.

19 ZACHARY J. HORWITZ and 1inMM
20 CAPITAL, LLC,

21 Defendants.

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

**NOTICE OF MOTION AND
UNOPPOSED MOTION OF
RECEIVER MICHELE VIVES FOR
ORDER APPROVING
MENT WITH [REDACTED]
AND FOR RE
MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: November 16, 2026
Time: 12:00 p.m. PT
Judge: Hon. Christina A. Snyder
Courtroom: 8D

**DOCUMENT FILED UNDER SEAL
PURSUANT TO ORDER OF
OCTOBER 13, 2026 [ECF #556]**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, on November 16, 2026, at 12:00 p.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 May 27, 2026 (the “Settlement Agreement”), copy attached as **Exhibit 1**; and (b) the *Declaration of Michele Vives*, dated October 14, 2026 (“Vives Decl.”), copy attached as **Exhibit 2**.

This Motion is made following the Local Rule 7-3 conference of counsel which took place on September 14, 2026. **No party requests a hearing on the Motion.**

Dated: October 14, 2026

Respectfully submitted,

KATTEN MUCHIN ROSENMAN LLP

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

Attorneys for the Receiver
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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”). (Vives Decl. ¶ 4.) The Receiver Order authorizes the Receiver, among other things, to prosecute claims. (*Id.* ¶ 5.)

B. The Transfers and the Receiver Claims

Pursuant to the authority conferred on the Receiver by the Receiver Order, the Receiver and her staff 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 having received fraudulent transfers, to identify previously unknown assets and to obtain information about 1inMM’s investors. (Vives Decl. ¶ 6.) This work included 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. (*Id.* ¶ 8.)

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. Two of such entities were New Traveler, Inc. (“New Traveler”) and Global Hospitality Concepts (“Global Hospitality”), in which [REDACTED] was an investor. (Vives Decl. ¶ 9.)

Following a diligent investigation, including the review and analysis of the books and records of the Defendants, the Receiver determined that, in connection with the 1inMM Ponzi Scheme, 1inMM made transfers to [REDACTED] in excess of [REDACTED] investment principal, or for his benefit via Global Hospitality and/or New Traveler, totaling [REDACTED] (the “Transfers”). (*Id.* ¶ 10.)

The Receiver asserted that the Transfers were subject to avoidance and recovery as actually fraudulent transfers under § 3439.04(a)(1) of the California Uniform Voidable Transactions Act, Cal. Civ. Code §§ 3439 *et seq.* (“UVTA”), as well as under common law principles of unjust enrichment/restitution, and that, consequently, the Receiver had, on behalf of the Estate, causes of action against [REDACTED] to avoid and recover the Transfers or their value, plus prejudgment interest that continued to accrue in the amount of [REDACTED] (collectively, the “Receiver 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 also argued that she could recover the Transfers from [REDACTED] under UVTA § 3439.08(b)(1)(A) as first transferee, because even though 1inMM made the Transfers [REDACTED] indirectly through Global Hospitality and New Traveler, those entities were mere conduits with no dominion over the money 1inMM transferred to them. [REDACTED] denied liability for the Receiver Claims and asserted several defenses (discussed *infra*). (Vives Decl. ¶ 11.)

C. The Settlement

On May 27, 2026, following a series of negotiations, the Receiver and [REDACTED] reached a settlement whereby [REDACTED] agreed to pay [REDACTED] to the Estate (“Settlement Payment”), or 100 percent of the Transfers, to resolve the

Receiver Claims. The parties will also exchange mutual general releases. The Settlement is documented in the Settlement Agreement. (*Id.* ¶ 12.)

As the parties agreed that [REDACTED] identity 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 and all supporting documents be sealed, which the Court granted. [ECF #556]

D. Assessment of the Settlement

The Receiver believes the Settlement is in the best interest of the Estate and its creditors—the net losing investors in the 1inMM Ponzi Scheme. The Settlement Payment constitutes *a complete recovery of the Transfers* without the expense and risk of litigation and represents an equitable, good-faith resolution of the Receiver Claims. (*Id.* ¶¶ 13-14.) The Receiver decided to settle rather than [REDACTED] [REDACTED] (*Id.*)

While the Receiver was confident in the Receiver Claims, the risk of an adverse result always loomed. As discussed below, [REDACTED] asserted defenses that, if successful, may have resulted in the Receiver recovering nothing. The Settlement thus avoids protracted and expensive litigation, thereby avoiding litigation risk and conserving Estate resources. (*Id.* ¶ 14.)

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

1 receivership for the benefit of creditors.” *CFTC v. Topworth Int’l, Ltd.*, 205 F.3d
2 1107, 1115 (9th Cir. 1999) (cleaned up).

3 That broad authority to oversee the administration of a receivership includes
4 approving settlements. “[N]o federal rules prescribe a particular standard for
5 approving settlements in the context of an equity receivership; instead, a district
6 court has wide discretion to determine what relief is appropriate.” *Gordon v.*
7 *Dadante*, 336 F. App’x 540, 549 (6th Cir. 2009) (citing *Liberte Cap. Grp., LLC v.*
8 *Capwill*, 462 F.3d 543, 551 (6th Cir. 2006)); *see also SEC v. Kaleta*, 530 F. App’x
9 360, 362 (5th Cir. 2013) (“because this is a case in *equity*, it is neither surprising nor
10 dispositive that there is no case law directly controlling” the district court’s order
11 approving receiver’s settlement).

12 Local Rule 66-8 directs a receiver to “administer the estate as nearly as
13 possible in accordance with the practice in the administration of estates in
14 bankruptcy.” District courts sitting in receivership may look to bankruptcy law for
15 guidance about the administration of a receivership. *See, e.g., SEC v. Cap.*
16 *Consultants, LLC*, 397 F.3d 733, 745 (9th Cir. 2005) (bankruptcy law “analogous”
17 and therefore persuasive in administration of receivership estates). This is largely
18 because “the purpose of bankruptcy receiverships and equity receiverships is
19 essentially the same—to marshal assets, preserve value, equally distribute to
20 creditors, and, either reorganize, if possible, or orderly liquidate.” *SEC v. Stanford*
21 *Int’l Bank, Ltd.*, 927 F.3d 830, 841 (5th Cir. 2019) (internal citation and quotations
22 omitted).

23 Courts in this circuit typically apply bankruptcy principles to evaluate
24 receivership settlements. *SEC v. Champion-Cain*, 2022 WL 126114, at *1 (S.D. Cal.
25 Jan. 13, 2022) (applying bankruptcy principles to receivership settlement); *SEC v.*
26 *Total Wealth Mgmt., Inc.*, 2019 WL 13179068, at *2 (S.D. Cal. Sept. 18, 2019)
27 (same). Bankruptcy courts evaluate whether a compromise is “fair and equitable,”
28 considering “[a] the probability of success in litigation, [b] any difficulties that may

1 be encountered in collection, [c] the complexity of the litigation, the expense,
2 inconvenience, and delay necessarily attending, and [d] the interest of the
3 receivership entities' creditors and their reasonable views." *Champion-Cain*, 2022
4 WL 126114, at *1 (quoting *In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988)); see
5 also *Martin v. Kane (In re A&C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).
6 "[W]hen engaging in this analysis, bankruptcy courts need not conduct a 'mini trial
7 on the merits,' but need only 'canvass the issues.'" *In re TBH19, LLC*, 2022 WL
8 16782946, at *6 (B.A.P. 9th Cir. Nov. 8, 2022).

9 "The analysis under these factors is holistic; the Court must canvass the issues
10 and see whether the settlement falls below the lowest point in the range of
11 reasonableness...[I]t is not necessary to satisfy each of these factors provided that
12 the factors as a whole favor approving the settlement." *Total Wealth*, 2019 WL
13 13179068, at *3 (internal citations/quotations omitted). The Court should consider
14 these factors "as a whole, and not individually in a vacuum, to ascertain whether the
15 settlement is a good deal compared to litigation." *In re Open Med. Inst., Inc.*, 639
16 B.R. 169, 185 (B.A.P. 9th Cir. 2022). Further, the Court need not decide issues of
17 disputed fact or questions of law raised in the controversies sought to be settled.
18 *Burton v. Ulrich (In re Schmitt)*, 215 B.R. 417, 423 (B.A.P. 9th Cir. 1997).

19 Ultimately, "courts generally should give deference to a [receiver's] business
20 judgment in deciding whether to settle a matter for the benefit of the estate." *In re*
21 *Douglas J. Roger, M.D., Inc., APC*, 393 F. Supp. 3d 940, 961 (C.D. Cal. 2019)
22 (cleaned up); see also *In re Lahijani*, 325 B.R. 282, 289 (B.A.P. 9th Cir. 2005).
23 "Approving a proposed compromise is an exercise of discretion that should not be
24 overturned except in cases of abuse leading to a result that is neither in the best
25 interests of the estate nor fair and equitable for the creditors." *In re MGS Mktg.*, 111
26 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. ¶ 15.)

A. Probability of success

The probability of success litigating the Receiver 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 the Receiver Claims and [REDACTED] asserted defenses thereto.

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 the most important tools for a receiver to recover monies lost by Ponzi-scheme investors. *Donell v. Kowell*, 533 F.3d 762, 767 (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

1 fraudulent transfers and are thus liable under UVTA. *Id.* at 767-71. An equity
2 receiver has standing to pursue fraudulent transfer claims “to redress injuries that
3 [the receivership entity] suffered when its managers caused [it] to commit waste and
4 fraud.” *Id.* at 777; *see also Winkler v. McCloskey*, 83 F.4th 720, 727 (9th Cir. 2023)
5 (“[A] receiver has standing to pursue a fraudulent transfer claim because the receiver
6 is acting on behalf of the receivership entity, seeking to claw back transfers that the
7 perpetrator of the scheme fraudulently made to the net winners.”) The debtor’s
8 admission that it operated a Ponzi scheme *conclusively* establishes both fraudulent
9 intent and financial distress for purposes of UVTA claims. *In re Slatkin*, 525 F.3d
10 805, 814 (9th Cir. 2008); *Donell*, 533 F.3d at 770-71.

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

19 Here, the Receiver contended, based on her review of the documentation, that
20 [REDACTED] had received the Transfers from 1inMM, and argued that she could avoid
21 the Transfers as actually fraudulent under UVTA § 3439.04(a)(1). The Receiver
22 argued that an actual fraud claim would not require her to prove that 1inMM was
23 insolvent or made the transfers for less than reasonably equivalent value. Instead,
24 the Receiver would have to show that 1inMM made the Transfers “with actual intent
25 to hinder, delay or defraud any creditor of the debtor.” UVTA § 3439.04(a)(1).
26 Because Horwitz pled guilty to securities fraud and admitted that he used 1inMM to
27 operate a Ponzi scheme, 1inMM’s fraudulent intent was conclusively established for
28 purposes of a UVTA actual fraud claim. *Slatkin*, 525 F.3d at 814. The Receiver

1 therefore contended that the Transfers were avoidable. [REDACTED] disputed the
2 Receiver Claims and denied liability.

3 2. Defenses

4 [REDACTED] asserted several defenses to the Receiver Claims. (Vives Decl. ¶
5 16.) [REDACTED] argued, for example, that the Receiver Claims were time-barred
6 under UVTA. [REDACTED] asserted, for example, that the one-year discovery rule
7 under UVTA § 3439.09(a) was triggered when the Receiver was appointed on
8 January 14, 2022 and barred most, if not all, of the Transfers.

9 The Receiver countered with cases holding that a receiver—who is thrust into
10 the shoes of the wrongdoer—cannot discover every possible claim immediately
11 upon her appointment. *Gill v. Blessing*, 2014 WL 12573667, at *3 (C.D. Cal. Oct. 6,
12 2014) (“the plain language” of § 3439.09(a), which turns on whether the subject
13 transfer “could reasonably have been discovered” by the claimant, “belies [the] rule”
14 that a receiver must instantly discover “every claim that could possibly be derived
15 from the files in [her] possession”). Instead, the one-year “clock” starts running at
16 some point *after* the receiver’s appointment and depends on the receiver’s diligence
17 under the circumstances. *Id.* In turn, UVTA’s discovery rule is only triggered when
18 a receiver discovers, or reasonably could have discovered, both (1) the transfer itself
19 *and* (2) its fraudulent nature. *In re Ezra*, 537 B.R. 924, 933 (B.A.P. 9th Cir. 2015);
20 *see also Donell v. Mojtahedian*, 976 F. Supp. 2d 1183, 1187 (C.D. Cal. 2013) (a
21 receiver’s “knowledge of an individual’s status as an investor is insufficient to begin
22 running the statute of limitations” under UVTA, as a defendant’s “receipt of funds,
23 alone, could not establish whether she received a net profit or a net loss from the
24 Ponzi scheme”); *Gill*, 2014 WL 12573667, at *3 (UVTA discovery rule focuses on
25 “the diligence of the receivers’ investigations, not merely [on] the date that they
26 obtain records”).

27 Moreover, the Receiver has an independent, court-ordered duty to investigate
28 the Estate’s acts and transactions, which California federal courts uniformly

1 recognize.¹ See, e.g., *Seaman v. Sedgwick, LLP*, 2011 WL 13393442, at *5 (C.D.
2 Cal. Aug. 31, 2011) (receivers must have opportunity to develop “comprehensive
3 understanding of the situation,” as “it can take a significant amount of time...to trace
4 funds and conclusively determine...the strength of any third party claims”); *Gill v.*
5 *Blessing*, 2014 WL 12579788, at *1-*2 (C.D. Cal. June 2, 2014) (denying motion to
6 dismiss UVTA claims where receiver received only some records from defendants
7 but could not discover fraudulent nature of transfers until conducting massive
8 undertaking involving review of “a multitude of paper and electronic documents...in
9 a state of shambles”); *Fed. Deposit Ins. Co. v. O’Melveny & Myers*, 61 F.3d 17, 19
10 (9th Cir. 1995) (receiver should not be “punish[ed]” or prohibited from asserting
11 certain arguments simply because she was thrust into wrongdoer’s shoes).

12 The Receiver asserted that, upon her appointment, she did not yet have enough
13 information to reasonably discover her claims. Thus, the one-year “clock” could not
14 start until she was able to conduct a diligent investigation, including the massive
15 undertaking of conducting a forensic accounting analysis of Defendants’ books and
16 records. *Gill*, 2014 WL 12579788, at *2.

17 Even if the Receiver’s UVTA claims were time-barred, she argued that she
18 could still recover the Transfers on an unjust enrichment theory under California
19 law. UVTA is not the only way to avoid a fraudulent transfer. UVTA § 3439.12
20 (“the principles of law and equity, including...the law relating
21 to...fraud...supplement [UVTA’s] provisions”); *Donell v. Keppers*, 835 F. Supp. 2d
22 871, 879 (S.D. Cal. 2011) (“a suit under [UVTA] is not the exclusive remedy by
23 which fraudulent transfers may be attacked” because common law remedies, such
24 as unjust enrichment, remain available); *Damian v. A-Mark Precious Metals, Inc.*,

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28 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).

1 2017 WL 6940515 (C.D. Cal. Aug. 28, 2017) (considering UVTA and unjust
2 enrichment claims filed by receiver, and acknowledging the latter as separate cause
3 of action based on same transfers). Under California law, unjust enrichment is “an
4 independent cause of action or...a quasi-contract claim for restitution,” which
5 requires the plaintiff to show (1) “the receipt of a benefit” and (2) the “unjust
6 retention of the benefit at the expense of another.” *ESG Cap. Partners, LP v. Stratos*,
7 828 F.3d 1023, 1038-39 (9th Cir. 2016); *Bhatia v. Silvergate Bank*, 725 F. Supp. 3d
8 1079, 1126 (S.D. Cal. 2024).

9 Unlike UVTA, unjust enrichment claims are subject to a three-year discovery
10 period. Cal. Code Civ. Proc. § 338(d) (statute of limitations for “[a]n action for relief
11 on the ground of fraud” is three years from “the discovery, by the aggrieved party,
12 of the facts constituting fraud or mistake”); *Macedo v. Bosio*, 86 Cal. App. 4th 1044,
13 1051 (1st Dist. 2001) (holding that if plaintiff uses common law unjust enrichment
14 theory to avoid fraudulent transfer, “the applicable statute of limitations is section
15 338(d),” which accrues “depending upon the belated discovery issue”). So even if
16 [REDACTED] were correct that the Receiver should have discovered her claims upon
17 her appointment (or shortly thereafter), she could still pursue the Transfers via unjust
18 enrichment claims. [REDACTED] disagreed with this analysis.

19 In addition to the limitations issues above, the Receiver asserted that, even
20 though 1inMM made the Transfers to [REDACTED] through Global Hospitality and
21 New Traveler, she could recover the Transfers from [REDACTED] because those
22 entities were “mere conduits” rather than transferees. While UVTA authorizes
23 plaintiffs to recover an avoided transfer from the “first transferee” of the asset
24 transferred, it does not define that term. The Ninth Circuit has observed that
25 “[t]ransferee” is not a self-defining term; it must mean something different from
26 ‘possessor’ or ‘holder’ or ‘agent,’” and that “treating ‘anyone who touches the
27 money’ as a ‘transferee’ could lead to ‘absurd results’....” *In re Walldesign, Inc.*,
28 872 F.3d 954, 962 (9th Cir. 2017). The Ninth Circuit applies the “dominion test” to

1 determine whether a party is a first transferee or a mere conduit. *In re Incomnet, Inc.*,
2 463 F.3d 1064, 1071 (9th Cir. 2006). Under that test, the “minimum requirement
3 [for] status as a ‘transferee’ is dominion over the money or other asset,” i.e., “the
4 *right* to put the money to one’s own purposes.” *Walldesign*, 872 F.3d at 962. Thus,
5 Global Hospitality and New Traveler would be deemed the first transferees if they
6 had dominion over the money 1inMM transferred to it earmarked for [REDACTED] on
7 account of [REDACTED] investments; otherwise, they were merely conduits for 1inMM to
8 transfer the money to [REDACTED], the first transferee.

9 [REDACTED] asserted that Global Hospitality and New Traveler had dominion
10 over the Transfers, thereby making them the first transferees, as they had discretion
11 to put the funds to other uses. The Receiver, however, countered that the express
12 language from the relevant contracts showed that Global Hospitality and New
13 Traveler were contractually bound to disburse the Transfers immediately to [REDACTED]
14 [REDACTED]. The Ninth Circuit has held that a recipient’s contractual obligation to
15 disburse money to another constitutes a lack of dominion. *See, e.g., Danning v.*
16 *Miller (In re Bullion Reserve of N. Am.)*, 922 F.2d 544, 549 (9th Cir. 1991);
17 *Northpoint Commc’ns Grp., Inc.*, 2007 WL 7541001, at *4-5 (B.A.P. 9th Cir. Nov.
18 7, 2007). The Receiver asserted that Global Hospitality and New Traveler’s role in
19 receiving repayments of loans from 1inMM was akin to a bank, merely holding
20 funds for the benefit of specific, named “depositors.” *Bullion Reserve*, 922 F.2d at
21 549.

22 Given the arguments above, [REDACTED] asserted defenses presented an
23 important litigation risk for the Receiver. The mere-conduit issue was also
24 significant, considering that every Transfer flowed from 1inMM through Global
25 Hospitality and New Traveler to [REDACTED]. The Receiver believes [REDACTED] is
26 liable as a net winner, but litigation may not have resulted in the Receiver avoiding
27 and recovering *all* of the Transfers plus accrued prejudgment interest. *Cf. In re ISE*
28 *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, which would be an outcome worse than the Settlement. Rather than take that risk, the Receiver compromised. (Vives Decl. ¶ 17.) *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 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, the Receiver concluded that the Settlement accounts for the mixed probability of success on the merits. (Vives Decl. ¶ 18.)

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 (citation omitted). It is unclear, based on the information presently available to the Receiver, whether [REDACTED] would have had sufficient assets to satisfy an adverse judgment entered in favor of the Receiver. The Receiver believes the Settlement Payment—which represents the entire amount of the Transfers but none of the prejudgment interest—reasonably accounts for the potential uncertainty of collection that would result from litigation. (Vives Decl. ¶¶ 19-20.) So, this factor is neutral.

C. Complexity/expense

It would be complex, expensive and time-consuming for the parties to litigate the Receiver Claims. (*Id.* ¶ 21.) 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). Litigating [REDACTED] defenses would necessarily entail 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. (Vives Decl. ¶ 22.) 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—an amount that could exceed the value of the Transfers themselves. (*Id.*) This factor, therefore, weighs heavily in favor of approving the Settlement. *See, e.g., TBH19*, 2022 WL 16782946, at *3 (complexity element weighed in favor of settlement where dispute would require extensive discovery, cost the estate hundreds of thousands of dollars 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 Receiver Claims. (Vives Decl. ¶ 23.) 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).

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 Bank & 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. ¶ 24.)

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 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; (d) authorizing the Receiver to

1 take such further actions as may be necessary to consummate the transactions in the
2 Settlement Agreement; and (e) granting such further relief as the Court deems
3 necessary and appropriate.

4 Dated: October 14, 2026

Respectfully submitted,

5 **KATTEN MUCHIN ROSENMAN LLP**

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

8 *Attorneys for the Receiver*
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Certificate of Compliance with L.R. 11-6.2

The undersigned, counsel of record for the Receiver, Michele Vives, certifies that this brief contains 4,572 words, which complies with the word limit of L.R. 11-6.1.

Dated: October 14, 2026

Respectfully submitted,

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

1 **PROOF OF SERVICE**

2 **STATE OF ILLINOIS, COUNTY OF COOK**

3 At the time of service, I was over 18 years of age and not a party to this action.
4 I am employed in the County of Cook, State of Illinois. My business address is 525
5 W. Monroe St., Chicago, Illinois 60661. On October 14, 2026, I served the following
document(s) described as:

6 **MOTION OF RECEIVER MI [REDACTED] OR ORDER**
7 **APPROVING SETTLEMENT WITH [REDACTED] AND FOR**
8 **RELATED RELIEF**

as follows:

9 ☐ **BY MAIL:** I enclosed the document(s) in a sealed envelope or package
10 addressed to the persons at the addresses listed above and placed the envelope for
11 collection and mailing, following our ordinary business practices. I am readily
12 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.

13 ☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused the
14 document(s) to be sent from e-mail address terence.banich@katten.com to the
15 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.

16 ☐ **BY OVERNIGHT MAIL (FedEx):** I enclosed said document(s) in an
17 envelope or package provided by FEDEX and addressed to the persons at the
18 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.

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

21 I declare under penalty of perjury under the laws of the State of Illinois that
22 the foregoing is true and correct. Executed on October 14, 2026, at Chicago, Illinois.

23 /s/Terence G. Banich
24 Terence G. Banich
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