

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No.: 8:20-cv-00325-T-35-MSS-UAM

BRIAN DAVISON, et al.,

Defendants.

**RECEIVER'S RESPONSE TO THE COURT'S ENDORSED ORDER
DIRECTING THE RECEIVER TO SUPPLY ADDITIONAL INFORMATION
REGARDING THE ARMIJO SETTLEMENT**

On September 28, 2023, the Receiver filed a motion requesting this Court to approve the "Armijo Settlement" which was entered into by and between the Receiver and various parties to litigation related to Mr. Armijo and his company, Joseph Financial Advisors, LLC, arising from the sale of various EquiAlt investments.

On November 6, 2023, this Court issued an Endorsed Order asking the Receiver to "advise this Court of the Receivership's contribution to the \$1,850,933 payment, if any, and the source of the funds comprising the Receivership's participation." In response to the Court's questions, as further detailed below, the Receivership's net contribution to the Armijo settlement will be \$118,000. Those funds will come from cash on hand held by the Receiver.

The Receiver hereby offers further detail regarding the Armijo Settlement Agreement and the flow of funds that are required. Assuming the settlement is approved and becomes final, as defined in the Armijo Settlement Agreement, the Receiver has agreed to advance \$1,850,933 to be paid into the Trust Account of Johnson Pope Bokor Ruppel & Burns, LLP (“Johnson Pope”), the Receiver’s Special Litigation Counsel.

After advancing \$1,850,933, the Receiver will receive money back to the Receivership of \$1,732,933, leaving the Receivership making a net contribution to the Settlement of \$118,000.

Under the terms of the Settlement Agreement, assuming it is approved and becomes final, Mr. Armijo has consented to a judgment to be rendered against him in favor of the Securities and Exchange Commission (the “SEC”) in the amount of \$1,114,933 (the “SEC Action”). Mr. Armijo also has a judgment rendered against him and in favor of the Receiver of \$1,936,775.16 (the “Preferential Transfer Case”). Based upon investigations conducted by the Receiver, as well as representations made by Mr. Armijo’s counsel, the Receiver has concluded that the recovery of any funds from Mr. Armijo on either of these judgments is highly unlikely. Further, if any collection efforts were undertaken, it would require supplementary litigation in California, and any recovery from Mr. Armijo would most likely be less than the anticipated cost of the collection activities.

The SEC has agreed that any funds collected on Mr. Armijo’s judgment will be paid over to the Receivership. Of the amount placed into the Johnson Pope trust

account, \$1,114,933 will be allocated to the satisfaction of the SEC Judgment. Under agreement with the SEC, the Receiver will receive a return of \$1,114,933 from the funds held in the Johnson Pope Trust Account.

The remainder of the escrow deposit (\$736,000) will be paid to Mr. Armijo in care of his counsel, James McFaul. As with all payments and transfers outlined in this Response, the payment to Mr. Armijo's counsel will only be made at such time as the Armijo settlement becomes final. By agreement with and among the Receiver's Special Litigation Counsel, Counsel for the Investor Plaintiffs, and the Lawyer Defendants (hereinafter the "Contributing Parties"), the Receiver will receive \$618,000 from the Contributing Parties. Thus, the net payment from the Receivership funds for the Armijo settlement will be \$118,000 (\$736,000 paid to Armijo less \$618,000 received from the Contributing Parties) plus a return of the \$1,114,933 advanced in satisfaction of the SEC's Judgment.

The Receiver has concluded that proceeding with the Armijo settlement is in the best interest of the Receivership. Currently, Mr. Armijo is prosecuting two appeals in the Eleventh Circuit; one appeal dealing with the Bar Order contained in this Court's prior approval of the settlement with the Lawyer Defendants; and the second appeal of the judgment issued by Judge Steven Merryday in the Preferential Transfer Case. In defending those appeals, the Receivership will expend over \$1,000,000 in attorney fees and costs in accordance with contracts already approved by this Court. Those fees and costs will be saved by proceeding with the Armijo Settlement. While the Receiver believes that he has a high likelihood of success in those appeals, delay in

receiving settlement funds from the Lawyer Defendants will cause substantial adverse economic consequences to the Receivership. The economic rationale for settling with Mr. Armijo at this time has been included and outlined in the motion filed on September 28, 2023, requesting the Court's approval of the Armijo settlement.

In summary and in response to the Court's questions of November 6, 2023, the funds coming from the Receivership for the Armijo settlement are a net of \$118,000 and those funds will come from the cash held on hand by the Receivership.

Respectfully submitted,

/s/ Katherine C. Donlon

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Special Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically filed with the Clerk of the Court and furnished to all counsel of record by using the CM/ECF system on this 13th day of November 2023.

/s/ Guy M. Burns _____
Guy M. Burns, FBN 0160901