

1 **SARAH HEATON CONCANNON**
(pursuant to LR IA 11-3)
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3 **SECURITIES AND EXCHANGE COMMISSION**
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7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 **SECURITIES AND EXCHANGE**
9 **COMMISSION,**
Plaintiff,
10 **v.**
11 **EDWIN YOSHIHIRO FUJINAGA, et al.,**
12 **Defendants,**
13 **and**
14 **JUNE FUJINAGA,**
CSA SERVICE CENTER, LLC,
15 **THE FACTORING CO., and**
16 **THE YUNJU TRUST,**
Relief Defendants.

Case No.: 2:13-cv-1658-JCM-CWH

**Order Appointing a
Distribution Agent and a Tax
Administrator and Authorizing
Payment of Administrative Fees and
Expenses and Tax Obligations**

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18 The Court having reviewed the Motion of the Securities and Exchange Commission (the
19 “SEC”) for an Order appointing a Distribution Agent and a Tax Administrator and Authorizing
20 Payment of Administrative Fees and Expenses and Tax Obligations, which the SEC has filed in
21 anticipation of the distribution of the funds under the Court’s jurisdiction in this case (the
22 “Distribution Fund”), and for good cause shown,

23 **IT IS HEREBY ORDERED** that:

- 24 1) The Motion is **GRANTED**.

1 2) Heffler Claims Group (“Heffler”) is appointed Distribution Agent for the Distribution
2 Fund, to assist in overseeing the administration and the distribution of the Distribution Fund in
3 coordination with the SEC’s counsel of record, pursuant to the terms of a distribution plan to be
4 approved by this Court. As Distribution Agent, Heffler will, among other things:

5 a) Perform services in accordance with the pricing schedule and cost proposal
6 submitted by Heffler to the SEC;

7 b) Work with the SEC’s counsel of record to develop a distribution plan to be
8 approved by the Court;

9 c) Determine the identities and locations of harmed investors;

10 d) Quantify losses and distribution amounts of investors eligible for a distribution
11 under a Court-approved distribution plan (the “Plan”);

12 e) Respond to investor and distribution related inquiries;

13 f) Calculate a reserve for fees, expenses, and taxes (the “Reserve”) and perform all
14 activities necessary to the distribution of Distribution Fund net the Reserve in accordance with
15 the Plan;

16 g) Coordinate with the Court-appointed tax administrator to ensure timely
17 compliance with all tax related obligations;

18 h) File with the Court or provide to the SEC’s counsel of record to file with the
19 Court, a quarterly status report within forty-five (45) days of Court approval of the Plan, and
20 provide additional reports within thirty (30) days after the end of every quarter thereafter. Upon
21 establishing an escrow account into which the monies in the Distribution Fund are transferred,
22 Heffler will include a quarterly accounting report, in a format to be provided by the SEC, in the
23 status report. The status report and quarterly accounting report will inform the Court and the
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1 SEC of the activities and status of the Distribution Fund during the relevant reporting period and
2 will specify, at a minimum:

- 3 i) The location of the account(s) comprising the Distribution Fund; and
- 4 ii) An interim accounting of all monies in the Distribution Fund as of the most
5 recent month-end, including the value of the account(s), all monies earned or
6 received into the account(s), funds distributed to eligible claimants under the
7 Plan, and any monies expended from the Distribution Fund to satisfy fees,
8 expenses, and taxes, incurred or required in the administration of the
9 Distribution Fund or the implementation of the Plan.

10 i) Comply with the Plan and all Court orders.

11 3) Heffler’s affiliate, Heffler, Radetich & Saitta LLP (“HRS”), a certified public
12 accounting firm, is hereby appointed as Tax Administrator to execute all income tax reporting
13 requirements, including the preparation and filing of tax returns for the Distribution Fund. As the
14 Tax Administrator, HRS shall:

- 15 a) Be designated the Tax Administrator of the Distribution Fund, pursuant to Section
16 468B(g) of the Internal Revenue Code, 26 U.S.C. § 468B(g), and related regulations, and shall
17 satisfy the administrative requirements imposed by those regulations, including but not limited to
18 (i) obtaining a taxpayer identification number, (ii) filing applicable federal, state, and local tax
19 returns and paying taxes reported thereon out of the Distribution Fund, and (iii) satisfying any
20 information, reporting, or withholding requirements imposed on distributions from the
21 Distribution Fund, including but not limited to the Foreign Account Tax Compliance Act. Upon
22 request, the Tax Administrator shall provide copies of any filings to the SEC’s counsel of record;

1 b) Perform services in accordance with the pricing schedule and cost proposal
2 submitted by Heffler to the SEC;

3 c) At such times as the Tax Administrator deems necessary to fulfill the tax
4 obligations of the Distribution Fund, submit a request to the SEC's counsel of record for
5 authorization to pay from the Distribution Fund tax obligations of the Distribution Fund; and

6 d) Comply with the Plan and all Court orders.

7 4) Heffler and HRS, as Distribution Agent and Tax Administrator, respectively, are entitled
8 to rely on all outstanding rules of law and Court Orders.

9 5) Heffler and HRS will be entitled to reimbursement and compensation from the
10 Distribution Fund for the reasonable fees and expenses incurred in the performance of their duties,
11 in accordance with the cost proposal submitted to the SEC's counsel of record. The SEC is
12 authorized to approve and arrange payment of all tax obligations owed by the Distribution Fund and
13 the fees and expenses of Heffler and HRS directly from the Distribution Fund without further order
14 of this Court. Heffler and HRS will submit invoices of all fees and expenses incurred in connection
15 with their respective duties to the SEC's counsel of record for review and, as appropriate, payment.
16 All payments will be reflected in the quarterly and final accountings referenced above.

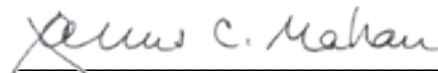
17 6) Upon completing their duties as set forth herein, Heffler and HRS will jointly provide
18 to the SEC's counsel of record a final accounting in a form provided by the SEC's counsel of
19 record; a final report providing statistics related to the distribution, including amounts disbursed
20 to investors, amounts returned and/or not delivered or negotiated, outreach efforts on
21 unnegotiated payments and the costs and results of the same, and statistics concerning payments
22 made to individuals and entities; and an affidavit in a format acceptable to the SEC's counsel of
23 record summarizing their activities as distribution agent and tax administrator.

1 7) Heffler and/or HRS may be removed *sua sponte* at any time by the Court or upon
2 motion of the SEC and replaced with a successor. In the event Heffler and/or HRS decide to
3 resign, the resigning entity must first give written notice to the SEC's counsel of record and the
4 Court of its intention, and resignation, if permitted, will not be effective until the Court has
5 appointed a successor. The resigning entity will then follow instructions from the Court or a
6 successor for relinquishing its duties, including all records related to Distribution Fund monies
7 and property. Unless otherwise ordered, the resigning entity will within 30 days of the notice of
8 resignation or removal, file with the Court an accounting and a report of its activities as further
9 set forth above in paragraph 6, and provide any other information requested by the SEC, the
10 Court, or the successor.

11 8) The Court will retain exclusive jurisdiction over the distribution, including, but not
12 limited to, claims against the Distribution Agent and/or Tax Administrator asserting liability for
13 violation of any duty imposed by the Plan or other Court order.

14 IT IS SO ORDERED.

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17 Dated: March 18, 2019.

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20 James C. Mahan
21 U.S. District Judge
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