

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-22791-CV-WILLIAMS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRENT SEAMAN, *et al.*,

Defendants.

**RECEIVER'S UNOPPOSED MOTION
TO APPROVE INITIAL DISTRIBUTION**

Melanie E. Damian, as Court-Appointed Receiver (the “Receiver”) of Defendants Accanito Equity, LLC, Accanito Equity II, LLC, Accanito Equity III, LLC, Accanito Equity IV, LLC, Accanito Capital Group, LLC, Surge LLC, Accanito Holdings, LLC, and Relief Defendant, Surge Capital Ventures, LLC (collectively, the “Receivership Defendants”), through undersigned counsel, hereby files this Unopposed Motion to Approve the Initial Distribution for the benefit of the investors and creditors of the Receivership Defendants (the “Motion”), and states as follows:

INTRODUCTION

Since her appointment on October 27, 2023, the Receiver has collected \$3,708,288.10 in funds that were in the Receivership Defendants’ bank and trading accounts, in recoveries from third parties and investors who received net gains, and in disgorgement payments from relief defendants. After payment of administrative expenses, the Estate will hold approximately \$3,400,000 in cash.

The Receiver administered the Court-approved Claims Process and made final determinations allowing investor claims in the amounts reflected on **Exhibit A** attached hereto.

In light of the present amount of funds in the Estate and the dire financial condition of many investors, the Receiver believes that sending the initial distribution (the “Initial Distribution”) is appropriate at this time. The Receiver proposes to make an Initial Distribution now and a final distribution (the “Final Distribution”) at the conclusion of the Receivership. In particular, the Receiver proposes to distribute \$2,810,067.93, approximately eighty-five percent (85%) of the Estate’s available cash in that Initial Distribution, providing investors with a ten percent (10%) recovery of their net losses. After the asset recovery and liquidation phases of the receivership have been concluded, the Receiver is hopeful she will be able to make an additional Final Distribution of the remaining cash in the Estate after payment of all administrative expenses that are incurred through the conclusion of the Receivership.

BACKGROUND

I. ENTRY OF PRELIMINARY INJUNCTION AND APPOINTMENT OF RECEIVER

On June 27, 2023, the Securities and Exchange Commission (“SEC”) filed the Complaint for Injunctive and Other Relief and Demand for Jury Trial against individual Defendant Brent Seaman (“Seaman”) and the Receivership Defendants commencing the enforcement action (the “Enforcement Action”) for violations of securities laws. *See* ECF No. 1. Then the SEC filed its Unopposed Motion for Asset Freeze [ECF No. 4] and Agreed Motion and Memorandum of Law for Appointment of Receiver [ECF No. 5]. The Court granted both Motions on October 27, 2023. *See* ECF Nos. 17 and 18, respectively. In the October 27, 2023 Order Appointing Receiver (the “Appointment Order”), Melanie E. Damian was appointed Receiver for the estates of the

Receivership Defendants and charged with carrying out the mandates of that Order. *See* ECF No. 18.

Also on October 27, 2023, the SEC filed Plaintiff's Unopposed Motion for Entry of Judgments Against Defendants Brent Seaman; Accanito Equity LLC; Accanito Equity II, LLC; Accanito Equity III, LLC; Accanito Equity IV, LLC; Accanito Capital Group, LLC; Surge, LLC; and Accanito Holdings [ECF No. 6], attaching the following consents for entry of judgment:

- (1) Consent of Defendant Brent Seaman [ECF No. 6-1]
- (2) Consent of Defendant Accanito Equity, LLC [ECF No. 6-2]
- (3) Consent of Defendant Accanito Equity II, LLC [ECF No. 6-3]
- (4) Consent of Defendant Accanito Equity III, LLC [ECF No. 6-4]
- (5) Consent of Defendant Accanito Equity IV, LLC [ECF No. 6-5]
- (6) Consent of Defendant Accanito Capital Group, LLC [ECF No. 6-6]
- (7) Consent of Defendant Surge, LLC [ECF No. 6-7]
- (8) Consent of Defendant Accanito Holdings, LLC [ECF No. 6-8]

On January 9, 2024, during the prior reporting period, this Court entered the following final judgments:

- (1) Final Judgment as to Defendant Accanito Capital Group, LLC [ECF No. 43]
- (2) Final Judgment as to Defendant Accanito Equity II, LLC [ECF No. 44]
- (3) Final Judgment as to Defendant Accanito Equity III, LLC [ECF No. 45]
- (4) Final Judgment as to Defendant Accanito Equity IV, LLC [ECF No. 46]
- (5) Final Judgment as to Defendant Accanito Equity, LLC [ECF No. 47]
- (6) Final Judgment as to Defendant Accanito Holdings, LLC [ECF No. 48]
- (7) Final Judgment as to Defendant Brent Seaman [ECF No. 49]

(8) Final Judgment as to Defendant Surge, LLC [ECF No. 50]

The Receiver and the SEC negotiated a consent and final judgment including a disgorgement amount of \$1,717,717 plus prejudgment interest for Relief Defendant Surge Capital Ventures, LLC (“SCV”). *See* ECF No. 81. The SEC also reached an agreement with Brent Seaman as to the final monetary judgment for \$4,617,241 to be entered against him. *See id.*

II. THE RECEIVER’S EFFORTS TO MARSHAL AND PRESERVE ASSETS

Pursuant to the Appointment Order, the Receiver assumed control of and preserved all claims, assets or interests of the Receivership Defendants. *See id.* In particular, the Receiver took possession of \$1,966,237.86 in funds that were frozen in the Receivership Defendants’ trading and bank accounts and deposited the funds in the fiduciary account she opened for the Receivership Estate. Further, the Receiver collected \$1,335,136 in disgorgement payments from relief defendants. The Receiver also recovered funds traceable to investor deposits from various third parties and investors who received net gains from the Receivership Defendants. Those recoveries total \$514,741.19 as of the filing of this Motion. The Receiver continues the process of pursuing other claims and liquidating other assets.

Since her appointment, the Receiver has used a portion of the funds recovered from Receivership Defendants’ accounts to pay the Court-approved professionals’ fees and costs and other expenses necessary to administer and preserve the assets of the Estate. After payment of administrative expenses of the Estate incurred to date, the Receiver’s fiduciary account will have an available cash balance of approximately \$3,400,000. The Receiver proposes to distribute \$2,810,067.93, approximately 85% of that cash balance, in accordance with this proposed Claims Process.

III. KNOWN INVESTORS AND CREDITORS

The creditors of the Estate are made up of the Receivership Defendants' investors and a couple of investors who also claim to be lenders to the Receivership Defendants, all of whom were treated as investors in the claims process. The Receiver, with the assistance of her forensic accountant, calculated that those investors transferred a total of \$33,989,608.76 directly into the Receivership Defendants. The Receiver has identified 63 investors who suffered a net loss from their investments in the Receivership Defendants.

IV. ADMINISTRATION OF THE CLAIMS PROCESS

The Receiver completed the administration of the Court-approved claims process. *See* ECF No. 73. The Receiver sent notice of the Court-approved Claims Process to all known potential claimants by email to the extent that she has their email addresses. *See* ECF No. 73-1. The Receiver used the bank account reconstruction to calculate the net loss for each individual investor based on the total amount invested in all Receivership Defendants, not including rolled-over amounts, minus the distributions and returned contributions received by that investor. *See* ECF No. 73-2. Those net loss calculations were used to prepare and send online, pre-filled claim forms to each investor to initiate the Court-approved claims process. *See id.* After processing the investors' completed and submitted claim forms and their supporting documentation, following the parameters set forth in the Court-approved claims process, the Receiver determined that 61¹ investors invested

¹ The 61 investors filed 65 claims because certain investors needed to submit separate claims for themselves and then for their retirement accounts and/or for their corporate entities. Moreover, despite the delivery of all emailed legal notices and online claim forms on August 30, 2024, two of the known investors failed to submit a proof of claim form and/or otherwise respond to the Receiver's emails. The Receiver has worked on contacting the two investors who did not respond to the claims process emails by U.S. mail and telephone. If she can locate them, she will assist them in submitting a late claim.

\$34,219,532.50 with the Receivership Defendants and into an online trading platform at the direction of Defendant Brent Seaman. *See* ECF No. 73. Those investors suffered a net loss of \$28,100,318.62.

During the claims process, the Receiver learned that Mr. Seaman directed certain investors to send funds directly to Oanda, an online trading platform, under the guise that investors would hold the funds in an account in their names, but Mr. Seaman would trade the funds for them. Those accounts suffered significant losses, and the balance of those accounts was transferred to the Receivership Defendants for investment into the Accanito scheme. Accordingly, the investors asked the Receiver to include the losses suffered in their Oanda accounts, due to Mr. Seaman's trading activity, in their respective allowed claim amounts. Because the trading at Oanda appeared to be just another element of the Accanito scheme against investors, the Receiver, with the SEC's consent, agreed to include those losses in the allowed claim amounts.

The Receiver verified all investor net loss calculations using documentation subpoenaed from banks and Oanda and produced by investors during the claims process. The Receiver worked with each investor that disputed the Receiver's calculation of an allowed claim amount to determine whether the Receiver's calculation was accurate and should stand, or whether the investor had additional information that would require changing the allowed claim amount. The Receiver reached an agreement on the allowed claim amount with all investors who submitted a claim. Accordingly, the Receiver made and sent to investors a final determination on all allowed claim amounts. No investor objected to the Receiver's final determination of the allowed claim amount. Therefore, the Receiver seeks Court approval of the allowed claim amounts provided on Exhibit A, and authorization to make the proposed Initial Distribution to claimants with allowed claims in the amounts provided on Exhibit A.

PROPOSED INITIAL DISTRIBUTION

In light of the remaining work to be done to recover additional assets of the Estate and to prosecute claims against third parties, the Receiver expects that she and her professionals will incur additional fees and costs in connection with fulfilling her duties under the Appointment Order. Therefore, the Receiver proposes sending an Initial Distribution of \$2,810,067.93 to investors with allowed claims. This Initial Distribution amount equals approximately 85% of the cash on hand in the Estate. The Initial Distribution will be distributed *pro rata* to all investors with allowed claims such that each investor will receive 10% of their respective allowed claim amount.

The Receiver will hold the cash on hand remaining after the Initial Distribution as a reserve to cover the fees and costs that the Receiver and her professionals incur through the conclusion of the Receivership. The fund from which the proposed Initial Distribution will be made, net of Court-approved fees and costs and other administrative expenses, shall be referred to as the “Accanito Fraud Fund.”

The Receiver is hopeful that, following the proposed Initial Distribution, additional funds will be recovered as a result of the Receiver’s claims against third parties. In such event, the Receiver will file a supplemental motion for approval of the Final Distribution following the completion of the third-party recovery efforts.

LEGAL ARGUMENT

The Receiver believes that the foregoing proposed Distribution Plan will provide a fair, equitable, and efficient method for distributing the proceeds of the Accanito Fraud Fund to defrauded investors and creditors. This District Court has approved the use of the net loss method of determining allowed claim amounts and the *pro rata* distribution proposed by the Receiver herein. *See United States Commodity Futures Trading Comm’n v. Hunter Wise Commodities*,

LLC, et al., Case No. 1:12-81311-CIV-Middlebrooks (S.D. Fla.) at ECF No. 312 (Claims Process Motion) and ECF No. 314 (Claims Process Order approving the use of the net loss method of calculating allowed claim amounts and a *pro rata* distribution to claimants); *see also United States Commodity Futures Trading Comm'n v. All In Publishing, LLC, et al.*, Case No. 1:18-cv-23992-JEM (S.D. Fla.) at ECF No. 242 (Claims Process Motion) and ECF No. 249 Claims Process Order approving the use of the net loss method of calculating allowed claim amounts and a *pro rata* distribution to claimants); *see also United States Commodity Futures Trading Comm'n v. Daniel Fingerhut, et al.*, Case No. 1:20-cv-21887-DPG (S.D. Fla.) at ECF No. 301 (Claims Process Motion) and ECF No. 307 (Claims Process Order approving the use of the net loss method of calculating allowed claim amounts and a *pro rata* distribution to claimants).

Accordingly, the Receiver submits that this Court should exercise its discretion to approve the proposed *pro rata* Initial Distribution as detailed herein.

CERTIFICATION OF CONFERRAL

Undersigned counsel hereby certifies that he has conferred with counsel for the SEC, counsel for Defendant Brent Seaman, and counsel for Relief Defendants Jana Seaman and Valo Holdings Group, LLC regarding the relief requested herein. Counsel for the SEC, counsel for Mr. Seaman, and counsel for Ms. Seaman and Valo Holdings Group, LLC confirmed that they have no objection to the requested relief.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Receiver respectfully requests that this Court enter an order: (1) approving the allowed claim amounts as listed on Exhibit A to this Motion; (2) authorizing the Receiver to send each investor holding an allowed claim the Initial Distribution as proposed herein and on Exhibit A to this Motion, with authority to revise the allowed claim

amount, distribution amount and/or claimant information as necessary to accomplish this Initial Distribution; and (3) granting such other relief as this Court deems just and appropriate.

Respectfully submitted this 15th day of November, 2024.

Respectfully submitted,

/s/Kenneth Dante Murena
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*Counsel for Melanie E. Damian,
Court-Appointed Receiver*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via electronic transmission via this Court's CM/ECF filing system on November 15, 2024 on all counsel or parties who have appeared in the above-styled action.

/s/Kenneth Dante Murena
Kenneth Dante Murena,
*Counsel for Melanie E. Damian,
Court-Appointed Receiver*

Exhibit A**SECURITIES AND EXCHANGE COMMISSION v. BRENT SEAMAN, ET AL.****CASE NO. 23-cv-22791-KMW****UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF FLORIDA****INVESTOR ALLOWED CLAIM AMOUNTS AND INITIAL DISTRIBUTION AMOUNTS**

	Allowed Claim Amount	10% Distribution Amount
Claimant 1	\$ 14,501.37	\$ 1,450.14
Claimant 2	\$ 20,000.00	\$ 2,000.00
Claimant 3	\$ 29,429.80	\$ 2,942.98
Claimant 4	\$ 30,826.66	\$ 3,082.67
Claimant 5	\$ 43,317.54	\$ 4,331.75
Claimant 6	\$ 46,588.71	\$ 4,658.87
Claimant 7	\$ 50,000.00	\$ 5,000.00
Claimant 8	\$ 50,000.00	\$ 5,000.00
Claimant 9	\$ 51,546.03	\$ 5,145.60
Claimant 10	\$ 55,000.00	\$ 5,500.00
Claimant 11	\$ 57,414.18	\$ 5,741.42
Claimant 12	\$ 62,555.42	\$ 6,255.54
Claimant 13	\$ 70,879.78	\$ 7,087.98
Claimant 14	\$ 97,000.00	\$ 9,700.00
Claimant 15	No Claim Submitted	\$ -
Claimant 16	\$ 100,000.00	\$ 10,000.00
Claimant 17	\$ 101,072.97	\$ 10,107.30
Claimant 18	\$ 121,410.56	\$ 12,141.06
Claimant 19	\$ 123,506.80	\$ 12,350.68
Claimant 20	\$ 123,750.00	\$ 12,375.00
Claimant 21	\$ 124,248.06	\$ 12,424.81

Claimant 22	\$	125,000.00	\$	12,500.00
Claimant 23	\$	125,000.00	\$	12,500.00
Claimant 24	\$	136,725.00	\$	13,672.50
Claimant 25	\$	144,279.10	\$	14,427.91
Claimant 26	\$	146,050.83	\$	14,650.08
Claimant 27	\$	147,532.26	\$	14,753.23
Claimant 28	\$	150,000.00	\$	15,000.00
Claimant 29	\$	46,500.00	\$	4,650.00
Claimant 30	\$	44,525.00	\$	4,452.50
Claimant 31	\$	207,764.02	\$	20,776.40
Claimant 32	\$	192,057.02	\$	19,205.70
Claimant 33	\$	196,709.68	\$	19,670.97
Claimant 34	\$	200,789.78	\$	20,078.98
Claimant 35	\$	229,527.20	\$	22,952.72
Claimant 36	\$	250,000.00	\$	25,000.00
Claimant 37	\$	250,000.00	\$	25,000.00
Claimant 38	\$	250,000.00	\$	25,000.00
Claimant 39	\$	250,000.00	\$	25,000.00
Claimant 40	\$	250,000.00	\$	25,000.00
Claimant 41	\$	250,000.00	\$	25,000.00
Claimant 42		No Claim Submitted	\$	-
Claimant 43	\$	263,000.00	\$	26,300.00
Claimant 44	\$	300,000.00	\$	30,000.00
Claimant 45	\$	319,650.30	\$	31,965.03
Claimant 46	\$	320,000.00	\$	32,000.00
Claimant 47	\$	348,722.89	\$	34,872.29
Claimant 48	\$	351,491.67	\$	35,149.17
Claimant 49	\$	375,000.00	\$	37,500.00
Claimant 50	\$	400,000.00	\$	40,000.00
Claimant 51	\$	410,829.35	\$	41,082.94
Claimant 52	\$	421,887.50	\$	42,188.75

Claimant 53	\$	32,757.84	\$	3,275.78
Claimant 54	\$	319,376.17	\$	31,937.62
Claimant 55	\$	75,606.87	\$	7,560.69
Claimant 56	\$	452,046.35	\$	45,204.64
Claimant 57	\$	525,164.39	\$	52,516.44
Claimant 58	\$	587,175.00	\$	58,717.50
Claimant 59	\$	591,289.72	\$	59,128.97
Claimant 60	\$	834,277.69	\$	83,427.77
Claimant 61	\$	656,313.00	\$	65,631.30
Claimant 62	\$	1,768,446.63	\$	176,844.70
Claimant 63	\$	3,682,731.70	\$	368,273.17
Claimant 64	\$	10,000.00	\$	1,000.00
Claimant 65	\$	4,149,601.98	\$	414,960.20
Claimant 66	\$	5,112,892.95	\$	511,289.30
Claimant 67	\$	826,548.85	\$	82,654.88
Totals:	\$	28,100,318.62	\$	2,810,067.93