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21 KRISTA FREITAG

22 UNITED STATES DISTRICT COURT  
23 SOUTHERN DISTRICT OF CALIFORNIA

24 SECURITIES AND EXCHANGE  
25 COMMISSION,  
26  
27 Plaintiff,  
28  
29 v.  
30 GINA CHAMPION-CAIN and ANI  
31 DEVELOPMENT, LLC,  
32  
33 Defendants,  
34  
35 AMERICAN NATIONAL  
36 INVESTMENTS, INC.,  
37  
38 Relief Defendant.

Case No. 3:19-cv-01628-LAB-AHG

**DECLARATION OF KRISTA L. FREITAG IN SUPPORT OF RECEIVER'S MOTION FOR AUTHORITY TO PURSUE CLAWBACK CLAIMS AND APPROVAL OF PROPOSED PROCEDURES**

Date: December 14, 2020  
Time: 11:15 a.m.  
Courtroom: 14A  
Judge: Hon. Larry Alan Burns

1 I, Krista L. Freitag, declare:

2 1. I am the Court-appointed permanent receiver for Defendant ANI  
3 Development, LLC, Relief Defendant American National Investments, Inc., and their  
4 subsidiaries and affiliates ("Receivership Entities"). I make this declaration in  
5 support of my Motion for Authority to Pursue Clawback claims and Approval of  
6 Proposed Procedures ("Motion"). I have personal knowledge of the facts stated  
7 herein, and if called upon to do so, I could and would personally and competently  
8 testify to them.

9 2. I believe investors<sup>1</sup> who indirectly or directly deposited their funds with  
10 the Receivership Entities primarily did so believing that they were funding loans to  
11 purchasers of California liquor licenses. Funds were invested in a variety of ways,  
12 and primarily via the following: (1) investors (or their retirement account custodian)  
13 sent money to Chicago Title, (2) investors sent money to other investors and/or  
14 entities, who then sent such funds, or a portion thereof (directly or after aggregating  
15 with other monies) on to Chicago Title or to a Receivership Entity directly, and  
16 (3) investors (or their retirement account custodian) sent money directly to a  
17 Receivership Entity. Funds were paid out to investors from the Receivership Entities  
18 principally in the same ways (in reverse).

19 3. My goal in formulating the proposed settlement parameters is to  
20 maximize the net recovery for the receivership estate by providing a sufficient  
21 incentive for Prospective Defendants<sup>2</sup> at all Profit Amount levels to settle Clawback  
22 Claims promptly and without litigation. Litigation necessarily consumes resources  
23 of the receivership estate, as well as the Court, and although I believe the Clawback  
24 Claims are very strong, any litigation involves some measure of risk. I believe the  
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26 <sup>1</sup> The term "investors" is used herein to include all persons and entities who put  
27 money into the subject scheme, whether the money was characterized as an  
investment or loan.

28 <sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the same  
meaning ascribed to them in the Memorandum of Points and Authorities in  
Support of the Motion.

1 settlement parameters, however, should not allow for an outsized discount for those  
2 who received the largest sums of profits, referral fees, commissions or other  
3 transfers. Accordingly, the proposed settlement parameters include a graduated scale  
4 based on the Profit Amounts involved (*i.e.*, as the Profit Amount goes up, the  
5 settlement discount goes down). I believe this graduated scale balances the  
6 objectives in a reasonable and fair manner and will promote the efficient resolution  
7 of Clawback Claims.

8 4. I have carefully considered whether the Clawback Claims should be  
9 pursued on a contingent fee basis, but believe the net recovery will be greater if  
10 counsel is paid on an hourly basis. I do not anticipate controversial issues of law or  
11 fact with the Clawback Claims. Verification of the facts – *i.e.*, the amounts and/or  
12 timing of transfers would primarily involve work by myself and my staff, rather than  
13 counsel. Therefore, I do not believe the anticipated time expended by counsel on any  
14 given Clawback Claim would necessarily support the amount of fees paid under a  
15 typical contingent fee arrangement. Moreover, in pursuing Clawback Claims,  
16 judgments and/or judgment collection, I will use my business judgment in managing  
17 the fees and costs associated therewith. Accordingly, I believe the net recovery for  
18 the receivership estate from Clawback Claims will be greater if my counsel is  
19 compensated on an hourly basis, subject to Court approval, rather than on a  
20 contingent fee basis.

21 I declare under penalty of perjury under the laws of the United States of  
22 America that the foregoing is true and correct.

23 Executed this 30<sup>th</sup> day of October 2020, at Los Angeles, California.

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25 KRISTA L. FREITAG  
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