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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

GINA CHAMPION-CAIN and ANI
DEVELOPMENT, LLC,

Defendants, and

AMERICAN NATIONAL
INVESTMENTS, INC.,

Relief Defendants.

Case No.: 19-cv-1628-LAB-AHG

**ORDER APPROVING
SETTLEMENT BETWEEN
RECEIVER AND CALPRIVATE
BANK [Dkt. 956]**

Krista Freitag (the “Receiver”), the Court-appointed permanent receiver for Defendant ANI Development, LLC, Relief Defendant American National Investments, Inc., and their subsidiaries and affiliates, and non-party CalPrivate Bank (“CalPrivate,” and, together with the Receiver, the “Parties”) jointly moved for an order approving the settlement reached between the Parties (the “CalPrivate Settlement”). (Dkt. 956). Non-parties Kim H. Peterson, Kim Funding, LLC, ABC Funding Strategies, LLC, and The Peterson Family Trust date April 14, 1992 (collectively, the “Peterson Parties”) oppose the joint motion. (Dkt. 965).

1 Having considered the filings, the Court **GRANTS** the joint motion, **OVERRULES**
2 the objection, and **APPROVES** the CalPrivate Settlement.

3 **I. BACKGROUND**

4 In August 2019, the U.S. Securities and Exchange Commission (“SEC”)
5 initiated this enforcement action against Gina Champion-Cain, ANI Development,
6 LLC, and American National Investments, Inc., alleging that Champion-Cain
7 defrauded investors through a fraudulent, multi-level investment scheme she
8 operated through the defendant entities. (*See generally* Dkt. 1, Compl.). The Court
9 appointed the Receiver to manage the Receivership Entities, accounting for their
10 assets and distributing funds received through illegal conduct back to investors.
11 (Dkt. 6). Since her appointment and with the Court’s approval, the Receiver has
12 negotiated settlements, calculated the amount of each investor’s losses, and
13 started the process of distributing Receivership assets. (*See, e.g.*, Dkt. 958
14 at 2–3). As relevant here, the Court previously approved (1) the Global Settlement
15 reached with Chicago Title Company and Chicago Title Insurance Company
16 (collectively, “Chicago Title”), (Dkt. 926, 927); and (2) the Receiver’s proposed
17 treatment of claims against the Receivership, allowing CalPrivate’s claim and
18 disallowing the Peterson Parties’ claims (the “Distribution Plan”), (Dkt. 958 at 7–8,
19 12–17).

20 CalPrivate Bank was a losing investor in the fraudulent scheme. CalPrivate
21 invested in the scheme by making a loan which was channeled through a limited
22 liability company created specifically for that purpose. (Dkt. 965 at 3). The loan
23 was guaranteed by Kim Peterson, the Peterson Trust, ANI Development,
24 Champion-Cain, and Champion-Cain’s revocable trust. (*Id.* at 3). Based on the
25 loan and guaranty, CalPrivate has maintained a cause of action against the
26 Peterson Parties for the balance of the loan since the scheme’s collapse and
27 objected to both the Global Settlement and the Distribution Plan. (Dkt. 956 at 2).

28 After additional settlement discussions facilitated by Magistrate Judge

1 Allison Goddard, CalPrivate and the Receiver agreed to resolve their remaining
2 disputes. (*Id.*). Under the terms of the CalPrivate Settlement, memorialized as the
3 Mediator’s Proposal attached as Exhibit A to the joint motion, (Dkt. 956-2),
4 CalPrivate agrees to dismiss its appeal of the Court’s order approving the Global
5 Settlement, withdraw its opposition to the Distribution Plan, and assign its claims
6 against the Peterson Parties to the Receiver. (*Id.* at 3; Dkt. 956 at 2–3). In
7 exchange, CalPrivate will receive the \$9,520,080.13 allocated to it under the
8 Global Settlement,¹ plus an additional \$500,000. (Dkt. 956-2 at 3; Dkt. 956 at 3).
9 The Receiver also agrees to share with CalPrivate fixed percentages of any
10 amounts recovered from the Peterson Parties. (Dkt. 956-2 at 3; Dkt. 956 at 3).
11 Any amount distributed to CalPrivate will reduce the amount owed on the loan by
12 the Peterson Parties. (Dkt. 974 at 5–7).

13 **II. LEGAL STANDARD**

14 The “primary purpose of [federal] equity receiverships is to promote orderly
15 and efficient administration of the estate by the district court for the benefit of
16 creditors.” *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). Federal courts
17 have broad “power to supervise an equity receivership and to determine the
18 appropriate action to be taken in the administration of the receivership.” *SEC v.*
19 *Cap. Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005) (internal citations and
20 quotation marks omitted). This “authority derives from the inherent power of a
21 court of equity to fashion effective relief,” *SEC v. Wencke*, 622 F.2d 1363, 1369
22 (9th Cir. 1980), and includes the power to compromise claims by approving
23 settlements, see *SEC v. Stanford Int’l Bank, Ltd. (Stanford)*, 927 F.3d 830, 840
24 (5th Cir. 2019).

25 Receivership courts may “exercise [their] discretion to approve settlements
26 of disputed claims to receivership assets, provided that the settlements are ‘fair
27

28 ¹ These funds are currently held by the Receiver. (See Dkt. 956 at 3).

1 and equitable and in the best interests of the estate.” *Stanford*, 927 F.3d at 840
2 (quoting *Ritchie Cap. Mgmt., L.L.C. v. Kelley*, 785 F.3d 273, 278 (8th Cir. 2015)).
3 To determine whether a compromise is “fair and equitable,” courts evaluate the
4 probability of success in litigation; any difficulties that may be encountered in
5 collection; the complexity of the litigation and the expense, inconvenience, and
6 delay necessarily attending; and the interest of the receivership entities’ creditors
7 and their reasonable views. *See In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988)
8 (discussing factors for evaluating settlements in bankruptcy context); *see also*
9 *SEC v. Cap. Consultants, LLC*, 397 F.3d 733, 745 (9th Cir. 2005) (finding
10 bankruptcy law “analogous” to and, therefore, persuasive in the administration of
11 receivership estates).

12 III. DISCUSSION

13 The Peterson Parties object to the CalPrivate Settlement on three grounds.
14 First, they argue CalPrivate’s claims against them should be released because
15 CalPrivate will receive distributions from the Receivership Estate sufficient to
16 cover the balance of the loan. (Dkt. 965 at 6). The Receiver, however, calculates
17 that the Peterson Parties will still owe more than \$10 million on the loan even after
18 the outstanding balance is reduced by the amount of the settlement payment.
19 (Dkt. 974 at 5–6). The Court finds this objection persuasive.

20 Second, the Peterson Parties argue the CalPrivate Settlement is inequitable
21 to them because it relies on loan documents the Receiver and the Court ignored
22 when disallowing the Peterson Parties’ claims to Receivership distributions.
23 (Dkt. 965 at 6–7). This argument, however, mischaracterizes the Court’s
24 reasoning for disallowing the Peterson Parties’ claims: the Court found that that
25 “[n]otwithstanding [Kim] Peterson’s ignorance of the fraud, the business
26 relationships, recruitment efforts, compensation structure, and personal
27 relationship all indicate that the Peterson [Parties]” were insiders to the fraudulent
28 scheme and, therefore, not appropriate claimants. (Dkt. 958 at 12–16). Instead,

1 the Court allowed claims from those investors whose investments were
2 coordinated by the Peterson Parties. (*Id.*). This reasoning doesn't disregard the
3 existence of the loan agreements, rendering this objection unpersuasive.

4 Third, the Peterson Parties argue that any distributions made to CalPrivate
5 should reduce the amount the Peterson Parties owe on the loan and to the
6 Receivership Estate. (Dkt. 965 at 7–8). The Receiver's reply resolves this
7 objection, clarifying that "settlement payments to investors and distributions
8 through the [R]eceivership all reduce the Peterson Parties' liability to investors."
9 (Dkt. 974 at 6).

10 The Court next considers whether the CalPrivate Settlement is "fair and
11 equitable and in the best interests of the estate." *Stanford*, 927 F.3d at 840. The
12 CalPrivate Settlement is the result of arm's length negotiations between the
13 Receiver and CalPrivate mediated by Judge Goddard. (Dkt. 956 at 4). If approved,
14 the CalPrivate Settlement will resolve the remaining disputes between the Parties.
15 (*Id.* at 2–4). Specifically, CalPrivate will dismiss its pending appeal of the Court's
16 orders approving the Global Settlement and barring claims against Chicago Title
17 related to the fraudulent scheme, and withdraw its opposition to the Distribution
18 Plan. (Dkt. 956 at 2–3). CalPrivate will also assign its claims against the Peterson
19 Parties to the Receiver, which the Receiver believes will "enhance[e] the
20 [R]eceivership [E]state's prospective recovery from the Peterson Parties." (*Id.*
21 at 4).

22 After considering the risk, complexity, expense, inconvenience, and delay
23 associated with continued litigation against CalPrivate and the potential benefit of
24 the assigned claims, the Receiver determined that the CalPrivate Settlement was
25 favorable and in the best interests of the Receivership Estate and investors as a
26 whole. (*Id.*; see also Dkt. 956-3 ¶ 2 (Decl. of Krista L. Freitag)). The Court agrees
27 and finds the CalPrivate Settlement to be fair, equitable, and in the best interest
28 of the Estate.

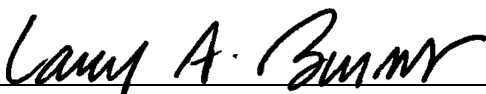
1 **IV. CONCLUSION**

2 The Court **OVERRULES** the objection and **ORDERS** as follows:

- 3 1. The joint motion is **GRANTED**, (Dkt. 956);
- 4 2. The CalPrivate Settlement, in the form of the Mediator’s Proposal
- 5 attached as Exhibit A to the joint motion, (Dkt. 956-2), is **APPROVED**; and
- 6 3. The Receiver is authorized to pursue the claims assigned to her by
- 7 CalPrivate under the CalPrivate Settlement.

8 **IT IS SO ORDERED.**

9 Dated: April 24, 2023

10 
11 Hon. Larry Alan Burns
12 United States District Judge

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