

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
v.)
)
BURTON DOUGLAS MORRISS,)
ACARTHA GROUP, LLC,)
MIC VII, LLC,) Case No. 4:12-CV-00080-CEJ
ACARTHA TECHNOLOGY PARTNERS, LP, and)
GRYPHON INVESTMENTS III, LLC,)
)
Defendants, and)
)
MORRISS HOLDINGS, LLC,)
)
Relief Defendant.)
_____)

**RECEIVER’S MOTION FOR ENTRY OF AN ORDER
APPROVING AND CONFIRMING THE RECEIVER’S
TWELFTH INTERIM STATUS REPORT**

By Order entered January 17, 2012, the Court appointed Claire M. Schenk as Receiver (the “Receiver”) over Acartha Group, LLC, MIC VII, LLC, Acartha Technology Partners, LP and Gryphon Investments III, LLC (collectively, the “Receivership Entities”).

The Receiver herein moves this Court for entry of the proposed Order Approving and Confirming her Twelfth Interim Status Report of Receiver, filed simultaneously herewith as Exhibit A to this Motion.

This motion is administrative and not adversarial in nature.

Respectfully Submitted,

THOMPSON COBURN LLP

Dated: December 4, 2014

By /s / Kathleen E. Kraft

Stephen B. Higgins, #25728MO
Brian A. Lamping, #61054MO
One US Bank Plaza
St. Louis, Missouri 63101
Phone: (314) 552-6000
Fax: (314) 552-7000
shiggins@thompsoncoburn.com
blamping@thompsoncoburn.com

Kathleen E. Kraft, #58601MO
1909 K Street, NW, Suite 600
Washington, DC 20006
Phone: (202) 585-6922
Fax: (202) 508-1035
kkraft@thompsoncoburn.com

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2014, I electronically filed the foregoing with the Clerk of the Court through the Court's CM/ECF system which will send a notice of electronic filing to the following:

John R. Ashcroft, Esq.
Ashcroft Hanaway LLC
222 South Central Ave., Suite 110
St. Louis, Missouri 63105
Counsel for Defendant Burton Douglas Morriss

Robert K. Levenson
Brian T. James
Securities and Exchange Commission
801 Bricknell Avenue, Suite 1800
Miami, Florida 33131
Attorneys for Plaintiff

/s/ Kathleen E. Kraft

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,)
)
 Plaintiff,)
 v.)
)
 BURTON DOUGLAS MORRISS,)
 ACARTHA GROUP, LLC,)
 MIC VII, LLC,)
 ACARTHA TECHNOLOGY PARTNERS, LP, and)
 GRYPHON INVESTMENTS III, LLC,)
)
 Defendants, and)
)
 MORRISS HOLDINGS, LLC,)
)
 Relief Defendant.)
 _____)

Case No. 4:12-CV-00080-CEJ

TWELFTH INTERIM STATUS REPORT OF RECEIVER

Claire M. Schenk (the “Receiver”), the Receiver for Defendants Acartha Group, LLC (“Acartha Group”), Acartha Technology Partners, LP (“ATP”), MCI VII, LLC (“MCI VII”), and Gryphon Investments III, LLC (“Gryphon Investments”) (collectively, the “Receivership Entities”), submits this **Twelfth Interim Status Report** to update the Court on the activities of the Receiver occurring since August 12, 2014:

A. Claims Process

The Receiver’s Ninth, Tenth, and Eleventh Interim Status Reports provide a detailed summary of the claims process (Dkt. Nos. 315-1, 328-1, and 338-1). These Reports discuss (i) the number of claims submitted, (ii) the Receiver’s process of review and documentation of the claims, (iii) the Receiver’s recommendations regarding the allowance of certain claims and disallowance as to others as set forth and explained in the Receiver’s Notices of Determination, (iv) the Receiver’s resolution of objections and potential objections through the claims process,

and (v) the Receiver’s actions with regard to the two objections to determinations filed with the Court.

As of the date of this Report, the Receiver’s actions on the filed claims are summarized as follows:

<u>Treatment</u>	<u>No. of Claims</u>
Recommend allowance of claim (at least in part)	118
Recommend disallowance of entire claim	108
Determination of deficiency	1
Total Claims Submitted	227

The above chart shows one additional claim as compared to the Eleventh Interim Status Report. Following submission of the Eleventh Interim Status Report, the Receiver’s counsel received an inquiry from a trade (vendor) claimant requesting the status of its claim. The Receiver had not received the claimant’s claim form and therefore had not entered the claimant as a claimant of the Receivership Entities. Based on documentation from the claimant that the claimant had postmarked its proof of claim form on April 23, 2013, the Receiver determined to treat the claimant’s proof of claim as timely filed and assigned it Claim No. 227. On October 15, 2014, the Receiver issued the claimant a notice of deficiency. In accordance with the Claims Bar Date Order, the notice affords the claimant sixty (60) days from the date of the notice, until December 15, 2014, to provide additional information to the Receiver regarding the claim. As of the date of this Report, the claimant has not filed additional information regarding the claim with the Receiver.

As previously reported, two claimants filed objections to the Receiver’s determination on their claims with the Court: Claimant No. 16, UHY Advisors MO, Inc. (“UHY”) (Dkt. No. 332); and Claimant No. 20, Hany Teylouni (former management) (Dkt. No. 337).

Regarding UHY, the Receiver recommended disallowance of UHY's claim for payment for professional accounting services rendered in the amount of \$220,060 on various grounds set forth in the Receiver's Notice of Determination which was provided to UHY on January 13, 2014. Because the Receiver and UHY are engaged in settlement negotiations, the parties have entered into a joint stipulation to extend the time for the Receiver's response up to and including January 6, 2014. A copy of the parties' stipulation is on file with the Court (Dkt. No. 357).

Regarding Mr. Teylouni, the Receiver recommended disallowance of Mr. Teylouni's claim for alleged deferred compensation in the amount of \$352,532.15. On September 2, 2014, the Receiver filed her response to Mr. Teylouni's objection. The parties filed brief additional pleadings between September 5 and September 23, 2014. Briefing is now complete on Mr. Teylouni's objection to the Receiver's determination regarding Mr. Teylouni's claim.

Finally, the Receiver secured a waiver of Claim No. 21 filed by Ameet Patel (former management) through a mutual release of claims. In exchange for the Receiver's release of claims against Mr. Patel as identified in the Receiver's notice of determination disallowing Mr. Patel's claim, Mr. Patel has released the Receiver, her successor Receiver(s), the Receivership Entities, and the Receivership Estate from all claims arising out of Claim No. 21 (which was filed in the amount of \$2,764,524.49) and waived Claim No. 21 with prejudice. A copy of the executed Settlement Agreement and Mutual Release of Claims dated as of September 24, 2014 ("Settlement Agreement") is attached hereto as Exhibit 1. The Settlement Agreement specifically provides that it will become effective upon the earlier of (i) the entry of a Court order approving and affirming the Receiver's interim status report advising the Court of the Agreement or (ii) the entry of a Court order approving the Receiver's proposed plan of distribution, wherein the Receiver recommended disallowance of Claim No. 21.

The Receiver's favorable resolution of Mr. Patel's claim has increased the reduction in potential liability to the Receivership Entities reported in the last Report. As of the date of this Report, the Receiver's determinations on claims and resolution of objections to disallowed claims has resulted in a conservative estimate of approximately **\$16,572,722.00** in reduced potential liability to the Receivership Entities and the Receivership Estate.¹

B. Recovery of Receivership Asset

In keeping with her duties under the Receivership Order to marshal the assets of the Receivership Entities, the Receiver successfully recovered funds from an account of MIC VII held at PNC Bank, in the amount of \$72,225.61. These funds were paid into the MIC VII bank account following the appointment of the Receiver as the result of a pre-Receivership event of liquidation. The portfolio concern, Odyssey Financial Technologies, was formerly held by MIC VII.² The monies were held in escrow until they were paid into the PNC account on May 7, 2012 and September 5, 2012. It was reported that the first escrow release represented 92.5% of the total escrow, while the second, and final, release represented 7.5% of the total escrow.

C. Analysis of Affirmative Legal Claims and Related Proceedings

Under the Receivership Order, the Receiver is directed to investigate the manner in which the affairs of the Receivership Entities were conducted and to institute such actions and legal proceedings for the benefit and of and on behalf of the Receivership Entities. Thus, the Receiver continued to supply documents, authority, and other information to retained counsel, Spencer

¹ This total amount does not include: claims subject to the process of resolving objections; or the 37 disallowed claims which lacked a specific amount for the claim and/or did not provide sufficient information for the Receiver to determine the claim amount before its disallowance.

² Former management of MIC VII reported that the shares in Odyssey were formerly held by MIC VII as the result of the sale of Exegy (another portfolio concern) to Odyssey and that Odyssey was then in turn sold to TeamOS.

Fane Britt & Browne LLP, in support of counsel's efforts to pursue Receivership claims involving UHY, Patrick Stark, and Brian Peterson (collectively, the "UHY Parties"). Following an extensive review and discussion of suitable candidates, arrangements were made for a mediation between the Receiver and the UHY Parties. As previously reported, the Honorable Wayne R. Anderson (Ret.) was selected to serve as mediator. The Fee Schedule (submitted to the Court as part of the Eleventh Interim Status Report) (Dkt. No. 338-5) was agreed to by the parties during this reporting period. *See Exhibit 2.* Under this arrangement, costs are to be equally shared between the Receiver and the UHY Parties.

On September 29, 2014, the Receiver and the UHY Parties exchanged detailed mediation statements. Along with her statement, the Receiver submitted thirty exhibits in support of her position. Following receipt of the statement of the UHY Parties, the Receiver developed her response to the defenses offered by the UHY Parties and made other preparations in anticipation of the mediation, which was held in the offices of JAMS in Chicago on October 6, 2014. While progress was made during the mediation, the matter was not resolved on that day. Settlement discussions, however, have continued. During this interim period, the Receiver and UHY agreed to an extension of time for the Receiver to respond to UHY's claim objection (*see* Dkt. No. 357).

Other potential claims of the Receivership Entities were also reviewed and analyzed during this reporting period.

D. Business Operations and Administrative Matters

As required by the Court, the Receiver continued to manage the holdings of the Receivership Entities in the various portfolio company investments. The Receiver participated in board and shareholder calls involving the portfolio concerns, reviewed periodic updates by management as to financials and operations involving the portfolio entities, analyzed information

and organized investor calls, and handled compliance matters pertaining to potential tax claims and liability. Active and extensive exploration of liquidation and sale opportunities continued. To the extent that the Receiver determines it appropriate to sell property of one of the Receivership Entities, the Receiver will seek the approval of the Court and provide notice, as appropriate, before finalizing any sale.

E. Tax Matters

During this reporting period, the Receiver worked closely with the Receiver's accountants to finalize and file the 2013 tax returns for the Receivership Entities, including those entities managed by the Receiver. Returns were timely filed for sixteen entities while the Receiver also ensured that the investors received their K-1s.³ As part of this process, the Receiver, her accountants, and attorneys reviewed the interests of those investors who elected not to submit a claim prior to May 6, 2013 (the claims bar date established by the Court). As a result, these investors were treated as having abandoned any potential ownership interest in the Receivership Entities. The Receiver and her accountants also began discussion of final filings for the Integrien related special purpose vehicles since, following the approval of the Court, the funds held by these entities were distributed.

F. Update in Proceedings Involving Burton Douglas Morriss

(1) Criminal Matter

Pursuant to the plea agreement described in earlier reports, the Receiver is informed that Burton Douglas Morriss remains incarcerated.

(2) Personal Bankruptcy

³ Internal Revenue Service Schedule K-1s are used to report the investors share of income, deductions, credits and other items from pass-through entities. Investors are advised by the Receiver that the Receiver and her accountants do not represent them and that they should seek independent legal and accounting advice.

On November 7, 2014, Mr. Morriss's bankruptcy attorney filed objections to the claims of the Receiver, describing them as derivative of the claims asserted by the Securities and Exchange Commission (the "Commission").⁴ The Receiver has not yet filed a response. On November 10, 2014, a Section 341 meeting of the creditors was held in the offices of Mr. Morriss's attorney. Mr. Morriss was allowed to participate in the proceeding by phone, although the prison officials did not allow the meeting to proceed to conclusion due to time limitations. As a result, the creditors' meeting was continued. The Receiver's attorney attended the meeting; however, Mr. Morriss's attorney indicated that he was unwilling to allow questions of the Receiver based upon a lack of standing for the reasons stated in his objection to the Receiver's claims. A date for the continuation of the meeting has not yet been selected.

G. Administrative Matters

An updated copy of the Standardized Fund Accounting Report ("SFAR") is being submitted along with the Receiver's Eleventh Fee Application (for the third quarter of this year, covering July through September). This report reflects known and current bank balances for the Receivership Entities and the accounts otherwise subject to the control of the Receiver. It also shows expenses and payments during this quarter. A final and fully detailed report will be submitted to the Court at the conclusion of the Receivership.

The Receiver has continuously updated the general website hosted by Thompson Coburn LLP (which is linked to the website for the District Court for the Eastern District of Missouri). Additionally, she has continued to post documents on the extranet sites created for the investors. Access to the extranet sites is allowed subject to receipt of a nondisclosure agreement by the

⁴ On February 26, 2014, a Final Judgment was entered in this proceeding in favor of the Commission in the amount of \$9,100,000 plus prejudgment interest in the amount of \$416,090.71.

investors. Each site is periodically updated with information pertinent to business operations, *e.g.*, slide decks or presentations and transactional documents involving additional financings or other significant events. Claimants, investors, and other interested parties are encouraged by the Receiver to visit the sites that are available to them so that they will have a current understanding of Receivership operations and to avoid unnecessary expense through repeated individualized communications with the Receiver and her counsel.

Conclusion

The Receiver will continue to update this Report on a periodic basis to summarize relevant Receivership activities.

Dated: December 4, 2014

Respectfully submitted,

/s/ Claire M. Schenk
Claire M. Schenk, Receiver

EXHIBIT 1

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims (the "Agreement") is made as of September 24, 2014 between Claire M. Schenk ("Receiver"), in her capacity as Receiver of Acartha Group, LLP, Acartha Technology Partners, L.P., MIC VII, LLC, and Gryphon Investments III, LLC (collectively, the "Receivership Entities"), and Ameet Patel ("Claimant"). The Receiver and Claimant are sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

WHEREAS, on January 17, 2012, the United States Securities and Exchange Commission ("SEC") filed its *Complaint for Injunctive and Other Relief* ("Complaint") against Burton Douglas Morriss, the Receivership Entities, and Morriss Holdings, LLC in the United States District Court for the Eastern District of Missouri ("Court"), Case No. 4:12-cv-00080-CEJ ("SEC Case"). The Complaint and other papers filed by the SEC allege various securities laws violations by the defendants named in the Complaint; and

WHEREAS, on January 17, 2012, the SEC moved for the immediate appointment of a receiver over the Receivership Entities to (i) administer and manage the business affairs, funds, assets, choses in action and other property of the Receivership Entities, (ii) act as sole and exclusive managing member or partner of the Receivership Entities, (iii) maintain sole authority to administer any and all bankruptcy cases in the manner determined to be in the best interests of the Receivership Entities' estate, (iv) marshal and safeguard all of the assets of the Receivership Entities, and (v) take whatever actions are necessary for the protection of investors; and

WHEREAS, the Court appointed the Receiver as receiver over the Receivership Entities by order dated January 17, 2012; and

WHEREAS, on December 3, 2012, in furtherance of her duties as receiver, the Receiver filed with the Court a motion to establish a claims bar date and claims filing and review procedures; and

WHEREAS, on March 4, 2013, as amended August 22, 2013, the Court entered its order establishing a claims bar date and procedures for the submission and review of claims against the Receivership Entities arising before January 17, 2012; and

WHEREAS, on May 2, 2013, Claimant filed a proof of claim form with the Receiver, which the Receiver denominated Claim No. 21, asserting a claim against Acartha Group, LLC, Acartha Technology Partners, L.P., and MIC VII, LLC in the amount of \$2,764,524.49, based on Claimant's role as a former employee of Acartha Group LLC and his claimed right to deferred compensation, payment due pursuant to the termination of his employment agreement, indemnification of his legal fees, and profit interest in certain funds established by Acartha Group, LLC ("Claim No. 21"); and

WHEREAS, on February 12, 2014, the Receiver issued her final Notice of Determination on Claim No. 21, recommending disallowance of Claim No. 21 in its entirety ("Notice of Determination"); and

WHEREAS, in the Notice of Determination, the Receiver reserved her right to assert legal claims held by the Receivership Entities against Claimant; and

WHEREAS, in the Notice of Determination, the Receiver identified claims against Claimant for the return of the sums received by Claimant in excess of his reduced salary and claims based on Claimant's breach of fiduciary duty, aiding and abetting Burton Douglas Morriss's breach of fiduciary duty, aiding and abetting Burton Douglas Morriss's conversion, aiding and abetting Burton Douglas Morriss's fraudulent misrepresentation/concealment, and common law negligence based on actions and/or inactions by Claimant known to the Receiver or reasonably discoverable by the Receiver as of the date of the Notice of Determination (collectively, the "Receiver's Claims"); and

WHEREAS, on April 14, 2014, Claimant objected to the Receiver's Notice of Determination; and

WHEREAS, between April 14, 2014 and July 10, 2014, the Receiver and Claimant worked in good faith to resolve Claimant's objection to the Notice of Determination; and

WHEREAS, the Parties desire to settle and release all claims between them relating to Claim No. 21 and the Receiver's Claims. Therefore, for good and valuable consideration, including the conditions, covenants, and agreements contained herein, the Parties agree as follows:

AGREEMENT

1. Release by Claimant. In consideration for agreements contained herein, including but not limited to the release described in paragraph 2 below, Claimant does fully and finally release the Receiver, her successor receiver(s), the Receivership Entities, and the Receivership estate from claims arising out of Claim No. 21.

2. Release by Receiver. In consideration for the agreements contained herein, including but not limited to the release described in paragraph 1 above and the waiver of Claim No. 21 described in paragraph 5 below, the Receiver, on behalf of herself as receiver of the Receivership Entities and her successor receiver(s), the Receivership Entities, and the Receivership estate ("Receiver Releasing Parties"), does fully and finally release Claimant from all actions, causes of action, claims, demands, suits, debts, dues, sums of money, accounts, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, and executions, in law or equity, which the Receiver Releasing Parties had, now have, or hereafter may have for, upon, or by reason of, or in any way relating to the Receiver's Claims.

3. Approval by Court. The Parties specifically recognize that the Receiver has the authority to compromise and settle any claim, at any time, as appropriate, subject to Court approval sought in connection with a proposed plan of distribution. The Receiver will seek Court approval of this Agreement in connection with a proposed plan of distribution and/or through the Receiver's next interim status report.

4. Effective Date. The Parties specifically recognize that this Agreement will be effective upon the earlier of (i) the entry of a Court order approving and affirming the Receiver's interim status report advising the Court of this Agreement or (ii) the entry of a Court order

approving the Receiver's proposed plan of distribution, wherein the Receiver recommended disallowance of Claim No. 21.

5. Waiver of Claim No. 21 with Prejudice. Claimant agrees that (a) Claimant is waiving Claim No. 21 with prejudice, (b) the Receiver will recommend disallowance of Claim No. 21 in its entirety to the Court, (c) Claimant will not contest, respond to, or otherwise object to the Receiver's recommendation of disallowance of Claim No. 21, and (d) Claimant will not recover anything from the Receivership estate.

6. No Admissions. The Parties understand and agree that the agreements contained herein are not an admission on the part of any Party as to any liability whatsoever, but that this is a compromise of disputed liability. No action taken by the Parties hereto, or any of them, previously or in connection with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims heretofore made or an acknowledgment or admission by any Party of any fault or liability whatsoever to any other Party or to any third party.

7. Attorneys' Fees and Costs. The Parties each shall bear their own costs, attorneys' fees, and other fees and costs.

8. Entire Agreement. The Parties declare and represent that no promise, inducement or other agreement not expressly contained herein has been made conferring any benefit upon any Party with respect to the subject matter of this Agreement. This Agreement contains the entire agreement between the Parties pertaining to the resolution of Claim No. 21 and the Receiver's Claims and supersedes and replaces all prior and contemporaneous agreements and discussions among the Parties with respect to the subject matter hereof, whether express or implied, oral or written. The terms of this Agreement are contractual and not a mere recital. This Agreement may not be contradicted or varied by evidence of prior or contemporaneous oral agreements or discussions among the Parties or their respective counsel. Any amendments or additions to this Agreement must be in writing and signed by all Parties.

9. Ambiguities. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by both Parties and shall not, therefore, be construed against any Party for that reason in any dispute.

10. Authority. Each Party represents and warrants that the undersigned has the authority to act on behalf of and to bind it and all who may claim through it to the terms and conditions of this Agreement.

11. Governing Law, Jurisdiction, and Venue. This Agreement is governed by the laws of the United States. To the extent that reference to state law is appropriate, the Parties will refer to the laws of the State of Missouri. The Parties agree that the exclusive jurisdiction and venue for any dispute relating to this Agreement is the U.S. District Court for the Eastern District of Missouri.

12. Disclosure. All Parties consent to the disclosure to the public of this Agreement, and information about this Agreement to the extent necessary to secure Court approval of this Agreement as described above.

13. Severability. If any provision of this Agreement or the application thereof to any person, place or circumstance shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provision as applied to other persons, places, and circumstances shall remain in full force and effect.

14. Binding Nature; No Third Party Beneficiaries. The release and other agreements contained herein shall be binding upon, and inure to the benefit of, the successors, assigns, employees, agents, officers, directors, and attorneys of the Parties. This Agreement is made solely for the benefit of the Parties and their respective successors and assigns. No other individual or entity shall have any right or remedy hereunder.

15. Voluntary Execution of Agreement. This Agreement is executed voluntarily, free of any fraud, mistake, duress, coercion or undue influence. The Parties acknowledge that:

- (a) They have read this Agreement;
- (b) They have been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice;
- (c) They understand the terms and consequences of this Agreement and of the releases it contains; and
- (d) They are fully aware of the legal and binding effect of this Agreement.

16. Convenience of Reference. The headings and numbers used in this Agreement are included for the purpose of convenience of reference only; they shall not be used to explain, limit, or extend the meaning of any part of the Agreement.

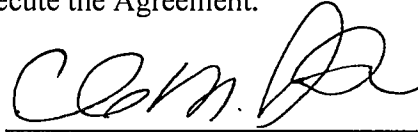
17. Savings Provision. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or declared to be invalid under any applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision and the remaining provisions of this Agreement.

18. Counterparts. This Agreement may be executed in one or more counterparts. Each signed counterpart shall be deemed an original, and all together shall constitute one and the same instrument. Facsimiles or electronic copies of original signatures shall be deemed originals.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereby execute the Agreement.

Dated: 10/7/14



Claire M. Schenk, as Receiver for Acartha Group, LLC, Acartha Technology Partners, L.P., MIC VII, LLC, and Gryphon Investments III, LLC

Dated: 9/25/2014

DocuSigned by:
Ameet Patel
CFCAB73E2A324D2...

Ameet Patel

JAMS FEE AGREEMENT & CANCELATION POLICY

Please complete this form: sign, date, and return to Brooke E. Buczkowski either by email at BBuczkowski@jamsadr.com or by fax at 312-655-0644.

Case Name: Schenk, as receiver of Acartha Group, et al. / UHY Advisors MO, Inc., et al.
Ref. #: 1340011112

1. Professional Fees

Professional services for this matter, including but not limited to reading and other preparation time, the session time, extra session time, and any additional services or work, will be billed at the neutral's normal rate. Fees for unused scheduled time will not be refunded. The professional fees for Hon. Wayne R. Andersen (Ret.) are \$800 per hour or \$600 per hour for individual employment matters.

2. Additional Fees

- A. Case Management Fees: Each party will be charged an initial non-refundable Case Management Fee of \$275. Please see attached Fee Schedule for policy on reassessment.
- B. Expenses are billed at cost.
- C. Travel: If travel is required and is not included in the neutral's rate, travel time is billed at the neutral's hourly rate. Travel expenses are billed at cost.
- D. Reading and Research Fees: Parties will be billed according to the neutral's fee schedule for reading and research time.

3. Cancellation and Rescheduling Policy

According to the JAMS Fee Schedule, fees for hearing sessions are non-refundable if a session is canceled or rescheduled less than 14 days before the session date, unless the neutral's time is rescheduled with another matter. Cancellation and rescheduling fees will be paid by the canceling party(ies). Case Management Fees are non-refundable.

4. Payment

- A. The parties agree to divide the professional fees and additional fees as follows: 50% to Spencer Fane Britt & Browne on behalf of Plaintiff and 50% to DLA Piper US LLP on behalf of Defendant and as set forth in the neutral's Fee Schedule.
- B. Each party agrees to pay its share of the estimated fees and expenses to be received by JAMS at least 14 calendar days prior to the session and according to applicable deadlines. Unless it otherwise agrees, JAMS is not bound by agreements between or among the parties with respect to its fees.

By the signatures below, each participant, either directly or through counsel, hereby certifies that s/he has read this entire Agreement and agrees with all matters stated herein. This Agreement may be signed in counterparts.

Signed: Richard D. Lageson
 Print Name: RICHARD D. LAGESON
 For: CLAIRE M. SCHENK Receiver
 Dated: 9/17/14

Signed: _____
 Print Name: _____
 For: _____
 Dated: _____

JAMS Mediation Agreement

Case Name: Schenk, as receiver of Acartha Group, et al. / UHY Advisors MO, Inc., et al.

JAMS Ref. No.: 1340011112

Panelist: Hon. Wayne R. Andersen (Ret.)

I. Participants and Procedure.

The parties, and if they desire, their representatives are invited to attend mediation sessions. No one else may attend without the permission of the parties and the consent of the mediator.

During the session, the mediator may have joint and separate meetings with the parties and their counsel. If a party informs the mediator that information is being conveyed to the mediator in confidence, the mediator will not disclose the information. The parties agree that the mediator is not acting as an attorney or providing legal advice on behalf of any party.

If a party wishes to terminate its participation for any reason, it may do so by giving notice to the mediator and the other parties. The parties will continue to be bound by the confidentiality provisions of this agreement and will also continue to be bound by their agreement to pay for those services rendered up to the point of that party's withdrawal.

II. Disclosure.

The mediator, each party, and counsel confirm that they have disclosed any past or present relationship or other information that a reasonable person would believe could influence the mediator's impartiality and that no conflict of interest or appearance of a conflict of interest exists.

In addition, the mediator practices in association with JAMS. From time to time, JAMS may enter into arrangements with corporations (including insurance companies), government entities, and other organizations to make available dispute resolution professionals in a particular locale, for a specific type of matter or training, or for a particular period of time. Also, because of the nature and size of JAMS, the parties should assume that one or more of the other neutrals who practice with JAMS may have participated in an arbitration, mediation or other dispute resolution proceeding with the parties, counsel or insurers in this case and may do so in the future. Furthermore, the parties should be aware that each JAMS neutral, including the neutral in this case, has an economic interest in the overall financial success of JAMS. The mediator is not aware of any aspect of these relationships that would create a conflict or interfere with his/her acting as a mediator in this matter. The parties acknowledge that these factors do not constitute a conflict of interest or the appearance of a conflict of interest.

III. Confidentiality.

In order to promote communication among the parties, counsel and the mediator and to facilitate settlement of the dispute, each of the undersigned agrees that the entire mediation process is confidential. All statements made during the course of the mediation are privileged settlement discussions, and are made without prejudice to any party's legal position, and are inadmissible for any purpose in any legal proceeding. These offers, promises, conduct and statements (a) will not be disclosed to third parties except persons associated with the participants in the process, and (b) are privileged and inadmissible for any purposes, including impeachment, under Rule 408 of the Federal Rules of Evidence and any applicable federal or state statute, rule or common law provisions.

JAMS
Mediation
Agreement

Case Name: Schenk, as receiver of Acartha Group, et al. / UHY Advisors MO, Inc., et al.

JAMS Ref. No.: 1340011112

Panelist: Hon. Wayne R. Andersen (Ret.)

Page 2 of 2

IV. Disqualification of Mediator and Exclusion of Liability.

Each party agrees to make no attempt to compel the mediator's or any JAMS employee's testimony, nor to compel the mediator or any JAMS employee to produce any document provided by the other party to the mediator or to JAMS. The parties agree to defend the mediator and JAMS from any subpoenas from outside parties arising out of this Agreement or mediation. The parties agree that neither the mediator nor JAMS is a necessary party in any arbitral or judicial proceeding relating to the mediation or to the subject matter of the mediation. Neither JAMS nor its employees or agents, including the mediator, shall be liable to any party for any act or omission in connection with any mediation conducted under this Agreement.

V. Records.

Any documents provided to the mediator by the parties will be destroyed by JAMS 30 days after the conclusion of the mediation, unless JAMS is otherwise instructed by the parties.

BY: <u>Richard D. Lageson</u>	BY: _____
FOR: <u>Claire M. Schenk, Receiver</u>	FOR: _____
DATED: <u>9/17/14</u>	DATED: _____
BY: _____	BY: _____
FOR: _____	FOR: _____
DATED: _____	DATED: _____
BY: _____	BY: _____
FOR: _____	FOR: _____
DATED: _____	DATED: _____
BY: _____	BY: _____
FOR: _____	FOR: _____
DATED: _____	DATED: _____



THE RESOLUTION EXPERTS

General Fee Schedule

Hon. Wayne R. Andersen (Ret.)

PROFESSIONAL FEES

\$800 per hour

\$600 per hour for Individual Employment Matters

NON-REFUNDABLE CASE MANAGEMENT FEE

- The Case Management Fee includes access to an exclusive nationwide panel of judges, attorneys, and other ADR experts, dedicated services including all administration through the duration of the case, document handling, and use of JAMS conference facilities including after hours and on-site business support. Weekends and holidays are subject to additional charges.
- The Case Management Fee is reassessed on cases that continue beyond originally scheduled professional time.
- Professional fees include time spent for sessions and pre- and post-sessions reading and research time.

Mediations

<i>One day is defined as 10 hours of professional time</i>	<i>Fee</i>
1-3 days	\$275 per party, per day
Time in excess of initial 30 hours	10% of professional fees

Discovery, Court Reference and Contract Matters

<i>One day is defined as 10 hours of professional time</i>	<i>Fee</i>
1-3 days	\$400 per party, per day
Time in excess of initial 30 hours	10% of professional fees

Arbitrations

See neutral's individual arbitration fee schedule.

CANCELLATION/CONTINUANCE POLICY

	<i>Cancellation/Continuance Period</i>	<i>Fee</i>
1 day or less	14 days or more prior to session	100% REFUNDABLE, except for time incurred
2 days or more	30 days or more prior to session	100% REFUNDABLE, except for time incurred
3 days or more	45 days or more prior to session	100% REFUNDABLE, except for time incurred
Sessions of any length	Inside the cancellation/continuance period	NON-REFUNDABLE

- Unused session time is non-refundable.
- Session fees are non-refundable if time scheduled (or a portion thereof) is cancelled or continued within the cancellation period unless the Neutral's time can be rescheduled with another matter. The cancellation policy exists because time reserved and later cancelled generally cannot be replaced. In all cases involving non-refundable time, the party causing the continuance or cancellation is responsible for the fees of all parties.
- A retainer for anticipated preparation and follow-up time is billed to the parties. Any unused portion is refunded.
- All fees are due and payable upon receipt of invoice and payment must be received in advance of session. JAMS reserves the right to cancel your session if fees are not paid by all parties by the applicable cancellation date and JAMS confirms the cancellation in writing.
- Receipt of payment for all fees is required prior to service of an order or award.

JAMS agreement to render services is with the attorney, the party, and/or other representatives of the party.

Atlanta • Boston • Chicago • Greenbelt • Miami • Minneapolis • New York • Philadelphia • Washington
www.jamsadr.com • Updated 12/10/12

NOTICE TO ALL COUNSEL (Please see Service List)

September 8, 2014

RE: Schenk, as receiver of Acartha Group, et al. / UHY Advisors MO, Inc., et al.
Reference #: 1340011112

Dear Counsel:

Thank you for choosing JAMS as your dispute resolution provider. This letter will confirm that your mediation has been scheduled as follows:

DATE: October 6, 2014 at 9:00 AM for 8 hours

PLACE: JAMS
71 South Wacker Dr.
Suite 3090
Chicago, IL 60606

NEUTRAL: Hon. Wayne R. Andersen (Ret.)

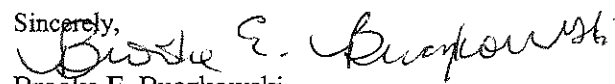
For your reference, enclosed please find our administrative information and if monies are outstanding, an invoice for your share of the fees. To reserve your session, please send your payment to JAMS at 71 S. Wacker Drive, Suite 3090, Chicago, IL 60606 by the cancellation deadline referenced below. If additional research or future session time is requested for the matter, another invoice will be sent to you at the conclusion of the session.

If time is reserved but is canceled by one of the parties after September 22, 2014, JAMS will make every attempt to reschedule the neutral's time with another matter. However, if JAMS cannot reschedule and the time then goes unused, the party canceling the mediation is responsible for all fees associated with the reserved time.

Please note that JAMS reserves the right to cancel your mediation if fees are not paid by all parties by the cancellation date listed above. However, cancellation will occur only following written notice from JAMS.

Finally, in accordance with the Uniform Mediation Act, the mediator has made a reasonable effort to inform him or herself of any matters that a reasonable individual would consider likely to affect his or her impartiality. Based on the mediator's own knowledge as well as a diligent search of records available through JAMS, and further based on the information supplied concerning the names of the parties, we have attached a disclosure report identifying any prior or pending cases involving the parties. The attached report was prepared by JAMS and reviewed by the mediator. We are pleased to let you know that in the mediator's opinion, nothing in the report would prevent him or her from impartially serving in this case.

As *The Resolution Experts* we take pride in helping you to resolve your dispute. If you have any questions about our procedures or the settlement process, please feel free to contact me directly at 312-655-9191.

Sincerely,

Brooke E. Buczkowski
Senior Case Manager
BBuczkowski@jamsadr.com
Fax# 312-655-0644



General Fee Schedule

Hon. Wayne R. Andersen (Ret.)

PROFESSIONAL FEES

\$800 per hour

\$600 per hour for Individual Employment Matters

NON-REFUNDABLE CASE MANAGEMENT FEE

- The Case Management Fee includes access to an exclusive nationwide panel of judges, attorneys, and other ADR experts, dedicated services including all administration through the duration of the case, document handling, and use of JAMS conference facilities including after hours and on-site business support. Weekends and holidays are subject to additional charges.
- The Case Management Fee is reassessed on cases that continue beyond originally scheduled professional time.
- Professional fees include time spent for sessions and pre- and post-sessions reading and research time.

Mediations

<i>One day is defined as 10 hours of professional time</i>	<i>Fee</i>
1-3 days	\$275 per party, per day
Time in excess of initial 30 hours	10% of professional fees

Discovery, Court Reference and Contract Matters

<i>One day is defined as 10 hours of professional time</i>	<i>Fee</i>
1-3 days	\$400 per party, per day
Time in excess of initial 30 hours	10% of professional fees

Arbitrations

See neutral's individual arbitration fee schedule.

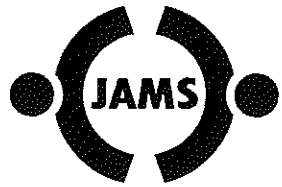
CANCELLATION/CONTINUANCE POLICY

	<i>Cancellation/Continuance Period</i>	<i>Fee</i>
1 day or less	14 days or more prior to session.....	100% REFUNDABLE, except for time incurred
2 days or more	30 days or more prior to session.....	100% REFUNDABLE, except for time incurred
3 days or more	45 days or more prior to session.....	100% REFUNDABLE, except for time incurred
Sessions of any length	Inside the cancellation/continuance period.....	NON-REFUNDABLE

- Unused session time is non-refundable.
- Session fees are non-refundable if time scheduled (or a portion thereof) is cancelled or continued within the cancellation period unless the Neutral's time can be rescheduled with another matter. The cancellation policy exists because time reserved and later cancelled generally cannot be replaced. In all cases involving non-refundable time, the party causing the continuance or cancellation is responsible for the fees of all parties.
- A retainer for anticipated preparation and follow-up time is billed to the parties. Any unused portion is refunded.
- All fees are due and payable upon receipt of invoice and payment must be received in advance of session. JAMS reserves the right to cancel your session if fees are not paid by all parties by the applicable cancellation date and JAMS confirms the cancellation in writing.
- Receipt of payment for all fees is required prior to service of an order or award.

JAMS agreement to render services is with the attorney, the party, and/or other representatives of the party.

Atlanta • Boston • Chicago • Greenbelt • Miami • Minneapolis • New York • Philadelphia • Washington
www.jamsadr.com • Updated 12/10/12



THE RESOLUTION EXPERTS®

Document Retention Policy

Please note that **30 CALENDAR DAYS** after termination of any case JAMS will destroy the following documents submitted by parties unless parties specifically notify JAMS that they wish to collect their documents:

- Briefs
- Exhibits
- Evidence
- Transcripts

Parties should collect their documents as soon as possible after the termination of a case. Otherwise, they will be destroyed 30 days thereafter. Please note that JAMS does not maintain a duplicate file of documents, which are normally forwarded to the Neutral upon receipt. Any items marked with notes, comments or suggestions by the Neutral will automatically be destroyed upon closing of the file.¹

“Termination” of a case is defined as any of the following:

- Resolution of a matter, e.g., either through settlement or issuance of an award
- Mutual agreement to close the matter
- Withdrawal from ADR Process
- Time Period of one year elapses without any resolution and no future dates on calendar
- Notice from JAMS that the matter has been terminated

¹ Cases managed on the on-line document system Case Anywhere will follow a document retention procedure which will be communicated directly by Case Anywhere at the conclusion of the case. Generally, the documents on Case Anywhere will be maintained by Case Anywhere for one year.

JAMS, Inc.

MKT016A Generic Disclosure of Client Activity from 09/08/2009 through 09/08/2014. Panelist: Wayne F Andersen. Insurance company employees and firms are included. All branches of counsel firms are included.

9/8/2014

340 - Chicago 09/08/2014

Schenk, as receiver of Acartha Group, et al. vs. UHY Advisors MO, Inc., et al.

- Coverage Counsel(s)

Brian K. Peterson

* No Address Listed *

Cases heard with Brian K. Peterson All Locations

* No Cases to Report *

Patrick Stark

* No Address Listed *

Cases heard with Patrick Stark All Locations

* No Cases to Report *

Brian K. Peterson

* No Address Listed *

Cases heard with Brian K. Peterson All Locations

* No Cases to Report *

Patrick Stark

* No Address Listed *

Cases heard with Patrick Stark All Locations

* No Cases to Report *

- Counsel for Coverage Counsel

Anne E. Sammons

McCullough Campbell & Lane LLP

205 North Michigan Ave.

Suite 4100

Chicago, IL 60601-5925

Cases heard with Anne E. Sammons All Locations

* No Cases to Report *

Cases heard with McCullough Campbell & Lane LLP All Locations

* No Cases to Report *

The neutral practices in association with JAMS. Each JAMS neutral, including the neutral in this case, has an economic interest in the overall financial success of JAMS. In addition, because of the nature and size of JAMS, the parties should assume that one or more of the other neutrals who practice with JAMS has participated in an arbitration, mediation or other dispute resolution proceeding with the parties, counsel or insurers in this case and may do so in the future.

9/8/2014

Page 1 of 4

JAMS, Inc.

MKT016A Generic Disclosure of Client Activity from 09/08/2009 through 09/08/2014. Panelist: Wayne F Andersen. Insurance company employees and firms are included. All branches of counsel firms are included.

9/8/2014

340 - Chicago 09/08/2014

Schenk, as receiver of Acartha Group, et al. vs. UHY Advisors MO, Inc., et al.

Mark Siebert

McCullough Campbell & Lane LLP

205 North Michigan Ave.

Suite 4100

Chicago, IL 60601-5925

Cases heard with Mark Siebert

All Locations

* No Cases to Report *

• **Defendant(s)**

Brian K. Peterson

* No Address Listed *

Cases heard with Brian K. Peterson

All Locations

* No Cases to Report *

Patrick Stark

* No Address Listed *

Cases heard with Patrick Stark

All Locations

* No Cases to Report *

UHY Advisors MO Inc.

* No Address Listed *

Cases heard with UHY Advisors MO Inc.

All Locations

* No Cases to Report *

Brian K. Peterson

* No Address Listed *

Cases heard with Brian K. Peterson

All Locations

* No Cases to Report *

Patrick Stark

* No Address Listed *

Cases heard with Patrick Stark

All Locations

* No Cases to Report *

The neutral practices in association with JAMS. Each JAMS neutral, including the neutral in this case, has an economic interest in the overall financial success of JAMS. In addition, because of the nature and size of JAMS, the parties should assume that one or more of the other neutrals who practice with JAMS has participated in an arbitration, mediation or other dispute resolution proceeding with the parties, counsel or insurers in this case and may do so in the future.

JAMS, Inc.

MKT016A Generic Disclosure of Client Activity from 09/08/2009 through 09/08/2014. Panelist: Wayne F Andersen. Insurance company employees and firms are included. All branches of counsel firms are included.

9/8/2014

340 - Chicago 09/08/2014

Schenk, as receiver of Acartha Group, et al. vs. UHY Advisors MO, Inc., et al.

- **Counsel for Defendant**

Jonathan D. King

DLA Piper US LLP

203 N. LaSalle St.

Suite 1900

Chicago, IL 60601

Cases heard with Jonathan D. King

All Locations

* No Cases to Report *

Cases heard with DLA Piper US LLP

All Locations

Mediation 5

Mediation *to be heard/pending* 1

Joseph A. Roselius

DLA Piper US LLP

203 N. LaSalle St.

Suite 1900

Chicago, IL 60601

Cases heard with Joseph A. Roselius

All Locations

* No Cases to Report *

- **Plaintiff(s)**

Claire M. Schenk

* No Address Listed *

Cases heard with Claire M. Schenk

All Locations

* No Cases to Report *

Claire M. Schenk

* No Address Listed *

Cases heard with Claire M. Schenk

All Locations

* No Cases to Report *

The neutral practices in association with JAMS. Each JAMS neutral, including the neutral in this case, has an economic interest in the overall financial success of JAMS. In addition, because of the nature and size of JAMS, the parties should assume that one or more of the other neutrals who practice with JAMS has participated in an arbitration, mediation or other dispute resolution proceeding with the parties, counsel or insurers in this case and may do so in the future.

9/8/2014

Page 3 of 4

JAMS, Inc.

MKT016A Generic Disclosure of Client Activity from 09/08/2009 through 09/08/2014. Panelist: Wayne F Andersen. Insurance company employees and firms are included. All branches of counsel firms are included.

9/8/2014

340 - Chicago 09/08/2014

Schenk, as receiver of Acartha Group, et al. vs. UHY Advisors MO, Inc., et al.

• **Counsel for Plaintiff**

Gerald P. Greiman

Spencer Fane Britt & Browne

1 North Brentwood Boulevard

Suite 1000

Saint Louis, MO 63105

Cases heard with Gerald P. Greiman

All Locations

* No Cases to Report *

Cases heard with Spencer Fane Britt & Browne

All Locations

* No Cases to Report *

Richard D. Lageson

Spencer Fane Britt & Browne

1 North Brentwood Boulevard

Suite 1000

Saint Louis, MO 63105

Cases heard with Richard D. Lageson

All Locations

* No Cases to Report *

The neutral practices in association with JAMS. Each JAMS neutral, including the neutral in this case, has an economic interest in the overall financial success of JAMS. In addition, because of the nature and size of JAMS, the parties should assume that one or more of the other neutrals who practice with JAMS has participated in an arbitration, mediation or other dispute resolution proceeding with the parties, counsel or insurers in this case and may do so in the future.

SERVICE LIST

Case Name: Schenk, as receiver of Acartha Group, et al. vs. UHY Advisors MO,] **Hear Type:** Mediation
Reference #: 1340011112 **Case Type:** Professional Liability/Malpr
Panelist: Andersen, Wayne R.,

Gerald P. Greiman

Spencer Fane Britt & Browne
 Gerald P. Greiman Plaintiff
 1 North Brentwood Boulevard Phone: 314-863-7733
 Suite 1000 Fax: 314-862-4656
 Saint Louis, MO 63105
 ggreiman@spencerfane.com

Party Represented:
 Claire M. Schenk

Jonathan D. King

DLA Piper US LLP
 Jonathan D. King Defendant
 203 N. LaSalle St. Phone: 312-368-4000
 Suite 1900 Fax: 312-236-7516
 Chicago, IL 60601
 jonathan.king@dlapiper.com

Party Represented:
 Brian K. Peterson
 Patrick Stark
 UHY Advisors MO Inc.

Richard D. Lageson

Spencer Fane Britt & Browne
 Richard D. Lageson Plaintiff
 1 North Brentwood Boulevard Phone: 314-863-7733
 Suite 1000 Fax: 314-862-4656
 Saint Louis, MO 63105
 rlageson@spencerfane.com

Party Represented:
 Claire M. Schenk

Joseph A. Roselius

DLA Piper US LLP
 Joseph A. Roselius Defendant
 203 N. LaSalle St. Phone: 312-368-4000
 Suite 1900 Fax: 312-236-7516
 Chicago, IL 60601
 joseph.roselius@dlapiper.com

Party Represented:
 Brian K. Peterson
 Patrick Stark
 UHY Advisors MO Inc.

Anne E. Sammons

McCullough Campbell & Lane LLP
 Anne E. Sammons Coverage Counsel
 205 North Michigan Ave. Phone: 312-923-4000
 Suite 4100 Fax: 312-923-4329
 Chicago, IL 60601-5925
 asammons@mcandl.com

Party Represented:
 Brian K. Peterson
 Patrick Stark
 UHY Advisors MO Inc.

Mark Siebert

McCullough Campbell & Lane LLP
 Mark Siebert Coverage Counsel
 205 North Michigan Ave. Phone: 312-923-4000
 Suite 4100 Fax: 312-923-4329
 Chicago, IL 60601-5925
 msiebert@MCandL.com

Party Represented:
 Brian K. Peterson
 Patrick Stark
 UHY Advisors MO Inc.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
v.)
)
BURTON DOUGLAS MORRISS,)
ACARTHA GROUP, LLC,)
MIC VII, LLC,)
ACARTHA TECHNOLOGY PARTNERS, LP, and)
GRYPHON INVESTMENTS III, LLC,)
)
Defendants, and)
)
MORRISS HOLDINGS, LLC,)
)
Relief Defendant.)
_____)

Case No. 4:12-CV-00080-CEJ

ORDER

Upon the Receiver’s Motion for Entry of an Order Approving and Confirming the Twelfth Interim Status Report of Receiver, filed by Claire M. Schenk, the court-appointed receiver (the “Receiver”) for Acartha Group, LLC, MIC VII, LLC, Acartha Technology Partners, LP and Gryphon Investments III, LLC in this action; and

Having fully considered the Motion and the Twelfth Interim Status Report and being duly advised as to the merits,

THE COURT DOES HEREBY ORDER THAT

1. The Receiver's Motion is granted in its entirety; and

2. The Twelfth Interim Status Report of Receiver for the period August 13, 2014 through December 4, 2014, and every act and transaction reported therein, are hereby approved and confirmed.

SO ORDERED this _____ day of _____ 201_

THE HONORABLE CAROL E. JACKSON
UNITED STATES DISTRICT COURT JUDGE