

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:12-cv-00080-CEJ
)	
BURTON DOUGLAS MORRISS, et al.,)	
)	
Defendants, and)	
)	
MORRISS HOLDINGS, LLC,)	
)	
Relief Defendant.)	

**NOTICE OF NO OUTSTANDING OBJECTION AND REQUEST FOR ENTRY
OF ORDER ON RECEIVER’S MOTION FOR AUTHORIZATION
TO DISTRIBUTE FUNDS HELD BY EVERGRID ACQUISITION, LLC,
LIBRATO ACQUISITION II, LLC, AND EVERGRID/MIC VII, LLC**

On October 14, 2015, Claire M. Schenk, the court-appointed receiver (“Receiver”) for Acartha Group, LLC, Acartha Technology Partners, L.P., MIC VII, LLC, and Gryphon Investments III, LLC (collectively, the “Receivership Entities”) filed her Motion for Authorization to Distribute Funds Held by Evergrid Acquisition, LLC, Librato Acquisition II, LLC, and Evergrid/MIC VII, LLC and accompanying memorandum of law in support thereof (ECF Nos. 413, 414) (the “Motion”), seeking an order from this Court (1) authorizing the Receiver to distribute funds received by Evergrid Acquisition, LLC, Librato Acquisition II, LLC, and Evergrid/MIC VII, LLC (collectively, the “Librato SPVs”), after payment of or reservation for fees and expenses, to members of the Librato SPVs and (2) lifting the asset freeze with respect to those funds, if necessary.

Following the filing of the Receiver's Motion, the Receiver received three separate member inquiries regarding the acquisition, the proposed distributions (including the reservations for payment of fees and expenses attributable to the Librato SPVs), and one individual member's own potential distributions and investment basis in one of the Librato SPVs. The Receiver responded to the inquiries and also directed members having questions to the Receivership's secure investor extranet site, which contains pre-acquisition information supplied periodically by Librato to the Receiver. These updates describe Librato's progress, financial results, business plan, and other business metrics. Also, in further response to a member inquiry regarding fees and expenses, the Receiver submits with this Notice a revised Proposed Distribution Schedule which clarifies that the fluid costs (*e.g.*, legal and consulting fees) attributable to each SPV are estimates only (which may ultimately prove to be less than the sums listed). This is the only change to the Proposed Distribution Schedule, and it does not impact any of the sums or percentages listed in the schedule filed with the Receiver's Motion and Memorandum. *See Exhibit 1* (redacted) hereto.¹

No objections to the Receiver's Motion have been filed, and the deadline to object to the Receiver's Motion passed on October 26, 2015. *See* E.D. Mo. L.R. 7-4.01(B) (objection period is seven days); Fed. R. Civ. P. 6 (service via ECF adds three days to filing deadline).

As such, the Receiver requests that the Court enter an order on the Motion lifting the asset freeze and authorizing the Receiver to distribute the funds received by the Librato SPVs, after payment of or reservation for fees and expenses, as outlined in the Proposed Distribution Schedule (as revised to indicate additional fees and costs as estimates, *see Exhibit 1*). A proposed order is lodged herewith as **Exhibit 2**.

¹ The Receiver is filing an unredacted copy of the revised Proposed Distribution Schedule with the Court under seal. The Receiver will serve an unredacted copy on the members of the Librato SPVs listed on the service list.

Dated: November 6, 2015

Respectfully Submitted,

THOMPSON COBURN LLP

By /s/ Kathleen E. Kraft

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CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2015, I electronically filed the foregoing with the Clerk of the Court through the Court's CM/ECF system to all parties receiving CM/ECF electronic service.

I further certify that on November 6, 2015, I served the above document with exhibits via electronic mail on the individuals or entities listed on the attached service list.

/s/ Kathleen E. Kraft

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EVERGRID MIC VII

	Calculated 2015	REF
Gross Proceeds On Sale (Per May, 2015 Bank Statement) - Received	87,405	
Estimated Remaining Escrow Proceeds To Be Received	11,435	
Less: Allocable Fees and Expenses (See Summary Below)	(27,043)	
Net Distributable To Evergrid MIC VII. Members	71,797	
Less: Carried Interest	-	
Net Distributed To Members	71,797	

Cash Distribution Summary**Members**

	Ownership %	Total Capital Contributions	
	5.0529023%	79,523	3,628
	0.2526449%	3,976	181
	5.0529023%	79,523	3,628
	18.6670987%	400,112	13,402
	6.3750514%	100,331	4,577
	0.2648192%	4,168	190
	0.2526449%	3,976	181
	7.9405603%	124,969	5,701
	11.4971770%	180,943	8,255
	0.9499901%	14,951	682
	14.6510902%	230,580	10,519
	5.8769582%	92,492	4,219
	5.8968781%	92,805	4,234
	0.6396081%	10,066	459
	7.8614406%	123,724	5,644
	1.0105802%	15,905	726
	1.4036293%	22,090	1,008
	6.3540242%	100,000	4,562
	0.0000000%	-	-
	100.0000000%	-	-

Total Cash Distribution 71,797

Special Allocation Analysis

Net Distributable To Evergrid MIC VII Members	71,797
Less: 20% Carried Interest to Managing Member (Not Applicable)	0%
Carried Interest	-

4.4 **Distributions.** Cash from the investments and operations of the Company that is available for distribution, as determined by the Managing Member from time to time, shall first be allocated among the Members in accordance with their respective Sharing Percentages, and the share allocated to each Investor Member shall then be divided between such Investor Member and the Managing Member and distributed in the following order and priority:

First, 100% to the Investor Member until such Investor Member has received cumulative distributions of an amount equal to his Capital Contributions; and

Second, thereafter, 20% to the Managing Member and 80% to the Investor Member.

Per section 4.4 of operating agreement, there will be no carried interest portion of this distribution, as all partners have not received distributions in excess of capital contributions.

Summary of Allocable Fees and Expenses (All Incurred Since 1/17/12)

<i>Estimated</i> Future Wire Transfer Fee	20
Wire Transfer Fee	10
<i>Estimated</i> Future State of Delaware LLC Taxes	300
2015 State of Delaware LLC Taxes	300
2014 State of Delaware LLC Taxes	250
2013 State of Delaware LLC Taxes	754
<i>Estimated</i> Legal and Consulting Fees	10,000
CliftonLarsonAllen Fees - 2011 Tax Return Filing Fees (Accounts Payable)	1,942
CliftonLarsonAllen Fees - 2012 Tax Return Filing Fees	1,549
CliftonLarsonAllen Fees - 2013 Tax Return Filing Fees	958
CliftonLarsonAllen Fees - 2014 Tax Return Filing Fees and Consulting Fees	825
<i>Estimated</i> CliftonLarsonAllen Fees - 2015 Tax Return Filing Fees	2,800
<i>Estimated</i> CliftonLarsonAllen Fees - Final Dist. Analysis	1,500
Due To Acartha Group (Intercompany Account Payable From Prior Years)	4,835
<i>Estimated</i> "Wind-Down" Costs	1,000
Total Allocable Fees and Expenses	27,043

Footnote Disclosure**General Disclosure**

All calculations based on information provided by prior management. Only limited verification was performed, no audit or attestation procedures were completed.

EVERGRID Acquisition

	Calculated 2015	REF
Gross Proceeds On Sale (Per May, 2015 Bank Statement) - Received	16,271	
Estimated Remaining Escrow Proceeds To Be Received	2,129	
Less: Allocable Fees and Expenses (See Summary Below)	(29,853)	
Net Distributable To Evergrid Acquisition Members	(11,454)	
Less: Carried Interest	-	
Net Distributed To Members	(11,454)	

Cash Distribution Summary

Members

Ownership %

	0.0000000%	-
	0.0000000%	-
	51.8518520%	(5,939)
	48.1481480%	(5,515)
	100.0000000%	
Total Cash Distribution		(11,454)

Special Allocation Analysis

No Carried Interest Provision Per Operating Agreement

4.4 Distributions. Cash from the investments and operations of the Company that is available for distribution, as determined by the Managing Member from time to time, shall be allocated among the Investor Members in accordance with their respective Sharing Percentages.

Summary of Allocable Fees and Expenses (All Incurred Since 1/17/12)

Estimated Future Wire Transfer Fee	20
Wire Transfer Fee	10
Estimated Future State of Delaware LLC Taxes	300
2015 State of Delaware LLC Taxes	300
2014 State of Delaware LLC Taxes	250
2013 State of Delaware LLC Taxes	754
Estimated Legal and Consulting Fees	10,000
CliftonLarsonAllen Fees - 2011 Tax Return Filing Fees (Accounts Payable)	2,604
CliftonLarsonAllen Fees - 2012 Tax Return Filing Fees	1,220
CliftonLarsonAllen Fees - 2013 Tax Return Filing Fees	925
CliftonLarsonAllen Fees - 2014 Tax Return Filing Fees	1,135
Estimated CliftonLarsonAllen Fees - 2015 Tax Return Filing Fees	2,800
Estimated CliftonLarsonAllen Fees - Final Dist. Analysis	1,500
Due To Acartha Group (Intercompany Account Payable From Prior Years)	7,035
Estimated "Wind-Down" Costs	1,000
Total Allocable Fees and Expenses	29,853

Footnote Disclosure

General Disclosure

All calculations based on information provided by prior management. Only limited verification was performed, no audit or attestation procedures were completed.

Librato Acquisition II, LLC.

	Calculated 2015	REF
Gross Proceeds On Sale (Per May, 2015 Bank Statement) - Received	752,307	
Estimated Remaining Escrow Proceeds To Be Received	98,423	
Less: Allocable Fees and Expenses (See Summary Below)	(44,073)	
Net Distributable To Librato Acquisition II, LLC. Members	806,657	
Less: Carried Interest	-	
Net Distributed To Members	806,657	

Cash Distribution Summary

Members	Ownership %	Total Capital Contributions	
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	0.40000000%	7,090	3,227
[REDACTED]	0.40000000%	7,090	3,227
[REDACTED]	12.80000000%	225,000	103,252
[REDACTED]	2.47000000%	43,360	19,924
[REDACTED]	1.37000000%	24,106	11,051
[REDACTED]	2.04000000%	35,955	16,456
[REDACTED]	2.90000000%	51,048	23,393
[REDACTED]	0.81000000%	14,180	6,534
[REDACTED]	5.00000000%	87,916	40,333
[REDACTED]	1.22000000%	21,420	9,841
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	0.40000000%	7,090	3,227
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	1.61500000%	28,360	13,028
[REDACTED]	8.07000000%	141,800	65,097
[REDACTED]	8.88000000%	155,980	71,631
[REDACTED]	0.28000000%	5,000	2,259
[REDACTED]	4.03000000%	70,900	32,508
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	4.03000000%	70,900	32,508
[REDACTED]	0.81000000%	14,180	6,534
[REDACTED]	0.40000000%	7,090	3,227
[REDACTED]	3.23000000%	56,720	26,055
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	0.40000000%	7,090	3,227
[REDACTED]	3.41000000%	60,000	27,507
[REDACTED]	1.42000000%	25,000	11,455
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	2.42000000%	42,540	19,521
[REDACTED]	0.81000000%	14,180	6,534
[REDACTED]	3.23000000%	56,720	26,055
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	1.61000000%	28,360	12,987
[REDACTED]	0.59000000%	10,340	4,759
[REDACTED]	1.41000000%	24,824	11,374
[REDACTED]	0.17000000%	2,950	1,371
[REDACTED]	0.37000000%	6,544	2,985
[REDACTED]	2.27000000%	39,945	18,311
[REDACTED]	2.61000000%	45,826	21,054
[REDACTED]	1.04000000%	18,368	8,389
[REDACTED]	1.40000000%	24,605	11,293
[REDACTED]	1.13000000%	19,861	9,115
[REDACTED]	0.25000000%	4,370	2,017
[REDACTED]	1.42000000%	24,923	11,455
[REDACTED]	1.61500000%	28,360	13,028
[REDACTED]	0.00000000%	-	-
[REDACTED]	100.00000000%	-	-
Total Cash Distribution			806,657

Special Allocation Analysis

Net Distributable To Evergrid MIC VII Members	806,657
Less: 20% Carried Interest to Managing Member (Not Applicable)	0%
Carried Interest	-

4.4 Distributions. Cash realized from the investments and operations of the Company that is available for distribution, net of appropriate reserves for expenses (other than ordinary, necessary and recurring costs and expenses incurred in the organization, establishment and operation of the Company), if any, and as determined by the Managing Member from time to time, shall be distributed in the following order and priority:

First, 100% to each Member, allocated in accordance with their respective Sharing Percentages, until such Member has received cumulative distributions of an amount equal to its Capital Contributions plus all Management Fees paid through such date of distribution; and

Second, thereafter, 20% to the Managing Member and 80% allocated to each Member in accordance with Section 4.6.

Per section 4.4 of operating agreement, there will be no carried interest portion of this distribution, as all partners have not received distributions in excess of capital contributions.

Summary of Allocable Fees and Expenses

<i>Estimated</i> Future Wire Transfer Fee	20
Wire Transfer Fee	10
<i>Estimated</i> Future State of Delaware LLC Taxes	300
2015 State of Delaware LLC Taxes	300
2014 State of Delaware LLC Taxes	250
2013 State of Delaware LLC Taxes	754
<i>Estimated</i> Legal and Consulting Fees	10,000
CliftonLarsonAllen Fees - 2011 Tax Return Filing Fees (Accounts Payable)	1,615
CliftonLarsonAllen Fees - 2012 Tax Return Filing Fees	997
CliftonLarsonAllen Fees - 2013 Tax Return Filing Fees	898
CliftonLarsonAllen Fees - 2014 Tax Return Filing Fees	2,800
<i>Estimated</i> CliftonLarsonAllen Fees - 2015 Tax Return Filing Fees	1,500
Due To Acartha Group (Intercompany Account Payable From Prior Years)	23,629
<i>Estimated</i> "Wind-Down" Costs	1,000
Total Allocable Fees and Expenses	<u>44,073</u>

Footnote Disclosure

General Disclosure

All calculations based on information provided by prior management. Only limited verification was performed, no audit or attestation procedures were completed.

EXHIBIT 2

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

SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:12-cv-00080-CEJ
)	
BURTON DOUGLAS MORRISS, et al.,)	
)	
Defendants, and)	
)	
MORRISS HOLDINGS, LLC,)	
)	
Relief Defendant.)	

ORDER

This matter is before the Court on the *Receiver’s Motion for Authorization to Distribute Funds Held By Evergrid Acquisition, LLC, Librato Acquisition II, LLC and Evergrid/MIC VII, LLC* and Memorandum in Support (the “Motion”) filed by Claire M. Schenk, the court-appointed receiver (the “Receiver”) for Acartha Group, LLC, MIC VII, LLC, Acartha Technology Partners, L.P. and Gryphon Investments III, LLC in this action; and

Having fully considered the Motion and accompanying papers 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 asset freeze of the Asset Freeze Order is lifted with respect to the Gross Proceeds and Escrow Proceeds (as those terms are defined in the Motion).
3. The Receiver is authorized to distribute the Gross Proceeds to the members of EverGrid Acquisition, LLC, Librato Acquisition II, LLC and Evergrid/MIC VII, LLC

(collectively, the “Librato SPVs”) in accordance with the ownership percentages identified on the Distribution Schedule upon entry of this Order.

4. The Receiver is authorized to pay, or reserve for, fees and expenses (which expenses are only estimated at this time and may exceed or fall below the numbers listed in the Distribution Schedule) of the Librato SPVs in accordance with the Distribution Schedule.

5. The Receiver is authorized to distribute the Escrow Proceeds to the members of the Librato SPVs in accordance with the ownership percentages identified on the Distribution Schedule following release of such Escrow Proceeds in accordance with the SolarWindsLibrato Merger Agreement.

SO ORDERED this the ____ day of _____, 2015.

THE HONORABLE CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE