

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
PLAINTIFF,)	
)	
v.)	Civil Action No. 3:17CV-420- L
)	
)	
PATRICK O. HOWARD;)	
HOWARD CAPITAL HOLDINGS, LLC;)	
AND OPTIMAL ECONOMICS CAPITAL)	
PARTNERS, LLC,)	
)	
DEFENDANTS.)	

**UNOPPOSED MOTION TO MODIFY AND CLARIFY
ORDER APPOINTING RECEIVER [DKT. 10]**

W. Craig Stokley, the Receiver appointed by the Court in these proceedings files this Unopposed Motion to Modify and Clarify Order Appointing Receiver and, in support, would respectfully show the Court as follows:

1. The Order Appointing Receiver issued by this Court on February 14, 2017 [Dkt. 10] provides in Paragraph 36, that the Receiver’s deposit account shall be entitled, “Receiver’s Account, Estate of Howard Capital Defendants.” The Receiver has opened the receivership account at Comerica, and Comerica’s receivership guidelines required that the account to be titled as: “W. Craig Stokley, Receiver for Patrick O Howard and Howard Capital Holdings LLC and Optimal Economics Capital Partners LLC.” Accordingly, the Receiver files this unopposed motion to modify the Order Appointing Receiver to clarify and confirm that the Receiver’s deposit account shall be entitled, “W. Craig Stokley, Receiver for Patrick O Howard and Howard Capital Holdings LLC and Optimal Economics Capital Partners LLC” or, in short form, “W. Craig Stokley, Receiver.

2. The Receiver further requests addition of language to Paragraphs 59 and 60, related to the procedures for payment to the Receiver and professionals. In addition to the language in Paragraph 59, the following should be added: “The Receiver may pay up to 80% of the professional fees and 100% of the expenses, on a monthly basis, provided statements are made on a monthly basis to the Commission accompanied by a certification satisfactory to the Commission, no objections thereto have been presented after the expiration of ten (10) days, and all prior applications for payment have been timely filed. Any and all costs incurred by the Receiver shall be paid from the Receivership Assets.”

3. In Paragraph 60, the second sentence should be modified as follows: “At least ten (10) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the SEC a complete copy of the proposed Application, together with all exhibits and relevant billing information in a format to be provided by SEC staff.”

4. The Receiver further moves the Court to clarify that the Receiver may engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities, as provided in Section II, Paragraph 7, Subsection F, (Page 4 of the Order Appointing Receiver), which is in contrast to the provisions of Paragraph 58. The Receiver requests that the Court approve engagement of the following Retained Personnel, in accordance with Section II, Paragraph 7, Subsection F: Howard LLP (accounting firm) and Net Vida (web services), to assist him in carrying out his duties and responsibilities under the Order Appointing Receiver.

5. The Receiver requests that the clarification and modification is effective retroactively to February 14, 2017.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that upon final consideration of this Unopposed Motion that the Court enter the proposed *Order Modifying and*

Clarifying Order Appointing Receiver and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Dated: March 13, 2017.

Respectfully submitted,



KIMBERLY M. J. SIMS

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ATTORNEYS FOR RECEIVER

CERTIFICATE OF CONFERENCE

On March 2, 2017, I conferred with Timothy S. McCole, counsel for the United States Securities and Exchange Commission, and on March 12, 2017, I conferred with Phil Bezanson of Bracewell LLP, counsel for Defendant Patrick O. Howard, about the content of this Motion. Counsel advised me that they are unopposed to the Motion.



KIMBERLY M.J. SIMS

CERTIFICATE OF SERVICE

On March 13, 2017, I electronically filed the Receiver's Unopposed Motion to Modify and Clarify Order Appointing Receiver via the Court's CM/ECF filing system, which will send a notice of electronic filing to all CM/ECF participants. I further certify that I served a true and correct copy of the foregoing document and the notice of electronic filing via UPS and electronic mail on all non-CM/ECF parties and/or their counsel.

A handwritten signature in black ink that reads "Kimberly Sims". The signature is written in a cursive style with a large, stylized "S" at the end.

KIMBERLY M.J. SIMS