

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

**SECURITIES AND EXCHANGE  
COMMISSION,**

**PLAINTIFF,**

**v.**

**PATRICK O. HOWARD;  
HOWARD CAPITAL HOLDINGS, LLC;  
AND OPTIMAL ECONOMICS CAPITAL  
PARTNERS, LLC,**

**DEFENDANTS.**

**Civil Action No. 3:17CV-420- L**

**UNOPPOSED MOTION FOR AUTHORITY**

W. Craig Stokley, the Receiver appointed by the Court in these proceedings files this Unopposed Motion for Authority to enter into certain contractual agreements consistent with the terms contained in Exhibit A, 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 37, that the “Receiver may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.”

2. As detailed in the Receiver’s Quarterly Status Report filed on May 1, 2017 [Dkt. 60], the Receiver has been in discussions with a “portfolio” company named WHRZT, Inc. to renegotiate Optimal Economics Capital Partners, LLC’s business arrangement with WHRZT, Inc. The result of that negotiation has culminated in the offer from WHRZT, Inc. identified in Exhibit

A and incorporated by reference as if fully set forth here. Because the transaction is or may be outside of the ordinary course of business, the Receiver seeks approval of the Court to enter into agreements consistent with the terms identified in Exhibit A. Accordingly, the Receiver files this unopposed motion to for authority to enter into contracts consistent with the terms contained in Exhibit A.

3. It should be noted that the Court provided the Receiver with similar authority to enter into contracts with WHRZT, Inc. but on somewhat different terms. See Order at Dkt. 45. Those terms required WHRZT, Inc. to pay certain amounts of money before any rights of the Receivership Estate were modified. WHRZT, Inc. was unable to pay any of those amounts, and therefore none of the rights and assets of the Receivership Estate were impacted and/or altered. WHRZT, Inc.'s stated reason for failing to make any payments is that it did not have any funds to operate or generate any cash flow. After an inquiry of WHRZT, Inc.'s operational viability, the Receiver has concluded that it is unlikely that WHRZT, Inc. will have the ability to generate revenue such that the Receivership Estate's interests will have any material value. However, WHRZT, Inc. has expressed its belief that it can sell an equity interest to generate growth capital to fund operations. WHRZT, Inc. has identified investment groups "Silverwood Partners" and "EVP" who it believes are positioned to bring \$3.5 million of growth capital to WHRZT, Inc. in exchange for a 33% equity stake. The Receiver attended a short conference call with these two groups where their representatives confirmed their interest in bringing growth capital to WHRZT, Inc. However, both of these groups stated their belief that it would be very difficult to attract growth capital with WHRZT Inc.'s existing obligations to the Receivership Entities. As such, they stated they were unwilling to seek any growth capital investments into WHRZT, Inc. unless the Receivership Entities interests in WHRZT, Inc. were converted into a common stock equity

position.

4. Further, the proposal contained in Exhibit A will result in common stock of Equity being transferred to the Receivership Estate that the Receiver intends to distribute when the Receivership is wound up. At this time, any creditors/investors of the Receivership receiving an interest in the proceeds of the Receivership Estate will be transferred these stock certificates in WHRZT, Inc. which they can then transfer and/or sell as the holder may wish.

5. Because the Receivership Entities have approximately 119 investors, the Receiver intends to provide the investors with a seven-day objection period whereby any investor who may wish to object to this action may file any objections to this proposal. The Receiver has sent notice to the email addresses on file for all investors notifying them of the Receiver's informational website where this motion will be posted.

**WHEREFORE, PREMISES CONSIDERED,** the Receiver requests that upon final consideration of this Unopposed Motion that the Court enter the proposed *Order Granting Unopposed Motion for Authority* 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: May 12, 2017.

Respectfully submitted,



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**KIMBERLY M. J. SIMS**

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**ATTORNEYS FOR RECEIVER**

**CERTIFICATE OF CONFERENCE**

On May 11, 2017, the Receiver conferred with Timothy S. McCole, counsel for the United States Securities and Exchange Commission, and Phil Bezanson of Bracewell LLP, counsel for Defendant Patrick O. Howard, about the content of this Motion. Counsel advised that they are unopposed to the Motion.



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**KIMBERLY M.J. SIMS**



**CERTIFICATE OF SERVICE**

On May 12, 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, appearing to read "Kimberly Sims", with a stylized flourish at the end.

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**KIMBERLY M.J. SIMS**