

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

**FTC'S MOTION TO APPOINT MARC-PHILIP FERZAN
OF ANKURA CONSULTING GROUP, LLC AS RECEIVER**

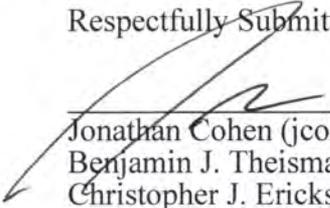
Given the need to appoint a new Receiver, the FTC recommends that the Court select Marc-Philip Ferzan. Ferzan will be supported by his colleagues at Ankura Consulting Group, LLC (“Ankura”). Attachment A hereto details Ankura’s relevant experience, which includes serving as the Court-appointed monitor in *FTC v. Volkswagen Group*, No. 15-mdl-2672 (N.D. Cal.)—the largest consumer redress program in the agency’s history—and providing investigative and forensic support to the Trustee in *SIPC v. Bernie L. Madoff Investment Securities, LLC*, No. 12-mc-115 (S.D.N.Y.), which addressed Bernie Madoff’s Ponzi scheme. Ankura also has substantial real estate expertise, including resort management and development, as well as experience with complex claims administration. Ferzan and other Ankura professionals will match the rates Robb Evans charged,¹ subject to a 5% increase on January 1, 2022.

Additionally, it will be necessary for Robb Evans & Associates LLC (“Robb Evans”) to perform further work to ensure a smooth transition to Ferzan and his associates at Ankura. Accordingly, the FTC also requests that the Court authorize Ferzan to include appropriate professional services and expenses on his invoices (subject to Court approval) for work Robb Evans performs to support the transition.

¹ Those rates ranged from \$342 to \$121.50 per hour, depending on the professional. *See* ECF No. 1271-2 (Aug. 3, 2021) at 22.

Dated: October 7, 2021

Respectfully Submitted,



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Certificate of Service

I certify that on October 7, 2021, I caused to be served the foregoing filing, and all related documents, through ECF to the following people and entities identified below:

Gary Caris, James E. Van Horn, and Kevin Driscoll, counsel for the Receiver, by ECF or at gcaris@btlaw.com; jvanhorn@btlaw.com; kevin.driscoll@btlaw.com;

John B. Williams, jbwilliams@williamslopatto.com

Neil H. Koslowe, nkoslowe@potomaclaw.com

Larry J. Dreyfuss, larry@dreyfusslaw.com

/s/ Jonathan Cohen

Attachment A



About Ankura Consulting Group, LLC

Ankura is a management advisory services firm of more than 1,400 professionals with diverse expertise and industry experience. We maintain 34 offices in 33 cities worldwide, and our teams have taken on projects in more than 115 countries. Over 600 of Ankura's consultants hold advanced degrees or subject matter certifications, and, collectively, our staff speaks greater than 40 languages.

Our Professionals and Turnkey Capabilities

Our Independent Oversight Team is comprised of professionals with public and private sector experience who have been appointed by courts, government agencies, public and private sector organizations, and other interested stakeholders in a broad range of important fiduciary and redress program engagements.

Our core Independent Oversight Team is made up of professionals with relevant credentials and backgrounds, including former:

- practicing AmLaw 100 attorneys and inhouse counsel;
- inhouse accounting and compliance professionals; and
- federal and state prosecutors and investigators.

Moreover, Ankura's collaborative platform enables us to leverage the firm's broad-based expertise to bring a focused and efficient approach to independent oversight engagements that is directly responsive to the priorities of stakeholders and the Court. In each matter, we tailor resources from across our practices to take on turnkey compliance monitoring, trustee, receiver, and claims administration roles in accord with the express terms of program mandates. Among others, these resources include the following types of professionals who can be deployed as necessary to identify, preserve, manage, and monetize assets, as well as to administer redress program payments:

- forensic accountants;
- real estate development and other subject matter experts who can consult on various asset classes (e.g., real estate assets, investments, and other financial instruments);
- turnaround and restructuring advisory consultants;
- interim management and corporate finance professionals;
- project management staff; and
- technology experts and data scientists who facilitate consumer engagement and claims administration.

Importantly, our team also has extensive experience managing and facilitating development for large real estate projects. Ankura's real estate experts have served in receivership and other fiduciary scenarios, offering integrated workout solutions for investors, lender groups, bondholders, and other interested parties that optimize pathways for properties by mitigating deterioration and maximizing physical health and economic potential. As part of these services, we can provide property management, construction advisory, leasing, development, and asset disposition support across various commercial and residential property types to enable the most advantageous value recovery.

Ankura's Independent Oversight Team has become respected for its integrity and credibility, and we have been entrusted with some of the more significant matters in recent history, including those described in the "Representative Matters" section below.

Representative Ankura Professionals

MARC-PHILIP FERZAN *Senior Managing Director*

- JD with 30 years of experience conducting complex investigations in connection with administrative, civil, and criminal enforcement matters imposing monitoring, fiduciary responsibilities, and reporting mandates.
- Served in several court-appointed and agency-appointed independent oversight roles to evaluate and report on compliance mandates, asset management, and claims administration.
- Previously served as enforcement attorney at the SEC, and federal prosecutor at Main Justice and U.S. Attorney's Office in New Jersey in various leadership roles, including Chief of Commercial Crimes Unit and Acting Executive Assistant U.S. Attorney.
- Appointed to executive leadership team at New Jersey Office of the Attorney General to provide legal and policy guidance on law enforcement and regulatory matters to Attorney General, Governor.
- Appointed by Governor of New Jersey to cabinet to coordinate administration of multi-billion dollar disaster relief resources in the aftermath of Hurricane Sandy, and facilitate controls at departments and agencies to curb waste, fraud and abuse.
- Previously held appointment as a lecturer at the University of Virginia's Frank Batten School of Leadership and Public Policy, and served as a Fellow at the Darden Business School's Institute for Business in Society.

TERRENCE BRODY *Senior Managing Director*

- JD with 18 years of leadership experience in both the public and private sectors advising clients in connection with complex litigations, conducting regulatory investigations, performing court-appointed monitorship activities, and managing multi-billion-dollar government budgets and programs.
- Serve as co-trustee of \$11 billion subrogation trust arising out of the PG&E bankruptcy.
- Served on leadership team in court-appointed monitorship role to evaluate and report on a global automobile manufacturer's compliance with class action and government enforcement settlements.
- Previously served on the New Jersey Attorney General's executive team where he managed the State's high-priority litigations and regulatory investigations, including large multi-state actions and settlements.
- In private law practice, represented clients in complex commercial litigations, corporate investigations, and regulatory matters.

ANTHONY MILAZZO *Senior Managing Director*

- CPA and CFE with over 24 years of experience in auditing, corporate finance, and forensic accounting.
- Significant forensic accounting experience including leading investigations, disputes and general accounting advisory matters.
- Led all aspects of the Michael Kenwood Receivership investigation, including various analyses related to the complex web of cash flows necessary to determine the entities involved in the commingled scheme and for claw-back litigation.
- Advised clients of a hedge fund that was being liquidated as the result of a fraud. Analyzed the receiver's findings, coordinated document discovery with the receiver, and collaborated with counsel on matters of equitable distribution.
- Led investigation work in connection with the SIPA liquidation of Bernard L. Madoff Investment Securities regarding the commingling of funds between the broker/dealer business and an investment advisory business that was the primary vehicle used to orchestrate the Ponzi scheme.



MICHAEL CRISCITO

Senior Managing Director

- Over 30 years of experience in global banking, including extensive experience in restructuring and distressed real estate. Prior to joining Ankura, Michael worked at Credit Suisse for over 20 years and was the global head of workout.
- Highly seasoned restructuring professional who has experience across multiple creditor classes and a broad range of industries globally. In addition, he has broad experience operating on the principal side for distressed real estate assets. Michael has demonstrated strong leadership guiding creditors through the restructuring process and devising creative solutions to maximize recovery.

SCOTT FOWLER

Senior Managing Director

- Over 25 years of real estate advisory experience to the firm. Mr. Fowler has an extensive and diversified background in providing real estate valuation and advisory services for virtually all real estate classes in North America and internationally.
- Primary focus is the valuation area where he has managed the valuation process and completed valuations for various asset classes across North America and Europe. He is supported by a credentialed, dedicated staff that can provide asset class and local expertise to complex real estate problems. He is a certified appraiser in over 35 states and has provided expert testimony numerous times related to real estate values, development issues, capital markets and partnership disputes.

CHUCK BEDSOLE

Senior Managing Director

- Advises companies from the US, Latin America, Asia, and Europe on hospitality, tourism and real estate projects across the globe. Chuck brings more than 38 years of industry experience, including 23 years with international professional service firms and five years of corporate-level experience with hospitality companies in the areas of merger and acquisitions, development, finance operations, and marketing.
- Brings substantial domestic and international experience with various hospitality asset types including hotels, mixed-use resort developments, hotel condominiums, interval ownership, all-inclusive resorts, and marinas.

ROB UNELL

Managing Director

- Provides real estate investors, developers, and lenders with financial and other advisory services such as asset and transaction strategies, valuation management, due diligence, and financial feasibility studies. With expertise in troubled and distressed assets, he supports clients in debt restructurings as well as in litigation.
- Former senior director in the real estate asset group of the consultancy Alvarez & Marsal. He previously served as a senior vice president at Bank of America's real estate managed assets group.

Representative Matters

Volkswagen Clean Diesel Consolidated Civil Matters Independent Claims Administrator

Served in a court-appointed role to provide independent compliance oversight for a \$10 billion remedial payment program undertaken by Volkswagen in connection with the resolution of a consumer protection and environmental matter arising from consolidated class action and government agency enforcement litigation led by the Federal Trade Commission. In the largest FTC redress programs in history, Ankura worked in a dual capacity, verifying the integrity of, among other things, Volkswagen's individual claims program, and also monitoring the company's overall compliance with the broader aspects of the underlying resolution agreements, as reflected in monthly reports.

Bernard L. Madoff Investment Securities Trusteeship

In one of the largest reported Ponzi schemes in U.S. history, a Trustee was appointed under the Securities Investor Protection Act (SIPA) for the liquidation of Bernard L. Madoff Investment Securities, and beginning in 2008, Ankura professionals were engaged to provide necessary investigation and forensic accounting services, as well as complex financial and enterprise data analytics to facilitate asset management and claims administration.

Private Equity Real Estate Planned Communities Fund Portfolio Management

Ankura is currently managing several assets in a PE fund portfolio comprised of large-acreage real estate development projects located within the United States. Assets in the portfolio include a top-25 selling master planned community in Arizona, and a more than 4,000 acre site in Missouri planned for mixed-use development and comprised of commercial, retail, industrial and residential development. Responsibilities include monitoring, entitlements, and disposition of the assets in the portfolio. In addition, Ankura professionals have facilitated the placement of over \$25 million of debt and refinanced over \$30 million of debt tied to the fund assets.

Kiawah Island Resort Development Advisory Services

Members of the Ankura team served as Agent and Lender, as well as the financial advisor, for a luxury residential project located outside of Charleston, SC. The team worked on disposition strategies for raw land, developed lots, 2 golf courses, and a beach club amenity resulting in a sale that maximized the return to the lender group and minimized disruptions to the community and club operations.

Reynolds Plantation Development Advisory Services

Acted as Agent and Lender for an asset that was placed into receivership by the lender group and ultimately sold via a sales strategy devised by the Lender and Receiver. The asset consisted of a 251-key luxury hotel, 6 golf courses, 250 developed lots, 4 marinas, and 4,925 acres of undeveloped land which included over 15 miles of lakefront, multiple amenity centers/tennis courts and pools, and all intellectual property associated with the project.

Court-Ordered Independent Redress Administrator for FTC Settlement

Serve as the court-ordered Independent Redress Administrator for a large publisher in connection with the resolution of a civil enforcement action brought by the FTC. Role includes: (i) validating the scope of impacted consumers entitled to restitution under the settlement agreement; (ii) developing and administering a claims program for 35,000 eligible consumers in accord with redress plan; and (iii) issuing periodic reports to the parties.

Mammoth Mountain Resort Advisory Services

Completed the disposition of various land parcels at Mammoth Mountain, a California ski resort that investment bank acquired through foreclosure. Disposition strategy included: facilitating the rezoning of various parcels; reducing tax bases; combining parcels to make them more saleable; and facilitating consideration of potential land swaps to maximize proceeds. Developed budgets and managed the income producing parcels that had parking and a restaurant.

Golf Communities of America Asset Management

Managed bankruptcy process in connection with publicly-traded golf/residential development company assets for investment bank, including valuation dispute, which led to the possession of eight development projects throughout the US. Hired and managed 3rd party managers for day-to-day operations while building out business plans for each asset, which included residential real estate sale strategy, operational improvements related to golf and retail operations, land improvements, and development and disposition approaches.

Belize Luxury Resort Development Advisory Services

Provided market and financial analysis services in connection with the proposed development of a luxury resort located in Placencia Peninsula, Belize.

Gold Fields Liquidating Trusteeship

Serve as Liquidating Trustee of the Gold Fields assets. Ankura's role includes monetizing the Gold Fields' assets; resolving all claims against the debtors; making distributions to holders of permissible claims in accordance with the terms of the Plan; and implementing the Plan with respect to the debtor entities, as well as administering the debtors' estates.

Caribbean Petroleum Liquidation Trust

Served as liquidating Trustee in connection with Caribbean Petroleum Corporation (and affiliates), a Puerto Rican gasoline wholesaler and gas station operator with assets in excess of \$7 billion.

PG&E Wildfires Trust and Claims Administration

Serve in Trustee role of an \$11 billion settlement fund created by PG&E's Chapter 11 Plan to compensate insurance companies for policy payments arising out of wildfires in 2017 and 2018 found to have been caused by malfunctioning equipment maintained by PG&E. Ankura is responsible for reviewing tens of thousands of claims submitted by more than 200 insurance companies or their assignees to assess eligibility and award amounts, timely disseminate funds from the Trust to eligible recipients, and manage the day-to-day operations of the Trust. In less than one year, Ankura has distributed close to \$10 billion to eligible beneficiaries.

Michael Kenwood Receivership

Served in the role of financial advisor to the Receiver of the Michael Kenwood Group, consisting of offshore hedge funds and related entities, which operated a billion-dollar Ponzi scheme. Ankura's team performed a detailed forensic accounting reconstruction of more than 12,000 transactions, captured and stored over 50 million pages of documents, conducted over 1,000 due diligence background reviews, and assisted in the winding down of business operations. Ankura professionals were also responsible for the recovery of misappropriated investor assets, as well as the management and liquidation of the assets of the Receivership estate, including investments in more than a dozen private equity enterprises. The team's methodical and timely investigation was critical to the successful recovery efforts on behalf of victims and interested third-parties.

Mount Vernon Money Center Receivership

Served as the financial advisors to the Receiver of a cash management business seized by the government after a theft of \$50 million was discovered, and led the orderly closure of the business including the sale of two viable entities and all other assets through bankruptcy.

Court-Appointed Monitor in SEC Enforcement Settlement

Engaged as the court-appointed Independent Consultant for a large NY municipality in connection with the resolution of a civil enforcement action brought by the SEC. Role includes: (i) reviewing the municipality's policies, procedures, and internal controls regarding its securities offerings disclosures; (ii) making recommendations with respect to the policies, procedures and internal controls, as well as the municipality's compliance and ethics programming; (iii) monitoring the municipality's implementation of the recommendations; and (iv) issuing periodic reports to the parties.

Court-Appointed Monitor in SEC Enforcement Settlement

Appointed as the Independent Consultant for an audit, accounting, tax and consulting services firm following entry of an SEC cease-and-desist order. In the role of Independent Consultant, Ankura is, among other things: (i) conducting a comprehensive review of the firm's policies, procedures, controls, and training relative to applicable independence standards in connection with certain audits; and (ii) making recommendations regarding changes and improvements to the firm's policies and practices, and a procedure for implementing those recommendations.

MTA Integrity Oversight Monitor

Appointed by the NY Metropolitan Transportation Authority as an independent monitor to oversee contractor compliance with certain laws, rules, regulations and contract requirements related to performance mandates on large transit infrastructure projects, including the Manhattan side construction of the East Side Access Project, an \$11 billion underground construction project to connect the Long Island Railroad to Grand Central Terminal.

NSA Monitor for Financial Services Company

Engaged as the Third Party Monitor pursuant to a National Security Agreement with the U.S. Departments of Justice and Treasury for a multi-billion-dollar global insurance company, to assure compliance with requirements intended to restrict access to sensitive data by a foreign purchaser. The monitoring program requires effective controls around areas including development and monitoring of sensitive data management and security elements, access restrictions, training, incident identification and reporting, governance, cybersecurity, and physical security.

NSA Monitor for Global Software Products Company

Engaged as the Third Party Monitor pursuant to a National Security Agreement with the U.S. Departments of Treasury, Justice, and Defense, for a non-U.S. global technology company that acquired software products used by U.S. Government security and intelligence agencies, along with associated operational support obligations. The monitoring program requires Ankura to monitor security and integrity related to maintenance and development of the software products (including product integrity and software code reviews); protection, segregation, and minimization of U.S. Government sensitive customer data; and access control list implementation and maintenance.



NSA Monitor for Company Operating Solar Power Facilities

Engaged as the Third Party Monitor pursuant to a National Security Agreement with the U.S. Department of Defense to assure that sensitive solar power facilities in the greater Los Angeles area purchased by a non-U.S. public power company comply with requirements that ensure that the facilities are not exploited to harm U.S. national security. The monitoring program includes, collaborative development and monitoring of sensitive data management and security elements, validating implementation of recommended security enhancements, training, incident identification and reporting, non-retaliation, insider threat, cyber security, and physical security.

World Trade Center Integrity Oversight Monitor

Served as a World Trade Center integrity oversight monitor, leading a team that served alongside New York City staff, to provide independent financial oversight for hundreds of millions of dollars in debris removal services following the terrorist attacks of September 11, 2001. The City recognized very early on that it needed to control and completely document debris removal costs to avoid federal agency reimbursement disallowances that could result in a second financial disaster. Among other things, the engagement involved the design and review of the implementation of financial controls, which ultimately resulted in no reimbursement disallowances by FEMA for work performed.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

[PROPOSED] ORDER CONCERNING PENDING DEADLINES

The Federal Trade Commission (“FTC”) moved the Court to appoint Marc-Philip Ferzan as Receiver in this matter. Therefore, for good cause shown,

IT IS HEREBY ORDERED:

- a) Effective upon entry of this Order, Robb Evans & Associates LLC (“Robb Evans”) is discharged as Receiver, and Marc-Philip Ferzan (“Ferzan”) of Ankura Consulting Group, LLC (“Ankura”) is appointed as the successor receiver.
- b) Ferzan and others at Ankura may charge at the rates Robb Evans previously charged, subject to a 5% increase beginning January 1, 2022.
- c) Ferzan’s invoices may include appropriate professional services and expenses (subject to Court approval) for work Robb Evans and its counsel performs to support the transition.
- d) All other orders of the Court in this matter remain effective and unchanged including, without limitation, ECF No. 1194 (Mar. 24, 2021), ECF No. 1113 (Jan. 13, 2021), ECF No. 1112 (Jan. 13, 2021), ECF No. 820 (Jan. 14, 2020), ECF No. 819 (Jan. 14, 2020); ECF No. 789 (Jan. 8, 2020), ECF No. 759 (Jan. 8, 2020), ECF No. 668 (Nov. 6, 2019), ECF No. 615 (Oct. 3, 2019), and ECF No. 607 (Sept. 25, 2019).
- e) Upon entry of this Order, Ferzan shall be and hereby is vested with and have the same rights (including, without limitation, contract rights), powers, authority and duties as

Robb Evans previously had under all other orders of this Court in this matter, whether or not expressly enumerated above.

- f) Upon entry of this Order, Ferzan is automatically substituted in place of Robb Evans as a party in all pending actions or proceedings initiated by Robb Evans and in all pending appeals. Ferzan shall give notice of such substitution in such actions, proceedings and appeals by filing a notice of substitution therein and attaching a copy of this Order to such notice.

SO ORDERED, this ____ day of _____, 2021.

UNITED STATES DISTRICT JUDGE