

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
SOUTHERN DIVISION

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

RECEIVER’S REQUEST FOR STATUS CONFERENCE AND GUIDANCE FROM THE COURT

The Receiver, Marc-Philip Ferzan of Ankura Consulting Group, LLC (“Receiver”), hereby requests that the Court set a remote status conference as expeditiously as the Court’s calendar can accommodate to provide guidance with respect to whether the Receivership Team should proceed with the administration of the Survey¹ provided for in the Court’s June 14, 2023 Order Implementing Next Phase of Consumer Redress Plan (Doc. 1446, “June 2023 Redress Order”).

More particularly, when the Receiver and the Federal Trade Commission (“FTC”) were most recently before the Court on October 10, 2023, the Court clarified that the FTC would have the final authority to approve the language in the Survey and associated materials to be distributed to Consumers (Doc. 1477, ¶1). The Court further ordered that, once the FTC approved the language in the Survey-related materials, the Receiver shall administer the Survey program (*Id.*, ¶2). By November 2, 2023, the FTC approved the final form of the Survey and associated materials to enable the administration of the Survey program. After coordinating

¹ Terms used but not defined herein are as defined in the June 2023 Redress Order.

administration logistics, on November 7, 2023, the Receiver advised the FTC that the Receivership Team anticipated launching the Survey on November 9, 2023.

Later the same day, on November 7, counsel for the FTC sent an email advising, inexplicably, that the FTC is intending to file a motion asking the Court to compel material changes to Survey administration. The email was accompanied by a draft proposed order that, among other things, is inconsistent with various aspects of the Survey and associated materials that the FTC had approved only days earlier; is contrary to the Receiver's informed judgment as to the available, effective, efficient and best means of administering the Survey and lot election choices therein; and improperly seeks to usurp the Receiver's role as an independent fiduciary, appointed as an agent of the Court, charged with implementing consumer redress in this case. In short, having reviewed the Survey administration changes called for under the proposed order, the Receiver disagrees with the proposed changes on the merits, and seeks the Courts intervention to avoid unnecessary delay and cost to the receivership estate.

In light of the FTC's stated intent, the Receiver asks the Court to set a remote status conference as expeditiously as possible to provide guidance concerning whether it wishes to consider the FTC's proposed changes to Survey administration, or to confirm that the Receiver has authority to determine how to proceed with redress implementation, so the Receiver may move forward with launching the Survey as quickly as possible. The relief the FTC intends to seek would necessitate material changes to the Survey and associated materials (that the FTC previously approved), and it would be inequitable and confusing for Consumers if the Receiver were to address the FTC's proposed changes to alter how the Survey is being administered after its launch.

///

///

Respectfully submitted,

Dated: November 8, 2023

By: /s/ Allison M. Rego
Allison M. Rego (CA Bar No. 272840)
Admitted Pro Hac Vice 5/25/23
Barnes & Thornburg LLP
655 West Broadway, Suite 1300
San Diego, CA 92101
Telephone: (619) 321-5003
Facsimile: (310) 284-3894
Email: arego@btlaw.com

Gary Owen Caris (CA Bar No. 088918)
Admitted Pro Hac Vice 11/30/18
Barnes & Thornburg LLP
2029 Century Park East, Suite 300
Los Angeles, CA 90067
Telephone: (310) 284-3880
Facsimile: (310) 284-3894
Email: gcaris@btlaw.com

By: /s/ James E. Van Horn
James E. Van Horn (Bar No. 29210)
Barnes & Thornburg LLP
555 12th Street, N.W.
Suite 1200
Washington, DC 20004-1275
Telephone: (202) 289-1313
Facsimile: (202) 289-1330
Email: jvanhorn@btlaw.com

Attorneys for Receiver, Marc-Philip Ferzan of
Ankura Consulting Group, LLC