

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

CIVIL DIVISION

CASE NO.: 13-18620 CA 13

CHIRAG AMIN,

Plaintiff,

vs.

GIGNESH MOVALIA and  
OM GLOBAL INVESTMENT FUND LLC,

Defendants.

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**AGREED ORDER GRANTING CORPORATE MONITOR'S  
UNOPPOSED MOTION TO (1) APPROVE CLAIMS PROCEDURE  
FOR DISTRIBUTIONS; (2) ESTABLISH PROCEDURE BY WHICH TO  
OBJECT TO CLAIMS; AND (3) ESTABLISH PROCEDURE FOR RESERVES**

THIS CAUSE, having come before the Court upon the Corporate Monitor's Unopposed Motion to (1) Approve Claims Procedure for Distributions; (2) Establish Procedure by Which to Object to Claims; and (3) Establish Procedure for Reserves (the "Motion"), and the Court, having reviewed the relevant pleadings, having been apprised of the agreement of the parties, and being otherwise advised in the premises, it is hereby:

**ORDERED and ADJUDGED** that the Motion is **GRANTED** as follows:

### **A. The Corporate Monitor's Distribution Procedure**

The claims and distribution procedures as proposed by the Corporate Monitor in the Motion are hereby approved in all respects. The Corporate Monitor shall send each investor or creditor with an "allowed claim" a pro-rata amount based on the investor's or creditor's proportionate share of the total amounts invested by or owed to all investors and creditors. Because there are two "OM Global" entities subject to the corporate monitorship, the investors in OM Global Investment Fund LLC shall receive distributions based on the funds collected in the name of OM Global Investment Fund LLC, whereas investors in OM Global LP shall receive distributions based on the funds collected in the name of OM Global LP. The claim amount for each investor shall be a net claim amount, which represents all amounts invested by that investor in the specific OM Global entity, subtracted by all amounts received by that investor from the specific OM Global entity regarding investments pre- or post-corporate monitorship.

The Court previously approved the Corporate Monitor's proposed proof of claim form. The proof of claim form includes, among other things: (1) the amount of the investment in (or amount owed by) the OM Global entity (the "Initial Investment"); and (2) the amounts of any pre- or post-corporate monitorship payments received by the investor or creditor regarding the OM Global entity (whether in the form of return of principal, payment of alleged profits, payment of alleged interest, or payments as commissions) ("Returned Amounts"). At the same time, the Corporate Monitor shall determine the total dollar amount of all investments into, and other claims against, each OM Global entity (the "Investment Claim Total").

Using the proof of claim forms to compile the necessary information submitted by investors and creditors, the Corporate Monitor shall determine a percentage that corresponds to each investor's (or creditor's) share of the Investment Claim Total for each OM Global entity

(the “Investment Claim Percentage”). Because the Corporate Monitor is netting claim amounts for each OM Global entity, each investor’s or creditor’s Investment Claim Percentage shall be adjusted by the amounts received by such investor or creditor by way of Returned Amounts.

Based on the above, each claimant shall receive a fixed percentage of their allowed claim from the proposed distribution amount, based on the following formula: the amount of the net allowed claim for the OM Global entity (*i.e.*, OM Global Investment Fund LLC or OM Global LP), divided by the total amount of filed claims for the OM Global entity, multiplied by the proposed distribution amount for the OM Global entity. The Corporate Monitor anticipates making, by separate motion, a first interim distribution of \$2,250,000 to holders of allowed claims in OM Global Investment Fund LLC. The Corporate anticipates making, by separate motion, a first interim distribution to holders of allowed claims in OM Global LP in an amount and at a time to be determined by the Corporate Monitor.

**B. The Corporate Monitor’s Procedure for Objecting to Claims**

The claims objection procedures (the “Objections Procedure”) as proposed by the Corporate Monitor in the Motion are hereby approved in all respects:

- (i) At the time of filing his motion(s) for distribution, the Corporate Monitor will simultaneously file objections and/or counterclaims to claims (or parts thereof), or a request for an extension of time to file any such objections and/or counterclaims, if additional information is needed;
- (ii) The motion(s) for distribution, the objections, and/or counterclaims will be served by U.S. Mail (foreign claimants will be served by DHL) on the claimants by the Corporate Monitor at the address in the Corporate Monitor’s records or on the claim form submitted by the claimant;
- (iii) The holders of “allowed claims” will be paid by the Corporate Monitor upon an Order from this Court granting the recommended distribution. Payments by the Corporate Monitor will be made by check and must be cashed within one hundred and eighty (180) calendar days, absent which the check will be voided, the uncashed checks will be deemed “unclaimed funds” available for distribution to other investors and creditors, and the

claim will be deemed expunged and waived. The Corporate Monitor will be authorized to withhold issuing checks for future distributions to claimants who have not cashed checks from a prior distribution;

- (iv) The holders of claims to which the Corporate Monitor has objected, in whole or in part, and/or counterclaimed, will have forty-five (45) calendar days from the date of service of the objections and/or counterclaims within which to cure the deficiency and/or to respond to the Corporate Monitor in writing. Such written responses will be served by facsimile, email, or U.S. Mail on the Corporate Monitor at his attorney's office, c/o Patrick J. Rengstl, Esq., at Levine Kellogg Lehman Schneider + Grossman LLP, 201 South Biscayne Boulevard, 22<sup>nd</sup> Floor, Miami, FL 33131. If a claimant adequately and timely cures the deficiency or objection, or otherwise settles with the Corporate Monitor, the Corporate Monitor will deem the claimant a holder of an allowed claim and will immediately pay the claimant his or her distribution amount without further Order from this Court. If a claimant responds and does not adequately cure, the claimant's claim will be subject to the Objection Procedure as a "disputed claim." If a claimant does not respond within the time provided, the Corporate Monitor's objections and/or counterclaims will be deemed sustained and adjudicated with prejudice, and the claim will be treated in accordance with the Corporate Monitor's objections and/or counterclaims. The Corporate Monitor will file periodic status reports with this Court as to claimants who have cured (and who have been paid their distribution amount), claimants who have responded but have not adequately cured (*i.e.*, "disputed claims"), and claimants who have not responded in any manner (and whose claim will be treated in accordance with the Corporate Monitor's objections and/or counterclaims);
- (v) After a response is served in writing on the Corporate Monitor, the claimant and the Corporate Monitor will have ninety (90) calendar days to conduct any necessary discovery and file any dispositive motions in regards to the objections and/or counterclaims for the "disputed claim." Pursuant to the executed proof of claim forms, claimants have already submitted to the exclusive jurisdiction of this Court, and have waived the right to a jury trial, for purposes of any objections and/or counterclaims; therefore, any necessary discovery and/or dispositive motions in regards to objections and/or counterclaims will be conducted and resolved by this Court in a summary proceeding. All depositions will be conducted at the Corporate Monitor's attorney's office: Levine Kellogg Lehman Schneider + Grossman LLP, 201 South Biscayne Boulevard, 22<sup>nd</sup> Floor, Miami, FL 33131;
- (vi) At the conclusion of the foregoing discovery period (or, if extended, such extended period), the Corporate Monitor will provide the Court with a status report(s) regarding the objections and/or counterclaims, and also

move for a Scheduling Order detailing the process for adjudication by this Court of any objections and/or counterclaims at issue for “disputed claims”; and

- (vii) The Corporate Monitor will determine late claims on a case-by-case basis.


### **C. The Corporate Monitor’s Procedure for Reserves**

The procedures for the establishment of reserves as proposed by the Corporate Monitor in the Motion are hereby approved in all respects. Setting a reserve allows the Corporate Monitor to pay for the ongoing costs of administering the estate, for litigation, and for “disputed claims” (until such time as such “disputed claims” are “allowed” or “disallowed”). The Corporate Monitor has represented that he does not wish for any objections (*i.e.*, because the proof of claim lacks supporting documentation, lacks a signature, lacks proof of identity, or for some other reason) to delay distributions to holders of “allowed claims.” Therefore, the Corporate Monitor shall be permitted to immediately pay holders of “allowed claims” their pro-rata share of each distribution, so long as the Corporate Monitor maintains in a segregated account (*i.e.*, a reserve) the percentage that would otherwise be paid to claims to which the Corporate Monitor has objected, pending a resolution on the Corporate Monitor’s objection to such claims in accordance with the above Objections Procedure.

The reserve shall also include funds earmarked, in the Corporate Monitor’s discretion, to pay for litigation and the ongoing costs of administering the estate. Because the Corporate Monitor currently has approximately \$2.7 million in the OM Global Investment Fund LLC estate, and because the Corporate Monitor anticipates a first distribution of \$2,250,000, the Corporate Monitor shall set an initial reserve of at least \$450,000 for claims involving OM Global Investment Fund LLC. For the claims involving OM Global LP, the Corporate Monitor has represented that he is not in a position to determine a first distribution amount for the reasons

stated in the Motion. Therefore, the Corporate Monitor shall be permitted to set the distribution and reserve amount for OM Global LP in his discretion at the appropriate time.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 01/13/14.



DARYL E. TRAWICK  
CIRCUIT COURT JUDGE

**No Further Judicial Action Required on THIS MOTION  
CLERK TO RECLOSE CASE IF POST JUDGMENT**

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.