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SEAMAN, Court-Appointed Receiver

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11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 FEDERAL TRADE COMMISSION,  
14 Plaintiff,

15 v.

16 DIGITAL ALTITUDE LLC, a  
17 Delaware limited liability company;  
DIGITAL ALTITUDE LIMITED,  
18 United Kingdom company; ASPIRE  
PROCESSING LLC, a Nevada limited  
19 liability company; ASPIRE  
PROCESSING LIMITED, a United  
20 Kingdom company; ASPIRE  
VENTURES LTD., a United Kingdom  
21 company; DISC ENTERPRISES INC.,  
a Nevada corporation; RISE SYSTEMS  
22 & ENTERPRISE LLC, a Utah limited  
liability company; RISE SYSTEMS &  
23 ENTERPRISE LLC, a Nevada limited  
liability company; SOAR  
24 INTERNATIONAL LIMITED  
LIABILITY COMPANY, a Utah  
25 limited liability company; THE  
UPSIDE, LLC, a California limited  
26 liability company; THERMOGRAPHY  
FOR LIFE, LLC, also d/b/a LIVING  
27 EXCEPTIONALLY, INC., a Texas  
limited liability company; MICHAEL  
28 FORCE, individually and as an officer,

Case No.: 2:18-cv-00729 JAK-MRW  
Assigned to Hon. John A. Kronstadt

**DECLARATION OF  
BENJAMIN R. KING IN  
SUPPORT OF THIRD MOTION  
OF RECEIVER THOMAS A.  
SEAMAN FOR APPROVAL TO  
PAY INTERIM FEES AND COSTS  
TO RECEIVER'S COUNSEL,  
LOEB & LOEB, LLP**

Date: November 18, 2019  
Time: 8:30 a.m.  
Place: Courtroom 10B  
350 W. First Street  
Los Angeles, 90012

**Complaint Filed: January 29, 2018**

1 member and/or manager of Digital  
 2 Altitude LLC and Soar International  
 3 Limited Liability Company; MARY  
 4 DEE, individually and as an officer,  
 5 member and/or manager of Digital  
 6 Altitude LLC, Digital Altitude Limited,  
 7 Aspire Processing LLC, RISE Systems  
 8 & Enterprise LLC, The Upside, LLC,  
 9 and Thermography for Life, LLC;  
 10 MORGAN JOHNSON, individually and  
 11 as an officer, member and/or manager of  
 12 Digital Altitude LLC and RISE Systems  
 13 & Enterprise LLC; ALAN MOORE,  
 14 individually and as an officer, member  
 15 and/or manager of Digital Altitude LLC  
 16 and Aspire Processing Limited; and  
 17 SEAN BROWN, individually and as an  
 18 officer, member and/or manager of  
 19 Aspire Processing LLC, Disc  
 20 Enterprises Inc. and RISE Systems &  
 21 Enterprise LLC,  
 22  
 23 Defendants.

**DECLARATION OF BENJAMIN R. KING**

I, Benjamin R. King, hereby declare as follows:

1. I am an attorney with the law firm of Loeb & Loeb LLP, counsel of  
 record for Thomas A. Seaman, the Court-appointed Receiver in the above-captioned  
 matter. I am in good standing and am duly licensed to practice law before this  
 Court. I am one of the attorneys principally responsible for handling the day-to-day  
 representation of the Receiver in this action. The following is of my own personal  
 knowledge, and if called as a witness, I could and would competently testify thereto.  
 I make this Declaration in support of the concurrently filed Motion of Receiver  
 Thomas A. Seaman for Approval to Pay Interim Fees and Costs to Receiver’s  
 Counsel, Loeb & Loeb, LLP (“Motion”).

2. The primary attorneys and paralegal responsible for the day-to-day  
 representation of Receiver are as follows:

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Attorney	Title/Position	Standard Hourly Billing Rate	Discounted Hourly Billing Rate
Lance N. Jurich (Admitted in 1988)	Partner	\$900.00	\$695.00
Benjamin R. King (Admitted in 1999)	Partner	\$775.00	\$595.00
Daniel Friedman (Admitted in 1985)	Senior Counsel	\$750.00	\$575.00
Fiona P. McKeown (1993)	Paralegal	\$380.00	\$300.00

3. The billing rates listed above are the rates negotiated between the Receiver and Loeb and not the rates normally billed to Loeb's other clients for similar services. For example, Lance Jurich's standard billing rate for 2019 is \$900.00 and my standard billing rate for 2019 is \$775.00.

4. I was first admitted as an attorney in October, 1999, and have served in that capacity regularly since that time (roughly 19 years). Through such work, I have gained an understanding as to the billing rates normally charged by firms similar to Loeb in terms of size and expertise. The standard hourly rates as stated above are reasonable for attorneys of like experience to me, Mr. Jurich, and Mr. Friedman in the relevant Los Angeles market. Nevertheless, as stated above, Loeb has agreed to significantly discount its rates in this matter, to \$695/hr. for Mr. Jurich, \$595/hr for Mr. Daniel Friedman and \$595/hr. for Mr. King and \$300/hr for Ms. McKeown (the latter reduced from \$380/hour to \$300/hour in keeping with this Court's ruling on the prior Second Fee Application pertaining to Loeb's fees). Loeb agreed to these rates without increases during the life of this matter, which has continued for roughly 1.5 years after its initial filing.

5. Loeb kept detailed and segregated records of the billable time for which the Receiver now seeks authority to pay. Attached hereto as **Exhibit A** is a true and correct set of invoices prepared by Loeb's billing department (redacted for

1 privilege) setting forth the specific tasks performed and the time spent performing  
 2 those tasks by Loeb’s timekeepers identified above.

3 6. The total amount of attorneys’ fees incurred for these activities (after  
 4 Loeb’s discount on its rates is applied), is \$87,755.50. These fees and costs are  
 5 broken down in detail not only in the accompanying Loeb invoices which reflect  
 6 task billing (and not block billing) to show the specific work, but also in the  
 7 summary charts prepared in the format this Court requires in its Initial Standing  
 8 Order in this matter [Docket No. 65] and attached hereto as **Exhibits B and C**,  
 9 respectively. In addition to these charts, and also as required by this Court’s Initial  
 10 Standing Order, Loeb will email to this Court an Excel-format spreadsheet which  
 11 will contain all of Loeb’s billing entries for the relevant time period. Loeb will not  
 12 redact the entries on the Excel Spreadsheet for privilege given its understanding that  
 13 the spreadsheet is for this Court’s use and is not to be served on the parties or any  
 14 third parties (and because redaction of an editable electronic document is  
 15 problematic).

16 7. The costs incurred on behalf of the Receivership Estate through Loeb  
 17 during the same period total \$270.22. The detail for such costs is included on the  
 18 invoices attached collectively as Exhibit A, and are summarized as follows:

<b>Cost</b>	<b>Amount</b>
LEXIS RESEARCH	\$9.40
LOCAL TRAVEL	\$34.85
MESSENGER/COURIER	\$968.08
ONLINE RESEARCH	\$74.20
PHOTOCOPY	\$138.75
POSTAGE	\$15.94
SERVICE FEE -	\$60.00
	<b>\$1301.22</b>

26 8. Again, the attorneys who have primarily performed services for the  
 27 Receiver in this matter are Lance N. Jurich and myself. Mr. Jurich is a partner in  
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1 our Los Angeles Creditor's Rights And Bankruptcy Department, is a very  
2 experienced attorney who has served for 30 years specializing in the areas of  
3 bankruptcy, receiverships, restructuring, workouts and turnarounds. He has  
4 effectively represented Loeb's clients' interests related to federal and state  
5 bankruptcy and state-court creditors' rights proceedings. A true and correct copy of  
6 Mr. Jurich's Bio is attached hereto as **Exhibit D**.

7 9. I am also a partner in Loeb's Los Angeles Creditor's Rights And  
8 Bankruptcy Department, and am a commercial litigator and creditors' rights  
9 attorney with substantial experience and expertise representing receivers. I am a  
10 member of the Board of Directors for the Los Angeles/Orange County Chapter of  
11 the California Receiver's Forum, and I specialize in the employment of prejudgment  
12 remedies such as receiverships and injunctive remedies. In my 19-year career,  
13 I have represented both receivers and secured lenders seeking the appointment of  
14 receivers in both state and federal court. A true and correct copy of my current Firm  
15 Bio is attached hereto as **Exhibit E**.

16 10. Attorney Daniel Friedman performed a very limited role in preparing  
17 evidentiary objections in connection with the Receiver's motion for turnover from  
18 PMV. Mr. Friedman holds the title of Senior Counsel at Loeb and is an experienced  
19 litigator and trial lawyer. Mr. Friedman was admitted to the State Bar of California  
20 June of 1992. A true and correct copy of Mr. Friedman's Firm Bio is attached  
21 hereto as **Exhibit F**.

22 11. Also assisting with Receiver's representation is paralegal Fiona  
23 Mckeown. Ms. McKeown has practiced as a paralegal since September of 1993 and  
24 has been employed by Loeb & Loeb, LLP since June of 2005. She currently  
25 supports Loeb's litigation and bankruptcy practice groups. Ms. McKeown's work in  
26 connection with this matter for purposes of the Fees Motion was primarily to assist  
27 with the preparation of the Receiver's first and second fee applications to this Court  
28 for fees and costs incurred by Receiver and Receiver's counsel. Ms. McKeown was

1 assigned to this task in light of her particular expertise in the area of bankruptcy,  
2 where fees regularly require court approval and fee applications are therefore  
3 frequently made. Ms. McKeown's experience permitted her to operate with  
4 minimal oversight in preparing the subject fee application and motion. The Ninth  
5 Circuit has generally recognized the propriety of including paralegal time in an  
6 award of attorneys' fees, as paralegals often perform work that would otherwise be  
7 performed by young attorneys. *See Pacific Coast Agricultural Export Assoc. v.*  
8 *Sunkist Growers, Inc.*, 526 F.2d 1196, 1210, n. 19 (9th Cir. 1975).

9 12. Ms. McKeown's standard billing rate for the work performed currently  
10 is \$380/hr. This Court previously discounted Ms. McKeown's rate to \$300 per hour  
11 in connection with Receiver's previous fee application for Loeb fees/costs.  
12 In keeping with that, Loeb is discounting Ms. McKeown's rate to that amount for all  
13 future activities in this matter – frozen along with Loeb's rates for other timekeepers  
14 in this matter.

15 13. Despite having over 25 years of experience, Ms. McKeown's hourly  
16 rate is lower than several other paralegals who support the litigation department at  
17 Loeb. Ms. McKeown's work on the subject fee applications created value for the  
18 receivership estate here as her work directly reduced the amount of time that myself  
19 and my colleague, Mr. Lance Jurich, were required to spend on the tasks she  
20 undertook (and her billing rate is substantially lower than ours). I have served as a  
21 licensed attorney since December 1999. In my eighteen years serving as a litigation  
22 and bankruptcy attorney, I have become generally familiar with the billing rates  
23 prevailing in the community at firms in a similar market to Loeb & Loeb, LLP.  
24 Based upon that experience, I believe that Ms. McKeown's standard billing rate of  
25 \$370/hr is competitive with those of paralegals of her general experience and  
26 expertise at comparable Los Angeles law firms. Ms. McKeown's discounted rate is  
27 therefore reasonable in light of the same.

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I declare under penalty of perjury of the United States of America that the foregoing is true and correct, on this 15th Day of August, 2019, at Los Angeles, California.

/s/ Benjamin R. King  
Benjamin R. King