

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

SECURITIES AND EXCHANGE §  
COMMISSION, §  
§  
PLAINTIFF, §  
§  
vs. §  
§  
BRIAN A. BJORK, THE ESTATE OF JOEL §  
DAVID SALINAS, J. DAVID GROUP OF §  
COMPANIES, INC., J. DAVID FINANCIAL §  
GROUP, LP, SELECT ASSET §  
MANAGEMENT, LLC, SELECT ASSET §  
CAPITAL MANAGEMENT, LLC, SELECT §  
ASSET FUND I, LLC, AND SELECT ASSET §  
PRIME INDEX FUND, LLC, §  
§  
DEFENDANTS. §

CIVIL ACTION NO. 4:11 CV - 02830

**RECEIVER’S UNOPPOSED FOURTH MOTION TO APPROVE CLAIMS**

TO THE HONORABLE KEITH P. ELLISON, UNITED STATES DISTRICT COURT:

COMES NOW, Steven A. Harr (“Receiver”), the Receiver appointed by the Court in these proceedings, and files this *Unopposed Fourth Motion to Approve Claims*, and in support of such would respectfully show the Court the following:

**I.**  
**FACTUAL BACKGROUND**

1. On August 1, 2011, the Securities and Exchange Commission (“SEC”) filed its Complaint against Defendants. In conjunction therewith, the SEC sought, and by Order Appointing Receiver (the “Order”), the Court appointed, Steven A. Harr as the Receiver (the “Receiver”) for Brian A. Bjork, The Estate of Joel David Salinas, J. David Group of Companies, Inc., J. David Financial Group, LP, Select Asset Management, LLC, Select Capital Management, LLC, Select Asset Fund I, LLC, and Select Asset Prime Index Fund, LLC (collectively, the “Receivership Entities”).

2. The Receiver was authorized to have complete and exclusive control, possession, and custody of all Receivership assets and Receivership records of Defendants. Receivership Assets and Receivership Records were defined in the Order as “assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the [Receivership Entities] and all entities they own or control . . . , and the books and records, client lists, account statements, financial and accounting documents, computers, computer hard drives, computer disks, internet exchange servers, telephones, personal digital devices, and other informational resources of or in possession of the [Receivership Entities] or issued by [Receivership Entities] and in possession of any agent or employee of the [Receivership Entities].”<sup>1</sup>

3. The Receiver has been acting and fulfilling his duties as Receiver since his appointment and has conducted various investigations of the Receivership Entities with the intent to marshal the Receivership assets for the benefit of the Receivership Entities’ investors and creditors. These efforts have also included review of corporate records, forensic accounting analysis, records from various legal counsel from the Receivership Entities, and forensic tracing.

## **II.** **INTRODUCTION**

4. In addition to the tasks stated above, the Receiver has the responsibility for resolving claims of investors and third parties against assets of the Receivership Estate. The Receiver and his staff have reviewed the claim forms and the supporting information since the claims process was established. The court-approved claim form requested information

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<sup>1</sup> Order Appointing Receiver, ¶1.

necessary to permit the Receiver to evaluate investor claims.<sup>2</sup> The Court approved both the claim form and the claims procedures plan.<sup>3</sup> The Receiver requested that the claim form be returned to the Receiver within sixty (60) days after the claim form was made available to the potential claimants on the Receivership website. The Receiver seeks discretion to utilize the failure to return a form within that period as a potential ground for disallowance of a claim with the understanding that any mitigating circumstances would also be considered.<sup>4</sup>

5. Substantial efforts have been made to establish an accurate understanding of the financial records of the Receivership Entities so that the claims asserted could be cross checked against the records of the company. Based on the information submitted thus far, the Receiver has been able to establish that the claims on the attached list substantially match the records of the Receivership Entities or the discrepancies have been reviewed and negotiated with the investor claimants.

6. The Receiver is now prepared to submit more claims to the Court for approval. Attached as Exhibit "A" is a list of the claim numbers and amounts that the Receiver has approved. This Motion is the fourth of these motions and more will follow as more claims can be essentially verified. This motion brings the total of claims submitted for approval to 268<sup>5</sup> claims for a total of \$51,258,873.58.<sup>6</sup> The Receiver continues to review the remaining claims and

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<sup>2</sup> See Granted Agreed Order Establish Claims Procedure and Claim Form (DKT #24).

<sup>3</sup> *Id.*

<sup>4</sup> The Receiver does not intend to use such a deadline as a hard and fast rule to penalize claimants but rather only as a means to prompt a timely return of the completed form. The Receiver intends to make exceptions to the deadline as circumstances dictate. However, the Receiver intends to process the claims in the order they are received.

<sup>5</sup> Of this total, 47 are claims that were previously approved by the Court but now need to be modified based on the Receiver's request and the Court's decision to collapse each of the Receivership Entities into a single aggregated pool.

<sup>6</sup> Based on the modification referenced in footnote 5, the Receiver anticipates the total value of claims presented will change. If all claimants that are affected by the collapsing of the Receivership Entities into

will file additional motions as soon as the reviews are completed. At present, there are 3 claims remaining and the face amount of these unresolved claims is \$943,552.23. The investigation continues.

**III.**  
**CONCLUSION**

7. The Receiver requests that the claims approved by the Receiver listed in Exhibit "A" be approved by the Court for later disbursement pursuant to a plan to be presented and approved by the Court.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that upon final consideration of this Motion that the Court enter an Order consistent with the foregoing requested relief 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: October 22, 2013

Respectfully submitted,

By: /s/ Steven A. Harr

**Steven A. Harr**

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**ATTORNEY IN CHARGE FOR RECEIVER**

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a single aggregated fund agree to the adjustment of their claims, the Receiver anticipates the total value of claims will see a reduction by roughly \$1,900,000.

**OF COUNSEL:**

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**CERTIFICATE OF CONFERENCE**

On October 22, 2013, I conferred with Tim McCole and he stated that the Securities and Exchange Commission is not opposed to the relief sought in this motion.

*/s/ Steven A. Harr* \_\_\_\_\_

Steven A. Harr

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically with the Clerk via the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Houston, Texas, this 22nd Day of October 2013.

*/s/ Steven A. Harr* \_\_\_\_\_

Steven A. Harr

# Exhibit A

Select Asset Management, LLC et al.

10/18/2013

<b>Claim #</b>	<b>NetClaim</b>
SAA-00114	\$ 545,000.00
SAA-00115	\$ 13,000.00
SAA-00120	\$ 10,000.00
SAA-00123	\$ 99,885.48
SAA-00128	\$ 8,954.99
SAA-00134	\$ 400,000.00
SAA-00135	\$ 125,000.00
SAA-00136	\$ 24,059.00
SAA-00137	\$ 601,988.70
SAA-00138	\$ 202,851.00
SAA-00139	\$ 24,988.15
SAA-00141	\$ 76,000.00
SAA-00142	\$ 50,000.00
SAA-00143	\$ 50,000.00
SAA-00145	\$ 175,000.00
SAA-00157	\$ 100,000.00
SAA-00158	\$ 215,000.00
SAA-00159	\$ 100,000.00
SAA-00160	\$ 15,000.00
SAA-00161	\$ 10,000.00
SAA-00162	\$ 14,600.00
SAA-00163	\$ 15,000.00
SAA-00164	\$ 17,000.00
SAA-00170	\$ 131,482.00
SAA-00171	\$ 42,292.00
SAA-00172	\$ 16,285.00
SAA-00173	\$ 66,390.00
SAA-00177	\$ 737,913.00
SAA-00180	\$ 70,000.00
SAA-00181	\$ 50,000.00
SAA-00183	\$ 500,000.00
SAA-00185	\$ 1,200,000.00
SAA-00187	\$ 31,568.87
SAA-00214	\$ 10,000.00
SAA-00220	\$ 5,167,299.00
SAA-00221	\$ 78,854.32
SAA-00223	\$ 300,000.00
SAA-00224	\$ 605,500.27
SAA-00230	\$ 68,420.43

<b>Claim #</b>	<b>NetClaim</b>
SAA-00231	\$ 18,814.83
SAA-00232	\$ 16,526.10
SAA-00233	\$ 68,415.44
SAA-00234	\$ 68,802.74
SAA-00235	\$ 780,000.00
SAA-00236	\$ 395,167.12
SAA-00244	\$ 301,000.00
SAA-00245	\$ 39,203.86
SAA-00246	\$ 19,601.93
SAA-00255	\$ 40,450.22
SAA-00256	\$ 400,000.00
SAA-00257	\$ 46,500.00
SAA-00258	\$ 425,000.00
SAA-00260	\$ 16,000.00
SAA-00264	\$ 6,350.00
SAA-00265	\$ 170,000.00
SAA-00280	\$ 433,795.00
SAA-00281	\$ 35,356.22
SAA-00282	\$ 105,000.00
SAA-00283	\$ 100,000.00
SAA-00292	\$ 1,786,898.97
60 claims for	<u><u>\$ 17,242,214.64</u></u>

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**ORDER GRANTING RECEIVER’S FOURTH MOTION TO APPROVE CLAIMS**

This matter is before the Court on the Receiver’s *Fourth Unopposed Motion to Approve Claims* (the “Motion”). Because the Court is of the opinion that the Receiver’s Motion is well-taken, it is hereby **GRANTED**.

**IT IS HEREBY ORDERED** that the claims submitted by the Receiver in the Motion are approved based on the amounts listed in Exhibit “A” to the Motion.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
HONORABLE KEITH P. ELLISON