

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

KINETIC INVESTMENT GROUP, LLC and
MICHAEL SCOTT WILLIAMS,

CASE NO.: 8:20-cv-394

Defendants, and

KINETIC FUNDS I, LLC,
KCL SERVICES, LLC d/b/a LENDACY,
SCIPIO, LLC, LF 42, LLC, EL MORRO
FINANCIAL GROUP, LLC, and KIH, INC.,
f/k/a KINETIC INTERNATIONAL, LLC,

Relief Defendants.

RECEIVER'S MOTION FOR AUTHORIZATION TO EMPLOY
YIP & ASSOCIATES AS FORENSIC ACCOUNTANTS

Mark A. Kornfeld, Esq., as Receiver (the “**Receiver**”) appointed over Defendant Kinetic Investment Group, LLC and Relief Defendants Kinetic Funds, LLC, KCL Services, LLC d/b/a Lendacy, Scipio, LLC, LF 42, LLC, and KIH Inc., f/k/a Kinetic International, LLC (collectively, the “**Receivership Entities**”), pursuant to the Court’s March 6, 2020, Order Granting Plaintiff Securities and Exchange Commission’s Emergency Motion for Appointment of Receiver (the “**Order Appointing Receiver**”) (Doc. 34), hereby files his Motion for Authorization to Employ Yip & Associates (the “**Firm**”) as forensic accountants *nunc pro tunc* to March 6, 2020, and states as follows:

1. This action commenced on February 20, 2020, with the filing of the Securities and Exchange Commission’s (“**SEC**”) Complaint against Defendants and Relief

Defendants, the SEC's Emergency Motion and Memorandum of Law for Asset Freeze and Other Relief (Doc. 2), and the SEC's Emergency Motion and Memorandum of Law for Appointment of Receiver (Doc. 3).

2. Following a hearing on March 6, 2020, this Court entered the Order Appointing Receiver appointing Mark A. Kornfeld, Esq. as Receiver of all assets of the Receivership Entities. Pursuant to the Order Appointing Receiver, the Receiver is authorized to, among other things, "engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants...financial or business advisors,...forensic experts..." *See* Order Appointing Receiver at ¶¶ 7.F. and 61. Prior to engaging any such professionals, the Receiver must first obtain an Order of this Court authorizing such engagement. *See* Order Appointing Receiver at ¶ 52. Any professionals that the Receiver engages with this Court's approval are "entitled to reasonable compensation and expense reimbursement from the Receivership Estates as described in the 'Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission'... agreed to by the Receiver."

3. Accordingly, pursuant to the Order Appointing Receiver, the Receiver seeks this Court's approval to engage the Firm to provide forensic accounting and financial and business advice to the Receivership Entities and assist the Receiver in fulfilling his duties under the Order Appointing Receiver.

3. The Firm has extensive experience in forensic accounting, including receivership matters arising from SEC enforcement actions. Hal Levenberg, a Director with the Firm, will assume primary responsibility for this undertaking. Mr. Levenberg routinely concentrates on providing litigation and forensic investigation services to receivers in both state and federal receivership cases, including prior cases brought by the SEC, U.S. DOJ, and the IRS. Prior to

joining the Firm, Mr. Levenberg worked at a large forensic accounting firm that provided services to the court-appointed trustee in the liquidation of Bernard L. Madoff Securities. Mr. Levenberg will be supervised by Maria M. Yip, who is the founder and managing partner of the Firm. Ms. Yip has significant experience in forensic accounting, financial investigations, receiverships, and other fiduciary roles, and she also serves as a sitting United States Bankruptcy Panel Trustee. The Firm will not charge for travel time, lodging, airfare and any other travel time in Florida. Outside of Florida, the Firm will not charge for travel time and will only bill out-of-pocket expenses. The Firm is also certified as a minority-owned and women-owned firm.

4. In consideration for the services the Firm will provide to the Receiver, the Receiver proposes to pay the Firm fees based on the time expended by partners, directors, senior associates, and associates (based on fee applications to be filed by the Firm, payment of which is subject to this Court's approval). Mr. Levenberg, who is a director and will be primarily responsible for this matter, normally charges an hourly rate of \$395 but has agreed to cap his rate at \$295 which is the same rate charged by the Receiver's lead counsel. Ms. Yip has also agreed to discount her hourly rate from \$495 to \$395 to the extent her services are necessary. Finally, the Firm has agreed to discount the hourly rates charged by associates and senior associates to \$175 and \$220, respectively.

5. In the event the Receiver requires more specialized forensic accounting or tax services, including without limitation the preparation of expert reports and/or expert testimony or tax services beyond routine tax filings and the preparation of tax returns for the Estate and the Receivership Entities, the Receiver will seek authority from the Court to pay for such services at hourly rates equal or close to the standard hourly rates for the particular professionals at the Firm that will provide the services. In the alternative, the Receiver may seek Court approval to

retain other professionals with that specialized experience. The Firm has advised the Receiver that, whenever possible, the Firm will utilize associates and senior associates under the supervision of Mr. Levenberg and Ms. Yip.

6. The Receiver will take all steps to ensure that there is no duplication of efforts or expenses between or among any of the professionals he engages with the approval of this Court.

7. The Firm has informed the Receiver that it do not have any conflict with serving the Receiver in this case.

WHEREFORE, the Receiver respectfully requests that this Court enter the proposed Order attached as **Exhibit A**, authorizing the Receiver to employ Yip & Associates as forensic accountants and consultants for the Receiver, and for such other and further relief as the Court deems just and proper.

Dated: March 6, 2020.

QUARLES & BRADY LLP

/s/ Mark A. Kornfeld

Mark A. Kornfeld, Esq., as Receiver

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of March, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to the following counsel of record:

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/s/ Mark A. Kornfeld
Receiver

EXHIBIT A

UNITED STATES DISTRICT COURT
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**ORDER GRANTING RECEIVER'S MOTION FOR AUTHORIZATION TO EMPLOY
YIP & ASSOCIATES AS FORENSIC ACCOUNTANTS**

THIS CAUSE came before the Court on the Receiver's (the "**Receiver**") Motion for Authorization to Employ Yip & Associates as Forensic Accountants (Doc. ____), to provide forensic accounting services to the Receiver (the "**Motion**"). With the Court having considered the Motion, and finding that cause exists to grant the Motion, it is hereby ORDERED as follows:

1. The Motion is **GRANTED**.
2. The Receiver is authorized, *nunc pro tunc* to March 6, 2020, to engage Yip &

Associates to assist the Receiver in fulfilling his duties under the Order Appointing Receiver (Doc. 34).

DONE and ORDERED this ____ day of _____, 2020 in the Middle District of Florida.

UNITED STATES DISTRICT COURT JUDGE