

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-CIV-21964-CMA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

TCA FUND MANAGEMENT GROUP
CORP., *et al.*,

Defendants.

RECEIVER'S MOTION TO AMEND PRELIMINARY APPROVAL ORDER

Jonathan E. Perlman, Esq., court-appointed Receiver (the “**Receiver**”) over Defendants TCA Fund Management Group Corp. and TCA Global Credit Fund GP, Ltd., and Relief Defendants TCA Global Credit Fund, LP, TCA Global Credit Fund, Ltd., and TCA Global Credit Master Fund (collectively the “**Receivership Entities**”), by and through undersigned counsel, requests this Court amend its December 23, 2024 Order (i) preliminarily approving the settlement agreement among (1) the Receiver; (2) putative class representatives Todd Benjamin International, Ltd., Todd Benjamin, Zbynek Dvorak, and Fawzi Bawab (the “**Class Plaintiffs**”); (3) Grant Thornton Cayman Islands (“**GT Cayman**”) and Grant Thornton Ireland (“**GT Ireland**” and with GT Cayman, collectively “**Grant Thornton**”); (4) Robert Press (“**Press**”), Alyce Schreiber (“**Schreiber**”), William Fickling III (“**Fickling**”), Tara Antal (“**Antal**”), Bruce Wookey (“**Wookey**”), and Bernard Sumner (“**Sumner**”) (collectively the “**Former Officers and Directors**”); and (5) Eleanor Fisher and Joel Edwards, not individually but solely in their capacities as joint official liquidators of TCA Global Credit Fund, Ltd (the, “**JOLs**”); (ii)

approving the form and content of notice; (iii) setting a deadline to object to the settlement; and (iv) scheduling a final hearing to approve the settlement (the “**Order**”) [ECF No. 486], and states:

1. On December 20, 2024, the Receiver filed the *Receiver’s Motion To (I) Preliminarily Approve Settlement Among Receiver, Class Plaintiffs, Grant Thornton, JOLs, And Former Officers and Directors; (II) Approve Form and Content of Notice, and Manner and Method of Service and Publication; (III) Set Deadline to Object to Approval of Settlement; and (IV) Schedule a Hearing* [ECF No. 484] (the “**Motion to Approve**”).

2. On December 23, 2024, this Court granted the Motion to Approve and entered the Order, which set forth a 60-day deadline for members of the settlement class in the action styled *Todd Benjamin Int’l, Ltd. v. TCA Fund Mgmt. Group Corp.*, Case No. 1:20-CV-21808-RNS (S.D. Fla.) (the “**Class Action**”), to opt out and exclude themselves from the class, and scheduled a hearing to consider final approval of the settlement agreement for April 2, 2024. [ECF No. 486, ¶ 4].

3. Eleven days later, on January 3, 2025, Judge Scola in the Class Action entered the *Order Granting Preliminary Approval of Proposed Class Settlement* (the “**Class Action Order**”), which set forth a separate deadline to object or opt out of the settlement class. [Class Action, ECF No. 172]. The deadline to object or opt out under the Class Action Order is May 5, 2025. [Class Action, ECF No. 172, ¶¶ 14, 18].

4. This Court’s Order and the Class Action Order impose conflicting deadlines for members of the settlement class to object or opt out of the settlement and may cause confusion among those parties.

5. The Receiver believes, and the settling parties agree, that the settlement class member opt outs and any issues pertaining thereto should be decided by the court in the Class

Action and, as such, the May 5, 2025 deadline for members of the settlement class to opt out under the Class Action Order should control.

6. Accordingly, the Receiver requests that this Court amend the Order to remove the deadline for members of the settlement class to opt out and impose only a deadline for any party to file an objection to the Receiver's Motion to Approve within 60 days of the entry of an amended order. The Receiver does not propose altering the April 2, 2025 final hearing date or any other deadline under the Order. A copy of the Order with the Receiver's proposed redlines is attached as **Exhibit "A"**.¹

WHEREFORE, for the foregoing reasons, the Receiver respectfully requests that this Court enter an amended order (i) granting the Motion to Amend Order, (ii) eliminating the opt out deadline under the Order, (iii) imposing a 60-day deadline to object to the Motion to Approve, and (iv) granting further relief that is just and proper.

S.D. Fla. L.R. 7.1(A)(3) CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel for the Receiver conferred with counsel for the SEC on January 13, 2025, via email, regarding the requested relief and is authorized to represent that the SEC does not oppose the relief sought.

DATED: January 13, 2025.

Respectfully submitted,

Jonathan E. Perlman, Esq.
Florida Bar No. 773328
jperlman@venable.com
Receiver for the Receivership Entities

-and-

¹ The Receiver also seeks to correct a scrivener's error in the Receiver's address set forth in paragraph 4 of the Order.

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Attorneys for Jonathan E. Perlman, Receiver
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By: /s/ Gregory M. Garno
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served on all counsel of record identified on the attached Service List via transmission of Notices of Electronic Filing generated by CM/ECF and all affected and interested parties on this 13th day of January, 2025.

/s/ Gregory M. Garno
Attorney

SERVICE LIST

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Case No. 20-Civ-21964-CMA

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Grant Thornton Cayman Islands

Exhibit “A”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-21964-CIV-ALTONAGA

SECURITIES & EXCHANGE
COMMISSION,

Plaintiff,

v.

TCA FUND MANAGEMENT
GROUP CORP., *et al.*,

Defendants.

_____ /

ORDER

THIS CAUSE came before the Court upon the Receiver’s Motion to (I) Preliminarily Approve Settlement Among Receiver, Class Plaintiffs, Grant Thornton, Jols, and Former Officers and Directors; (II) Approve Form and Content of Notice, and Manner and Method of Service of Publication; (III) Set Deadline to Object to Approval Settlement; and (IV) Schedule Hearing [ECF] No. 484], filed by Jonathan E. Perlman, Esq., solely in his capacity as the court- appointed Receiver over TCA Fund Management Group Corp. and TCA Global Credit Fund GP, Ltd., TCA Global Credit Fund, LP, TCA Global Credit Fund, Ltd., and TCA Global Credit Master Fund, and over TCA Global Lending Corp (collectively the “**Receivership Entities**”) in the above-captioned civil enforcement action (the “**SEC Action**”). The Motion concerns the Receiver’s request for approval of a proposed settlement among: Todd Benjamin International, Ltd., Todd Benjamin, Zbynek Dvorak, and Fawzi Bawab (defined below as the “**Class Plaintiffs**”); the Receiver; Grant Thornton Cayman Islands (“**GT Cayman**”) and Grant Thornton Ireland (“**GT Ireland**” and with GT Cayman, collectively “**Grant Thornton**”); Eleanor Fisher and Joel Edwards, not individually but solely in their capacities as joint official liquidators of

TCA Global Credit Fund, Ltd (the, “**JOLs**”); and Robert Press, Alyce Schreiber, William Fickling III, Tara Antal, Bruce Wookey, and Bernard Sumner (collectively, the “**Former Officers and Directors**”), which is memorialized in the settlement agreement attached to the Motion as **Exhibit “A”**.

As used in this Order, the “**Settling Parties**” means: the Receiver; the Class Plaintiffs; Grant Thornton; the JOLs, and the Former Officers and Directors. Terms used but not defined in this Order have the meaning ascribed to them in the Settlement Agreement. To the extent there is any discrepancy between a defined term in the Settlement Agreement and the same defined term herein, the definition in the Settlement Agreement will control.

By his Motion, the Receiver seeks an order preliminarily approving the Settlement Agreement and establishing procedures to provide: (a) notice of the settlement and an opportunity to object and setting a deadline for any objections to the settlement; and (b) scheduling a hearing thereon. The Receiver also seeks final approval of the Settlement Agreement after the Court holds a hearing to consider final approval. After reviewing the terms of the Settlement Agreement, reviewing the Motion and its exhibits, and considering the arguments and proffers set forth in the Motion, it is

ORDERED AND ADJUDGED that the Motion is **GRANTED**. The Court preliminarily approves the Settlement Agreement and hereby establishes procedures for final approval of the Settlement Agreement as follows:

1. Preliminary Approval. Based upon the Court’s review of the Settlement Agreement, the Motion and its attachments, and upon the arguments and proffers set forth in the Motion, the Court preliminarily finds that the settlement is fair, adequate and reasonable, is a prudent exercise of the business judgment by the Receiver, and is the product of good faith,

arm's length and non-collusive negotiations between the Receiver, the Class Plaintiffs, Grant Thornton, the JOLs, and the Former Officers and Directors. The Court, however, reserves a final ruling with respect to the terms of the Settlement Agreement until after the Final Approval Hearing (defined below) occurs, or is cancelled pursuant to paragraph 6, below.

2. Notice. The Court approves the form and content of the notice attached as **Exhibits "C" and "D"** to the Motion (the "**Notice**"). Service and publication of the Notice in accordance with the manner and method set forth in this paragraph constitutes good and sufficient notice, and is reasonably calculated under the circumstances to notify all interested parties of the Motion, the Settlement Agreement, and the Class Settlement Motion, and of their opportunity to object thereto and attend the Final Approval Hearing (defined below) concerning these matters; furnishes all parties in interest a full and fair opportunity to evaluate the settlement and object to the Motion, the Settlement Agreement, the Class Settlement Motion, and all matters related thereto; and complies with all requirements of applicable law, including, without limitation, the Federal Rules of Civil Procedure, the Court's local rules, and the United States Constitution.

Accordingly:

- a. The Receiver is directed, within 30 days of the Class Preliminary Approval Order in the Class Action, to cause the Notice in substantially the same form as attached Exhibit "C" to the Motion to be served by electronic mail and/or US Mail, to all interested parties.
- b. The Receiver is directed to cause the Notice in substantially the same form as Exhibit "D" to the Motion to be published on the website maintained by the Receiver in connection with the SEC Action (www.tcafundreceivership.com) no later than 30 days before the Final Approval Hearing (defined below);
- c. The Receiver is directed to file with this Court written evidence of compliance with the subparts of this paragraph, which may be in the form of an affidavit or declaration.

3. **Final Hearing.** The Court will conduct a hearing in the United States District Court for the Middle District of Florida, Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Room 13-3, Miami, Florida, 33128, at 8:30 a.m. on April 2, 2025 (the “**Final Approval Hearing**”). The purposes of the Final Approval Hearing will be to consider final approval of the Settlement Agreement.

4. **Objection Deadline; Objections and Appearances at the Final Approval Hearing.** ~~Members of the Settlement Class who wish to opt out and exclude themselves from the Settlement Class may do so by submitting such request in writing consistent with the specification listed in the Notice no later than 60 days after the entry of this Order.~~ Any person who objects to the Motion or any of the relief related to any of the foregoing, must file an objection, in writing, with the Court within 60 days after the entry of this Order~~before the objection deadline~~. All objections filed with the Court must:

- a. Contain the objector’s name, address, email address, and telephone number;
- b. Provide the identity of all counsel representing the objector who will appear at the Final Approval Hearing;
- c. Identify of all counsel who represent the objector, including any former or current counsel who previously represented the objector and may be entitled to compensation for any reason related to the objection to the Settlement or the fee application;
- d. List the number of times in which the objector has objected to a receivership or class action settlement within the five (5) years preceding the date on which the objector files the objection;
- e. List the number of times in which the objector’s counsel and/or counsel’s law firm have objected to a receivership or class action settlement within the five (5) years preceding the date that the objector files the objection, the caption of each case in which the counsel or the firm has made such objections, and a copy of any

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orders related to or ruling upon counsel’s or the firm’s prior such objections that were issued by the trial and appellate courts in each listed case;

- f. Attach any and all agreements that relate to the objection or the process of objecting, whether written or verbal, between the objector or objector’s counsel and any other person or entity;
- g. State, in detail, all factual and legal grounds for the objection;
- h. Attach any document the Court should review in considering the objection and ruling on the Motion; and
- i. Include a list of any persons who will be called to testify in support of the objection;
- j. Include a statement confirming whether the objector intends to personally appear and/or testify; and
- k. Be signed by the objector (an attorney’s signature is not sufficient).

Subject to the discretion of this Court, no person will be permitted to appear at the Final Approval Hearing without first filing a written objection and requesting to appear at the hearing in accordance with the provisions of this paragraph. Copies of any objections filed must be served by email and regular U.S. mail on:

The Receiver:

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 Michael A. Friedman, Esq.
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Counsel for the Receiver

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Receiver

Class Plaintiffs:

Jeffrey C. Schneider
 Marcelo Diaz-Cortes

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LEVINE KELLOGG LEHMAN

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Any person failing to file an objection by the time and in the manner set forth in this paragraph will be deemed to have waived the right to object (including any right to appeal) and to appear at the Final Approval Hearing, and such person will be forever barred from raising such objection in this action or any other action or proceeding, subject to the discretion of this Court.

5. Responses to Objections. Any party to the Settlement Agreement may respond to an objection filed pursuant to this Order by filing a response in this Action. Any responses will be due 14 days after the filing of the objection. To the extent any person filing an objection cannot be served by the Court's CM/ECF system, a response must be served to the email address provided by that objector, or, if no email address is provided, to the mailing address provided.


6. Adjustments Concerning Hearing and Deadlines. The date, time and place for the Final Approval Hearing, and the deadlines and other requirements in this Order, may be subject to adjournment, modification or cancellation by the Court without further notice other than that which may be posted by means of the Court's CM/ECF system in the SEC Action. **If no objections are timely filed or if the objections are resolved before the hearing, the Court**

may cancel the Final Approval Hearing and enter a final order approving the Settlement Agreement.

7. **No Admission.** Nothing in this Order or the Settlement Agreement is or will be construed to be an admission or concession of any violation of any statute or law, of any fault, liability, or wrongdoing, or of any infirmity in the claims or defenses of the Settling Parties regarding the SEC Action, the action brought by the Class Plaintiffs, or any other case or proceeding.

8. **Jurisdiction.** The Court retains jurisdiction to consider all further matters relating to the Motion, without limitation, entry of an Order finally approving the Settlement Agreement.

DONE AND ORDERED in Miami, Florida, this 23rd day of December, 2024.



CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

cc: counsel of record

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 20-CIV-21964-CMA

SECURITIES AND EXCHANGE
COMMISSION,
Plaintiff,

v.

TCA FUND MANAGEMENT GROUP
CORP., *et al.*,

Defendants.

**ORDER GRANTING RECEIVER’S MOTION TO AMEND PRELIMINARY
APPROVAL ORDER**

THIS CAUSE, having come before the Court upon Jonathan E. Perlman’s, as court-appointed Receiver (the “Receiver”) Motion to Amend Preliminary Approval Order, and the Court having reviewed the file and the pleadings, and being otherwise fully advised in the premises, it is hereby **ORDERED AND ADJUDGED** that:

(1) The Receiver’s Motion to Amend Preliminary Approval Order [ECF No. ___] is **GRANTED**.

(2) Paragraph 4 of this Court’s December 23, 2024 Order (I) Preliminarily Approving Settlement Among Receiver, Class Plaintiffs, Grant Thornton, Jols, and Former Officers and Directors; (II) Approving Form and Content of Notice, and Manner and Method of Service of Publication; (III) Setting Deadline to Object to Approval Settlement; and (IV) Scheduling Hearing [ECF No. 486] is hereby **AMENDED** as follows:

4. Objection Deadline; Objections and Appearances at the Final Approval Hearing. Any person who objects to the Motion or any of the relief related to any of the

foregoing, must file an objection, in writing, with the Court within 60 days after the entry of this Order. All objections filed with the Court must:

- a. Contain the objector's name, address, email address, and telephone number;
- b. Provide the identity of all counsel representing the objector who will appear at the Final Approval Hearing;
- c. Identify of all counsel who represent the objector, including any former or current counsel who previously represented the objector and may be entitled to compensation for any reason related to the objection to the Settlement or the fee application;
- d. List the number of times in which the objector has objected to a receivership or class action settlement within the five (5) years preceding the date on which the objector files the objection;
- e. List the number of times in which the objector's counsel and/or counsel's law firm have objected to a receivership or class action settlement within the five (5) years preceding the date that the objector files the objection, the caption of each case in which the counsel or the firm has made such objections, and a copy of any orders related to or ruling upon counsel's or the firm's prior such objections that were issued by the trial and appellate courts in each listed case;
- f. Attach any and all agreements that relate to the objection or the process of objecting, whether written or verbal, between the objector or objector's counsel and any other person or entity;
- g. State, in detail, all factual and legal grounds for the objection;
- h. Attach any document the Court should review in considering the objection and ruling on the Motion;
- i. Include a list of any persons who will be called to testify in support of the objection;
- j. Include a statement confirming whether the objector intends to personally appear and/or testify; and
- k. Be signed by the objector (an attorney's signature is not sufficient).

Subject to the discretion of this Court, no person will be permitted to appear at the Final Approval Hearing without first filing a written objection and requesting to appear at the hearing in accordance with the provisions of this paragraph. Copies of any objections filed must be served by email and regular U.S. mail on:

The Receiver:

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Any person failing to file an objection by the time and in the manner set forth in this paragraph will be deemed to have waived the right to object (including any right to appeal) and to appear at the Final Approval Hearing, and such person will be forever barred from raising such objection in this action or any other action or proceeding, subject to the discretion of this Court.

DONE AND ORDERED, in chambers at Miami, Florida, this ____ day of _____,
20____.

HONORABLE CECILIA M. ALTONAGA
United States District Judge