

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

**RECEIVER GREGORY S. MILLIGAN’S MOTION TO APPROVE THE SALE AND PROCEDURES FOR THE SALE OF RIVERWALK CREDIT REPAIR, INC. AND RIVERWALK DEBT SOLUTIONS, INC.**

Receiver Gregory S. Milligan, with the consent of the Securities and Exchange Commission (the “SEC”) and the Office of the United States Attorney for the District of Maryland, respectfully submits this Motion to Approve The Sale and Procedures for the Sale of Riverwalk Credit Repair, Inc. and Riverwalk Debt Solutions, Inc. (the “Motion”). The facts and circumstances supporting this Motion are set forth in the Declaration of Gregory S. Milligan (the “Milligan Declaration”), which is attached as **Exhibit A**. In further support of this Motion, the Receiver states as follows:

**I. BACKGROUND**

1. Pursuant to the Receiver’s Initial Preservation Plan, the Receiver has identified the business operations and assets of Riverwalk Credit Repair, Inc. (“Riverwalk Credit”) and Riverwalk Debt Solutions, Inc. (“Riverwalk Debt”) (Riverwalk Credit and Riverwalk Debt are collectively the “Riverwalk Entities”) as property of the Receivership Estate. Dkt. No. 54, at 6, 14-15. Riverwalk Credit is a fee-based credit repair organization that offers credit analysis and credit repair services. Riverwalk Debt is also a fee-based service that assists borrowers with

student loans by providing loan analysis and financial solutions, including advising as to student loan consolidation and federal loan forgiveness programs. Although Riverwalk Debt and Riverwalk Credit are separate entities and provide different services, they function as a single company. *See* Ex. A, Milligan Declaration at ¶ 6.

2. The Riverwalk Entities are not appreciating in value. The Receiver believes that holding the Riverwalk Entities for any additional period of time will not result in a greater sale price at a later date. *See* Milligan Declaration at ¶ 7. Collectively, the Riverwalk Entities are a profitable enterprise on an accrual basis. Successful collection of accounts receivable is required to convert such accrual profits to cash profits benefitting the estate. *See* Milligan Declaration at ¶ 8.

3. Since the Receiver was appointed, he has engaged in a lengthy due diligence process with several potential buyers to solicit and identify those who may be interested in purchasing the Riverwalk Entities. To identify potential purchasers, the Receiver consulted with industry specialists and competitors of the Riverwalk Entities and conducted his own independent research. The Receiver has spoken with Riverwalk employees, competitors, and others who were interested in purchasing the Riverwalk Entities. The Receiver has engaged in extensive negotiations to sell the Riverwalk Entities with three separate purchasers. Each purchaser agreed to pay \$100,000 to acquire the Riverwalk Entities, but each negotiation fell through shortly prior to finalizing the agreement for various reasons. Jaxx Holdings, LLC has subsequently offered to purchase the Riverwalk Entities for \$100,000, whose offer is subject to this Court's approval and higher and better offers. The Receiver will continue to market the auction and sale of the Riverwalk Entities to those who have expressed an interest in acquiring the Riverwalk Entities and to those who may be interested in purchasing the Riverwalk Entities based on due diligence

conducted to date. *See* Milligan Declaration at ¶ 9.

4. Authorizing the proposed sale procedures and, ultimately, the sale of the Riverwalk Entities is consistent with the Receivership Order entered by this Court. The Receivership Order requires the Receiver to “manage, control, operate, and maintain the Receivership Estate and hold in his possession, custody, and control all Receivership Assets pending further Order of this Court.” Dkt. No. 62 at ¶ 8(D). It further requires the Receiver to “take such action as necessary and appropriate for the preservation of Receivership Assets or to prevent the dissipation or concealment of Receivership Assets.” *Id.* at ¶ 8(G).

5. The Receiver believes that the sale of the Riverwalk Entities at this time is in the best interest of the Receivership Estate to maximize the recovery and preservation of the Receivership Assets. The Riverwalk Sales Procedures detailed below will assist the Receiver by allowing him to maximize the sales proceeds received from the sale of the Riverwalk Entities while selling such property in an efficient and cost-effective manner.

## II. RELIEF REQUESTED

6. The Receiver seeks Court approval to sell the Riverwalk Entities, and approval of the procedures for the sale of the Riverwalk Entities (the “Riverwalk Sales Procedures”), as set forth in this Motion.

7. The Receiver’s proposed Riverwalk Sales Procedures consist of the following:

- a. Stalking Horse Contract. The Receiver has negotiated a purchase and sale agreement with Jaxx Holdings, LLC (the “Stalking Horse”) based on the Asset Purchase Agreement dated August 12, 2020 (the “Proposal”) attached as **Exhibit A-1**, subject to higher and better offers and approval of the Court. The stalking horse concept and bidding protections, such as break-up fees, are commonly used in bankruptcy cases where a public auction is

required. The stalking horse bidder reaches an agreement with the debtor to purchase assets prior to the auction of those assets. Because this bid will be exposed to higher and better bids at auction, the agreement typically provides for a break-up fee to compensate the stalking horse bidder for setting the floor at the auction, the time and any expense incurred in negotiating the terms of an initial proposed agreement, and exposing its bid to competing offers. Bankruptcy courts historically allow the payment of break-up fees because the stalking horse provides a benefit to the debtor's estate if there is a higher bid for the assets, which is the only instance in which the fee is paid. *See e.g.*, 3 Alan N. Resnick & Henry J. Sommer, COLLIER ON BANKRUPTCY § 363.02[6] (15th ed. 2008); Paul B. Lackey, *An Empirical Survey and Proposed Bankruptcy Code Section Concerning the Propriety of Bidding Incentives in a Bankruptcy Sale of Assets*, 93 COLUM. L. REV. 720 (1993). In this case, the Proposal provides for the payment of a \$5,000 break-up fee to the Stalking Horse in the event the Riverwalk Entities are sold to higher bidder.

- b. Notice of The Public Auction. Upon entry of an order approving the Riverwalk Sales Procedures, the Receiver will file with the Court and serve on all Known Parties of Interest a notice of the proposed auction. As used in this Motion, the term "Known Parties of Interest" shall mean: (i) all counsel and/or pro se parties of record who have registered to receive electronic service; (ii) all parties of record in this matter who have not registered to receive electronic service; and (iii) any known individuals or entities who hold an ownership interest in the Riverwalk Entities. Any Known Parties of Interest appearing in this case shall receive a copy of the notice and this Motion through the Court's CM/ECF filing system. All other Known Parties of Interest shall receive a copy of the notice and this Motion through regular U.S. Mail. The filed notice of the public auction will act as

formal legal notice of the proposed sale and will require all Known Parties of Interest with objections to the sale, or with claims to or against the property to be sold, to timely respond to the notice or be deemed to consent to the sale as set forth in the below paragraph 7(c). A form notice of the proposed auction (the “Notice”) is attached as **Exhibit B**. The Receiver will also post a copy of the Notice on the Receiver’s website for this case, *www.merrill-ledford.com*.

- c. Known Parties of Interests’ Opportunity to Object. The Receiver proposes that all Known Parties of Interest will have 30 days from the date the Notice is filed with the Court to assert any objection to the sale of the Riverwalk Entities. If a claim is made to or against the Riverwalk Entities, the claimant shall describe such claim in detail. The Receiver proposes that his reply to any claim against the Riverwalk Entities be due within fourteen (14) days of the date the claim was filed with the Court. If the Receiver fails to respond to the claim, the claim shall be deemed allowed, and the Riverwalk Entities shall be sold subject to the claim. The Notice will include the Stalking Horse’s purchase and sale agreement and other relevant purchase information the Receiver deems necessary to fully disclose the proposed transaction and will contain the following language directly below the title of the Notice:

Please take notice that the Receiver intends to sell Riverwalk Credit Repair, Inc. and Riverwalk Debt Solutions, Inc. (collectively the “Riverwalk Entities”) pursuant to the Court’s Order Granting the Motion to Approve Procedures for the Sale of Riverwalk Credit Repair, Inc. and Riverwalk Debt Solutions, Inc.

The sale of the Riverwalk Entities may adversely affect you. If you oppose the sale of the Riverwalk Entities or if you have a claim to or against the Riverwalk Entities, you should immediately contact the undersigned counsel for Receiver Gregory S. Milligan (the “Receiver”). If you and the Receiver cannot agree, you must file a written objection to the proposed auction no later than August \_\_,

2020, which is thirty days after this notice was filed with the Court (“objection deadline”). Your objection must state what claim you have to the Riverwalk Entities or why you object to the proposed auction.

The public auction is intended to occur on \_\_\_\_\_, which is no earlier than fourteen days after the objection deadline. Should any objections not be resolved by the date of the public auction, the Receiver will have the right to extend the auction date until all objections have been resolved. Please note that if you timely file a claim or objection and it is not resolved by the auction date, the sale may go forward with a determination of the extent, validity and/or priority of the alleged lien, claim or encumbrance to be made by the Court at a later date.

As indicated in the Notice, the Receiver proposes that the public auction will occur no earlier than fourteen days after the deadline for all Known Parties of Interest to assert any objection to the sale of the Riverwalk Entities.

- d. Competing Offers. Any individual or entity (each, a “Potential Bidder”) that wishes to participate in the bidding process for the purchase of any of the Riverwalk Entities must make a competing offer (a “Competing Offer”) on the terms and conditions substantially similar to the terms and conditions set forth in the purchase and sale agreement with the Stalking Horse and in accordance with the Riverwalk Sales Procedures. A Competing Offer must be submitted to the Receiver in the form of (a) a purchase and sale agreement showing the modifications from the agreement with the Stalking Horse; (b) a clean, executed copy of the purchase and sale agreement as proposed by the Potential Bidder; and (c) any other bid package requirements contained herein. The Competing Offer must contain conditions to closing no less favorable than the conditions contained in the purchase and sale agreement with the Stalking Horse. As outlined in the below paragraph, the Competing Offer will be submitted before the public auction.
- e. Submission of Competing Offers. Competing Offers should be submitted to the Receiver

at least five business days prior to the date of the public auction (the “Bid Deadline”) via electronic mail to Buffey Klein at Merrill.Ledford@huschblackwell.com. Any Potential Bidder that does not submit a Competing Offer by the Bid Deadline may, in the Receiver’s sole discretion, be prohibited from participating in the public auction.

- f. Accredited Bidders. Each Potential Bidder satisfying the requirements set forth in this paragraph shall be an Accredited Bidder. To be an Accredited Bidder, one must: (a) execute a confidentiality agreement; and (b) deliver financial information acceptable to the Receiver demonstrating the potential bidder can timely close a proposed transaction. The information must be provided to the Receiver prior to receipt by a Potential Bidder of any information regarding the Riverwalk Entities.
- g. Qualifying Bids. The Receiver shall determine when a Competing Offer submitted by an Accredited Bidder constitutes a “Qualifying Bid,” and in making that determination may consider the extent to which the Competing Offer complies with the following (the Receiver having the right to waive compliance with any of the following in his sole discretion):
  - i. such Competing Offer is received by the Receiver no later than the Bid Deadline;
  - ii. such Competing offer is in writing and sets forth the material terms and conditions for such Competing Offer;
  - iii. such Competing Offer is on terms and conditions substantially similar to or better than those contained in the purchase and sale agreement with the Stalking Horse;
  - iv. the cash to be paid pursuant to such Competing Offer exceeds, by an amount

to be determined by the Receiver, the total of (i) the purchase price to be paid by the Stalking Horse, and (ii) the break-up fee to be paid to the Stalking Horse;

- v. the Competing Offer contains no financing contingencies or due diligence contingencies of any kind or any other conditions precedent to the Accredited Bidder's obligation to purchase the Riverwalk Entities;
- vi. such Competing Offer remains open and irrevocable and unchangeable (except to increase the purchase price at the public auction) until it is either (i) accepted as the highest and best bid at the public auction and, if so accepted, through the closing of the sale of the Riverwalk Entities, or (ii) rejected at the close of the public auction upon such Competing Offer not having been selected as the highest and best bid;
- vii. such Competing Offer is accompanied, on or before the Bid Deadline, by a Good Faith Deposit (as defined below) equal to five percent of the bidder's Competing Offer;
- viii. such Competing Offer is not subject to the approval of the Accredited Bidder's board of directors or any other approval body of such Accredited Bidder; and
- ix. such Competing Offer contains evidence that the Accredited Bidder submitting the Competing Offer has cash on hand and/or has received debt and/or equity funding commitments sufficient, in aggregate, to finance the purchase contemplated thereby including, without limitation, either an unconditional lending commitment from a recognized banking institution



in the amount of such Competing Offer or the posting of an unconditional, irrevocable letter of credit from a recognized banking institution issued in favor of the Receiver in the amount of such Competing Offer.

- h. Qualified Bidders. “Qualified Bidders” are: (a) any Accredited Bidder that submits a Qualifying Bid to the Receiver in accordance with the terms of the Riverwalk Sales Procedures, and (b) the Stalking Horse.
- i. Good Faith Deposit. The cash deposit submitted by each Qualified Bidder in conjunction with its Qualifying Bid (each, a “Good Faith Deposit”), pursuant to these Riverwalk Sales Procedures, shall be held in trust by the Receiver and shall not be interest-bearing. The Good Faith Deposit of the Successful Bidder (as defined below) shall be applied against the purchase price of the Riverwalk Entities. The Good Faith Deposits of Qualified Bidders (other than the Successful Bidder) shall be returned within five Business Days after the conclusion of the public auction. If the Successful Bidder fails to consummate the sale because of a breach or failure to perform on the Successful Bidder’s part, the Good Faith Deposit of such Successful Bidder shall be forfeited to the Receiver. However, such forfeiture shall not be the Receiver’s sole remedy against such Successful Bidder for breach and failure to consummate the sale. The Receiver shall have all other rights and remedies, at law or in equity, against such Successful Bidder, including the remedy of specific performance.
- j. The Public Auction. If any Qualifying Bids are received by the Bid Deadline, the Receiver will conduct a public auction at a date, time, and location, to be determined by the Receiver and to be disclosed in the Notice. In setting the auction date, the Receiver may, but is not required to, take into consideration the convenience of the parties that have expressed an

interest in purchasing the Riverwalk Entities and other factors. Moreover, the auction will not occur until at least fourteen days after the deadline for Known Parties of Interest to assert any claims to the Riverwalk Entities or objections to the sale of the Riverwalk Entities. In determining the location, the Receiver will consider whether to hold the auction virtually given limitations to appear in person because of COVID-19. The date, time, or place of the auction may be changed with the agreement of the Receiver, the Qualifying Bidders and any objecting Known Parties of Interest. If there is a change to the auction's date, time, or place, the Receiver will file with the Court a notice identifying the new date, time, or place.

- k. Conduct of Auction. During the public auction, bidding shall begin with the highest Qualifying Bid and continue in minimum increments that shall be specified by the Receiver prior to the commencement of bidding. The public auction will continue until no other Qualified Bidder wishes to increase its Qualifying Bid to more than the minimum increment greater than the previous Qualifying Bid.
- l. Evaluation of Bids at Auction. The Qualified Bidder that submits the highest and best bid, as determined by the Receiver in his sole discretion, shall be deemed the "Successful Bidder." The highest and best bid may be determined by considering, among other things:
  - i. the number, type and nature of any changes to the purchase and sale agreement of the Stalking Horse (or, if the sale is pursuant to paragraph 9(o), a form of purchase and sale agreement satisfactory to the Receiver) requested by each Qualified Bidder;
  - ii. the purchase price;
  - iii. the likelihood that a Qualified Bidder can, and will, close the proposed

transaction;

- iv. the net benefit to the Receivership Estate, taking into account the Stalking Horse's right to the breakup fee (as described in paragraph 9(a)); and
- v. such other factors as the Receiver may deem relevant in his sole discretion.

Immediately following the close of the public auction, the Successful Bidder, if it has not already done so, shall complete and sign all agreement(s), contract(s), instrument(s) or other document(s) evidencing and containing the terms and conditions upon which the highest and best bid was made.

- m. Amendment of Riverwalk Sales Procedures. The Receiver may: (a) impose at or before the public auction such other and additional terms and conditions as he deems appropriate, and (b) adjourn the public auction to a later date and time.
- n. Closing the Sale and Payment of Breakup Fee. Upon the conclusion of the public auction, the Receiver shall, without need for further Court approval, proceed to close the sale with the Successful Bidder. If an entity other than the Stalking Horse is the Successful Bidder, immediately upon the Receiver's consummation of a sale to the Successful Bidder, the Receiver shall be obligated to immediately use the first proceeds from such sale to pay to the Stalking Horse the \$5,000 breakup fee. Except as provided in this paragraph with respect to the Stalking Horse, no other Qualified Bidder, Accredited Bidder, Potential Bidder or other party-in-interest shall be entitled to any breakup fee, expense reimbursement of its costs, expenses or professional fees incurred in connection with the sale and competitive bidding process for the Riverwalk Entities, including formulation and submission of any bid or any due diligence efforts, or breakup, termination or similar fee or payment. If no public auction occurs because no Qualifying Bids are received by the

Bid Deadline, then the Receiver shall, without need for further Court approval, proceed to close the sale with the Stalking Horse based on the terms in the Proposal and no earlier than seven (7) business days after the Bid Deadline.

- o. Private Sale. The Receiver reserves the right to seek authority from the Court to sell the Riverwalk Entities by a private sale if the best interests of the Receivership Estate would be served by a private sale.
- p. Sales Free and Clear. If no objection is filed, or if the Court approves the auction after an objection, the Receiver's sale of the Riverwalk Entities shall be free and clear of all liens, claims, and encumbrances, unless the Court orders that such liens, claims, or encumbrances shall attach to the proceeds of such auction. If any party asserts a lien, claim, or encumbrance on the Riverwalk Entities, and if the lien, claim or encumbrance is not resolved prior to the public auction, the public auction and closing may go forward, with the proceeds of such auction reserved until such time as a determination of the extent, validity and/or priority of the alleged lien, claim or encumbrance is made by the Court at a later date.
- q. Report of Sales Results. The Receiver shall, when reporting on the Receivership Estate generally, report on the results of any sale of the Riverwalk Entities that closed prior to the date of the report. The Receiver will also post a notice of completion of the auction process on the Receiver's website, [www.merrill-ledford.com](http://www.merrill-ledford.com), within thirty days after the closing of the sale of the Riverwalk Entities.

8. The Receiver has numerous assets to manage, preserve, and potentially liquidate in order to maximize the value of the Receivership Assets, including the Riverwalk Entities. Pursuant to the Receivership Order, the Receiver is to take such action as necessary and appropriate for the

preservation of all Receivership Assets and, if necessary and upon approval from the Court, to oversee an orderly liquidation to preserve the value of the Receivership Assets. *See* Milligan Declaration at ¶ 21; Dkt. No. 62 at ¶¶ 40, 42.

9. In the Receiver's business judgment, and pursuant to the Proposal, the proposed Stalking Horse has set a reasonable floor value for the assets of the Riverwalk Entities. *See* Milligan Declaration at ¶ 11. Allowing a sale of the Riverwalk Entities will result in a liquid asset for the Receivership Estate and will maximize the value of the Receivership Assets. Implementation of the Riverwalk Sales Procedures will enable the Receiver to sell the Riverwalk Entities in an orderly, efficient, and equitable manner and to maximize the proceeds received from the sale. The Receiver believes that adoption of the Riverwalk Sales Procedures and the sale of the Riverwalk Entities pursuant thereto is in the best interests of the Receivership Estate. *See* Milligan Declaration at ¶ 22.

### III. CONCLUSION

WHEREFORE, the Receiver respectfully requests that this Court enter an order: (i) granting this Motion; (ii) authorizing the Receiver to adopt and follow the Riverwalk Sales Procedures described in this Motion; (iii) authorizing the Receiver to sell the Riverwalk Entities, free and clear of liens, claims, and encumbrances (with such liens, claims, and encumbrances, if any, to attach to the sales proceeds), pursuant to the Riverwalk Sales Procedures; and (iv) granting such other relief as the Court deems just and proper.

Date: August 12, 2020.

Respectfully Submitted,

/s/ Lynn H. Butler

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*Counsel for Receiver Gregory S. Milligan*

**CERTIFICATE OF SERVICE**

On August 12, 2020, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court for the District of Maryland, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically through the Court's CM/ECF filing system for all parties who have registered to receive electronic service. Additionally, the foregoing document was served on the following parties not registered for Court's CM/ECF filing system as indicated below:

**Defendant Kevin B. Merrill (via U.S. Mail):**

Kevin B. Merrill, #64274-037  
FCI Allenwood Low  
Federal Correctional Institution  
P.O. Box 1000  
White Deer, PA 17887

**Defendant Jay B. Ledford (via U.S. Mail):**

Jay B. Ledford, #55055-048  
FCI Safford  
Federal Correctional Institution  
P.O. Box 9000  
Safford, AZ 85548

**Criminal Counsel for Defendant Kevin B. Merrill (via E-Mail and U.S. Mail):**

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jjaronica@duanemorris.com

**Criminal Counsel for Relief Defendant Amanda Merrill (via E-Mail and U.S. Mail):**

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Ian Herbert  
Miller & Chevalier Chartered  
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Washington, DC 20006  
aschmitt@milchev.com  
iherbert@milchev.com

**Relief Defendant Lalaine Ledford (via U.S. Mail):**

Lalaine Ledford  
10512 Courtney Cove Ave.  
Las Vegas, NV 89144  
lalainebarretto@yahoo.com

**Baltimore County Office of Law (via E-Mail and U.S. Mail):**

Susan B. Dubin  
Baltimore County Office of Law  
400 Washington Avenue  
Towson, Maryland 21204  
sdubin@baltimorecountymd.gov

**Dundalk United Methodist Church (U.S. Mail):**

Dundalk United Methodist Church  
c/o Edward F. Mathus  
6903 Mornington Road  
Baltimore, Maryland 21222

**Lienholders, Tax Assessors, and Other Interested Parties (U.S. Mail):**

Florida Community Bank, N.A.  
2325 Vanderbilt Beach Road  
Naples, Florida 34109



Mortgage Electronic Registration Systems, Inc.  
PO Box 2026  
Flint, Michigan 48501-2026

Collier County, Florida Tax Assessor  
3291 Tamiami Trail East  
Naples, Florida 34112

Maryland Department of Assessments & Taxation  
301 W. Preston Street  
Baltimore, Maryland 21201-2395

Branch Banking and Trust Company,  
A North Carolina Banking Corporation  
PO Box 1290  
Whiteville, North Carolina 28472

Talbot County, Maryland Finance Office  
Talbot County Courthouse  
11 North Washington Street, Suite 9  
Easton, Maryland 21601

HSBC Bank USA, National Association, as trustee of  
J.P. Morgan Alternative Loan Trust 2006-A5  
c/o Howard n. Bierman, Trustee  
c/o Select Portfolio Servicing, Inc.  
3815 Southwest Temple  
Salt Lake City, Utah 84115

Clark County, Nevada Tax Assessor  
500 S. Grand Central Parkway  
Las Vegas, Nevada 89155

First Financial Bank, N.A. Southlake  
3205 E. Hwy. 114  
PO Box 92840  
Southlake, Texas 76092

Hunter Kelsey of Texas, LLC  
4131 Spicewood Springs Road, Bldg. J-1A  
Austin, Texas 78759

Frost Bank, f/k/a The Frost National Bank  
c/o Michael J. Quilling  
Quilling, Selander Lownds, Winslett & Moser, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201

The City of Colleyville, Texas  
c/o Victoria W. Thomas  
Nichols, Jackson, Dilard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

Tarrant County, Texas Tax Assessor  
100 E. Weatherford  
Fort Worth, Texas 76196

J Trust  
c/o Hillary RE. Badrow, Trustee  
2801 Paramount Boulevard  
Amarillo, Texas 79109

Dallas Central Appraisal District  
2949 N. Stemmons Freeway  
Dallas, Texas 75247-6195

Bozeman West  
PO Box 1970  
15632 West Main Street  
Bozeman, Montana 59771-1970

Neil A. Patel  
5308 Burgandy Court  
Colleyville, Texas 76034

TIB – The Independent BankersBank  
350 Phelps Court, Suite 200  
PO Box 560528i  
Dallas, Texas 75356-0528

Wachovia Mortgage, FSB  
PO Box 659548  
San Antonio, Texas 78265-9548

Denton County Tax Assessor  
1505 E. McKinney Street  
Denton, Texas 76209-4525

Potter County, Texas Tax Assessor  
900 South Polk, Suite 106  
Amarillo, Texas 79101

Wells Fargo Home Mortgage  
P.O. Box 10335  
Des Moines, IA 50306

Albertelli Law  
Attn: Coury M. Jacocks  
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Irving, TX 75063

Samuel I. White, P.C.  
5040 Corporate Woods Drive, Suite 120  
Virginia Beach, VA 23462

*/s/ Lynn H. Butler*

\_\_\_\_\_  
Lynn H. Butler

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	Case No.: 1:18-cv-02844-RDB
v.	)	
	)	
KEVIN B. MERRILL, et al.,	)	
	)	
Defendants.	)	

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**DECLARATION OF GREGORY S. MILLIGAN IN SUPPORT OF RECEIVER  
GREGORY S. MILLIGAN’S MOTION TO APPROVE THE SALE AND  
PROCEDURES FOR THE SALE OF RIVERWALK CREDIT SOLUTIONS, INC.  
AND RIVERWALK DEBT SOLUTIONS, INC.**

Gregory S. Milligan declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the following is true and correct:

1. My name is Gregory S. Milligan and I am of sound mind and capable of making this Declaration. I have personal knowledge of the facts stated herein and they are true and correct.
2. I am an Executive Vice President of HMP Advisory Holdings, LLC, d/b/a Harney Partners and a Certified Turnaround Professional.
3. On September 13, 2018, the Court entered the Order Appointing Temporary Receiver (Dkt. No. 11) that appointed me as the receiver in this action for the estates of the receivership parties. On November 27, 2018, the Court entered the First Amended Order Appointing Temporary Receiver (Dkt. No. 62) (the “Receivership Order”) that identifies the Receiver’s authority and the receivership parties.
4. The Receivership Order requires me to “manage, control, operate, and maintain the Receivership Estate and hold in his possession, custody, and control all Receivership Assets pending further Order of this Court.” Dkt. No. 62 at ¶ 8(D).
5. The Receivership Order further requires me to “take such action as necessary and appropriate for the preservation of Receivership Assets or to prevent the dissipation or concealment of Receivership Assets.” Dkt. No. 62 at ¶ 8(G).

6. Riverwalk Credit Repair, Inc. ("Riverwalk Credit") and Riverwalk Debt Solutions, Inc. ("Riverwalk Debt") (collectively the "Riverwalk Entities") are property of the Receivership Estate. Dkt. No. 54 at 6, 14-15. Riverwalk Credit and Riverwalk Debt are separate entities and provide different services, but they function as a single company.
7. In my business judgment, the Riverwalk Entities are not appreciating in value such that holding the Riverwalk Entities for any period of time would result in a greater sale price at a later date.
8. Collectively, the Riverwalk Entities are a profitable enterprise on an accrual basis. Successful collection of accounts receivable is required to convert such accrual profits to cash profits benefitting the Receivership Estate.
9. I commenced due diligence and marketing efforts shortly after being appointed as Receiver to identify those who may be interested in purchasing the Riverwalk Entities and to gauge interest in the Riverwalk Entities. To identify potential purchasers, my team and I consulted with industry specialists and competitors of the Riverwalk Entities and conducted my own independent research. My team and I spoke with Riverwalk employees, competitors, and others who were interested in purchasing the Riverwalk Entities. I plan to continue to market the auction and sale of the Riverwalk Entities to those who have expressed an interest in acquiring the Riverwalk Entities and to those who may be interested in purchasing the Riverwalk Entities based on the due diligence conducted to date.
10. To date, I have engaged in extensive negotiations to sell the Riverwalk Entities with three separate purchasers. Each negotiation was close to resulting in a sale, subject to the Court's approval, but ultimately each negotiation fell through. One sale fell through shortly before drafting a more extensive purchase and sale agreement. One sale fell through after a stalking horse contract was negotiated and signed but before a motion was submitted to the Court requesting approval of the sale. The third sale fell through after a purchase and sale agreement had been negotiated and a motion prepared requesting this Court's approval of the sale and sales process.
11. I have since negotiated another agreement to sell the Riverwalk Entities. Jaxx Holdings, LLC ("Jaxx Holdings") has agreed to purchase the Riverwalk Entities as proposed in the purchase and sale agreement (the "Proposal") attached as Exhibit A-1. Jaxx Holding's offer is subject to approval of the Court and higher and better offers. Jaxx Holdings will further serve as a stalking horse ("Stalking Horse") as it relates to seeking higher and better offers. In my business judgment and based on my negotiations with the other potential purchasers, the Proposal sets a reasonable floor for the sale of the Riverwalk Entities.
12. Through the Motion, I am seeking Court approval to sell the Riverwalk Entities pursuant to the procedures proposed in the motion, *i.e.* the "Riverwalk Sales Procedures".

13. As provided in the Motion, the Riverwalk Entities are proposed to be sold through the Stalking Horse concept. As laid out more particularly-below, the Proposal will serve as a floor offer. Other individuals or entities who are interested in purchasing the Riverwalk Entities can submit competing offers before the public auction. Competing offers must meet certain terms to be allowed to participate in the public auction. The Riverwalk Entities will be sold to the highest and best bidder, as set forth in paragraph 17 *infra*, at the public auction.
14. Upon entry of an order granting the Motion or approving the Riverwalk Sales Procedures, I will file with the Court and serve on all Known Parties of Interest a notice of the proposed auction of the Riverwalk Entities and post a copy of the same on the Receiver's website, [www.merrill-ledford.com](http://www.merrill-ledford.com). The notice will contain language that is substantially the same as the notice attached to the Motion as Exhibit C. The notice will identify the date, time, and location of the public auction of the Riverwalk Entities. The auction date will be at least fourteen days after the deadline for Known Parties of Interest as that term is defined in the Motion to assert any claims to the Riverwalk Entities or objections to the sale of the Riverwalk Entities. In setting the auction, I will take into consideration the convenience of the parties that have expressed an interest in purchasing the Riverwalk Entities and whether to conduct the auction electronically or virtually given the limitations to appear in person because of COVID-19. If there is a change to the auction's date, time, or place, I will file with the Court a notice identifying the new date, time, or place. In my business judgment, this proposed method will be far less expensive, but just as effective as publication of the Notice by other means.
15. As proposed in the Motion, any person or entity who wishes to purchase the Riverwalk Entities can submit a competing offer prior to the ultimate auction of the Riverwalk Entities. To submit a competing offer, the person or entity must submit to me (a) a purchase and sale agreement showing the modifications from the agreement with the Stalking Horse; (b) a clean, executed copy of the purchase and sale agreement as proposed by the potential bidder; and (c) any other bid package requirements as identified in the Motion. The competing offers must be submitted at least five business days prior to the date of the public auction.
16. A competing offer must constitute a qualifying bid, and the public auction will commence with the highest qualifying bid. To constitute a qualifying bid, the bid must meet the requirements as set forth in paragraph 7(g) of the Motion.
17. I will conduct a public auction on the date identified in the notice of the public auction if any qualifying bids are received by the Bid Deadline as that term is defined in the Motion. As proposed in the Motion, bidding will begin with the highest qualifying bid and will continue in minimum increments that will be set prior to the commencement of the bidding. The bidding will continue until no other bidder wishes to increase its bid by the minimum required increment.

18. The qualified bidder that submits the highest and best bid, as determined by my business judgment, will be deemed the successful bidder. In determining what is the highest and best bid, I will consider, among other things, the factors identified in paragraph 7(1) of the Motion. I will proceed to close the sale with the successful bidder upon conclusion of the auction.
19. If the successful bidder is not the Stalking Horse, then the Stalking Horse will be entitled to a \$5,000 break-up fee. A break-up fee is a common term in sales which utilize the stalking horse sale strategy. I have participated in several other sales where the stalking horse concept has been utilized. In my experience, stalking horse bidders are routinely provided a break-up fee if they are not the successful bidder. A break-up fee is used to compensate the stalking horse bidder for setting the floor at the auction, the time and any expense incurred in negotiating the terms of the initial proposed agreement, and exposing its bid to competing offers. The Riverwalk Sales Procedures require that any competing offers must be for a minimum of \$105,000. The minimum competing offer bid was set at \$105,000 so that any competing offer will cover the cost of the Stalking Horse's break-up fee. In my business judgment and after considering the above factors, the payment of the break-up fee to the Stalking Horse is worthwhile if ever applicable.
20. As proposed in the Motion, if no qualifying bids are received by the Bid Deadline as that term is defined in the Motion, then I will proceed to close the sale with the Stalking Horse based on the terms in the Proposal. I will not close on the sale with the Stalking Horse until seven (7) days after the Bid Deadline.
21. In the quarterly report following the closing of the sale of the Riverwalk Entities, I will include the results of the sale of the Riverwalk Entities.
22. I have numerous assets to manage, preserve, and potentially liquidate for the benefit of the Receivership Estate, including the Riverwalk Entities. Pursuant to the Receivership Order, I am required to take such action as necessary and appropriate for the preservation of all Receivership Assets. Dkt. No. 62 at ¶¶ 40, 42.
23. Implementation of the Riverwalk Sales Procedures will enable me to sell the Riverwalk Entities in an orderly, efficient, and equitable manner and to maximize the proceeds received from such sale. I believe that adoption of the Riverwalk Sales Procedures and the sale of the Riverwalk Entities pursuant thereto is in the best interest of the Receivership Estate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 12, 2020.

  
\_\_\_\_\_  
GREGORY S. MILLIGAN



# **EXHIBIT A-1**

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “**Agreement**”), dated as of August \_\_, 2020, is entered into between Riverwalk Credit Repair, Inc., a Delaware corporation and Riverwalk Debt Solutions, Inc., a Delaware corporation (“**Sellers**”) and Jaxx Holdings, LLC (“**Buyer**”).

### RECITALS

**WHEREAS**, Sellers wish to sell to Buyer, and Buyer wishes to purchase from Sellers, the rights of Sellers to the Purchased Assets (as defined herein), subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I PURCHASE AND SALE

**Section 1.01 Purchase and Sale of Assets.** Subject to the terms and conditions set forth herein, Sellers shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase from Sellers, all of Sellers’s right, title and interest in the assets set forth on **Exhibit “A”** attached hereto (the “**Purchased Assets**”), free and clear of any mortgage, pledge, lien, charge, security interest, claim or other encumbrance (“**Encumbrance**”) except as otherwise provided herein. Notwithstanding any other provision of this Agreement to the contrary, the Purchased Assets shall not include any assets, properties or rights not specifically identified in Exhibit “A,” including, but not limited to, (a) all of Sellers’ cash and cash equivalents on hand and in banks or other financial institutions, (b) all accounts or accounts receivable of Sellers where services to such client(s) have been completed by Sellers, being all such accounts not listed on **Schedule 1.01**, which will be retained by Seller, (c) all bonds and licenses held by Sellers of any kind (d) refunds of any kind, including tax refund, and (e) all deposits of any kind or nature whatsoever (“**Excluded Assets**”).

**Section 1.02 No Liabilities.** Buyer shall not assume any liabilities or obligations of Sellers of any kind, whether known or unknown, contingent, matured or otherwise, whether currently existing or hereinafter created, except as provided on **Exhibit “B”** (“**Assumed Liabilities**”).

**Section 1.03 Purchase Price.** The aggregate purchase price for the Purchased Assets shall be \$100,000.00 (the “**Purchase Price**”). The Buyer shall pay the Purchase Price to Sellers as follows: (1) \$35,000 to be paid at the Closing (as defined herein) and (2) the remainder to be paid pursuant to the terms identified in the Promissory Note attached as **Exhibit “C”**. Each payment Buyer makes pursuant to this section shall be paid in cash, by wire transfer of immediately available funds in accordance with the wire transfer instructions set forth below:

Kevin B. Merrill, et al Estate  
Gregory S. Milligan, Receiver  
Frost Bank  
401 Congress Avenue

Austin, Texas 78701  
ABA: 114000093  
Account: 592081326

Until the Purchase Price has been paid in full, Buyer agrees that the Sellers shall have a lien against all of the Buyer's assets whether owned as of the Closing Date or acquired after the Closing Date ("**Secured Property**"). Buyer authorizes the Sellers to file a UCC Financing Statement (Form UCC1) (Rev. 04/20/11) with the Texas Secretary of State identifying the Secured Property as the collateral.

## ARTICLE II CLOSING

The closing of the transactions contemplated by this Agreement (the "**Closing**") shall take place simultaneously with the execution of this Agreement on the date of this Agreement (the "**Closing Date**"). The consummation of the transactions contemplated by this Agreement shall be deemed to occur at 12:01 a.m. on the Closing Date.

## ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers represent and warrant to Buyer that the statements contained in this ARTICLE III are true and correct as of the date hereof.

**Section 3.01 Organization and Authority of Sellers; Enforceability.** Sellers are corporations duly organized, validly existing and in good standing under the laws of the State of Delaware. Sellers have full corporate power and authority to enter into this Agreement and the documents to be delivered hereunder, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by Sellers of this Agreement and the documents to be delivered hereunder and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of Sellers. This Agreement and the documents to be delivered hereunder have been duly executed and delivered by Sellers, and (assuming due authorization, execution and delivery by Buyer) this Agreement and the documents to be delivered hereunder constitute legal, valid and binding obligations of Sellers, enforceable against Sellers in accordance with their respective terms.

**Section 3.02 No Conflicts; Consents.** The execution, delivery and performance by Sellers of this Agreement and the documents to be delivered hereunder, and the consummation of the transactions contemplated hereby, do not and will not: (a) violate or conflict with the certificate of incorporation, by-laws or other organizational documents of Sellers; (b) violate or conflict with any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Sellers or the Purchased Assets; (c) conflict with, or result in (with or without notice or lapse of time or both) any violation of, or default under, or give rise to a right of termination, acceleration or modification of any obligation or loss of any benefit under any contract or other instrument to which Sellers are a party or to which any of the Purchased Assets are subject; or (d) result in the creation or imposition of any Encumbrance on the Purchased Assets. Sellers represent, and Buyer acknowledges, that Sellers are required to obtain approval in Case No. 1:18-cv-02844-

RDB, *Securities and Exchange Commission vs. Kevin B. Merrill, et al.*, in the United States District Court for the District of Maryland (“SEC Action”) prior to Closing.

**Section 3.03 “Title to” Purchased Assets.** Sellers own and have good title to the Purchased Assets, free and clear of Encumbrances.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Sellers that the statements contained in this ARTICLE IV are true and correct as of the date hereof.

**Section 4.01 Enforceability.** This Agreement and the documents to be delivered hereunder have been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Sellers) this Agreement and the documents to be delivered hereunder constitute legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms.

**Section 4.02 No Conflicts; Consents.** The execution, delivery and performance by Buyer of this Agreement and the documents to be delivered hereunder, and the consummation of the transactions contemplated hereby, do not and will not violate or conflict with any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Buyer. No consent, approval, waiver or authorization is required to be obtained by Buyer from any person or entity (including any governmental authority) in connection with the execution, delivery and performance by Buyer of this Agreement and the consummation of the transactions contemplated hereby.

#### **ARTICLE V COVENANTS**

Following the Closing, each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the documents to be delivered hereunder.

#### **ARTICLE VI “AS IS” TRANSACTION**

BUYER HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ARTICLE III, NEITHER SELLERS NOR ANY OF THEIR AGENTS OR REPRESENTATIVES MAKE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE BUSINESS OR THE PURCHASED ASSETS, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION RELATING TO THE BUSINESS OR THE PURCHASED ASSETS, REPRESENTATIONS AS TO THE MERCHANTABILITY OR FITNESS OF THE PERSONAL PROPERTY OR ANY OTHER PORTION OF THE PURCHASED ASSETS FOR ANY PARTICULAR PURPOSE. WITHOUT IN ANY WAY LIMITING THE FOREGOING, SELLERS AND ALL OF ITS AGENTS AND REPRESENTATIVES HEREBY DISCLAIM ANY WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF

MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE PURCHASED ASSETS. BUYER FURTHER ACKNOWLEDGES THAT BUYER HAS CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL CONDITION OF THE PURCHASED ASSETS AND ALL OTHER MATTERS RELATING TO OR AFFECTING THE INTERESTS TO BE ACQUIRED BUYER DEEMED NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE PURCHASED ASSETS, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE III, BUYER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, BUYER WILL ACCEPT THE PURCHASED ASSETS AND OTHER INTERESTS TO BE ACQUIRED AT THE CLOSING “AS IS,” “WHERE IS,” AND “WITH ALL FAULTS” EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE III.

## **ARTICLE VII INDEMNIFICATION**

**Section 7.01 Survival.** All representations, warranties, covenants and agreements contained herein and all related rights to indemnification shall survive the Closing.

**Section 7.02 Indemnification By Sellers.** Sellers shall defend, indemnify and hold harmless Buyer from and against all claims, judgments, damages, liabilities, settlements, losses, costs and expenses, including attorneys’ fees and disbursements, arising from or relating to:

- (a) any inaccuracy in or breach of any of the representations or warranties of Sellers contained in this Agreement or any document to be delivered hereunder; or
- (b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Sellers pursuant to this Agreement or any document to be delivered hereunder.

**Section 7.03 Indemnification By Buyer.** Buyer shall defend, indemnify and hold harmless Sellers, its affiliates and their respective stockholders, directors, officers and employees from and against all claims, judgments, damages, liabilities, settlements, losses, costs and expenses, including attorneys’ fees and disbursements, arising from or relating to:

- (a) any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement or any document to be delivered hereunder; or
- (b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement or any document to be delivered hereunder.

**Section 7.04 Cumulative Remedies.** The rights and remedies provided in this ARTICLE VII are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

## **ARTICLE VIII MISCELLANEOUS**

**Section 8.01 Expenses.** All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

**Section 8.02 Break-Up Fee.** Buyer acknowledges its offer will be subject to higher and better offers to be solicited by Sellers. If Sellers receive from a third party a higher and better offer to purchase the Purchased Assets, and such third party offer is accepted and closes as provided by its terms and Buyer has not defaulted under this Agreement, then Buyer shall be entitled to receive from Sellers compensation in the fixed amount of \$5,000.00 for the time and expense associated with initial due diligence and negotiation of this Agreement and the value of serving as the “stalking horse” for Sellers’ marketing of the Purchased Assets, which payment shall be made to Buyer concurrently with the consummation of such third party sale.

**Section 8.03 Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 8.03):

If to Sellers:

Riverwalk Credit Solutions, Inc.  
Riverwalk Debt Solutions, Inc.  
c/o Gregory S. Milligan, Receiver  
P. O. Box 90099  
Austin, Texas 78709  
E-mail: gmilligan@harneypartners.com

If to Buyer:

Jaxx Holdings  
c/o Janet Wilson  
215 Saratoga Drive  
Hickory Creek, TX 75065

**Section 8.04 Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**Section 8.05 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

**Section 8.06 Entire Agreement.** This Agreement and the documents to be delivered hereunder constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and the

documents to be delivered hereunder, the Exhibits, the statements in the body of this Agreement will control.

**Section 8.07 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

**Section 8.08 No Third-party Beneficiaries.** Except as provided in ARTICLE VII, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 8.09 Amendment and Modification.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto.

**Section 8.10 Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**Section 8.11 Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction).

**Section 8.12 Submission to Jurisdiction.** Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may only be instituted in the SEC ction, and each party irrevocably submits to the exclusive jurisdiction of such court in any such suit, action or proceeding.

**Section 8.13 Waiver of Jury Trial.** Each party acknowledges and agrees that any controversy which may arise under this Agreement is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.

**Section 8.14 Specific Performance.** The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

**Section 8.15 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**SELLERS:**

**RIVERWALK CREDIT SOLUTIONS, INC.**

By: \_\_\_\_\_

Name: Gregory S. Milligan, Receiver

**RIVERWALK DEBT SOLUTIONS, INC.**

By: \_\_\_\_\_

Name: Gregory S. Milligan, Receiver

**BUYER:**

**JAX HOLDINGS, LLC**

By: Janet Wilson

Name: Janet Wilson

Its: Owner



**EXHIBIT "A"**

## PURCHASED ASSETS

Item	Description	Model or VIN #	Quantity	Additional Information
<b>Hardware</b>				
Computer Monitors & Power Cord	DELL 24"		80	
LG 32" Monitor	LG	M#:34UM69G	1	
Laminator	SCOTCH	TL902	1	
Large Standing File Cabinets (all supplies inside)			3	
Cubicles (Cabinets, Hangers, Ethernet Cables)			45	
Ping Pong Table	STIGA	T8723	1	
Conference Room Table			1	
Keyboards, Mouse, & Mouse Pads			52	
Projector, Remote, & Screen	VIVITEK	D963HD PLUS	1	
Television & Remote	SONY & SANYO	M#:(XBR-65X850E)(XBR-49X800E)(XBR-49X800E)(FW55D25FB)	4	
Old Time Clock			1	
Server	Not being used by DeVille		1	
IT-Server	DELL		1	
Surface Pro Laptops & Cord	MICROSOFT		2	
Dell Laptops & Power Cord	DELL	SN: 33V6PC2 SN: 3SK7PC2	2	
Standalone Printer & Power Cord	BROTHER	M#: MFC-L-2720DW	3	
Epson Scanner & Cord	EPSON		8	
Access Point	Wireless hubs / access points		2	
Training Tables			4	
Round Side Table			1	

Splitter Headsets	JABRA	265 Y-TRAINER	3	
Headsets			35	
Trashcans			50	
Wall Art			13	
Power Strips			13	
KVM Switch	A device that allows you to control multiple computers from one set of Keyboard, Video Monitor, and Mouse.	RJ8T01	3	
Lenovo & Power Cord			50	
Dell PC & Power Cord			10	
VGA Cable			50	
VGA Adapter			20	
HDMI Cable			20	
Display Port Cable			20	
Ethernet Cable			50	
Extension Cord			5	
Display Port to VGA			5	
Employee Chairs			52	
Conference Room & Mgr. Chairs			13	
Guest Chair	Chairs in office where guests can sit		8	
Docking Stations	PLUGABLE	UD-3900	2	
Benches & Side Table			3	
Network Switches	Network Hardware	(SF300-24) (B7VY2Y1) (FZ2X7F1) (GCT7VS1)	4	
Plants			4	
Mini Fridge	Currently in the Riverwalk conference room	28180500260	2	
Fridge	Samsung in the breakroom area	RT21M6213SG	1	

	labeled as Riverwalk.			
Microwave	Currently in the Riverwalk conference room	M1821357604	1	
Vacuum			1	
Manager Desks			4	
Manager Cubicles			2	
License Frames			30	
TV Wall Mount			2	
Moving cart			1	
White Folding Tables			3	
Standing Desks	Varidesk and other brands		8	
Scanner	Kyrocera-(Copy Machine & Scanner) Annual Contract with a Rate.- \$893.77/ per month over 60 Months.	SN: G996XLA1021	1	
<b>Software</b>				
Riverwalk 360 Software	In-house built software used for daily processing of client accounts, historical notes, etc.			
Riverwalk Debt Facebook	Linked to a current employee's personal Facebook account.			
Riverwalk Credit Facebook	Linked to a current employee's personal Facebook account.			
Twilio	This is the texting service built into the Riverwalk 360 software used to			

	send out information.			
MCB	Merchants Credit Bureau.			
Stratics	Texting service used to send out information.			
3CX	Telephone system			
AWS	Cloud-based storage system.			
Cpanel				
Gsuite	All Riverwalk emails.			
Riverwalkcredit.com	Hosted through Go Daddy			
Riverwalkdebt.com	Hosted through Go Daddy			
Certain Accounts Receivable	All accounts and accounts receivable for which future services to the client are required after the Closing Date, as identified in <b>Schedule 1.01</b>			

**EXHIBIT "B"**

ASSUMED LIABILITIES

Software				
3CX	Telephone system			
Gsuite	All Riverwalk emails.			
Riverwalkcredit.com	Hosted through Go Daddy			
Riverwalkdebt.com	Hosted through Go Daddy			
Twilio	Texting service built into the Riverwalk 360-software used to send out information.			
MCB	Merchants Credit Bureau.			
Stratics	Texting service used to send out information.			
AWS	Cloud-based			

	storage system			
Cpanel				

**EXHIBIT "C"**

PROMISSORY NOTE

**PROMISSORY NOTE**

Date: \_\_\_\_\_, 20\_\_.

Maker: Jaxx Holdings, LLC

Payee: Gregory S. Milligan, in his capacity as Receiver for Riverwalk Credit Repair, Inc. and Riverwalk Debt Solutions, Inc., as appointed in *Securities and Exchange Commission v. Kevin B. Merrill et al.*, Civil Action No. 1:18-cv-2844, United States District Court for the District of Maryland

Method of Payment/Performance: Maker shall make payments payable to Gregory S. Milligan, Receiver, by check or wire transfer on or before the 15th day of each month (“Due Date”) at the following address:

Harney Partners  
Attn. Gregory S. Milligan  
401 Congress Ave., Suite 1540  
Austin, Texas 78701.

or at such place as may be designated from time to time in writing by Payee or the holder of the Note.

Principal Amount: U.S.D. \$64,999.98

Annual Interest Rate on Unpaid Principal Interest shall not accrue on the principal amount owed unless it is not fully paid by the maturity date. If Maker owes any amount under this loan by the Maturity Date, as defined below, interest shall accrue on all unpaid amounts at an annual rate of 6.0% until the entire principal amount, all unpaid accrued interest, and any other amounts owing under the Note have been fully repaid.

Terms of Payment: The monthly principal payment equals \$7,222.22. The first payment is due on \_\_\_\_\_, 15, 2020 [to be identified upon closing].

Annual Interest Rate on Late Payments 6% per annum on any payment that is late by more than five (5) business days from the date it is due.

Maturity Date

[to be identified upon closing, but shall allow for nine monthly payments based on a full amortization of the amount owed]

For value received, Maker unconditionally promises to pay to the order of the Payee the total principal amount identified above together with interest, if required, as set forth in this Promissory Note. Maker agrees to execute any other document(s) that are necessary or become necessary to effectuate this Promissory Notes. Maker agrees to pay the principal by making monthly payments as required under the above section titled "Terms of Payment."

Maker shall default under this Promissory Note if it fails to make any payment when due under the terms of this Promissory Note or fails to comply with or perform any other term, obligation, covenant or condition contained in this note. If Maker defaults under the terms of this Promissory Note, Payee may provide written notice of the default and allow the Maker at least twenty (20) days to cure the default. If Maker fails to cure the default as requested by Payee, then the Payee may accelerate the maturity date and require Maker to immediately pay the full amount of principal which has not been paid and all accrued interest that is owed on that amount. The failure of Payee to send written notice of any default or to accelerate the Promissory Note's maturity date shall not be considered a waiver of Payee's right to do so. In the event Payee accelerates the balance due following Maker's default, interest shall accrue on the entire unpaid balance at the rate of 6% per annum.

If this Promissory Note is given to an attorney for collection, or if suit is brought to collect, enforce, or interpret this Promissory Note, or the Promissory Note is collected through probate, bankruptcy, or other judicial proceeding, then the Payee shall be entitled to all fees, costs, and expenses relating to such collection, enforcement, or interpretation of the Promissory Note, including, without limitation, reasonable attorney's fees in addition to other amounts due.

This Promissory Note may be prepaid without penalty, in whole or in part, and in such amounts as Maker may desire and from time to time as Maker sees fit, prior to the due dates hereunder. Any such prepayment hereunder shall be applied first to accrued unpaid interest, if any, owing on this Promissory Note and the balance to principal, and interest on that prepaid principal only shall immediately cease to accrue. Prepayment of a part of this Promissory Note shall not affect Maker's obligations to make subsequent payments required by the terms of this Promissory Note and shall not affect the accrual of interest on amounts that are not pre-paid.

This Promissory Note shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law principles thereof, and any applicable federal laws.

Unless applicable law requires otherwise, all notices and other communications required hereunder, if any, shall be in writing and shall be delivered in person or through the United States first class mail, to the parties at the addresses set forth below (which address may be changed by either party by writing delivered in accordance with these notice procedures):



If to Maker:

Jaxx Holdings, LLC  
c/o Janet Wilson  
215 Saratoga Dr.  
Hickory Creek, TX 75065

If to Payee:

Gregory S. Milligan  
c/o Buffy Klein  
Husch Blackwell LLP  
1900 N. Pearl St., Suite 1800  
Dallas, Texas 75201

Dated: August 12<sup>th</sup>, 2020

JAXX HOLDINGS, LLC

By: Janet Wilson

Its: Owner

Print Name: Janet Wilson

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

NOTICE OF PROPOSED AUCTION

Please take notice that the Receiver intends to sell Riverwalk Credit Repair, Inc. and Riverwalk Debt Solutions, Inc. (collectively the “Riverwalk Entities”) pursuant to the Court’s Order Granting the Motion to Approve Procedures for the Sale of Riverwalk Credit Repair, Inc. and Riverwalk Debt Solutions, Inc.

The sale of the Riverwalk Entities may adversely affect you. If you oppose the sale of the Riverwalk Entities or if you have a claim to or against the Riverwalk Entities, you should immediately contact the undersigned counsel for Receiver Gregory S. Milligan (the “Receiver”). If you and the Receiver cannot agree, you must file a written objection to the proposed auction no later than July \_\_, 2020, which is thirty days after this notice was filed with the Court (“objection deadline”). Your objection must state what claim you have to the Riverwalk Entities or why you object to the proposed auction.

The public auction is intended to occur on \_\_\_\_\_, which is no earlier than fourteen days after the objection deadline. Should any objections not be resolved by the date of the public auction, the Receiver will have the right to extend the auction date until all objections have been resolved. Please note that if you timely file a claim or objection and it is not resolved by the auction date, the sale may go forward with a determination of the extent, validity and/or priority of the alleged lien, claim or encumbrance to be made by the Court at a later date.

Receiver Gregory S. Milligan, of the firm Harney Partners (the “Receiver”), files this notice of his intention to sell the business operations and assets of Riverwalk Credit Solutions, Inc. and Riverwalk Debt Solutions, Inc. (collectively the “Riverwalk Entities”) pursuant to the Riverwalk Sales Procedures authorized by the Order Granting Receiver’s Motion to Approve Procedures for Sale of Riverwalk Credit Solutions, Inc. and Riverwalk Debt Solutions, Inc. (the “Order”) (Dkt. No. [ \_\_\_ ]).

**The Receiver has entered into a purchase and sale agreement with RG Capital, LLC (the “Stalking Horse”), a copy of which is attached hereto as Exhibit 1. The agreement provides for a break-up fee to cover costs and out-of-pocket expenses (including reasonable attorney’s fees) incurred by the Stalking Horse in connection with its due diligence.**

Any competing offers must be made pursuant to the terms and conditions set forth in the Riverwalk Sales Procedures approved by the Court on \_\_\_\_\_, 20\_\_ and should be received no later than five business days prior to the date scheduled for the public auction.

The Riverwalk Entities will be sold at public auction to be held on \_\_\_ day, \_\_\_\_\_, 2020 at \_\_\_:\_\_\_ .m. at \_\_\_\_\_. Sales will be for cash or cash equivalents. The Riverwalk Sales Procedures require bidders to post a deposit in cash or certified funds of no less than five percent (5%) of the bidder’s competing offer. Sales will be “AS IS” with no representations or warranties of any type and will close as soon as reasonably practicable, but no later than 30 days after the date of the auction.

Please note that if no qualifying bids are received, then the auction will not occur and the Receiver will close on the sale with the Stalking Horse.

The Receiver reserves the right to postpone or adjourn the auction, to accept any bid or to reject any and all bids that he deems not to be in the best interests of the Receivership Estate, or to withdraw the Riverwalk Entities at any time prior to the announcement of the completion of the auction. The Receiver’s acceptance of any bid is expressly conditioned on the successful bidder executing a purchase and sale agreement in form and content satisfactory to the Receiver and complying with the Riverwalk Sales Procedures.

In the event that no objection is filed within thirty (30) days of the date this notice is filed with the Court, the Receiver has authority, without further order of the Court, to consummate the transaction proposed in this notice.

To contact the Receiver’s counsel regarding an objection or for additional information related to this Notice, please contact Buffey Klein, c/o Penny Keller, at (512) 370-3458 (phone), (512) 479-1101 (fax), or [merrill.ledford@huschblackwell.com](mailto:merrill.ledford@huschblackwell.com).

Date: \_\_\_\_\_, 2020.

Respectfully Submitted,

/s/ Lynn H. Butler

Lynn H. Butler, *pro hac vice*  
HUSCH BLACKWELL LLP  
111 Congress Ave., Suite 1400  
Austin, TX 78701  
Tel: (512) 472-5456  
Fax: (512) 479-1101  
[lynn.butler@huschblackwell.com](mailto:lynn.butler@huschblackwell.com)

Buffey E. Klein, *pro hac vice*  
HUSCH BLACKWELL LLP  
1900 N. Pearl Street, Suite 1800  
Dallas, Texas 75201  
Tel: (214) 999-6100  
Fax: (214) 999-6170  
[buffey.klein@huschblackwell.com](mailto:buffey.klein@huschblackwell.com)

Brian P. Waagner, Fed. Bar No. 14954  
HUSCH BLACKWELL LLP  
750 17th Street, NW, Suite 900  
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Tel: (202) 378-2300  
Fax: (202) 378-2318  
[brian.waagner@huschblackwell.com](mailto:brian.waagner@huschblackwell.com)

*Counsel for Receiver Gregory S. Milligan*

**CERTIFICATE OF SERVICE**

On \_\_\_\_\_, 20\_\_\_, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court for the District of Maryland, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically through the Court's CM/ECF filing system for all parties who have registered to receive electronic service. Additionally, the foregoing document was served on the following parties not registered for Court's CM/ECF filing system as indicated below:

**Defendant Kevin B. Merrill (via U.S. Mail):**

Kevin B. Merrill  
Harford County Detention Center, #1335278  
1030 Rock Spring Rd.  
Bel Air, MD 21014

**Defendant Jay B. Ledford (via U.S. Mail):**

Jay B. Ledford, #1563752  
Howard County Department of Corrections  
7301 Waterloo Road  
Jessup, MD 20794

**Criminal Counsel for Defendant Kevin B. Merrill (via E-Mail and U.S. Mail):**

Elizabeth Genevieve Oyer  
Office of the Federal Public Defender  
100 S Charles St Ste 900 Tower II  
Baltimore, MD 21201  
liz\_oyer@fd.org

Maggie Grace  
Office of the Federal Public Defender  
100 S Charles St, Tower II, 9th Floor  
Baltimore, MD 21201  
maggie\_grace@fd.org

**Criminal Counsel for Defendant Jay B. Ledford (via E-Mail and U.S. Mail):**

Harry J Trainor, Jr  
Trainor Billman Bennett and Milko LLP  
116 Cathedral St Ste E  
Annapolis, MD 21401  
htrain@prodigy.net

**Criminal Counsel for Defendant Cameron R. Jezierski (via E-Mail and U.S. Mail):**

Joseph J Aronica  
Duane Morris LLP  
505 9th St NW Ste 1000  
Washington, DC 20004  
jjaronica@duanemorris.com

**Criminal Counsel for Relief Defendant Amanda Merrill (via E-Mail and U.S. Mail):**

Addy R. Schmitt  
Ian Herbert  
Miller & Chevalier Chartered  
900 16th St NW  
Washington, DC 20006  
aschmitt@milchev.com  
iherbert@milchev.com

**Relief Defendant Lalaine Ledford (via U.S. Mail):**

Lalaine Ledford  
10512 Courtney Cove Ave.  
Las Vegas, NV 89144

**Baltimore County Office of Law (via E-Mail and U.S. Mail):**

Susan B. Dubin  
Baltimore County Office of Law  
400 Washington Avenue  
Towson, Maryland 21204  
sdubin@baltimorecountymd.gov

**Dundalk United Methodist Church (U.S. Mail):**

Dundalk United Methodist Church  
c/o Edward F. Mathus  
6903 Mornington Road  
Baltimore, Maryland 21222

**Lienholders, Tax Assessors, and Other Interested Parties (U.S. Mail):**

Florida Community Bank, N.A.  
2325 Vanderbilt Beach Road  
Naples, Florida 34109

Mortgage Electronic Registration Systems, Inc.  
PO Box 2026  
Flint, Michigan 48501-2026

Collier County, Florida Tax Assessor  
3291 Tamiami Trail East  
Naples, Florida 34112

Maryland Department of Assessments & Taxation  
301 W. Preston Street  
Baltimore, Maryland 21201-2395

Branch Banking and Trust Company,  
A North Carolina Banking Corporation  
PO Box 1290  
Whiteville, North Carolina 28472

Talbot County, Maryland Finance Office  
Talbot County Courthouse  
11 North Washington Street, Suite 9  
Easton, Maryland 21601

HSBC Bank USA, National Association, as trustee of  
J.P. Morgan Alternative Loan Trust 2006-A5  
c/o Howard n. Bierman, Trustee  
c/o Select Portfolio Servicing, Inc.  
3815 Southwest Temple  
Salt Lake City, Utah 84115

Clark County, Nevada Tax Assessor  
500 S. Grand Central Parkway  
Las Vegas, Nevada 89155

First Financial Bank, N.A. Southlake  
3205 E. Hwy. 114  
PO Box 92840  
Southlake, Texas 76092

Hunter Kelsey of Texas, LLC  
4131 Spicewood Springs Road, Bldg. J-1A  
Austin, Texas 78759



Frost Bank, f/k/a The Frost National Bank  
c/o Michael J. Quilling  
Quilling, Selander Lownds, Winslett & Moser, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201

The City of Colleyville, Texas  
c/o Victoria W. Thomas  
Nichols, Jackson, Dilard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

Tarrant County, Texas Tax Assessor  
100 E. Weatherford  
Fort Worth, Texas 76196

J Trust  
c/o Hillary RE. Badrow, Trustee  
2801 Paramount Boulevard  
Amarillo, Texas 79109

Dallas Central Appraisal District  
2949 N. Stemmons Freeway  
Dallas, Texas 75247-6195

Bozeman West  
PO Box 1970  
15632 West Main Street  
Bozeman, Montana 59771-1970

Neil A. Patel  
5308 Burgandy Court  
Colleyville, Texas 76034

TIB – The Independent BankersBank  
350 Phelps Court, Suite 200  
PO Box 560528i  
Dallas, Texas 75356-0528

Wachovia Mortgage, FSB  
PO Box 659548  
San Antonio, Texas 78265-9548

Denton County Tax Assessor  
1505 E. McKinney Street  
Denton, Texas 76209-4525

Potter County, Texas Tax Assessor  
900 South Polk, Suite 106  
Amarillo, Texas 79101

Wells Fargo Home Mortgage  
P.O. Box 10335  
Des Moines, IA 50306

Albertelli Law  
Attn: Coury M. Jacocks  
2201 W. Royal Lane, Suite 155  
Irving, TX 75063

Samual I. White, P.C.  
5040 Corporate Woods Drive, Suite 120  
Virginia Beach, VA 23462

*/s/ Lynn H. Butler*

\_\_\_\_\_  
Lynn H. Butler