Objection Deadline: September 5, 2024 at 4:00 p.m. (Prevailing Eastern Time)
Hearing Date and Time: September 10, 2024 at 10:00 a.m. (Prevailing Eastern Time)

PILLSBURY WINTHROP SHAW PITTMAN LLP
31 West 52nd Street
New York, NY 10019-6131
Telephone: (212) 858-1000
Facsimile: (212) 858-1500
Patrick E. Fitzmaurice
Kwame O. Akuffo

Counsel for Successor GUC Recovery Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
JCK LEGACY COMPANY, *et al.*,	:	Case No. 20-10418 (MEW)
Debtors.[1]	:	(Jointly Administered)

SUCCESSOR GUC RECOVERY TRUSTEE'S MOTION FOR APPROVAL OF PLAN OF DISTRIBUTION OF GUC RECOVERY TRUST ASSETS

Yale Scott Bogen, as successor trustee (the "**Successor GUC Recovery Trustee**") of the JCK Legacy GUC Recovery Trust (the "**GUC Recovery Trust**") created under the GUC Recovery Trust Agreement (the "**Trust Agreement**") and the confirmed *First Amended Joint Chapter 11 Plan of Distribution of JCK Legacy Company and its affiliated Debtors and Debtors in Possession* (the "**Plan**") [ECF No. 879] files this motion (the "**Motion**") for entry of an order (the "**Proposed Order**") in the form attached as **Exhibit A**: (a) approving the plan of distribution attached as **Exhibit B** (the "**Distribution Plan**"), (b) authorizing a distribution of the GUC Recovery Trust Assets[2] in accordance with the Plan, and (c) authorizing, but not directing, one or more

[1] The Debtors in these chapter 11 cases and the last four characters of each Debtor's tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (5UZ1). The location of the Successor GUC Recovery Trustee's service address for purposes of these chapter 11 cases is: 500 E. Broward Blvd, Suite 1700 Fort Lauderdale, Florida 33394.

[2] Capitalized terms not defined in this introduction have the meaning ascribed to them in the Motion.

distributions of the GUC Recovery Trust Assets, and (d) grant such other relief as may be necessary and proper. In support thereof, the Successor GUC Recovery Trustee submits the *Declaration of Yale Scott Bogen* attached as **Exhibit C** and states the following:

JURISDICTION AND VENUE

1. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b), and the Court has jurisdiction over the matter under 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409. The bases for the relief requested are sections 105(a) and 1142(b) of title 11 of the United States Code (the "**Bankruptcy Code**") and Rule 3021 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and the Plan and Trust Agreement.

INTRODUCTION

2. Under the Plan, the GUC Recovery Trust's main asset, and the chief source of recovery for the GUC Recovery Trust's beneficiaries, is the trust's 77.5% share of a federal tax refund of $51,463,375. In June 2021, the Debtors filed tax returns requesting the refund because they were entitled to recover losses stemming from the sale of certain property and based on a worthless stock deduction. The refund request was approved and in March 2024, the Internal Revenue Service ("**IRS**") issued refund checks to the Plan Administration Trustee in the principal amount of $19,432,563 and $1,427,294 in interest.[3] On June 3, 2024, the Plan Administration Trustee received another refund in the principal amount of $5,873,435 and $536,250 in interest. The amounts received to-date represent a portion of the total refund requested (*i.e.*, $51,463,375), and the Plan Administration Trustee expects to receive the additional requested amounts, with interest. It is currently unknown when these additional amounts will be received.

[3] The Plan created the Plan Administrator Trust and the GUC Recovery Trust, both of which are respectively administered by the Plan Administration Trustee and the Successor GUC Recovery Trustee. *See* Plan § 6.6.

3. The timing of the estate's receipt of the refund was driven by, among other things, a year-long review by the IRS and the Congressional Joint Committee on Taxation (the "**JCT**") of the refunds sought by the Debtors. The GUC Recovery Trust has received its allocated share of the first two rounds of refund payments – after the deduction of certain amounts as provided for in the Plan – but those payments to the trust have not included an allocation of the interest received.

4. It is unknown whether the IRS will distribute the remaining balance of the refund owed in one or more rounds of payments. Regardless, the Successor GUC Recovery Trustee expects the Plan Administration Trustee to allocate and distribute to the GUC Recovery Trust its share of both the principal amount of the refund and any interest received. The current aggregate amount of the GUC Recovery Trust Assets is $20,122,283.19, which includes the $17,890,845 of tax refund proceeds received to-date. The total principal amount of tax refund proceeds are being held in an interest-bearing account for the benefit of the Recovering Beneficiaries and until the trustee commences distributions.

5. Now that the GUC Recovery Trust has begun to receive the funds to make distributions, the Successor GUC Recovery Trustee files this Motion to implement the Distribution Plan under which each GUC Recovery Trust beneficiary with an allowed general unsecured claim of $1,400 or more will receive a cash distribution representing approximately 3.5% of their allowed claims (the "**Recovering Beneficiaries**;" each a "**Recovering Beneficiary**").

6. Consistent with the terms of the Plan and the *de minimis* provisions in the Plan and the Trust Agreement, GUC Recovery Trust beneficiaries with contingent claims (the "**Contingent Beneficiaries**") and those with allowed unsecured claims of less than $1,400 will not receive a distribution (the "**Non-Recovering Beneficiaries**;" each a "**Non-Recovering Beneficiary**").

7. Among other things, the Distribution Plan will allow the Successor GUC Recovery Trustee to (a) identify beneficiaries with allowed unsecured claims equal to $1,400 or more and calculate their *pro rata* share of the GUC Recovery Trust Assets, (b) comply with tax reporting requirements, (c) direct the Distribution Agent to issue checks to the Recovering Beneficiaries, (d) retain undeliverable distributions for 180 days and if such undeliverable distributions are not claimed by the end of that period, return such undeliverable distributions to the GUC Recovery Trust, and (e) determine the remaining GUC Recovery Trust Assets and whether one or more additional distributions is necessary.

8. With this Motion, the Successor GUC Recovery Trustee seeks authorization to implement the Distribution Plan and permission, but not an obligation, to make one or more distributions to the Recovering Beneficiaries of their *pro-rata* share of the GUC Recovery Trust Assets before the full amount of the tax refund, and any related interest, is received.

9. The Distribution Plan is consistent with the Plan, Confirmation Order and the Trust Agreement, and will enable the Recovering Beneficiaries to receive distributions in a timely and efficient manner without further delay. Accordingly, the Successor GUC Recovery Trustee respectfully requests that the Court grant the Motion and approve the Distribution Plan.

BACKGROUND

A. Overview of the Debtors' Bankruptcy Cases

10. On February 13, 2020, The McClatchy Company and certain of its affiliates (the "**Debtors**") filed for bankruptcy under Chapter 11 of the Bankruptcy Code. The chapter 11 cases were jointly administered for procedural purposes, and some cases remain pending.

11. On April 28, 2020, the Debtors filed their schedules of assets and liabilities and statement of financial affairs, which were amended on June 16, 2020. *See* ECF Nos. 376 and 529.[4] The schedules identify a list of creditors such as non-qualified pension claimants holding general unsecured claims against the Debtors' estates.

12. On May 21, 2020, the Court entered an order setting July 10, 2020, at 5:00 p.m. (E.T.) (the "**Bar Date**"), as the deadline to file proofs of claim. *See* ECF No. 485. More than 2,500 claims were filed before and after the Bar Date. On August 7, 2020, the Court approved the sale of all of the Debtors' assets to SIJ Holdings, LLC (the "**Purchaser**"). *See* ECF No. 744.

13. After the Effective Date, the Plan Administration Trustee and the previous GUC Recovery Trustee filed objections to expunge, modify, reduce or reclassify claims against the Debtors' estates. *See* ECF Nos. 1278 and 1279. The previous GUC Recovery Trustee also pursued and resolved claim settlements. *See* ECF Nos. 1265, 1345 and 1474.

B. Plan and Confirmation Order

14. On September 25, 2020, the Court confirmed the Plan (the "**Confirmation Order**"), which became effective on September 30, 2020 (the "**Effective Date**"). *See* ECF No. 886. The Plan and Confirmation Order created the GUC Recovery Trust under the Trust Agreement. *See* Confirmation Order at 11; Plan § 6.20. Among other things, the Plan incorporated a settlement in which $4,587,500 in cash was paid into the GUC Recovery Trust to resolve claims against certain directors and officers of the Debtors (the "**D&O Settlement**").

15. The Plan provides that the GUC Recovery Trust shall be funded by:

> (a) Cash in the amount of $5,587,500 in the aggregate, comprised of (i) the Initial Purchaser Contribution of $400,000, which shall be transferred to the GUC Recovery Trust on the Effective Date, (ii) $4,587,500 in Cash, [constituting the D&O Settlement], and (iii)

[4] The Debtors original and amended schedules and statements can be found on the claims agent's website at: https://www.kccllc.net/mcclatchy.

> $600,000 in Cash funded by the proceeds of the Tax Refund[5] (prior to the distribution of any Net Tax Refund[6]) in accordance with Article 2.3, (b) 77.5% of the Net Tax Refund, (c) an undivided interest in the GUC Recovery Trust Causes of Action and the proceeds thereof, (d) the New Parent Equity[7]; and (e) any additional assets required to be transferred to the GUC Recovery Trust in connection with the Restructuring Transactions.

Plan § 1.97.

16. Under the Plan, the Contingent Beneficiaries are known as Holders of Allowed Second Lien Term Loan Claims in Class 3, and the Recovering Beneficiaries and Non-Recovering Beneficiaries are known as Holders of Allowed General Unsecured Claims in Class 5. *See* Plan §§ 4.3(c), 4.5(b). In general, Holders of Allowed General Unsecured Claims in Class 5 are entitled to receive their *pro rata* share of the GUC Recovery Trust Assets, and the Contingent Beneficiaries are entitled to receive a distribution from such assets only if Holders of Allowed General Unsecured Claims in Class 5 have been paid in full. *See id.*, § 4.3(c). That will not happen because the Holders of Claims in Class 5 will not be paid in full under the Distribution Plan.

C. <u>Tax Refund</u>

17. The Plan requires the Wind-Down Officer to file "appropriate tax returns and claims for the Tax Refund." Plan § 6.5. On June 1, 2021, the Plan Administration Trustee, as Wind-Down Officer, filed tax returns with the IRS and sought a refund of $51,463,375. The IRS approved the refund amount in September 2022, with the JCT adding its approval in November 2022. On March 6, 2024, the Wind-Down Officer received refund checks from the IRS in the aggregate amount of $20,472,237 (the "**<u>Initial Tax Refund</u>**"), consisting of $19,432,563 in

---

[5] Tax Refund "means any tax refund of the Debtors arising from the carryback of any net operating loss or capital loss (or similar attribute) from the taxable year of the Debtors that includes the Sale Transaction." Plan § 1.172.

[6] Net Tax Refund "means the proceeds of the Tax Refund, net of the Deferred Amounts." Plan § 1.116.

[7] New Parent Equity "means one share of common stock or functional equivalent thereof of Wind-Down Debtor JCK Legacy Company to be issued on the Effective Date to the GUC Recovery Trust." Plan § 1.117.

principal and $1,039,674 in interest. On June 3, 2024, the Plan Administration Trustee received additional refund proceeds in the principal amount of $5,873,435 and $536,250 in interest.

18. Under the Plan, certain fees and expenses of professionals, referred to as the Deferred Amounts,[8] must be deducted from the Initial Tax Refund prior to distribution of the net tax refund. This one-time deduction of fees and expenses consists of the following payments: (a) $500,000 to the Chatham Advisors;[9] (b) $100,000 to the Committee Advisors;[10] (c) $600,000 to the GUC Recovery Trust; and (d) reasonable fees and costs incurred by the Purchaser and/or the GUC Recovery Trust in pursuit of the tax refund. *See* Plan §§ 1.57 and 2.3.

19. The Deferred Amounts were deducted from the Initial Tax Refund resulting in a net refund amount of $17,412,376. On April 15, 2024, the Wind-Down Officer paid $13,494,591 to the GUC Recovery Trust and $3,917,785 to the Purchaser, representing their share of the net Initial Tax Refund. *See* Plan § 6.3. On June 5, 2024, Wind-Down Officer paid $4,396,254 of the second round of tax refund proceeds received to the GUC Recovery Trust after deducting statutory quarterly fees owed to the United States Trustee.

20. The Successor GUC Recovery Trustee has received an aggregate amount of $17,890,845 in principal amount of tax refund proceeds to-date (the "**Current Trust Refund**"). The Current Trust Refund is being held in an interest bearing account for the benefit of the Recovering Beneficiaries. Any additional tax refund proceeds received by the GUC Recovery

[8] Deferred Amounts do not include overhead costs incurred by the Purchaser and fees and expenses of Ernst & Young LLP, as tax services provider to the Debtors. *See* Plan § 1.57.

[9] Chatham Advisors mean "(i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, as counsel to the Chatham Parties, (ii) Quinn Emanuel Urquhart & Sullivan, LLP, as co-counsel to the Chatham Parties, and (iii) Ducera Partners LLC, as financial advisor to the Chatham Parties." Plan § 1.27.

[10] Committee Advisors mean "(a) Stroock & Stroock & Lavan LLP, as counsel to the Committee, (b) Berkeley Research Group, LLC, as financial advisor to the Committee, (c) Moelis & Company LLC, as investment banker to the Committee, and (d) Dundon Advisers LLC, as co-financial adviser to the Committee." Plan § 1.39.

Trustee, whether principal or interest, will be also deposited into an interest bearing account for the benefit of the Recovering Beneficiaries until distributed.

D. GUC Recovery Trust

21. On the Effective Date, the previous GUC Recovery Trustee was appointed to administer the GUC Recovery Trust, which was primarily created to reconcile general unsecured claims and distribute proceeds of the GUC Recovery Trust Assets to Holders of Allowed General Unsecured Claims in Class 5 and, if necessary, the Contingent Beneficiaries.

22. On June 23, 2023, the Successor GUC Recovery Trustee replaced the previous GUC Recovery Trustee. *See* ECF No. 1543. Under the Trust Agreement, the Successor GUC Recovery Trustee is authorized to represent the estate before any court on matters concerning the GUC Recovery Trust and take actions that are reasonably necessary to administer the GUC Recovery Trust and Plan. *See* Trust Agreement §§ 2.2(m) and (aa). The Successor GUC Recovery Trustee is also authorized to assist the Plan Administration Trustee with the filing and pursuit of the Tax Refund, calculate and make distributions to the GUC Recovery Trust's beneficiaries, including the Contingent Beneficiaries (as provided for in the Plan and Trust Agreement), withhold any distribution amount for purposes of tax collection (if necessary), implement the provisions of the Plan and Confirmation Order, and establish reserves as may be necessary or appropriate for distributions. *Id.* at §§ 2.2(j), (k), (p), (k), (l), (p) and (v).

23. On the Effective Date, the GUC Recovery Trust Assets were transferred to the GUC Recovery Trust. The current aggregate amount of the GUC Recovery Trust Assets is $20,122,283.19, inclusive of the Current Trust Refund and the remaining cash balance from the D&O Settlement previously transferred to the GUC Recovery Trust under the Plan, less expenses.

24. The GUC Recovery Trust Causes of Action were abandoned under the Plan,[11] and there is no value in the New Parent Equity (*i.e.*, Wind-Down Debtor JCK Legacy Company). Accordingly, those assets are not available for distribution.

E. Summary of Distribution Plan

25. The Distribution Plan is as follows:[12]

i. As of the Distribution Record Date,[13] there are approximately 1,800 general unsecured claims in Class 5 totaling $1,140,797,113.23. Based on the total principal amount of the GUC Recovery Trust's share of the expected tax refund, Holders of Allowed General Unsecured Claims equal to $1,400 or more (*i.e.*, the Recovering Beneficiaries) are expected to receive a distribution of 3.5% for such claims.

ii. Holders of Allowed General Unsecured Claims of less than $1,400 (*i.e.*, the Non-Recovering Beneficiaries) will not receive a distribution because distributions to such claimants would be *de minimis*. The Contingent Beneficiaries also will not receive a distribution because Holders of Claims in Class 5 will not be paid in full.

iii. The Successor GUC Recovery Trustee will determine each Recovering Beneficiary's *pro rata* share of the GUC Recovery Trust Assets and direct a distribution of such amount to each Recovering Beneficiary, except that distributions to Recovering Beneficiaries who are class members in the *Sawin* and *Becerra* class actions will be made to the class administrators for each of those class actions, and the class administrator shall make distributions to each class member according to court-approved class action settlements.

iv. Development Specialists, Inc. shall serve as distribution agent (the "**Distribution Agent**") and will issue checks to the Recovering Beneficiaries, except as provided in the

[11] *See* Plan § 6.13.
[12] If this paragraph is inconsistent with the Distribution Plan in **Exhibit B**, the terms therein shall control.
[13] The Successor GUC Recovery Trustee decided to use the Confirmation Date (i.e., Sept. 25, 2020) as the Distribution Record Date, which "means the date for determining which Holders of Allowed Claims are eligible to receive distributions under the Plan, which shall be (a) the Confirmation Date, or (b) such other date as designated by an order of the Bankruptcy Court." Plan § 1.70.

immediately preceding paragraph with respect to Recovering Beneficiaries who are class members in the *Sawin* and *Becerra* class actions. Each Recovering Beneficiary will receive their *pro rata* share of the GUC Recovery Trust Assets, and the actual distributions to the *Sawin* and *Becerra* class members shall be made by their class administrators.

v. The Successor GUC Recovery Trustee will issue W-9 Forms to obtain tax identification numbers from 400 or more Recovering Beneficiaries for whom he does not have tax identification numbers. Completed W-9 forms must be returned within sixty (60) days after issuance. Absent receipt, the Recovering Beneficiary will be subject to backup withholding.

vi. For the distributions to be made to the members of the *Sawin* and *Becerra* classes, undeliverable distributions shall remain with each class administrator, who shall make reasonable efforts to locate each individual class member of an undeliverable distribution until uncashed class settlement checks become 'residual funds.'

vii. With respect to the distributions to be made to the members of the *Sawin* and *Becerra* classes, all uncashed checks shall be deemed 'residual funds' 181 days after the date the check is issued, at which time such funds shall be returned to the Successor GUC Recovery Trustee and shall revest in the GUC Recovery Trust. The class administrators shall provide monthly reports regarding distributions and uncashed class settlement checks to the Successor GUC Recovery Trustee.

viii. For all other Recovering Beneficiaries, distributions returned as undeliverable shall remain with the Distribution Agent for sixty (60) days from the date that the check is returned. During such period, the Distribution Agent shall make no further distributions to such Recovering Beneficiaries until such Recovering Beneficiary submits a current address or the Successor GUC Recovery Trustee is able to locate an alternative address for such Recovering Beneficiary, at which time distribution(s) shall be made to such Recovering Beneficiary without interest, dividends or accruals of any kind.

ix. After the 60-day period, undeliverable distributions shall be returned to the GUC Recovery Trust until such distributions

are claimed. Distributions that remain unclaimed for six months following the initial distribution date shall become unclaimed property and revest in the GUC Recovery Trust.

x. Upon vesting of any residual funds and unclaimed distributions, the Recovering Beneficiary of an unclaimed distribution including any applicable class member of an uncashed class settlement check, shall be forever barred from asserting a claim against the GUC Recovery Trust, and all unclaimed distributions and the residual funds, if any, will become GUC Recovery Trust Assets.

xi. Forms 1099-NEC will be issued for distributions made to holders of (i) severance claims, (ii) non-qualified pension claims, (iii) other employee compensation claims, and (iv) certain vendor claims for services rendered. Forms 1099-MISC will be issued for distributions made to holders of defamation claims amounts of $600 or more.[14]

xii. Forms 1099 will not be issued for distributions made (i) to corporate payees, (ii) on unsecured notes (iii) to the Pension Benefit Guaranty Corporation ("**PBGC**"), (iv) to the members of the *Sawin* and *Becerra* classes, (v) to vendors for goods delivered, or (iv) on any distribution amount of less than $600.

xiii. The Successor GUC Recovery Trustee may, but is not required to, make one or more interim distributions to Recovering Beneficiaries from the GUC Recovery Trust Assets as the Successor GUC Recovery Trustee determines in his business judgment to be appropriate.

xiv. To the extent that the Successor GUC Recovery Trustee determines that any remaining GUC Recovery Trust Assets are insufficient to make further distributions to Recovering Beneficiaries, the remaining GUC Recovery Trust Assets, if any, shall be donated to Tina's Wish.

[14] The tax reporting is based on the current IRS guidelines for issuing information returns, and the Successor GUC Recovery Trustee is authorized to change who receives an information return based on the then current IRS guidelines for the year in which a distribution is made.

RELIEF REQUESTED

26. The Successor GUC Recovery Trustee seeks entry of the Proposed Order (a) approving the Distribution Plan, (b) authorizing distribution of the GUC Recovery Trust Assets to the Recovering Beneficiaries, (c) authorizing, but not directing, one or more distributions of the GUC Recovery Trust Assets, and (d) authorizing the Successor GUC Recovery Trustee to take all other actions necessary or appropriate to effectuate distributions to the Recovering Beneficiaries, and granting such other relief as may be necessary and proper.

BASIS FOR RELIEF

27. Section 1142(b) of the Bankruptcy Code provides that the Court is authorized to direct "any other necessary party . . . to perform any other act . . . that is necessary for the consummation of the plan." 11 U.S.C. § 1142(b). Section 105(a) of the Bankruptcy Code authorizes the Court to "issue any order, process or judgment that is necessary or appropriate to carry out the provisions" of the Bankruptcy Code. 11 U.S.C. § 105(a); *see also* Plan § 12(g) (Court retains jurisdiction to "issue and implement orders in aid of execution, implementation, or consummation of this Plan" under Bankruptcy Code sections 105(a) and 1142(b)). Bankruptcy Rule 3020(d) also empowers the Court to "issue any order necessary to administer the estate."

28. The Trust Agreement provides that the primary purpose of the GUC Recovery Trust "is to implement the provisions of the Plan and the Confirmation Order . . . and to administer the GUC Recovery Trust Assets and make distributions to" the Beneficiaries and the Contingent Beneficiaries, if appropriate. Trust Agreement § 1.3. In administering the GUC Recovery Trust, the Successor GUC Recovery Trustee is required to make reasonable efforts to collect the GUC Recovery Trust Assets, "make timely distributions, and not unduly prolong the duration of the GUC Recovery Trust." *Id.* at § 7.2. The Successor GUC Recovery Trustee (in his discretion) is

also authorized to carry out any other duties and obligations "reasonably necessary to accomplish the purpose of the GUC Recovery Trust under the Plan, the Confirmation Order" and the Trust Agreement. *Id.* at § 2.7.

The Court Should Approve the Distribution Plan

29. The Distribution Plan should be approved because it complies with the Plan, the Confirmation Order and the Trust Agreement, and provides for timely distributions to the Recovering Beneficiaries.

A. Distribution

i. Distribution of GUC Recovery Trust Assets

30. As of the Distribution Record Date, there are approximately 1,800 general unsecured claims, totaling $1,140,797,113.23. The GUC Recovery Trust Assets shall be distributed to the Recovering Beneficiaries with allowed claims equal to $1,400 or more, meaning some creditors will receive dividends of at least $50.00. The Contingent Beneficiaries will not receive a distribution because Holders of Claims in Class 5 will not be paid in full. The Non-Recovering Beneficiaries with allowed claims of less than $1,400 will not receive a distribution because they will not receive more than $50.00.

31. The decision to limit distributions to the Recovering Beneficiaries with allowed claims equal to $1,400 or more and exclude the Non-Recovering Beneficiaries because their allowed claims are less than $1,400 complies with the Plan and Trust Agreement's *de minimis* distribution provision. That provision provides that the GUC Recovery Trust need not "make a distribution on account of an Allowed Claim if . . . (ii) the distribution will result in a payment of less than $50.00 to the Holder of such Claim." Trust Agreement § 7.7. *See also* Plan § 9.6(f).

32. After excluding the Non-Recovering Beneficiaries, the Successor GUC Recovery Trustee will determine each Recovering Beneficiary's share of the GUC Recovery Trust Assets, and the Distribution Agent shall issue checks to the Recovering Beneficiaries, except that distributions to Recovering Beneficiaries who are members of the *Sawin* and *Becerra* classes will be made to their class administrators. For the class action members, the distribution framework is set forth in the court-approved class action settlements relating to *Lorianne Sawin et al. v. The McClatchy Co., et al.*, County of Sacramento (Super. Ct. Case No. 34-2009-00033950-CL-OE-GDS) ("**Sawin**"), and *Veronica Becerra et al. v. The McClatchy Co., et al.*, County of Fresno (Super. Ct. Case No. 08CECG04411 (KAG)) ("**Becerra**"). *See* ECF Nos. 1265 and 1474.

33. The *Sawin* and *Becerra* class settlements each provide that a class settlement amount shall be paid from the GUC Recovery Trust Assets and distributed to a class administrator (Simpluris, Inc. for *Sawin*, and CPT Group, Inc. for *Becerra*). The Distribution Agent shall distribute to each class administrator the *Sawin* and *Becerra* class' *pro rata* share of the GUC Recovery Trust Assets based on each class' allowed class settlement amount and each class administrator shall issue class settlement checks (after deducting certain expenses) to individual class members based on a formula set forth in each class settlement.

34. For avoidance of doubt, the exclusion of the Non-Recovering Beneficiaries with allowed claims of less than $1,400 will not affect the *Sawin* and *Becerra* classes because each class allowed claim is determined by the total amount owed to the entire class, rather than class members, individually. Finally, the Distribution Agent will directly distribute to class counsel for each class the class counsel award set forth in each class settlement.

ii. Undeliverable Distributions

35. Some distributions to Recovering Beneficiaries might be returned as undeliverable. In that case, the Distribution Agent is directed to not make further distributions until such Recovering Beneficiary submits a current address, "at which time all missed distributions shall be made to such [Beneficiary] without interest, dividends, or accruals of any kind." Plan § 9.6(d); Trust Agreement § 7.5. Undeliverable distributions shall remain with the Distribution Agent for sixty (60) days, at which time the Successor GUC Recovery Trustee shall make reasonable efforts to locate an alternative address for the affected Recovering Beneficiary. *See* Trust Agreement § 5.6(a) (the Successor GUC Recovery Trustee may "determine a Beneficiary's current address or otherwise locate a Beneficiary").[15]

36. Absent a current address or if the Successor GUC Recovery Trustee is unable to locate an alternative address for the affected Recovering Beneficiary after such period, undeliverable distributions shall be returned to the GUC Recovery Trust. *See id.*, § 7.5. Any distribution that remains unclaimed for six months following the initial distribution date shall revest in the GUC Recovery Trust and become unclaimed property as defined under section 347(b) of the Bankruptcy Code. *See id.*

37. Similar rules on undeliverable/unclaimed distributions apply to the *Sawin* and *Becerra* classes. Each class settlement contemplates the possibility of uncashed class settlement checks and provides that such checks shall be deemed 'residual funds' "on the hundred and eighty-first day (181) following distribution of the Net Settlement Amount by the Class Administrator," and that such funds "shall revert to the GUC Recovery Trust and be distributed in accordance with

[15] The Successor GUC Recovery Trustee's efforts to locate a Recovering Beneficiary shall not exceed 60 days. Beneficiaries are ultimately responsible for providing updated contact and mailing information to the Distribution Agent and the Successor GUC Recovery Trustee.

Sections 9.6 (d) and (e) of the Plan and Sections 7.5 and 9.3 of the Trust Agreement." ECF No. 1265, Exhibit A at 16; ECF No. 1474, Exhibit A at 15.

38. Upon vesting of such unclaimed distributions and the residual funds, the Recovering Beneficiary of an unclaimed distribution, including the applicable class member of an uncashed class settlement check, shall be forever barred from asserting a claim against the GUC Recovery Trust, and undeliverable distribution amounts and uncashed class settlement funds, if any, shall constitute GUC Recovery Trust Assets. *See* Trust Agreement § 7.5.

iii. Tax Reporting

39. The claims register consists of various allowed general unsecured claims, including scheduled non-qualified pension claims, qualified and other pension claims filed by PBGC, trade claims, defamation claims, landlord claims, and severance and other employee compensation claims. Under the Plan and the Trust Agreement, the GUC Recovery Trust must comply with tax reporting requirements under applicable law and all distributions are subject to such requirements. *See* Plan § 9.8; Trust Agreement § 7.4.

40. Section 1.6041-3 of title 26 of the Code of Federal Regulations provides that returns of information are not required for payments: (a) of bills for merchandise and similar charges; (b) to domestic and foreign corporations, partnerships, associations and insurance companies; (c) to the United States and any wholly-owned agency thereof; (d) of less than $600; (e) of reimbursable and substantiated expenses; (f) of interest on corporate bonds; and (g) persons on account of an individual retirement plan. *See* Treas. Reg. §§ 1.6041-3(c), (h), (j), (p). Information returns are required for payments of $600 or more. *See* Treas. Reg. § 1.6041-1.

41. The Successor GUC Recovery Trustee determined that a Form 1099 will not be issued for distributions made to domestic and foreign corporations, holders of unsecured notes,

PBGC, vendors for goods delivered, and in an amount of less than $600. Because the members of the *Sawin* and *Becerra* classes are expected to receive distributions of less than $600 on account of unreimbursed mileage expenses, Forms 1099 will not be issued to them.

42. Forms 1099-NEC will be issued for distributions of $600 or more made to holders of severance claims, scheduled non-qualified pension claims, other employee compensation claims, and vendor claims for services rendered. Forms 1099-MISC will be issued for distributions made to holders of defamation claims of $600 or more. Prior to issuing Forms 1099, the Distribution Agent will issue Forms W-9 to Recovering Beneficiaries subject to 1099 reporting for tax identification numbers and any updated addresses. The Successor GUC Recovery Trustee has already obtained tax identification numbers from multiple Recovering Beneficiaries subject to 1099 reporting and expects to issue additional Forms W-9 to about 400 or more Recovering Beneficiaries. Forms W-9 must be returned within sixty (60) days after issuance. Absent receipt of the requested information, the Recovering Beneficiary will be subject to backup withholding.

B. Distribution of GUC Recovery Trust Assets

43. The Successor GUC Recovery Trustee is contemplating making one or more interim distributions of GUC Recovery Trust Assets. Interim distributions will be made on the basis of the current amount of the GUC Recovery Trust Assets at the time such interim distribution is made and such distributions shall be made only to those Recovering Beneficiaries who would receive a recovery of $50.00 or more taking into account the allowed amount of their claim and the then current amount of the GUC Recovery Trust Assets. Any additional distributions to Recovering Beneficiaries will include 'true-up' payments so that payments will be made to Recovering Beneficiaries entitled to receive a recovery of $50.00 or more taking into account the total amount of GUC Recovery Trust Assets that have been distributed.

44. The Successor GUC Recovery Trustee is committed to making the largest possible distribution to Recovering Beneficiaries. Thus, the trustee has decided to commence distributions after receipt of additional tax refund proceeds instead of distributing the current amount of the GUC Recovery Assets to ensure that more Recovering Beneficiaries receive distributions and reduce administrative expenses. If the current amount of the GUC Recovery Trust Assets were distributed now, unsecured creditors with allowed claims equal to least $2,500 or more, instead of those with allowed claims of $1,400 or more, will receive a distribution. This means more Recovering Beneficiaries will be deemed Non-Recovering Beneficiaries and shall be excluded from recovery. This factor weighed heavily on the Successor GUC Recovery Trustee in considering whether to make distributions now and, if so, how many.

45. After any initial distribution, the Successor GUC Recovery Trustee may be required to make one or more distributions to Recovering Beneficiaries depending on the number and amount of all unclaimed distributions including uncashed class settlement checks. Multiple distributions are consistent with the Trust Agreement, which provides that "[a]t the conclusion of the term of the GUC Recovery Trust, the GUC Recovery Trustee shall distribute the remaining GUC Recovery Trust Assets, if any, in its reasonable discretion, including to a charitable organization, in accordance with the Plan, the Confirmation Order, and this Agreement." Trust Agreement § 9.3.

46. Consistent with the Plan and Trust Agreement, the Successor GUC Recovery Trustee proposes that additional distributions shall be made based on the expected rate of recovery as set forth above, without need of further Court approval, and those distributions may be further

limited to certain Recovering Beneficiaries.[16] To the extent the Successor GUC Recovery Trustee determines that additional distributions should not be made because of the *de minimis* amount of GUC Recovery Trust Assets as compared to the administrative cost of distributions, the remaining GUC Recovery Trust Assets, if any, shall be donated to The Honorable Tina Brozman Foundation for Ovarian Cancer Research ("**Tina's Wish**"), as permitted under the Trust Agreement. *See id*.

47. Tina's Wish is a non-profit charitable organization dedicated to funding groundbreaking scientific research for the prevention and early detection of ovarian cancer. The foundation was founded in 2008 in memory of a former bankruptcy judge in this Court, Tina L. Brozman, and has a platinum (highest) rating from Guidestar, an organization that specializes in reporting on non-profit organizations. The previous GUC Recovery Trustee served seven years as a board member of Tina's Wish. Bradley D. Sharp, his colleague and President & CEO of Development Specialists, Inc., currently serves on the board of Tina's Wish.

NOTICE

48. Notice of the Motion has been given to all parties on the master service list who have agreed to accept service by email, by email to Simpluris, Inc. and CPT Group, Inc., and by first-class mail to: (a) Office of the United States Trustee; (b) the Attorney General of the United States; (c) Office of the United States Attorney for the Southern District of New York; (d) the Internal Revenue Service; (e) PBGC; (f) the Contingent Beneficiaries; and (g) the Recovering Beneficiaries and Non-Recovering Beneficiaries; and (h) the IRS. The Successor GUC Recovery Trustee submits that such notice is sufficient and no other or further notice need be provided.

[16] Although it is too soon to determine which Recovering Beneficiary will not receive another distribution, the Successor GUC Recovery Trustee anticipates that the *Sawin* and *Becerra* classes may not receive a second distribution. The *Sawin* class consist of 4,963 individuals, and the *Becerra* class consist of 3,810 individuals. Thus, additional distributions to the members of each class (after certain fees and expenses are deducted) would be far under the *de minimis* distribution threshold under the Plan and the Trust Agreement.

CONCLUSION

For the foregoing reasons, the Successor GUC Recovery Trustee requests that the Court enter the Proposed Order and grant such other relief as the Court deems necessary and proper.

Dated: August 15, 2024
New York, New York

/s/ Patrick E. Fitzmaurice

PILLSBURY WINTHROP SHAW PITTMAN LLP
Patrick E. Fitzmaurice
Kwame O. Akuffo
31 West 52nd Street
New York, New York 10019
Telephone: (212) 858-1000
Facsimile: (212) 858-1500
patrick.fitzmaurice@pillsburylaw.com
kwame.akuffo@pillsburylaw.com

Counsel for Successor GUC Recovery Trustee

Objection Deadline: September 5, 2024 at 4:00 p.m. (Prevailing Eastern Time)
Hearing Date and Time: September 10, 2024 at 10:00 a.m. (Prevailing Eastern Time)

PILLSBURY WINTHROP SHAW PITTMAN LLP
31 West 52nd Street
New York, NY 10019-6131
Telephone: (212) 858-1000
Facsimile: (212) 858-1500
Patrick E. Fitzmaurice
Kwame O. Akuffo

Counsel for Successor GUC Recovery Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
JCK LEGACY COMPANY, *et al.*,	:	Case No. 20-10418 (MEW)
Debtors.[1]	:	(Jointly Administered)

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that Yale Scott Bogen, in his capacity as successor trustee of the JCK Legacy GUC Recovery Trust, filed the *Successor GUC Recovery Trustee's Motion for Approval of Plan of Distribution of GUC Recovery Trust Assets* (the "**Motion**") with the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**").

PLEASE TAKE FURTHER NOTICE that any objection to the Motion must be filed on or before **September 5, 2024 at 4:00 p.m. (ET)** (the "**Objection Deadline**") with the Bankruptcy Court, Courtroom 617, One Bowling Green, New York, New York 10004. At the same time, you must serve a copy of any objection by the Objection Deadline upon the undersigned counsel to the movant and to:

[1] The Debtors in these chapter 11 cases and the last four characters of each Debtor's tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (5UZ1). The location of the Successor GUC Recovery Trustee's service address for purposes of these chapter 11 cases is: 500 E. Broward Blvd., Suite 1700 Fort Lauderdale, Florida 33394.

(a) The Debtors, JCK Legacy Company, c/o FTI Consulting, Inc., 1201 W. Peachtree Street, NW, Suite 500, Atlanta, Georgia 30309, Attn.:Sean M. Harding (sean.harding@fticonsulting.com);

(b) Counsel for the Plan Administration Trustee, Skadden, Arps, Slate,Meagher & Flom LLP, One Manhattan West, New York, New York 10001, Attn.: Shana A. Elberg (shana.elberg@skadden.com) and Bram A. Strochlic (bram.strochlic@skadden.com), 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071, Attn.: Van C. Durrer, II (van.durrer@skadden.com), and Destiny N. Almogue (destiny.almogue@skadden.com) and 525 University Avenue, Palo Alto, California 94301 Attn.: Jennifer Madden (jennifer.madden@skadden.com);

(c) Co-counsel for the Plan Administration Trustee, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attn.: Albert Togut (altogut@teamtogut.com) and Kyle J. Ortiz (kortiz@teamtogut.com);

(d) The GUC Recovery Trust, c/o Development Specialists, Inc., 500 E. Broward Blvd. Suite 1700 Fort Lauderdale, Florida 33394, Attn.: Yale Scott Bogen (YBogen@DSIConsulting.com);

(e) The Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn.: Benjamin J. Higgins and Brian S. Masumoto; and

(f) Any party that has requested notice pursuant to Bankruptcy Rule 2002.

Only those objections made in writing and timely filed in accordance with the above procedures will be considered by the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE THAT, unless the telephonic hearing procedures set forth in General Order M-543 (Morris, C.J.) are amended, the hearing to consider the Motion shall be held **telephonically via Court Solutions LLC on September 10, 2024 at 10:00 a.m. (ET)** before the Honorable Michael E. Wiles in the Bankruptcy Court, Courtroom 617, One Bowling Green, New York, New York 10004. Instructions to register for Court Solutions can be found at https://www.nysb.uscourts.gov/sites/default/files/m543.pdf.

PLEASE TAKE FURTHER NOTICE THAT if you fail to object to the Motion in accordance with this Notice and by the Objection Deadline, the Bankruptcy Court may grant the relief requested in the Motion without further notice or a hearing.

Dated: August 15, 2024
New York, New York

/s/ Patrick E. Fitzmaurice

PILLSBURY WINTHROP SHAW PITTMAN LLP
Patrick E. Fitzmaurice
Kwame O. Akuffo
31 West 52nd Street
New York, New York 10019
Telephone: (212) 858-1000
Facsimile: (212) 858-1500
patrick.fitzmaurice@pillsburylaw.com
kwame.akuffo@pillsburylaw.com

Counsel for Successor GUC Recovery Trustee

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
JCK LEGACY COMPANY, *et al.*,	:	Case No. 20-10418 (MEW)
Debtors.[1]	:	(Jointly Administered)

ORDER GRANTING SUCCESSOR GUC RECOVERY TRUSTEE'S MOTION FOR APPROVAL OF PLAN OF DISTRIBUTION OF GUC RECOVERY TRUST ASSETS

Upon the motion of Yale Scott Bogen (the "**Successor GUC Recovery Trustee**"), as successor trustee of the JCK Legacy GUC Recovery Trust (the "**Motion**"), for entry of an order pursuant to sections 105(a) and 1142(b) of the Bankruptcy Code and Bankruptcy Rule 3020(d) (a) approving the Distribution Plan, (b) authorizing a distribution of the GUC Recovery Trust Assets to the Recovering Beneficiaries; (c) authorizing, but not directing, one or more distributions of the GUC Recovery Trust Assets; and (d) authorizing the Successor GUC Recovery Trustee to take all other actions necessary or appropriate to effectuate distributions to the Recovering Beneficiaries; and the Court having jurisdiction under 28 U.S.C. §§ 157 and 1334 to consider the Motion and relief requested; and the Motion and relief requested being a core proceeding under 28 U.S.C. § 157(b)(2); and venue being proper before this Court under 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and it appearing that no other notice is needed; and such relief being in the best interests of the Debtors' estates and their creditors, and

[1] The Debtors in these chapter 11 cases and the last four characters of each Debtor's tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (5UZ1). The location of the Successor GUC Recovery Trustee's service address for purposes of these chapter 11 cases is: 500 E, Broward Blvd. Suite 1700 Fort Lauderdale, Florida 33394.

the GUC Recovery Trust[2]; and the Court having considered all papers submitted; and for good cause shown;

It is hereby **ORDERED** that:

1. The Motion is **GRANTED** to the extent set forth therein.

2. The Distribution Plan is **APPROVED**.

3. The Successor GUC Recovery Trustee is authorized to make distributions to Holders of Allowed General Unsecured Claims who will receive distributions of their *pro rata* share of the GUC Recovery Trust Assets of $50.00 or more.

4. Holders of Allowed Second Lien Term Loan Claims shall not receive a distribution from the GUC Recovery Trust Assets.

5. The Successor GUC Recovery Trustee is authorized, but not directed, to make one or more distributions of the GUC Recovery Trust Assets to the Recovering Beneficiaries.

6. The Successor GUC Recovery Trustee is authorized to donate any remaining GUC Recovery Trust Assets to the Honorable Tina Brozman Foundation for Ovarian Cancer Research.

7. The Successor GUC Recovery Trustee is authorized to take all other actions necessary or appropriate to effectuate distributions to the Recovering Beneficiaries, without prejudice of the Successor GUC Recovery Trustee to seek further approval from the Court for any issue relating to distribution of the GUC Recovery Trust Assets.

8. The Court shall retain jurisdiction over any matter arising from or related to the implementation of this Order.

Dated: September [●], 2024
New York, NY

_____
Honorable Michael E. Wiles
United States Bankruptcy Judge

[2] Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Motion.

Exhibit B

Distribution Plan

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
JCK LEGACY COMPANY, *et al.*,	:	Case No. 20-10418 (MEW)
Debtors.[1]	:	(Jointly Administered)

PLAN OF DISTRIBUTION TO JCK LEGACY
GUC RECOVERY TRUST BENEFICIARIES

This plan of distribution is being made in accordance with the Plan,[2] the Confirmation Order and the Trust Agreement, and submitted for approval by the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"). The plan of distribution sets forth the amount of the GUC Recovery Trust Assets, how the GUC Recovery Trust Assets will be distributed, who will receive a distribution of such assets, how undeliverable distributions will be addressed, what tax forms shall be issued after distributions are made, and whether there will be multiple distributions of the remaining GUC Recovery Trust Assets, if any.

1. GUC Recovery Trust Assets

The current aggregate amount available for distribution is $20,122,283.19, consisting of the remaining balance of the D&O Settlement paid into the GUC Recovery Trust and a portion of the principal amount of the GUC Recovery Trust's share of a tax refund issued by the IRS. The Successor GUC Recovery Trustee expects to receive additional tax refund, representing the trust's share of the remaining tax refund of approximately $26,157,377 plus interest.

2. GUC Recovery Trust Beneficiaries

Section 1.3 of the Trust Agreement provides that "the primary purpose of the GUC Recovery Trust is to administer the GUC Recovery Trust Assets and make distributions to Holders of Allowed Class 5 Claims (and solely to the extent provided for in the Plan . . . Holders of Allowed Class 3 Claims." Section 4.3(c) of the Plan provides that Holders of Allowed Second Lien Term Loans shall not receive a distribution until Holders of Allowed General Unsecured Claims are paid in full.

Section 7.7 of the Trust Agreement further provides that the Distribution Agent is "not required to make a distribution on account of an Allowed Claim if . . . (ii) the distributions will result in a payment of less than $50.00 to the Holder of such Claim." This provision permits the

[1] The Debtors in these chapter 11 cases and the last four characters of each Debtor's tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (5UZ1). The location of the Successor GUC Recovery Trustee's service address for purposes of these chapter 11 cases is: 500 E, Broward Blvd. Suite 1700 Fort Lauderdale, Florida 33394.

[2] Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Motion.

Successor GUC Recovery Trustee to determine which Beneficiaries will receive a distribution and direct the Distribution Agent to issue checks to such Beneficiary.

The Successor GUC Recovery Trustee has determined that Holders of Allowed General Unsecured Claims equal to $1,400 or more (the "**Recovering Beneficiaries**") are expected to receive a distribution from the GUC Recovery Trust Assets. Holders of Allowed General Unsecured Claims of less than $1,400 will not receive a distribution because any distribution on account of their allowed unsecured claims would be less than $50.00 (the "**Non-Recovering Beneficiaries**"). Holders of Allowed Second Lien Term Loan Claims will not receive a distribution because Holders of Allowed General Unsecured Claims in Class 5 will not be paid in full as required under Section 4.3(c) of the Plan.

3. Recovery to Beneficiaries

Section 7.3 of the Trust Agreement authorizes the Successor GUC Recovery Trustee to close the claims register and recognize record holders listed on the claims register as of the Distribution Record Date, which the Successor GUC Recovery Trustee has determined to be September 25, 2020, i.e., the Confirmation Date. As of the Distribution Record Date, there are approximately 1,800 general unsecured creditors in Class 5, with claims totaling $1,140,797,113.23.

The Recovering Beneficiaries are expected to recover 3.5% on account of their allowed unsecured claims. For avoidance of doubt, each class action claim will be paid the same expected rate of recovery for all other Recovering Beneficiaries. After distribution of each class action claim, however, individual class members in *Lorianne Sawin et al. v. The McClatchy Co., et al.*, County of Sacramento (Super. Ct. Case No. 34-2009-00033950-CL-OE-GDS) ("**Sawin**" or "**Sawin Class Action**") and *Veronica Becerra et al. v. The McClatchy Co., et al.*, County of Fresno (Super. Ct. Case No. 08CECG04411 (KAG)) ("**Becerra**" or "**Becerra Class Action**"), will receive distributions less than the expected rate of recovery for all other Recovering Beneficiaries.

4. Distribution Agent

Pursuant to Section 7.1 of the Trust Agreement, the Successor GUC Recovery Trustee has determined that Development Specialists, Inc. shall serve as distribution agent (the "**Distribution Agent**") and will mail checks directly to the Recovering Beneficiaries, except for the Recovering Beneficiaries who are members of the *Sawin* and *Becerra* classes. For the class action claimants, the Distribution Agent will distribute each class' *pro rata* share of the GUC Recovery Trust Assets to their class administrator: Simpluris, Inc. for *Sawin* and CPT Group, Inc. for *Becerra*. The class administrators shall provide monthly reports regarding distributions and uncashed distributions to the Successor GUC Recovery Trustee.

As set forth in the *Sawin* and the *Becerra* class settlements, each class administrator will mail individual class settlement checks directly to class members. For the class counsel award set forth in each class settlement, the Distribution Agent shall issue checks directly to class counsel.

5. Undeliverable Distributions

Section 7.5 of the Trust Agreement covers undeliverable distributions and provides the Distribution Agent shall not make additional distributions until Recovering Beneficiaries of undelivered distributions submit a current address, at which time distributions shall be made to the appropriate Recovering Beneficiary without interest, dividends, or accruals of any kind. Notwithstanding, Section 5.6 of the Trust Agreement permits the Successor GUC Recovery Trustee to identify or locate an alternative address for a Recovering Beneficiary.

For the *Sawin* and *Becerra* classes, subject to Section 6 hereof, undeliverable distributions shall remain with each class administrator, who shall make reasonable efforts to determine an alternative address for and locate individual class members of an undeliverable distribution until uncashed class settlement checks become "residual funds" as set forth in each class settlement.

For all other Recovering Beneficiaries, undeliverable distributions shall remain with the Distribution Agent for sixty (60) days after such distribution until the Recovering Beneficiary of an undeliverable distribution submits a current address to the Distribution Agent or the Successor GUC Recovery Trustee. During such period, the Successor GUC Recovery Trustee shall make reasonable efforts to determine alternative address for and locate the affected Recovering Beneficiary. Absent a current address or if the Successor GUC Recovery Trustee cannot identify or determine an alternative address after the 60-day period, all undeliverable distributions shall be returned to the GUC Recovery Trust until such distributions are claimed or such distribution becomes an unclaimed distribution.

6. Unclaimed Distributions

Section 7.5 of the Trust Agreement provides that undeliverable distributions "shall revert to and vest in the GUC Recovery Trust" if such distributions are not claimed "for a period of six months after such distribution." Further, "[u]pon vesting, any Claim of any Holder or successor to such Holder with respect to such property shall be cancelled, discharged and forever barred, notwithstanding federal or state escheat, abandoned, or unclaimed property laws to the contrary."

For the *Sawin* and *Becerra* classes, as set forth in each class settlement agreement all uncashed class settlement checks shall be deemed 'residual funds' on the one hundred and eighty-first day (181) following distribution by each class administrator of the Net Settlement Amount. Seven business days after the 181st day, each class administrator shall return the residual funds to the Successor GUC Recovery Trustee and such funds shall revest in the GUC Recovery Trust. For all other Recovering Beneficiaries, undeliverable distributions that remain unclaimed for six months following the initial distribution date shall become unclaimed property as defined under section 347(b) of the Bankruptcy Code and shall revest in the GUC Recovery Trust.

Upon vesting of such unclaimed distributions and the residual funds, the Recovering Beneficiary of an unclaimed distribution and the applicable class member of an uncashed class settlement check shall be forever barred from asserting a claim against the GUC Recovery Trust, and all unclaimed distributions and the residual funds, if any, will become GUC Recovery Trust Assets.

7. Tax Reporting

Section 9.8 of the Plan and Section 7.4 of Trust Agreement require the Successor GUC Recovery Trustee to comply with tax reporting requirements under applicable law that all distributions made thereunder are subject to.

Section 1.6041-3 of title 26 of the Code of Federal Regulations provides that information returns are not required for payments (a) of bills for merchandise and similar charges; (b) to domestic and foreign corporations; (c) to the United States and any wholly-owned agency thereof; (d) of $600 or less; (e) of reimbursable and substantiated expenses; (f) of interest on corporate bonds; and (g) to persons on account of an individual retirement plan. *See* Treas. Reg. §§ 1.6041-3(c), (h), (j), (p); 26 U.S.C. § 7701. Information returns are required for payments of $600 or more. *See* Treas. Reg. § 1.6041-1.

The Successor GUC Recovery Trustee has determined that a Form 1099 will not be issued for distributions made (i) to corporate payees, (ii) on unsecured debenture notes, (iii) to the Pension Benefit Guaranty Corporation, (iv) to the *Sawin* and *Becerra* classes on account of their employee mileage reimbursement claims, (v) to vendors for goods delivered, and (iv) on any distribution of less than $600.

Forms 1099-NEC will be issued for distributions made to holders of severance claims, scheduled non-qualified pension claims, other employee compensation claims, and vendor claims for services rendered. Forms 1099-MISC will be issued for distributions made to holders of defamation claim amounts of $600 or more. Prior to issuing Forms 1099, the Successor GUC Recovery Trustee will issue Forms W-9 to Recovering Beneficiaries subject to 1099 reporting for tax identification numbers and any updated address. Forms W-9 must be returned within sixty (60) days after issuance. Absent receipt of the information requested, the Recovering Beneficiary will be subject to backup withholding.

8. Distribution of the GUC Recovery Trust Assets

The principal amount of the tax refund received to-date is maintained in an interest bearing account and any additional tax refund proceeds received by the GUC Recovery Trust will be similarly deposited until distributed. The estimated recovery for Receiving Beneficiaries – those beneficiaries with allowed claims of $1400 or more is 3.5%. Non-Recovering Beneficiaries with allowed claims of less than $1400 will not receive a distribution of GUC Recovery Trust Assets.

The Successor GUC Recovery Trustee may make more than one distribution to Recovering Beneficiaries. Interim distributions will be made on the basis of the current amount of the GUC Recovery Trust Assets at the time such interim distribution is made and such distributions shall be made only to those Recovering Beneficiaries who would receive a recovery of $50.00 or more taking into account the allowed amount of their claim and the then current amount of the GUC Recovery Trust Assets. Any additional distributions to Recovering Beneficiaries will include 'true-up' payments so that payments will be made to Recovering Beneficiaries entitled to receive a recovery of $50.00 or more taking into account the total amount of GUC Recovery Trust Assets that have been distributed.

Section 9.3 of the Trust Agreement provides that "[a]t the conclusion of the term of the GUC Recovery Trust, the Successor GUC Recovery Trustee shall distribute the remaining GUC Recovery Trust Assets, if any, in its reasonable discretion, including to a charitable organization, in accordance with the Plan, the Confirmation Order, and [the Trust] Agreement."

Multiple distributions may be made without need of approval from the Bankruptcy Court, and the Successor GUC Recovery Trustee will determine which Recovering Beneficiaries will receive a final distribution. The Successor GUC Recovery Trustee expects that the *Sawin* and *Becerra* classes will receive only one distribution because the classes consist of 4,963 individuals (*Sawin*) and 3,810 individuals (*Becerra*), and a final distribution (if made) to each class member (after class administration expenses are deducted) would be *de minimis*.

To the extent a final distribution is not necessary, the Successor GUC Recovery Trustee will donate the remaining GUC Recovery Trust Assets, if any, to The Honorable Tina Brozman Foundation for Ovarian Cancer Research as permitted under the Trust Agreement.

9. Updated Contact and Mailing Information and Additional Information

For the *Sawin* class, all documents and information filed in connection with the Sawin Class Action can be found at: www.sacbeenewsclassaction.com and updated contact and mailing information and inquiries can be sent via email to:

Simpluris, Inc.
3194-C Airport Loop Drive
Costa Mesa, CA 92626
Attn: Eric Springer
espringer@simpluris.com

For the *Becerra* class, all documents and information filed in connection with the Becerra Class Action can be found at: www.fresnobeenewssettlement.com and updated contact and mailing information inquiries can be sent via email to:

CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Attn: Julie N. Green
ConsumerTeam@cptgroup.com

For all other Beneficiaries, updated contact and mailing information and inquiries can be addressed to the Successor GUC Recovery Trustee and his counsel via email:

Successor GUC Recovery Trustee
500 E. Broward Blvd., Suite 1700
Fort Lauderdale, Florida 33394
Attn: Yale Scott Bogen
YBogen@DSIConsulting.com

and

Counsel to Successor GUC Recovery Trustee
Pillsbury Winthrop Shaw Pittman LLP
31 West 52nd Street
New York, New York 10019
Attn: Patrick E. Fitzmaurice
Kwame O. Akuffo
patrick.fitzmaurice@pillsburylaw.com
kwame.akuffo@pillsburylaw.com

Dated: August 15, 2024

Exhibit C

Declaration of Yale Scott Bogen

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
JCK LEGACY COMPANY, *et al.*,	:	Case No. 20-10418 (MEW)
Debtors.[1]	:	(Jointly Administered)

DECLARATION OF YALE SCOTT BOGEN IN SUPPORT OF MOTION FOR APPROVAL OF PLAN OF DISTRIBUTION TO GUC RECOVERY TRUST BENEFICIARIES

Pursuant to 28 U.S.C. § 1746, I, Yale Scott Bogen, declare under penalty of perjury that the foregoing is true and correct:

1. I am a Senior Managing Director at Development Specialists Inc., a leading provider of management consulting and financial advisory services. Among other things, we provide turnaround consulting, litigation support and forensic accounting services, we advise on financial restructuring, and provide liquidating trustee services. Our clients include business owners, corporate management and boards of directors, financial services institutions, secured lenders, bondholders, unsecured creditors, and creditor committees.

2. I submit this declaration in support of the *Successor GUC Recovery Trustee's Motion for Approval of Plan of Distribution of GUC Recovery Trust Assets* (the "**Motion**"). I have been involved with administration of the GUC Recovery Trust[2] for more than three years and have worked closely with counsel and the previous GUC Recovery Trustee regarding strategies to resolve unsecured claims filed against the Debtors' estates, to pursue the tax refund for

[1] The Debtors in these chapter 11 cases and the last four characters of each Debtor's tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (5UZ1). The location of the Successor GUC Recovery Trustee's service address for purposes of these chapter 11 cases is: 500 E, Broward Blvd. Suite 1700 Fort Lauderdale, Florida 33394.

[2] Capitalized terms not defined herein have the meaning ascribed to them in the Motion.

beneficiaries of the GUC Recovery Trust (the "**Recovering Beneficiaries**") and implement a plan of distribution for the Recovering Beneficiaries (the "**Distribution Plan**").

3. As described in the Motion, the main source of recovery for the GUC Recovery Trust's beneficiaries is a federal tax refund of $51,463,375, which the Debtors filed tax returns for in June 2021 because they were entitled to a recover losses concerning the sale of certain property and based on a worthless stock deduction. In March 2023, the IRS issued refund checks to the Plan Administration Trustee totaling $20,859,857 and consisting of $19,432,563 in principal and $1,427,294 in interest. On June 3, 2024, the Plan Administration Trustee received additional refund checks totaling $6,409,685 and consisting of $5,873,435 in principal and $536,250 in interest. The amounts received to-date represent a portion of the total refund amount requested, and the Plan Administration Trustee expects to receive an additional $26,157,377 plus interest, a refund amount that was approved by the IRS and the Joint Committee of Taxation.

4. Under the Plan, certain fees and expenses of professionals, referred to as the Deferred Amounts,[3] are to be deducted from any received tax refund proceeds prior to distribution of the net refund amount. This one-time deduction of fees and expenses consists of the following payments: (a) $500,000 to the Chatham Advisors;[4] (b) $100,000 to the Committee Advisors;[5] (c) $600,000 to the GUC Recovery Trust; and (d) reasonable fees and costs incurred by the Purchaser and/or the GUC Recovery Trust in pursuit of the tax refund.

---

[3] Deferred Amounts do not include overhead costs incurred by the Purchaser and fees and expenses of Ernst & Young LLP, as tax services provider to the Debtors. *See* Plan § 1.57.

[4] Chatham Advisors mean "(i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, as counsel to the Chatham Parties, (ii) Quinn Emanuel Urquhart & Sullivan, LLP, as co-counsel to the Chatham Parties, and (iii) Ducera Partners LLC, as financial advisor to the Chatham Parties." Plan § 1.27.

[5] Committee Advisors mean "(a) Stroock & Stroock & Lavan LLP, as counsel to the Committee, (b) Berkeley Research Group, LLC, as financial advisor to the Committee, (c) Moelis & Company LLC, as investment banker to the Committee, and (d) Dundon Advisers LLC, as co-financial adviser to the Committee." Plan § 1.39.

5. The Deferred Amounts were deducted from the Initial Tax Refund resulting in a net refund amount of $17,412,376. On April 15, 2024, the Wind-Down Officer paid $13,494,591 to the GUC Recovery Trust and $3,917,785 to the Purchaser, representing their share of the net Initial Tax Refund. On June 5, 2024, Wind-Down Officer paid $4,396,254 of the second round of tax refund proceeds received to the GUC Recovery Trust after deducting certain amounts, including statutory quarterly fees owed to the United States Trustee. The amounts received thus far by the GUC Recovery Trust do not include any apportionment of the interest paid to date by the IRS, which has not yet been allocated or distributed but I expect the Plan Administration Trustee to allocate and distribute to the GUC Recovery Trust its share of the total interest received.

6. It is unknown whether the next refund check(s) issued by the IRS will be final.

7. As Successor GUC Recovery Trustee, I directed counsel to formulate the Distribution Plan for Beneficiaries with allowed general unsecured claims equal to $1,400 or more. The Distribution Plan, and the expected threshold for recovery by Recovering Beneficiaries, reflects an assessment of the allowed amount of general unsecured claims against the estate, the expected total tax refund proceeds the GUC Recovery Trust will receive and the establishment of a reserve for fees and expenses, tax reporting requirements, and other terms of the Plan and Trust Agreement.

8. After making these assessments, I determined that Recovering Beneficiaries with allowed claims equal to $1,400 or more will receive a distribution because they will get dividends of at least $50.00 or more. Because the Holders of Claims in Class 5 will not be paid in full, the Contingent Beneficiaries will not receive a distribution. The Non-Recovering Beneficiaries with allowed claims of less than $1,400 will not receive a distribution because they will not get more than $50.00. This treatment is consistent with the Trust Agreement, which provides that the

Contingent Beneficiaries are not entitled to receive a distribution from the GUC Recovery Trust until the Holders of Class 5 Claims are paid in full, and that I am not required to make distributions to the Non-Recovering Beneficiaries if "the distribution will result in a payment of less than $50.00[6] to the Holder of such Claim." Trust Agreement §§ 4.3 and 7.7.

9. Among other things, the Distribution Plan will be implemented by (i) identifying Recovering Beneficiaries with allowed general unsecured claims equal to $1,400 or more and calculating their *pro rata* share of the GUC Recovery Trust Assets; (ii) complying with tax reporting requirements; (iii) directing the Distribution Agent to issue checks to the Recovering Beneficiaries entitled to a distribution (iv) retaining undeliverable distributions for 181 days and if such undeliverable distributions are not claimed by the end of that period, returning such undeliverable distributions to the GUC Recovery Trust, and (v) determining the remaining GUC Recovery Trust Assets and whether multiple distributions is necessary.

10. The current aggregate amount of the GUC Recovery Trust Assets is $20,122,283.19, including the total principal amount of tax refund proceeds received by the trust to date. These tax refund proceeds are held in an interest-bearing account, and any additional refund plus interest the GUC Recovery Trust receives will be similarly deposited until distributed.

11. Given the long period of time this case has been pending, and the lengthy delay by the IRS in paying the approved tax refund amounts to the Wind Down Officer, distributions of the GUC Recovery Trust Assets has been delayed. As a result, I am considering making one or more interim distributions of GUC Recovery Trust Assets.

12. Any such interim distributions will be made on the basis of the then current amount of the GUC Recovery Trust Assets at the time such distribution is made, and such distributions

[6] $1,400 x 3.5% = $49.

shall be made only to those Recovering Beneficiaries who would receive a recovery of $50.00 or more taking into account the allowed amount of their claim and the then current amount of the GUC Recovery Trust Assets. Any additional distributions to the Recovering Beneficiaries will include 'true-up' payments so that payments will be made to the Recovering Beneficiaries entitled to receive a recovery of $50.00 or more taking into account the total amount of GUC Recovery Trust Assets that have been distributed.

13. I am committed to making the largest possible distribution to the Recovering Beneficiaries and thus I have decided to make commence distributions after receipt of additional tax refund proceeds instead of using the current amount of the GUC Recovery Assets. My decision to commence distributions later is necessary to allow more Recovering Beneficiaries to receive distributions and reduce administrative expenses. If the current amount of the GUC Recovery Trust Assets were distributed now, unsecured creditors with allowed claims equal to least $2,500 or more, instead of those with allowed claims of $1,400 or more, will receive a distribution. This means more Recovering Beneficiaries will be deemed Non-Recovering Beneficiaries and shall be excluded from recovery. This factor weighs heavily in my mind in considering whether to make distributions now and, if so, how many. Further, to the extent that there are multiple distributions, additional distributions made after the initial distribution may be further limited to certain Recovering Beneficiaries; *e.g.* the *Sawin* and *Becera* class members will likely not receive any further distributions because their expected recoveries would be less than $50.00 each.

14. I believe the Distribution Plan complies with the terms of the Plan, the Confirmation Order and the Trust Agreement and should be approved. I also believe that the Distribution Plan is in the best interests of the beneficiaries of the GUC Recovery Trust because it

is consistent with the Plan, the Confirmation Order and the Trust Agreement and ensures that distributions will be made in a timely and efficient manner without further delay.

15. Accordingly, I respectfully request that the Court approve the Distribution Plan.

Dated: August 15, 2024

/s/Yale Scott Bogen
Yale Scott Bogen