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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>FEDERAL TRADE COMMISSION; and UTAH DIVISION OF CONSUMER PROTECTION,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>ZURIXX, LLC, a Utah limited liability company; <i>et al.</i>,</p> <p>Defendants.</p>	<p><b>MOTION TO LIFT STAY IN ANCILLARY CASES AND TO ALLOW THE RECEIVER TO FILE ADDITIONAL ANCILLARY CASES</b></p> <p>Case No. 2:19-cv-00713-DAK-DAO</p>
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David K. Broadbent, as receiver (the “Receiver”) for Defendants Zurixx, LLC and related entities, requests that the Court lift the stay it previously imposed on the ancillary cases to allow those pending cases to move forward and to allow the Receiver to file additional cases related to claims that have been subject to tolling agreements.

The Court, with its Memorandum Decision and Order entered on November 8, 2021 (CM/ECF No. 333, the “Order”), and the Amended Stipulated Preliminary Injunction entered on December 2, 2021 (CM/ECF No. 346, the “ASPI”), stayed the existing ancillary actions and

ordered that “the Receiver shall not institute any further ancillary actions challenging fraudulent or voidable transfers until further ruling by the Court.” Section XV(M) of the ASPI. In the Order, the Court expressed concern that the ancillary actions could potentially seek more in recovery than the total amount of an ultimate judgment in the underlying enforcement action. Order at pp. 18-20. Since the Court stayed those actions, the Receiver has engaged in settlement discussions with multiple parties resolving and attempting to resolve both filed and unfiled (tolled) disputes.

Now, the Receiver requests that the Court lift the stay so that the Receiver may proceed with litigation and liquidating claims. The Court’s concern has now been resolved because the Court entered the Stipulated Order for Permanent Injunction and Monetary Judgment (CM/ECF No. 365, the “Judgment”) that, among other things, imposed a monetary judgment of \$104,700,000 against the receivership entities, jointly and severally. Under no circumstance will the Receiver be able to recover an amount sufficient to satisfy that judgment. The receivership estate currently only has approximately \$5.3 million in assets, which includes funds from several settlements the Receiver has already procured. In the unlikely event the Receiver were able to recover every penny in the pending ancillary actions, he would only recover approximately \$33,500,000. If he were able to recover every penny for the remaining unfiled and tolled claims, he would only recover approximately \$38,000,000, resulting in the total of possible claw back claim recoveries maxing out at \$71,500,000. That, plus the current assets of the estate, fall far short of the judgment amount. Moreover, the shortfall will likely be much larger because the Receiver believes (1) he will reach compromised settlements in many of the disputes for something less than the full amount of the claims, and (2) even if he prevails in these disputes, in

many instances, the full amount at issue may be uncollectible. At this point, the Receiver believes it is best to allow these matters to move forward on their merits.

Therefore, the Receiver requests that the Court lift the stay imposed by the Order and the ASPI, allow the filed ancillary cases to resume, and allow the Receiver to file additional ancillary cases in order to move forward with liquidating those claims. The Receiver further requests that the stay be lifted prior to November 4, 2022, which is when many of the existing tolling agreements expire.

RESPECTFULLY SUBMITTED this 27th day of October, 2022.

HOLLAND & HART LLP

/s/ Doyle S. Byers

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