

1 **SMILEY WANG-EKVALL, LLP**
Philip E. Strok, State Bar No. 169296
2 *pstrok@swelawfirm.com*
Kyra E. Andrassy, State Bar No. 207959
3 *kandrassy@swelawfirm.com*
Timothy W. Evanston, State Bar No. 319342
4 *tevanston@swelawfirm.com*
3200 Park Center Drive, Suite 250
5 Costa Mesa, California 92626
Telephone: 714 445-1000
6 Facsimile: 714 445-1002

7 Attorneys for Elissa D. Miller,
Chapter 7 Trustee
8

9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **LOS ANGELES DIVISION**

12 In re
13 GIRARDI KEESE,

14
15 Debtor.
16

Case No. 2:20-bk-21022-BR
Chapter 7

15 **STIPULATION REGARDING**
16 **SUBPOENA FOR INVESTIGATION BY**
17 **THE STATE BAR OF CALIFORNIA**

18 **[No Hearing Required]**

19 **TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY JUDGE:**

20 Elissa D. Miller, the chapter 7 trustee ("Trustee") of the bankruptcy estate
21 ("Estate") of Girardi Keese (the "Debtor"), and The State Bar of California (the "State
22 Bar"), by and through the law firm of Halpern May Ybarra Gelberg LLP ("HMYG")(each
23 hereinafter referred to individually as a "Party" and collectively as the "Parties"), enter into
24 this *Stipulation Regarding Subpoena for Investigation by The State Bar of California*
25 ("Stipulation") as follows:

26 **RECITALS**

27 A. On December 18, 2020, an involuntary chapter 7 bankruptcy petition was
28 filed against the Debtor.

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

1 B. The petitioning creditors moved for the appointment of an interim trustee
2 which was granted by the Court by order entered January 5, 2021. The Trustee was
3 appointed as the interim chapter 7 trustee on January 6, 2021. The order for relief was
4 entered January 13, 2021 and, the same date, the Trustee was reappointed and has
5 been serving in that capacity since.

6 C. The State Bar is conducting a confidential investigation (the "Investigation")
7 into whether the State Bar's review and handling of past discipline complaints against
8 former licensee Thomas V. Girardi ("Girardi") was affected by Girardi's connections to or
9 influence at the State Bar. The State Bar has engaged the law firm of Halpern May
10 Ybarra Gelberg LLP ("HMYG") to conduct the Investigation.

11 D. The State Bar intends to serve the Debtor with a subpoena for certain
12 records, including communications and financial records (the "Subpoena").
13 Notwithstanding the importance of the public protection mission underlying the
14 Investigation, compliance with the Subpoena will require the Trustee, at a minimum, to (i)
15 search for and gather any responsive documents ("Phase 1"), and (ii) review the
16 documents for confidential, privileged and/or private information to be excluded from
17 production ("Phase 2"). The Trustee has already provided HMYG with an estimate of the
18 costs to be incurred by the Trustee, on behalf of the Estate, with respect to Phase 1 (the
19 "Phase 1 Costs").

20 E. The Trustee has expressed a willingness and desire to cooperate with the
21 State Bar but is concerned that compliance with the Subpoena will be unduly
22 burdensome and costly for the Estate. The Trustee and the State Bar have met and
23 conferred in an effort to resolve the Trustee's concerns. HMYG, on behalf of the State
24 Bar, has agreed to bear the cost of the Trustee's compliance with the Subpoena.
25 Accordingly, the Parties have agreed that the interests of all Parties can be furthered and
26 protected through this Stipulation and that any and all documents and information
27 produced by the Trustee to the State Bar pursuant to the Subpoena will be governed by
28 the terms of this Stipulation.

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

1 **STIPULATION**

2 In light of the foregoing and subject to Court approval, the Parties stipulate and
3 agree to entry of an order by the Court approving the following terms:

4 **1. The Effective Date.**

5 The Stipulation shall become effective immediately upon the entry of an order of
6 the Court approving this Stipulation (the "Effective Date").

7 **2. Leave to Serve Subpoena.**

8 The State Bar shall be granted leave by the Court to serve the Subpoena on the
9 Trustee, as Chapter 7 trustee of the Debtor.

10 **3. The Trustee's Compliance with the Subpoena.**

11 The Trustee's compliance with the Subpoena will proceed in stages with the State
12 Bar bearing all costs of compliance.

13 a. The State Bar will serve the Subpoena on the Trustee.

14 b. Within five (5) business days of the Effective Date, HMYG shall pay
15 the high estimate for the Phase 1 Costs to the Trustee by check payable to "Elissa
16 D. Miller, solely in her capacity as Chapter 7 Trustee of Girardi Keese" and
17 delivered to the Trustee at 333 South Grand Ave., Suite 3400, Los Angeles,
18 California 90071-1406. After receipt of good funds by the Trustee and as soon as
19 practical thereafter, the Trustee will complete Phase 1. To the extent that the
20 actual Phase 1 Costs are greater than the high estimate for such costs, HMYG
21 agrees to pay the underestimated amount to the Trustee. To the extent that the
22 actual Phase 1 Costs are less than the high estimate for such costs, the
23 overestimated amount shall be held by the Trustee and applied to Phase 2 costs,
24 but if there are no Phase 2 costs or an overestimated amount remains after
25 application to Phase 2 costs, the remaining overestimated amount shall be
26 refunded by the Trustee to HMYG.

27 c. As soon as practicable after the Trustee's completion of Phase 1, the
28 Trustee shall provide the State Bar with a cost estimate for completing Phase 2 by

SMILEY WANG-EKVALL, LLP

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Tel 714 445-1000 • Fax 714 445-1002

1 specific request in the Subpoena. The State Bar will then meet and confer with
2 the Trustee regarding the scope of the Phase 2 review and the estimated cost of
3 compliance and shall determine how it wants to proceed as to each specific
4 request. HMYG, on behalf of the State Bar, agrees to bear the Trustee's costs of
5 compliance with the specific request(s) on which the State Bar elects to proceed
6 with payment for and completion of Phase 2 handled as set forth in Section 3(b)
7 above. The Trustee shall have no obligation to complete Phase 2 for the specific
8 request(s) on which the State Bar elects not to proceed.

9 d. As soon as practicable after the Trustee's completion of Phase 2 for
10 the specific request(s) on which the State Bar elects to proceed, the Trustee shall
11 produce the responsive materials to the State Bar except for "Privileged Materials"
12 which need not be produced or logged. "Privileged Materials" means any
13 documents, testimony or information that is protected by the attorney-client
14 privilege, attorney work product doctrine, or otherwise protected by law.

15 **4. Inadvertent Production of Privileged Materials.**

16 The inadvertent production by the Trustee of Privileged Materials shall be without
17 prejudice to any claim that such item(s) are Privileged Materials and the Trustee shall not
18 be held to have waived any rights by such inadvertent production. Upon notice from the
19 Trustee or discovery by the State Bar of the inadvertent production, the State Bar shall
20 destroy or return such items(s) and advise the Trustee of the destruction or return.

21 **5. Ability to Modify or Seek Relief From This Stipulation.**

22 Any Party to this Stipulation may ask the Court, after appropriate notice to the
23 other Party, to modify or grant relief from any provision of this Stipulation.

24 **6. Miscellaneous.**


25 a. The entry of the order by the Court approving this Stipulation does
26 not alter, waive, modify, or abridge any right, privilege or protection otherwise
27 available to any Party with respect to the discovery of matters, including but not
28 limited to any Party's right to assert the attorney-client privilege, the attorney work

1 product doctrine, or other privileges, or any Party's right to contest any such
2 assertion.

3 b. This Stipulation may be executed in counterparts.

4 **IT IS SO STIPULATED.**

5
6 DATED: May 5, 2022

7
8 By: 
9 Elissa D. Miller, Chapter 7 Trustee of Girardi
10 Keese

11 DATED: May 5, 2022

12 THE STATE BAR OF CALIFORNIA

13 By: 
14 Aaron M. May
15 Special Deputy Trial Counsel for the State Bar
16 of California

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626.

A true and correct copy of the foregoing document entitled (*specify*): **STIPULATION REGARDING SUBPOENA FOR INVESTIGATION BY THE STATE BAR OF CALIFORNIA** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) May 9, 2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (*date*) May 9, 2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Honorable Barry Russell
U.S. Bankruptcy Court
Roybal Federal Building
255 E. Temple Street, Suite 1660
Los Angeles, CA 90012

Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page.

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

May 9, 2022

Date

Gabriela Gomez-Cruz

Printed Name

/s/ Gabriela Gomez-Cruz

Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

- Kyra E Andrassy kandrassy@swelawfirm.com,
lgarrett@swelawfirm.com;gcruz@swelawfirm.com;jchung@swelawfirm.com
- Rafey Balabanian rbalabanian@edelson.com, docket@edelson.com
- Michelle Balady mb@bedfordlg.com, leo@bedfordlg.com
- Ori S Blumenfeld oblumenfeld@laklawyers.com,
Helen@MarguliesFaithLaw.com;Angela@MarguliesFaithLaw.com;Vicky@MarguliesFaithLaw.com
- Evan C Borges eborges@ggtriallaw.com, cwinsten@ggtriallaw.com
- Richard D Buckley richard.buckley@arentfox.com
- Steve Burnell sburnell@sulmeyerlaw.com,
sburnell@ecf.courtdrive.com;sburnell@ecf.inforuptcy.com;mviramontes@sulmeyerlaw.com
- Indira J. Cameron-Banks indira@cameron-banks.com, tiffany@cameronbankslaw.com
- Marie E Christiansen mchristiansen@vedderprice.com, ecfladocket@vedderprice.com,marie-christiansen-4166@ecf.pacerpro.com
- Jennifer Witherell Crastz jcrastz@hrhlaw.com
- Ashleigh A Danker adanker731@gmail.com
- Lei Lei Wang Ekvall - DECEASED - lekvall@swelawfirm.com,
lgarrett@swelawfirm.com;gcruz@swelawfirm.com;jchung@swelawfirm.com
- Richard W Esterkin richard.esterkin@morganlewis.com
- Timothy W Evanston tevanston@swelawfirm.com,
gcruz@swelawfirm.com;lgarrett@swelawfirm.com;jchung@swelawfirm.com
- Jeremy Faith Jeremy@MarguliesFaithlaw.com,
Helen@MarguliesFaithlaw.com;Angela@MarguliesFaithlaw.com;Vicky@MarguliesFaithlaw.com
- James J Finsten , jimfinsten@hotmail.com
- James J Finsten jfinsten@lurie-zepeda.com, jimfinsten@hotmail.com
- Alan W Forsley alan.forsley@flpllp.com, awf@fkllawfirm.com,awf@fl-lawyers.net,addy.flores@flpllp.com
- Larry W Gabriel lgabrielaw@outlook.com, tinadow17@gmail.com
- Eric D Goldberg eric.goldberg@dlapiper.com, eric-goldberg-1103@ecf.pacerpro.com
- Andrew Goodman agoodman@andyglaw.com, Goodman.AndrewR102467@notify.bestcase.com
- Suzanne C Grandt suzanne.grandt@calbar.ca.gov,
joan.randolph@calbar.ca.gov;vanessa.holton@calbar.ca.gov;robert.retana@calbar.ca.gov
- Steven T Gubner sgubner@bg.law, ecf@bg.law
- Marshall J Hogan mhogan@swlaw.com, knestuk@swlaw.com
- Sheryl K Ith sith@cookseylaw.com, sith@ecf.courtdrive.com
- Razmig Izakelian razmigizakelian@quinnemanuel.com
- Lillian Jordan ENOTICES@DONLINRECANO.COM, RMAPA@DONLINRECANO.COM
- Lewis R Landau Lew@Landaunet.com
- Daniel A Lev dlev@sulmeyerlaw.com, ccaldwell@sulmeyerlaw.com;dlev@ecf.inforuptcy.com
- Elizabeth A Lombard elombard@zwickerpc.com, bknotices@zwickerpc.com
- Kathleen P March kmarch@bkylawfirm.com, kmarch3@sbcglobal.net,kmarch@sbcglobal.net
- Craig G Margulies Craig@MarguliesFaithlaw.com,
Vicky@MarguliesFaithlaw.com;Helen@MarguliesFaithlaw.com;Angela@MarguliesFaithlaw.com
- Ron Maroko ron.maroko@usdoj.gov

- Peter J Mastan peter.mastan@dinsmore.com, SDCMLFiles@dinsmore.com;Katrice.ortiz@dinsmore.com
- Edith R. Matthai ematthai@romalaw.com, Irobie@romalaw.com
- Daniel J McCarthy dmccarthy@hillfarrer.com, spadilla@hillfarrer.com;nchacon@hfbllp.com
- Jack Meyer jmeyer@ggtriallaw.com
- Elissa Miller (TR) CA71@ecfcbis.com,
MillerTrustee@Sulmeyerlaw.com;C124@ecfcbis.com;ccaldwell@sulmeyerlaw.com
- Eric A Mitnick MitnickLaw@aol.com, mitnicklaw@gmail.com
- Gilbert M Nishimura gnishimura@snw-law.com, schin@snw-law.com;sgalindo@snw-law.com;ffilimona@snw-law.com
- Scott Olson scott.olson@bclplaw.com, scott-olson-2161@ecf.pacerpro.com,ecfsfdocket@vedderprice.com,nortega@vedderprice.com
- Carmela Pagay ctp@Inbyb.com
- Leonard Pena lpena@penalaw.com, penasomaecf@gmail.com;penalr72746@notify.bestcase.com
- Michael J Quinn mquinn@vedderprice.com, ecladocket@vedderprice.com,michael-quinn-2870@ecf.pacerpro.com
- David M Reeder david@reederlaw.com, secretary@reederlaw.com
- Ronald N Richards ron@ronaldrichards.com, 7206828420@filings.docketbird.com
- Kevin C Ronk Kevin@portilloronk.com, Attorneys@portilloronk.com
- Frank X Ruggier frank@ruggierlaw.com, enotice@pricelawgroup.com
- William F Savino wsavino@woodsoviatt.com, lherald@woodsoviatt.com
- Kenneth John Shaffer johnshaffer@quinnemanuel.com
- Richard M Steingard , awong@steingardlaw.com
- Philip E Strok pstrok@swelawfirm.com,
gcruz@swelawfirm.com;1garrett@swelawfirm.com;jchung@swelawfirm.com
- Boris Treyzon btreyzon@actslaw.com, sgonzales@actslaw.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Diane C Weil dcweil@dcweillaw.com,
diane.c.weil@Gmail.com,dweil@ecf.inforuptcy.com,alopez@dcweillaw.com
- Eric D Winston ericwinston@quinnemanuel.com
- Christopher K.S. Wong christopher.wong@arentfox.com, yvonne.li@arentfox.com
- Robert M Yaspan court@yaspanlaw.com, tmenachian@yaspanlaw.com
- Timothy J Yoo tjy@Inbyb.com