



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

B.E. CAPITAL MANAGEMENT	)	
FUND LP,	)	
Petitioner,	)	
	)	
- against -	)	C.A. No. 12843-VCL
	)	
FUND.COM INC.,	)	
	)	
Respondent.	)	

~~PROPOSED~~ ORDER GRANTING DEFAULT JUDGMENT AND APPOINTING RECEIVER

WHEREAS, B.E. Capital Management Fund LP (“Petitioner”) served Fund.com Inc. (the “Company”) with its Verified Petition for relief under 8 Del. C. § 226(a)(3) and a Summons on October 25, 2016;

WHEREAS, such service was proper under 8 Del. C. § 321(b) and Chancery Court Rule 4(d)(4);

WHEREAS, the Company failed to answer or otherwise respond to the Verified Petition within twenty days as required by Chancery Court Rule 12(a); and

WHEREAS, Petitioner moved for a default judgment appointing Thomas Braziel as receiver for the Company pursuant to 8 Del. C. § 226(a)(3) and awarding Petitioner its attorneys’ fees and costs;

NOW THEREFORE, IT IS HEREBY ORDERED:

1. Petitioner’s motion for a default judgment is granted as set forth herein.

2. Appointment of Receiver. Thomas Braziel is hereby appointed receiver for the Company (the “Receiver”).

3. Acceptance of Appointment. The Receiver shall file a written acceptance of his appointment and shall serve at the pleasure of the Court.

4. Powers of Receiver. The Receiver shall have all powers generally available to a receiver appointed pursuant to 8 Del. C. § 291, unless any such power would be inconsistent with a specific provision hereof, in which case the terms hereof shall govern. Upon acceptance of his appointment, the Receiver shall have full authority and control over all property of the Company, including authority to sell or dispose of Company property, and shall have full and unrestricted access to the Company’s books and records. In addition, the Receiver may: (a) assert sole control over bank or other accounts of the Company and/or establish signature authority over such accounts as the Receiver deems appropriate; (b) commence or continue any action, suit, or proceeding on behalf of or in the name in the name of the Company; (c) revoke any instructions previously given by the Company to any third parties, including the Company’s attorneys or agents, whether described as irrevocable or otherwise; (d) waive the attorney-client privilege or any other protection from disclosure on behalf of the Company; (e) sign and file a petition for relief under the Bankruptcy Code on behalf of the Company; or (f) petition the Court for instructions at any time or from time to time.

5. Receiver Compensation. The Company shall pay compensation to the Receiver of the at the rate of \$300/hour as well as out of pocket expenses incurred by him as Receiver.

6. Authority to Retain Professionals. The Receiver is authorized to retain professionals, including attorneys, financial advisors, accountants, and brokers as the Receiver deems appropriate in carrying out his duties. Without limitation, the Receiver is specifically authorized to employ Storch Amini & Munves PC and Klein LLC as counsel.

7. Payment of Compensation to Receiver and Professionals. All professionals retained by the Receiver shall submit invoices to the Receiver. The Receiver shall petition the Court on a monthly basis, or at such other interval as the Court may direct, for approval of the fees and expenses incurred by the Receiver and his professionals. All fees and expenses approved by the Court shall be paid promptly by the Company. Payment of the fees and expenses of the Receiver and his professionals shall have priority over all other obligations, payments, or distributions of the Company.

8. Cooperation. The appointment of the Receiver hereunder is binding upon the directors, officers, employees, attorneys, agents, and shareholders of the Company, who shall cooperate with the Receiver in the performance of his duties. Neither the Company, nor any person acting or purporting to act on behalf of the

Company, nor any director, officer, employee, creditor, shareholder, or agent of the Company shall institute any proceeding in any other forum challenging any action, recommendation, or decision by the Receiver. For the avoidance of doubt, the foregoing provisions shall apply to David Berke.

9. Turnover. The Court may order an attorney, accountant, stock transfer agent, or other person that holds recorded information, including books, documents, records, and papers, relating to the Company's property, financial affairs, or common or preferred stock to turn over or disclose such recorded information to the Receiver.

10. Modification of Chancery Court Rules. In accordance with Rule 148, the requirements of Rules 149-68 are hereby modified as follows:

- (a) Rule 149: The Receiver is not required to post a bond.
- (b) Rule 150: The Receiver is not required to reside in Delaware.
- (c) Rule 151: The inventory, list of creditors, and statements shall be

filed no later than sixty days after entry hereof. The Receiver is not required to file a list of the Company's <sup>beneficial</sup> stockholders.

*The Receiver shall file a list of the Company's stockholders of record.*

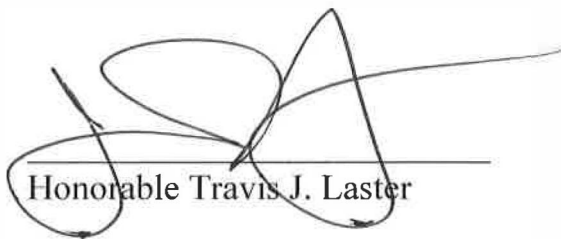
11. Exculpation, Indemnification, and Advancement. The Receiver, and anyone acting on his behalf, shall have no liability to the Company, its creditors, its shareholders, or any other person for actions taken in good faith pursuant to the terms hereof. The Receiver shall be entitled to all protection, limitation from liability, and

immunity available at law or in equity to a court-appointed receiver, including all protection, limitation from liability, and immunity to the fullest extent permitted by applicable law. Expenses, including attorneys' fees, incurred by the Receiver in defending any civil, criminal, administrative, or investigative action, suit, or proceeding arising by reason of or in connection with the Receiver's designation as such, or in the performance of his duties hereunder, shall be paid by the Company in advance of the final disposition of such action, suit, or proceeding, subject to the repayment of such amount if it shall ultimately be determined by the Court that the Receiver is not permitted to be indemnified by the Company under Delaware law.

12. Petitioner's Attorneys' Fees. Receiver shall be entitled to pay attorneys' fees and expenses incurred by Petitioner in commencing this action and moving for and obtaining entry of this order, in an amount up to \$20,000.

13. Jurisdiction. This Court shall retain jurisdiction to interpret, implement, and enforce this order.

Dated: ~~Nov~~ 29, 2016



Honorable Travis J. Laster