

13, 1998, the Court issued its Order appointing temporary receiver in the SEC Proceedings pursuant to which Michael J. Quilling was named receiver (“Receiver”).

2. On July 23, 1999, the Court issued an Order in the SEC Proceedings expanding the receivership to include a number of related entities including Hammersmith Trust, L.L.C., a Tennessee limited liability company, Hammersmith Trust, L.L.C., a Nevis limited liability company, and Hammersmith Trust, Ltd., an Ireland corporation (collectively referred to as “Hammersmith Trust”).

3. Prior to the appointment of the Receiver, Hammersmith Trust was operating a huge international Ponzi scheme involving investors and investor groups from around the world. From the period of time it commenced operations in 1997 through the time the Receiver terminated its operations, Hammersmith Trust raised approximately \$51 million dollars. Most of the principals associated with operation of the financial scam were indicted by the United States Attorney’s Office in Pensacola, Florida, and most of those indicted were subsequently convicted and are now incarcerated. The attorney for, and trustee of, Hammersmith Trust was Memphis attorney David Johnson (“Johnson”). Although indicted, Johnson was acquitted of the charges against him.

4. Several months after the appointment of the Receiver and upon learning that Hammersmith Trust was simply a giant financial fraud, on February 4, 2000, several of the investors who placed funds with Hammersmith Trust (“Hammersmith Investors”), initiated litigation against Johnson individually and as trustee for Hammersmith Trust, L.L.C., same being Cause No. 00-2098-TU styled *Granite Holdings, a California Trust, A.C.T.S., Ltd., Atlantic Star Investments, LDC, Bachman Capital Partners Limited, Blue Island Holdings, Ltd., Boltic Services, Inc., CEMA Trust, a Missouri Trust, Arun K. Dosaj, A.J. Glenn III, Bo Linne, Morgan, Weinstein & Co., Limited, Paragon Trading Corporation, Donald D. Rose, Sierra Financial Services, LLC, Southeastern*

Oklahoma Indian Credit Association, Jurgen Tagert-Stavenow, Lee I. Turner, and Menno D. Wagler v. David Johnson, Individually and as Trustee for Hammersmith Trust, LLC, (“David Johnson Litigation”) pending before the United States District Court for the Western District of Tennessee, Western Division (“Memphis Court”).

5. On February 18, 2000, a Notice of Filing of the David Johnson Litigation was filed in the SEC Proceeding (Docket #392). The Notice of Filing had as attachments the Complaint and related documents filed against Johnson. As more particularly set forth in the Complaint attached to the Notice, the Hammersmith Investors sued Johnson for breach of contract, fraudulent representation, negligent misrepresentation and RICO violations.

6. On October 31, 2000, the Receiver filed a Motion to Intervene in the David Johnson Litigation to assert causes of action which the Receiver believed he owned and controlled independent of the causes of action asserted by the Hammersmith Investors, most notably claims for legal malpractice. In order to achieve cost efficiencies, the Receiver retained as his counsel the same counsel who was representing the Hammersmith Investors in the David Johnson Litigation, namely Bruce Kramer of the Borod & Kramer Law Firm in Memphis, Tennessee. On November 15, 2000, the Memphis Court issued an Order granting the Receiver’s Motion to Intervene.

7. Prior to filing the Motion to Intervene, the Receiver met with representatives of the Hammersmith Investors regarding coordination of efforts in the David Johnson Litigation and how to make the effort as cost-efficient as possible. It was agreed that since the most likely viable source of recovery would be the legal malpractice insurance maintained by Johnson, and since those causes of action were owned by the Receiver, that the Receiver would pay the legal fees and expenses of Borod & Kramer on a go-forward basis, subject to approval by this Court. Since that time, a number

of fee applications have been filed and approved by this Court consistent with that procedure¹. It was also agreed that upon final settlement or other conclusion to the case, that subject to the approval by this Court, the Receiver would use proceeds obtained from the recovery to re-pay the legal fees and expenses incurred by the Hammersmith Investors to Borod & Kramer prior to the time the Receiver intervened in the David Johnson Litigation since those fees and expenses were of benefit to the Receiver. As set forth in the schedule which is part of Exhibit "A" attached hereto and incorporated herein by reference for all purposes, the Hammersmith Investors incurred total fees and expenses of \$69,071.90. Of that amount, the Hammersmith Investors paid \$58,591.35 to Borod & Kramer and still owe Borod & Kramer \$10,480.55. Copies of the billing statements which reflect the fees and expenses are included in Exhibit "A." As part of approval of the settlement, the Receiver requests authority to pay the Hammersmith Investors \$58,591.35 and Borod & Kramer \$10,480.55. To the extent necessary, the Receiver requests that a representative of the Hammersmith Investors and Mr. Kramer be allowed to participate in the hearing to consider the settlement and approve the fees via telephone.

8. After completion of substantial discovery and various pre-trial motions, the Memphis Court ordered the parties to mediation which was held on February 17, 2003 in Memphis. As a result of a lengthy mediation, a settlement was reached subject to approval by this Court. Specifically, Johnson agreed to pay the Receiver \$600,000.00 in exchange for a release of all claims owned by the Receiver against him and his law firm. In addition, the Hammersmith Investors are required to dismiss their claims with prejudice which they have agreed to do.

¹ With some modification, the Court has considered and approved six interim fee application pursuant to which \$27,162.33 has been paid to QSCL and \$41,715.54 has been paid to Borod & Kramer. In addition, prior to the time the Court implemented a litigation budget and case-specific interim fee applications, pursuant to global fee applications filed in the main case (3:98-CV-2689-M), QSCL was paid \$4,689.55 and Borod & Kramer was paid \$44,009.61. Accordingly, the total paid to date with respect to the David Johnson Litigation to QSCL is \$31,851.88 and to Borod & Kramer is \$85,725.15.

9. It is the informed business judgment of the Receiver that the settlement reached is in the best interest of the Hammersmith Trust Receivership Estate and should be approved by the Court. Although the Receiver is confident of the claims asserted, he is equally mindful of the inherent risks and uncertainties of all litigation. The Receiver is also mindful of the cost of protracted litigation against a well-funded insurance company which is not particularly motivated by cost of litigation concerns.

10. In addition to the attorneys' fees and expenses which have already been paid referenced in footnote 1, there are additional attorneys' fees and expenses which have not yet been considered by the Court. Those fees and expenses are as follows:

QSCL

<u>Month</u>	<u>Fees</u>	<u>Expenses</u>
September 2002	\$1,024.50	\$26.01
October 2002	\$1,373.50	\$0.95
November 2002	\$51.00	\$26.08
December 2002	\$271.00	\$1.46
January 2003	\$1,341.00	\$1.27
February 2003	\$6,435.00	\$3,076.54
March 2003	\$660.00	\$2.00
TOTAL:	\$11,156.00	\$3,134.31

Copies of the invoices reflecting these fees and expenses are attached hereto as Exhibit "B" and are incorporated herein by reference. As part of approval of the settlement, the Receiver requests that the Court approve and allow payment of these fees and expenses.

BOROD & KRAMER

<u>Month</u>	<u>Fees</u>	<u>Expenses</u>
August 2002	\$5,472.50	\$46.71
September/October 2002	\$1,132.25	\$370.82
November 2002	\$296.25	\$5.00
December 2002	\$806.25	\$0.00
January 2003	\$9,587.75	\$1,254.29
February 2003	\$7,076.00	\$369.72
TOTAL:	\$24,371.00	\$2,046.54

Copies of the invoices reflecting these fees and expenses are attached hereto as Exhibit "C" and are incorporated herein by reference. As part of approval of the settlement, the Receiver requests that the Court approve and allow payment of these fees and expenses. To the extent necessary, the Receiver requests that Mr. Kramer be allowed to participate in the hearing to approve the settlement and approve the fees via telephone.

11. The Court has previously considered an invoice from Professor Harold Levinson in the amount of \$14,000.00 which the Court denied without prejudice. *See*, Order of July 19, 2002 (Docket #908). After submitting the \$14,000.00 invoice, Professor Levinson submitted an additional invoice for \$15,225.00. Copies of both invoices are attached hereto as Exhibit "D" and are incorporated herein by reference for all purposes. A copy of Professor Levinson's resume is also included in Exhibit "D." The Receiver and his counsel believe that the work described in the invoices was actually performed and required the time expended. Professor Levinson's work and testimony was necessary and ultimately contributed to the favorable settlement reached. The Receiver and his counsel request that the Court consider and approve payment of the invoices as part

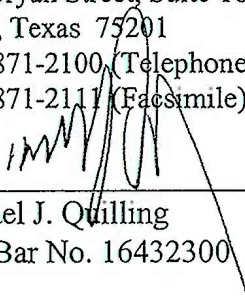
of approval of the settlement. To the extent necessary, the Receiver requests that Professor Levinson be allowed to participate in the hearing to consider the settlement and approve the fees via telephone.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final hearing and consideration of this Motion, that the Court approve the settlement, allow payment of the requested fees and expenses, and for such other relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

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By:



Michael J. Quilling
State Bar No. 16432300

ATTORNEYS FOR RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of March, 2003 a true and correct copy of the foregoing document was served via first class mail, postage pre-paid, on:

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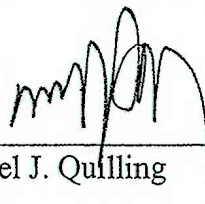
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The Motion will also be posted on the Receiver's website www.secreceiver.com immediately after filing.



Michael J. Quilling