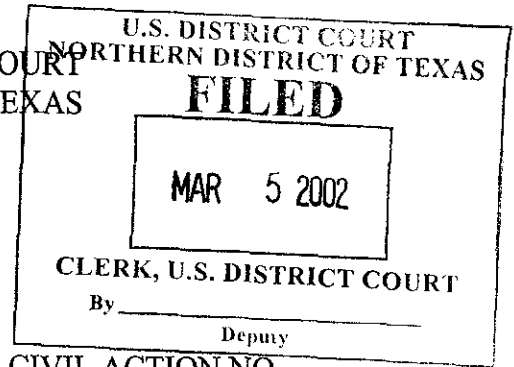


IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION



SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

VS.

FUNDING RESOURCE GROUP, a/k/a FRG Trust, et al,

Defendants,

and

HOWE FINANCIAL TRUST, an Indiana corporation,
 et al,

Defendants Solely for Purposes
 of Equitable Relief.

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**RECEIVER'S SECOND INTERIM APPLICATION TO
 ALLOW AND PAY (1) RECEIVER'S FEES AND EXPENSES
 AND (2) ATTORNEYS' FEES AND EXPENSES AND BRIEF IN SUPPORT
(National Union v. United Holdings pending in Phoenix, Arizona)**

TO THE HONORABLE JEFF KAPLAN, UNITED STATES MAGISTRATE JUDGE:

Michael J. Quilling, Receiver, files this his Second Interim Application to Allow and Pay (1) Receiver's Fees and Expenses and (2) Attorneys' Fees and Expenses with respect to litigation styled *National Union v. United Holdings* pending in Phoenix, Arizona and in support of such would show unto the Court as follows:

BACKGROUND

1. On November 13, 1998, the Securities and Exchange Commission ("SEC") initiated Civil Action No. 3:98-CV-2689-M styled *Securities and Exchange Commission vs. Funding Resources Group, et al* (the "SEC Proceedings") and, in connection therewith, sought the

appointment of a receiver as to each of the named Defendants. On November 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 freezing the assets of and appointing Michael J. Quilling as the Receiver for Hammersmith Trust, LLC and a number of related entities.

3. Pursuant to the terms of each of the foregoing Orders, the Receiver was authorized to employ such attorneys as is necessary and proper for the collection, preservation, maintenance and operation of the Receivership's Assets. Subsequent to his appointment, the Receiver employed the law firm of Quilling, Selander, Cummiskey & Lownds, P.C. ("QSC&L") as his general counsel. The Receiver is an attorney and a shareholder of the law firm and has rendered many of the legal services which are the subject of this Application as well as performing his duties as the Receiver.

4. In connection with performance of his duties as Receiver, the Receiver became the successor-in-interest to United States Holdings and filed a Counterclaim in Case No. CIV 2001-0657-PHX-jws pending in the United States District Court for the District of Arizona ("the National Union Litigation"). The Receiver hired Michael Holden of Holden Brockelman to represent the Receiver in connection with the case. Mr. Holden is handling much of the day-to-day work in the lawsuit and the Receiver is functioning more as the client.

5. On November 15, 2001, the Court entered its Order regarding the Receiver's proposed budget as to the National Union Litigation pursuant to which the Court established procedures for fee applications to be submitted by the Receiver.

6. On December 4, 2001 the Receiver filed his First Interim Application to Allow and Pay (1) Receiver's Fees and Expenses and (2) Attorney's Fees and Expenses for the time period from

August 1, 2001 through November 30, 2001. On January 25, 2002 the Court issued its Order Approving the Second Interim Application and thereafter QSC&L was paid \$15,608.99 and was paid \$7,383.19.

7. This Application seeks approval and payment of the fees and reimbursement of expenses for the Receiver and QSC&L for the time period from December 1, 2001 through February 28, 2002. This Application also seeks approval and payment of the fees and reimbursement of expenses for the Receiver's counsel in Phoenix, Holden Brockelman, for the period from November 1, 2001 through January 31, 2002.

8. During the period covered by this Application, the Receiver has incurred fees and expenses in the National Union Litigation with respect to his activities as Receiver and with respect to QSC&L and Holden Brockelman on a monthly basis as follows:

<u>QSC&L</u>		
<u>Month</u>	<u>Fees</u>	<u>Expenses</u>
December, 2001	\$ 580.00	\$ 1.36
January, 2002	357.50	-0-
February, 2002	197.50	-0-
TOTAL:	\$ <u>1,135.00</u>	\$ <u>1.36</u>

<u>Holden Brockelman</u>		
<u>Month</u>	<u>Fees</u>	<u>Expenses</u>
November, 2001	\$ 160.00	\$ -0-
December, 2001	-0-	-0-
January, 2002	10,000.00	527.75
TOTAL:	\$ <u>10,160.00</u>	\$ <u>527.75</u>

9. Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes conveys the following information for the time period of December 1, 2001 through February 28, 2002 as to services rendered by QSC&L: (a) the number of hours worked by each attorney and staff member on a particular day, (b) the manner and type of work performed by each attorney and staff member, (c) the customary billing rate for each person rendering service in this matter, and (d) the monetary value assigned to each task performed by a given attorney and/or staff member. Each of the invoices attached hereto as Exhibit "A" reflect aggregate expenses by category during a given month. Expense items in excess of \$500.00, if any, have been itemized under Exhibit "B." The invoices of Holden Brockelman for the time period from November 1, 2001 through January 31, 2002 are attached hereto as Exhibit "C" and are incorporated herein by reference. They convey the same information.

JOHNSON FACTORS

10. In support of this request for allowance of compensation and reimbursement of expenses, the Receiver, QSC&L and Holden Brockelman respectfully direct this Court's attention to those factors generally considered by courts in awarding compensation to professionals for services performed in connection with the administration of a receivership estate. As stated by the Fifth Circuit Court of Appeals in *Migis v. Pearle Vision, Inc.*, 135 F.3d 1041, 1047 (5th Cir. 1998) "The calculation of attorneys fees involves a well-established process. First, the court calculates a 'lodestar' fee by multiplying the reasonable number of hours expended on the case by the reasonable hourly rates for the participating lawyers. (cite omitted.) The court then considers whether the lodestar figure should be adjusted upward or downward depending on the circumstances of the case. In making a lodestar adjustment the court should look at twelve factors, known as the Johnson factors, after *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974)." Those

factors as applied to the services rendered in this case by the Receiver, QSC&L and Holden Brockelman are addressed below.

(a) The Time and Labor Required. The Receiver, QSC&L and Holden Brockelman respectfully refer the Court's attention to Exhibits "A" and "C" which detail the involvement of the Receiver, QSC&L's and Holden Brockelman attorneys in this case during the four month period covered by this Application during which a total of more than 91 hours of attorney and Receiver time have been expended.

(b) The Novelty and Difficulty of the Questions. Many of the tasks reflected in Exhibits "A" and "C" involved factual and legal questions which were of substantial complexity.

(c) The Skill Requisite to Perform the Service. The Receiver believes that the services performed in this case have required individuals possessing considerable experience in asset seizure, tracing and liquidation and fidelity bond litigation. Both the Receiver, QSC&L and Holden Brockelman have considerable experience in such areas.

(d) The Preclusion of Other Employment Due to Acceptance of the Case. The Receiver and QSC&L have not declined any representation solely because of their services as Receiver and counsel for the Receiver. Holden Brockelman has not declined any representations because of its representation of the Receiver.

(e) The Customary Fee. The hourly rates sought herein are commensurate with the rates charged by other practitioners of similar experience levels in the Northern District of Texas. During the course of these proceedings, the following lawyers at QSC&L have performed legal services on behalf of the Receiver with respect to these proceedings: Mike Quilling (\$275.00 per hour), licensed in 1982 and Board Certified in Business Bankruptcy Law and Civil Trial Law; Ken Hill (\$200.00 per hour) licensed in 1991; and Dee Raibourn (\$170.00 per hour), licensed in 1998. During the

course of these proceedings, the following lawyers at Holden Brockelman have performed legal services on behalf of the Receiver: Michael Holden (\$200.00 per hour) licensed in 1981; Kevin Kasarjian (\$135.00 per hour) licensed in 1999.

(f) Whether the Fee is Fixed or Contingent. The Receiver's, QSC&L's and Holden Brockelman's fees are fixed insofar as monies exist by way of Receivership Assets from which to pay such fees. Payment of such fees, however, is subject to Court approval.

(g) Time Limitations Imposed by the Client or Other Circumstances. The time requirements during the period covered by this Application have been normal.

(h) The Amount Involved and the Results Obtained. The National Union Litigation is an action by an insurance company to essentially rescind \$10 million of bonds which it issued to United Holdings, an entity controlled by Jeffrey Matz. The Receiver has counterclaimed alleging that the bonds are valid and the amount of the bonds should be paid to the Receiver to help cover losses as to the fraudulent Hammersmith program.

(i) The Experience, Reputation, and Ability of the Attorneys. QSC&L has several attorneys who specialize exclusively in the practice of civil trial law. The practice of those attorneys regularly includes the representation of bankruptcy trustee and receivers. The reputation of QSC&L's attorneys is recognized and respected in the community. Holden Brockelman is an experienced law firm and regularly handles fidelity bond cases. Its reputation in its community is well-respected.

(j) The Undesirability of the Case. The representation of the Receiver incident to this case has not been undesirable.

(k) The Nature and Length of the Professional Relationship with the Client. QSC&L did not represent the Receiver in these proceedings prior to being retained in these proceedings. Holden Brockelman did not represent the Receiver prior to being retained in these proceedings.

(l) Award in Similar Cases. The Receiver believes that the fees requested in this case are less than or equal to those which have been awarded in similar cases in this District.

WHEREFORE, PREMISES CONSIDERED, the Receiver, QSC&L and Holden Brockelman request that this Court approve all of the fees and expenses as set forth herein and for such other and further relief, general or special, at law or in equity, to which the Receiver, QSC&L and Holden Brockelman may show themselves justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY
& LOWNDS, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
(214) 871-2100 (Telephone)
(214) 871-2111 (Facsimile)

By: _____

Michael J. Quilling
State Bar No. 16432300

ATTORNEYS FOR RECEIVER

CERTIFICATE OF CONFERENCE

Prior to filing this Application, as required by the Order Appointing Temporary Receiver, I conferred with Bob Brunig of the SEC regarding the filing of this Application. The SEC consents to payment of the requested fees and expenses and believes them to be necessary and reasonable.



Michael J. Quilling

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of March, 2002 a true and correct copy of the foregoing document was served via first class mail, postage pre-paid, on:

Robert B. Brunig
Securities & Exchange Commission
801 Cherry Street, 19th Floor
Fort Worth, Texas 76102

Deborah Goodall
Goodall & Sooter
12830 Hillcrest Rd., Suite 111
Dallas, Texas 75230

Wendell A. Odom, Jr.
440 Louisiana, Suite 800
Houston, Texas 77002

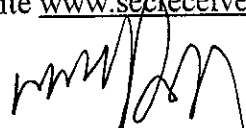
Dan R. Waller
Secore & Waller, LLC
13355 Noel Road, Suite 2290
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Raymond Parr
15455 Point Northwest Blvd., Apt. #507
Houston, Texas 77095

Mr. Richard Wisner
Mann, Berens & Wisner, LLP
2929 North Central Avenue
Suite 1600
Phoenix, Arizona 85012

Mr. Michael J. Holden
Holden Brockelman
2425 East Camel Back Road
Suite 800
Phoenix, Arizona 85016

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



Michael J. Quilling