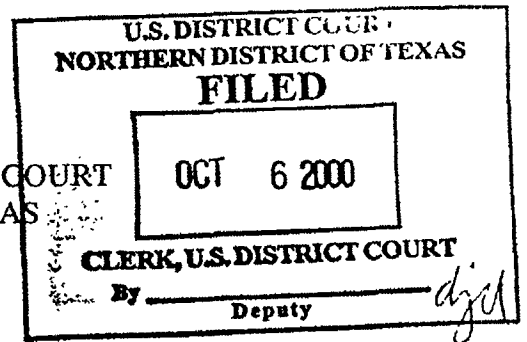


ORIGINAL

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



MICHAEL J. QUILLING, as Receiver
for Howe Financial Trust, MVP
Network, Inc. d/b/a MVP Trust,
and Treds Financial Trust

Plaintiff,

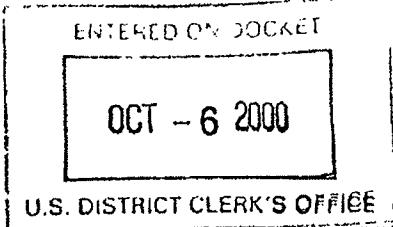
VS.

JAMES W. CONWAY, ET AL.

Defendants.

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NO. 3-99-CV-2699-M



ORDER

Michael J. Quilling, as Receiver for Howe Financial Trust and related entities, has filed an application for \$3,412.50 in fees and \$29.19 in expenses for services performed and costs incurred in this case from June 1, 2000 through August 31, 2000. The Receiver was ordered to post a copy of this fee application on his website with instructions to all interested parties that any objections must be filed by September 25, 2000. No objections have been received by the court.

A hearing was held on October 6, 2000. The Receiver advised all interested parties of this hearing by posting notice on his website as directed by the court. No one appeared at the hearing or otherwise objected to the fee application. The Securities and Exchange Commission, though its regional counsel, previously consented to payment of the amount requested.

The Court has reviewed the fee application and exhibits attached thereto, and finds that the expenses incurred and hourly rates charged by the Receiver are justified under the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). However, the time spent by the Receiver must be discounted in light of the results obtained in this case. On July 10,

2000, the magistrate judge recommended that the claims against defendants be dismissed for lack of personal jurisdiction because the Receiver failed to comply with the requirements of 28 U.S.C. § 754.¹ The Receiver now seeks compensation for 12.0 hours of time spent researching, preparing, and reviewing objections to the findings and recommendation of the magistrate judge. None of this work would have been necessary had the Receiver complied with the controlling statute. Accordingly, the Court determines that the fees paid to the Receiver should be reduced by \$2,590.00. No further adjustment is warranted.

The application for fees and expenses is approved, as modified, and the Receiver is authorized to pay the law firm of Quilling, Selander, Cummiskey & Lownds, P.C. the sum of \$822.50 in fees and \$29.19 in expenses for services performed and costs incurred in this case from June 1, 2000 through August 31, 2000.

SO ORDERED.

DATED: October 6, 2000.


JEFF KAPLAN
UNITED STATES MAGISTRATE JUDGE

¹ Defendants John W. Conway and John W. Conway, P.S.C. are Kentucky citizens. The Receiver argued that personal jurisdiction over these defendants was proper under a federal statute which extends the jurisdiction of a receivership court to any district where property of the receivership estate may be located. 28 U.S.C. § 1692. In order to support the exercise of personal jurisdiction over a nonresident defendant under section 1692, a receiver must:

[W]ithin ten days after the entry of his order of appointment, file copies of the complaint and such order of appointment in the district court for each district in which property is located. *The failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in that district.*

28 U.S.C. § 754 (emphasis added). The magistrate judge held that the Receiver failed to comply with section 754 because he did not file a copy of the complaint and his order of appointment in the Western District of Kentucky in a timely manner. As a result, he was not entitled to rely on the statute authorizing nationwide service of process. See FINDINGS & RECOMMENDATION OF MAGISTRATE JUDGE, 7/10/00 at 5-6. These findings were adopted, as modified, by the district judge. See ORDER, 9/27/00.