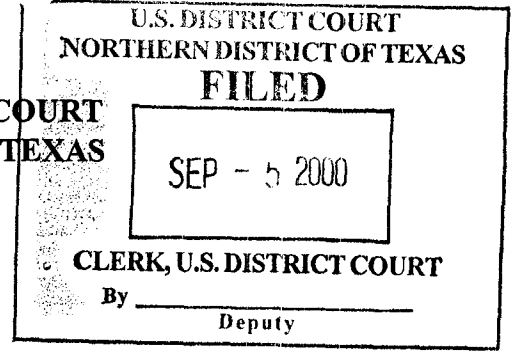


**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**



**MICHAEL J. QUILLING, Receiver for  
Robert Cord, Winterhawk West Indies,  
Inc., and Steven C. Roberts d/b/a  
Funding Resources Group and FRG Trust,**

**Plaintiff,**

v.

**TEXAS COASTAL BANK and  
BILLY HOLCOMB,**

**Defendants.**

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**Civil Action No. 3-99-CV-1504-M**

**RECEIVER'S FIRST INTERIM APPLICATION TO  
ALLOW AND PAY (1) RECEIVER'S FEES AND EXPENSES  
AND (2) ATTORNEYS' FEES AND EXPENSES AND BRIEF IN SUPPORT**

TO THE HONORABLE JEFF KAPLAN, UNITED STATES MAGISTRATE JUDGE:

Michael J. Quilling, Receiver, files this his First Interim Application to Allow and Pay (1) Receiver's Fees and Expenses and (2) Attorneys' Fees and Expenses 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, Clutts & Lownds, P.C., now known as 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. These proceedings were initiated by the Receiver as a consequence of his pursuit of Receivership Assets and causes of action against third parties to recover funds which the Receiver believes rightfully belong to defrauded investors.

5. On August 24, 2000 the Court entered its Order regarding the Receiver's proposed budget pursuant to which the Court established procedures for fee applications to be submitted by the Receiver. This Application is submitted pursuant to that Order.

6. This Application seeks approval and payment of the fees and reimbursement of expenses for the Receiver and QSC&L for the time period from June 1, 2000 through August 31, 2000. The Receiver did not establish a separate billing file for these proceedings until June 1, 2000.

7. During the period covered by this Application, the Receiver has incurred fees and expenses with respect to his activities as Receiver and with respect to QSC&L as to these proceedings on a monthly basis as follows:

**RECEIVER'S FIRST INTERIM APPLICATION TO ALLOW AND PAY  
(1) RECEIVER'S FEES AND EXPENSES AND (2) ATTORNEY'S FEES  
AND EXPENSES AND BRIEF IN SUPPORT - PAGE 2**

<u>Month</u>	<u>Fees</u>	<u>Expenses</u>
June 2000	\$ 257.50	\$ 0.00
July 2000	1,525.00	193.05
August 2000	<u>1,047.50</u>	<u>185.00</u>
<b>TOTAL:</b>	<b>\$2,830.00</b>	<b>\$ 378.05</b>

8. Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes conveys the following information for the time period of June 1, 2000 through August 31, 2000: (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."

### JOHNSON FACTORS

9. In support of this request for allowance of compensation and reimbursement of expenses, the Receiver and QSC&L 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 and QSC&L are addressed below.

(a) The Time and Labor Required. The Receiver and QSC&L respectfully refer the Court’s attention to Exhibit “A” which details the involvement of the Receiver and QSC&L’s attorneys in this case during the three month period covered by this Application during which a total of more than 15 hours of attorney and Receiver time have been expended.

(b) The Novelty and Difficulty of the Questions. Many of the tasks reflected in Exhibit “A” 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. Both the Receiver and QSC&L 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.

(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 (\$250.00 per hour), licensed in 1982 and Board Certified in Business Bankruptcy Law and Civil Trial Law; Clark Will (\$200.00 per hour), licensed in 1980; Andy Trusevich (\$200.00 per hour) licensed in

1992 and Board Certified in Labor and Employment Law and Dee Raibourn (\$125.00 per hour) licensed in 1998.

(f) Whether the Fee is Fixed or Contingent. The Receiver's and QSC&L'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. This is an action by the Receiver to recover and avoid the Defendant's claimed security interest in over \$1 million of certificates of deposits. The action also seeks to recover damages against the Defendants for their role in aiding and abetting corporate waste and breach of fiduciary duty. During the period covered by this Application, the parties have complied with Court Orders regarding scheduling and budgets and have begun settlement negotiations.

(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.

(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.

(1) Award in Similar Cases. QSC&L 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 and QSC&L 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 and QSC&L may show themselves justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY  
& LOWNDS, P.C.  
2800 One Dallas Centre  
350 North St. Paul, Suite 2800  
Dallas, Texas 75201-4240  
(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 5<sup>th</sup> day of September, 2000 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

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

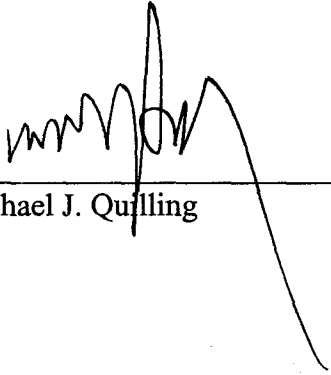
S. Cass Weiland  
Sheinfeld, Maley & Kay, P.C.  
1700 Pacific Avenue, Suite 4400  
Dallas, Texas 75201-4618

Brian Dumesnil  
Bracewell & Patterson  
2900 S. Tower Pennzoil Place  
711 Louisiana St.  
Houston, TX 77002

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

Dan R. Waller  
Secore & Waller, LLC  
13355 Noel Road, Suite 2290  
Dallas, Texas 75240

Mr. Gregory M. Clark  
Woodard, Hall & Primm  
600 Travis  
100 Commerce Tower  
Houston, Texas 77002

  
\_\_\_\_\_  
Michael J. Quilling

**QUILLING SELANDER, CUMMISKEY & LOWNDS**

A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS

BRYAN TOWER  
2001 BRYAN STREET, SUITE 1800  
DALLAS, TEXAS 75201-4240

TELEPHONE: (214) 871-2100  
TELECOPIER: (214) 871-2111

TAX ID #75-2459334

Michael J. Quilling, Receiver

Page: 1  
06/30/00  
Client No: 911-53M  
Invoice No: 40410

Re: Funding Resources - Texas Coastal Bank

	Hours	
06/05/00 DDR Telephone conference with Attorney Eckerson re retention of expert witness and candidates.	.30	37.50
06/07/00 DDR Telephone conference with attorney Eckerson re: designation of expert witness and interview of same.	.30	37.50
06/22/00 DDR Telephone conference with attorney Wallis and AMT re: results of lawsuit and strategy of same.	.50	62.50
06/30/00 AMT Telephone conference with Greg Clark's office re: joint status report (.3); Telephone conference with Brian Dumesnil's office re: joint status report (.3).	.60	120.00
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For Current Services Rendered	1.70	257.50

Timekeeper	Recapitulation		Total
	Hours	Hourly Rate	
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Andy M. Trusevich	0.60	\$200.00	\$120.00
D. Dee Raibourn	1.10	125.00	137.50

Total Current Work

257.50

**PLEASE NOTE: NEW BILLING ADDRESS**  
DUE AND PAYABLE UPON RECEIPT





Michael J. Quilling, Receiver

Page: 2

06/30/00

Client No: 911-53M

Invoice No: 40410

Re: Funding Resources - Texas Coastal Bank

Balance Due

\$257.50

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NOTE: PLEASE REFERENCE THE CLIENT NO. WITH PAYMENT

**QUILLIN SELANDER, CUMMISKEY & LOWNDS**

**A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS**

**BRYAN TOWER  
2001 BRYAN STREET, SUITE 1800  
DALLAS, TEXAS 75201-4240**

**TELEPHONE: (214) 871-2100  
TELECOPIER: (214) 871-2111**

**TAX ID #75-2459334**

Michael J. Quilling, Receiver

Page: 1  
07/31/00

Client No: 911-53M  
Invoice No: 40972

Re: Funding Resources - Texas Coastal Bank

	Hours	
07/14/00		
AMT Prepare draft of joint status report and proposed scheduling order; travel to Houston and attend joint status conference.	4.70	940.00
07/17/00		
AMT Prepare final joint status report and send to defense counsel.	.40	80.00
CBW Telephone conference with Olney Wallis re settlement with Smiths and re transcript for TCB matter.	.40	80.00
07/24/00		
MJQ Preparation of Receiver's Proposed Litigation budget and office conference with Andy Trusevich regarding content of same.	.90	225.00
DDR Telephone conference with attorney Eckerson and potential expert witness re interview of expert witness (1.0).	1.00	125.00
07/28/00		
MJQ Telephone conference with Greg Clark discussing settlement parameters.	.30	75.00
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For Current Services Rendered	7.70	1,525.00

**PLEASE NOTE: NEW BILLING ADDRESS  
DUE AND PAYABLE UPON RECEIPT**

Michael J. Quilling, Receiver

Page: 2  
07/31/00

Client No: 911-53M  
Invoice No: 40972

Re: Funding Resources - Texas Coastal Bank

Recapitulation			
Timekeeper	Hours	Hourly Rate	Total
-----	-----	-----	-----
Michael J. Quilling	1.20	\$250.00	\$300.00
Andy M. Trusevich	5.10	200.00	1,020.00
D. Dee Raibourn	1.00	125.00	125.00
Clark B. Will	0.40	200.00	80.00
Parking			7.50
Travel Expenses - Andrew Trusevich - Airfare for Texas Costal Bank Meeting re: preparation of joint status report			185.00
Postage			0.55
Total Expenses Thru 07/31/00			193.05
Total Current Work			1,718.05
Balance Due			\$1,718.05
			=====

NOTE: PLEASE REFERENCE THE CLIENT NO. WITH PAYMENT

# QUILLIN, SELANDER, CUMMISKEY & LOWNDS

A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS

BRYAN TOWER  
2001 BRYAN STREET, SUITE 1800  
DALLAS, TEXAS 75201-4240

TAX ID # 75-2459334

TELEPHONE: (214) 871-2100  
TELEFAX: (214) 871-2111

Michael J. Quilling, Receiver

Page: 1  
08/31/00  
Client No: 911-53M  
Invoice No: 41520

Re: Funding Resources - Texas Coastal Bank

	Hours	
08/06/00		
MJQ Review and calendar Order regarding budget hearing (.1); preparation of letter to counsel regarding same (.1); review and calendar Initial Scheduling Order (.3).	.50	125.00
08/14/00		
AMT Telephone conversation with Greg Clark re: mediation of case.	.30	60.00
08/23/00		
MJQ Telephone conference with Daniel Jackson regarding issues relating to Texas Coastal Bank.	.20	50.00
08/24/00		
MJQ Prepare for and appearance before Court to present litigation budget.	1.00	250.00
DDR Review of Billy Holcomb deposition from action in State Court in Houston (2.5).	2.50	312.50
08/29/00		
DDR Telephone conference with attorney Greg Clark re scheduling of mediation and various case issues (.3).	.30	37.50
08/30/00		
MJQ Preparation of Fee Application and Order regarding the same.	.60	150.00
08/31/00		
DDR Numerous telephone conferences with attorney Greg		

**PLEASE NOTE: NEW BILLING ADDRESS  
DUE AND PAYABLE UPON RECEIPT**

Michael J. Quilling, Receiver

Client No: 911-53M

Invoice No: 41520

Re: Funding Resources - Texas Coastal Bank

	Hours	
Clark re scheduling of mediation and impact of settlement with Southern District claimants and claims against receivership estate (.5).	.50	62.50
AMT Conversation with Greg Clark re: mediator selection.	.30	60.00
	-----	-----
For Current Services Rendered	6.20	1,107.50

Recapitulation

Timekeeper	Hours	Hourly Rate	Total
-----	-----	-----	-----
Michael J. Quilling	2.30	\$250.00	\$575.00
Andy M. Trusevich	0.60	200.00	120.00
D. Dee Raibourn	3.30	125.00	412.50

Travel Expenses - Andy Trusevich - travel to Houston Texas on 7/17/00	185.00
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Total Expenses Thru 08/31/00	185.00
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Total Current Work	1,292.50
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Balance Due	\$1,292.50
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NOTE: PLEASE REFERENCE THE CLIENT NO. WITH PAYMENT