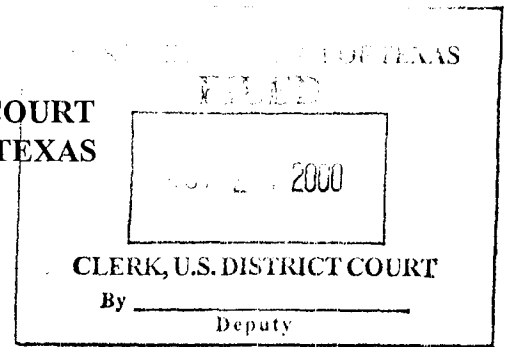


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



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

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Plaintiff,

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

v.

TEXAS COASTAL BANK and  
BILLY HOLCOMB,

Defendants.

**MOTION TO APPROVE  
COMPROMISE AND SETTLEMENT AGREEMENT**

TO THE HONORABLE BARBARA M.G. LYNN, UNITED STATES DISTRICT JUDGE:

COMES NOW, Michael J. Quilling (“Receiver”) and files this Motion to Approve Compromise and Settlement Agreement and in support of such would respectfully show as follows:

1. On November 13, 1998, the Securities and Exchange Commission (“SEC”) commenced Civil Action No. 3:98-CV-2689-M, styled *SEC v. Funding Resource Group, et al.*, in the United States District Court for the Northern District of Texas, Dallas Division (the “SEC Action”).

2. On November 13, 1998, the Court in the SEC Action signed the Order Appointing Temporary Receiver, appointing Michael J. Quilling as Receiver as to all of the named Defendants and Equity Relief Defendants in the SEC Action (“Receivership Order”). In connection with the Receivership Order, the Receiver was ordered, *inter alia*, to “take custody, possession and control of [the] . . . Receivership Assets.” The Receiver was authorized, after proper permission of the Court, “to institute, prosecute, compromise or adjust such actions or proceedings in state or federal

court as he may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets.”

3. In connection with performing his duties as Receiver and as set forth under the Receivership Order, the Receiver commenced this action on July 1, 1999. Thereafter, the Defendants filed a Motion to Dismiss and the matter was extensively briefed to the Court. Ultimately, the Motion was denied and thereafter, the parties engaged in extensive discovery. A settlement was eventually reached after a lengthy mediation, subject to approval by this Court, the terms of which are set forth in Exhibit “A,” attached hereto and incorporated by reference for all purposes.

4. As set forth in the Settlement Agreement, Texas Coastal Bank has agreed to pay the Receiver \$395,000.00 and relinquish all claims against the receivership estate to resolve the matter. In addition, the Receiver will avoid spending in excess of \$200,000.00 to prosecute the case to trial. Accordingly, the Receiver believes the settlement is in the best interest of the receivership estate and should be approved by the Court.

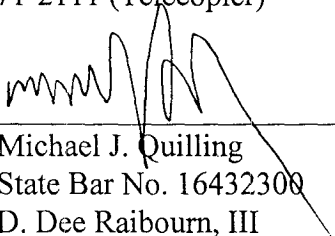
5. The Settlement Agreement has been reviewed by the SEC through its representative, Bob Brunig, as is evidenced by a letter from Mr. Brunig, attached hereto as Exhibit “B” and incorporated by reference herein, and as can be seen from Mr. Brunig’s letter, the SEC has no objection to the proposed settlement.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that the Court approve the Compromise and Settlement Agreement and authorize the Receiver to conclude the settlement as set forth therein, and for such other and further relief, general or special, at law or in equity to which the Receiver may show himself justly entitled.

Respectfully submitted,

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

By: \_\_\_\_\_

  
Michael J. Quilling  
State Bar No. 16432300  
D. Dee Raibourn, III  
State Bar No. 24009495

ATTORNEYS FOR RECEIVER

**CERTIFICATE OF SERVICE**

I certify that on this <sup>23</sup> day of October, 2000, a true and correct copy of the foregoing has been served on the following via first-class mail:

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

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

Steve Roberts (pro se)  
19 Hornsilver Place  
The Woodlands, Texas 77381  
(281) 367-9224

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

Tracy Eckerson  
1111 Bagby, Suite 4900  
Houston, TX 77002

Matt Rubin  
Gerald M. Birnberg  
6671 Southwest Freeway, Suite 303  
Houston, TX 77074-2284

Carolyn L. McElroy  
1001 Texas Avenue, Suite 1020  
Houston, TX 77002

Olney G. Wallis  
Wallis & Short  
4300 Scotland  
Houston, TX 77007

Norman Van Pelt  
Van Pelt & Frank Law Offices, PC  
7880 San Felipe, Suite 111  
Houston, TX 77063

Robert F. ("Cord") Schoonover, Jr.  
Inmate No. 08-328-023  
Federal Corrections Institution  
P.O. Box 26045  
Beaumont, TX 77720-6645

Daniel Jackson  
3223 Smith, Suite 303  
Houston, TX 77006

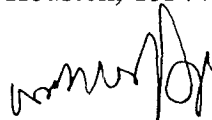
Raymond Dickens, Jr.  
55 Waugh Drive, Suite 101  
Houston, TX 77007

Michael S. Burg  
11 Greenway Plaza, Suite 3030  
Houston, TX 77046

John R. Sherman, PC  
1314 Texas Avenue, Suite 1410  
Houston, TX 77002

Glenn H. Steele, Jr.  
Provost & Umphrey  
490 Park Street  
P.O. Box 4905  
Beaumont, TX 77704

John L. Moncure  
1200 River Oaks Tower  
3730 Kirby  
Houston, TX 77098



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Michael J. Quilling

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

**FULL AND FINAL RELEASE**  
**AND SETTLEMENT OF ALL CLAIMS**

This Release (herein, so called) is entered into between Michael J. Quilling, Plaintiff in the above-entitled and numbered proceedings (“Receiver”), Texas Coastal Bank (“Bank”), and Billy and Dorothy Holcomb (“Holcombs”) collectively (“Defendants”).

**Recitals**

WHEREAS, on November 13, 1998, the Securities and Exchange Commission (“SEC”) initiated cause 3:98-CV-2689-X, styled *Securities and Exchange Commission v. Funding Resource Group, et. al.*, (the “SEC Lawsuit”) and in connection with which Michael J. Quilling (the “Receiver”) was appointed as receiver to the defendants and equity relief defendants named in the SEC Lawsuit at that time including, but not limited to Robert Cord, Winterhawk West Indies, Inc., and Steven C. Roberts d/b/a Funding Resources Group and FRG Trust (the “Receiver Subjects”); and

WHEREAS, two of Cord’s enterprises and aliases were known as Winterhawk West Indies, Inc., (“Winterhawk”) and Saber Industries (“Saber”); and



WHEREAS, by order in the SEC Lawsuit, entitled “Order Appointing Temporary Receiver,” dated November 13, 1998, (the “Receivership Order”), the Receiver was empowered, *inter alia*, “... to institute, prosecute, compromise or adjust such actions or proceedings in state or federal court as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets;” and

WHEREAS, by order in the SEC Lawsuit, entitled “Order Freezing Assets, Requiring an Accounting and Requiring Preservation of Documents,” dated November 13, 1998, (the “Freeze Order”), the Court ordered:

2. Any bank, savings and loan association... or other financial or depository institution which holds an account in the name of or for or on behalf of... Robert Cord... WinterHawk West Indies, Ltd... be and hereby is restrained and enjoined from... any disbursement of funds or securities pending further order of this Court.

WHEREAS, Cord and/or Winterhawk opened several banking accounts with Texas Coastal Bank where Billy Holcomb was the president of the bank during all the relevant times; and

WHEREAS, Cord and/or WinterHawk purchased several certificates of deposit (“CDs”) in the name of WinterHawk with investor funds including CD account nos. 3631 (\$160,000), 3680 (\$280,000), 3687 (\$280,000), and 3690 (\$280,000) among others. Cord and/or WinterHawk also took loans from the Bank, executed promissory notes, and executed other documentation granting the Bank a security interest in and a right to set-off the CD funds in the event of any default on the loans. WinterHawk defaulted on the loans in August 1997, the Bank declared the loans immediately due and payable, and the Bank asserted its right to the CD funds as a result of its security interest and set-off rights; and

WHEREAS, on the date the above-referenced Freeze Order was entered, the Bank held the funds representing the aforementioned CD account nos. 3631, 3680, 3687, and 3690 only (totaling \$1,000,000.00, plus accrued interest) and held no other accounts or funds in the name of or for or

on behalf of Robert Cord, WinterHawk, or Saber. The Receiver has made demand upon the Bank and Holcomb for the return of WinterHawk CD funds and for damages. The Bank has asserted its right to the CD funds to off-set the defaulted WinterHawk loans. However, because of the Freeze Order, the Bank has not disbursed the CD funds to off-set the defaulted WinterHawk loans; and

WHEREAS, Bank asserted a claim against the Cord and WinterHawk receivership estates for its losses as a result of the defaulted WinterHawk loans; and

WHEREAS, the Receiver filed a lawsuit against the Bank and Holcomb styled, *Michael J. Quilling, Receiver, et. al. v. Texas Coastal Bank and Billy Holcomb*, pending in U.S. District Court for the Northern District of Texas, Dallas Division (the "Receiver Lawsuit"), alleging various causes of actions, including but not limited to that the Bank and Holcomb received Receivership assets/funds; and

WHEREAS, Texas Coastal Bank and Billy Holcomb answered the Complaint and denied several of the allegations alleged by the Receiver; and

WHEREAS, a bona fide dispute exists concerning the liability of the Bank and Holcomb for damages asserted in the Receiver Lawsuit and for the CD funds that will only be resolved, if at all, by costly and time consuming litigation, or by compromise and settlement; and

WHEREAS, the Defendants, in an effort to resolve this dispute, however denying any liability, have offered \$395,000.00 to the Receiver to compromise and settle this matter and any potential claims or causes of action against the Bank and/or Holcomb relating to or arising out of any of the acts, omissions, or transactions that are referenced or could have been referenced in the Receiver Lawsuit, and the Receiver has determined to accept said offer, and has entered into this agreement to evidence the same; and

WHEREAS, prior to payment of the above-referenced amount to the Receiver, the Receiver will procure in writing from the SEC an acknowledgment to the effect that the Receiver has the

authority to settle and release all claims against the Bank and the Holcombs and to further release the aforementioned CD account funds to the Bank free from the effects of the Freeze Order or any other order entered in the SEC Lawsuit and, upon payment of the above-referenced amount to the Receiver, the Receiver intends and agrees to release the Bank and Holcomb from the effects of the Freeze Order and any other lawsuits, orders, restraints or injunctions which may apply in regard to the aforementioned CDs and CD funds, and those CD funds may be immediately released and/or disbursed to the Bank without further restrictions, restraints or liability.

NOW, THEREFORE, based upon the consideration set forth hereafter, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. **Settlement Amount.** Texas Coastal Bank and/or Billy Holcomb will pay the Receiver Three-Hundred-Ninety-Five-Thousand-Dollars and Zero Cents (\$395,000.00) (the "Settlement Amount") by a cashier's check and the Receiver will **deposit the funds into the Receiver Trust account**, pending court approval of this Release, pursuant to a Motion to Approve Compromise and Settlement Agreement, which will be filed by the Receiver. The Receiver shall hold the Settlement Amount in trust, until such time as the court approves this Release. Upon receipt of the Settlement Amount, the Parties, through their counsel, will file a Motion to Dismiss this case, with prejudice, with an attached "Order" granting the motion to dismiss the case with prejudice.

II. **Releases.** Upon receipt of the Settlement Amount, the following releases shall become effective:

a. **Receiver's Release.** The Receiver, for himself and each of the Receiver Subjects and their respective agents, representatives, partners, successors and assigns hereby releases, acquits and forever discharges Texas Coastal Bank, Billy Holcomb and



Dorothy Holcomb from any obligations, accounts, defenses, offsets and liabilities of any kind or character whatsoever, known or unknown, suspected or unsuspected, in contract or in tort, at law or in equity, which the Receiver and any of the Receiver Subjects ever had or now has against Texas Coastal Bank and/or Billy Holcomb for or by reason of any matter, cause or thing whatsoever.

- b. Texas Coastal Bank's and Billy Holcomb's and Dorothy Holcomb's Release. Texas Coastal Bank and Billy Holcomb and Dorothy Holcomb and their agents, representatives, partners, successors and assigns, hereby release, acquit and forever discharge the Receiver and the Receiver Subjects of and from any accounts, defenses, suits, contracts, agreements, offsets and liabilities of any kind or character whatsoever, known or unknown, suspected or unsuspected, in contract or in tort, at law or in equity, which the Bank and the Holcombs, their successors or assigns, ever had or now have against the Receiver.

**III. Full Releases.** Notwithstanding the form or the contents of the language in this release, it is intended by the parties that this Release is a final compromise and settlement of all matters, whether known or unknown, between them relating to the aforementioned SEC Lawsuit and Receiver Lawsuit, and that there are no claims one against the other that are not known relating to those lawsuits, that are not fully compromised and settled by this Release.

**IV. No Claims Against Receivership Estate.** For valuable consideration, Texas Coastal Bank and Billy Holcomb hereby agree that they shall not assert any claim against any of the receivership estates which are the subject of these proceedings or make any claim of redemption or the right to share in any proceeds of assets liquidated or recovered by the Receiver.

V. **No Extraneous Representations.** Each party to this agreement is represented by counsel and is relying upon the advice of their counsel in freely and voluntarily entering into this Release. It is expressly acknowledged by each and every party to this Release agreement that the decision to execute this Release is not based upon any representations, oral or written, of any nature whatsoever, other than expressly set forth herein.

VI. **Multiple Counterparts.** This Release may be executed in numerous identical counterparts, each of which shall be deemed an original for all purposes.

VII. **Entire Agreement.** This Release constitutes the entire agreement between the parties hereto. In addition, the Parties acknowledge that headings contained herein are for the convenience of reference only and shall in no way affect any interpretation of this Release.

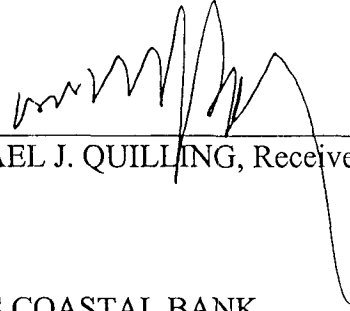
VIII. **Governing Law and Venue.** This Release shall be governed by and shall be construed in accordance with the laws of the United States of America and the laws of the State of Texas. In the event of a dispute arising out of or in any way relating to this Release, the parties irrevocably agree and consent in advance to any necessary transfer of venue, so that the venue for such dispute shall lie in any United States District Court in the Northern District of Texas, Dallas Division.

IX. **Authorization.** Each signatory hereto, by virtue of his execution hereof, represents and affirms that he is authorized to execute this document.

X. **No Admission.** The parties acknowledge that this Release is not an admission nor evidence of any wrongdoing or liability by any of them as to any claim or cause of action, and that they have entered this Release only so as to buy peace and resolve the disputes between them and in order to avoid the inconvenience, uncertainties, and expense of litigation.

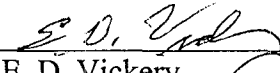
XI. **No Assignment of Claims.** The parties represent and warrant that they, respectively, own all of the claims and causes of action covered by this Release and that they, respectively, have not assigned or conveyed any of them.

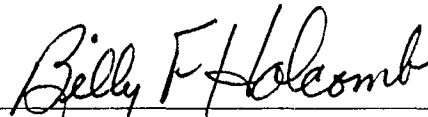
Executed this 23<sup>rd</sup> day of OCTOBER, 2000.



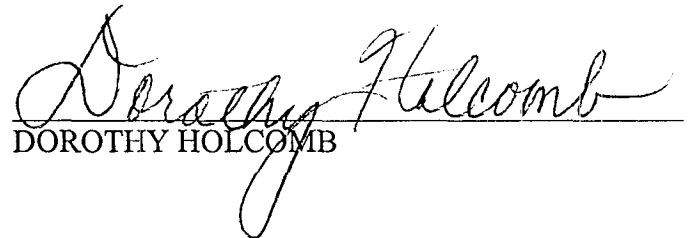
MICHAEL J. QUILLING, Receiver

TEXAS COASTAL BANK

By:   
E. D. Vickery



BILLY F. HOLCOMB



DOROTHY HOLCOMB



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
FORT WORTH DISTRICT OFFICE  
19TH FLOOR  
801 CHERRY STREET  
FORT WORTH, TEXAS 76102

IN REPLYING PLEASE QUOTE

RAB:rab  
~~FW-2064B~~

October 23, 2000

**VIA FACSIMILE 214/871-2100  
AND REGULAR MAIL**

Michael J. Quilling, Esq.  
**QUILLING, SELANDER, CUMMISKEY & LOWNDS, P.C.**  
2001 Bryan Street  
Suite 1800  
Dallas, TX 75201-3070

RE: SEC v. Funding Resource Group, et al.  
Civil Action No. 3:98-CV-2689-X  
USDC ND/TX [Dallas Division]

Dear Mr. Quilling:

I have reviewed the Full and Final Release and Settlement of All Claims executed by you, as temporary receiver, and by Texas Coastal Bank and Billy and Dorothy Holcomb. Although the Securities and Exchange Commission looks primarily to your judgment and to review by the presiding judge to determine the propriety of the compromise of any and all claims by and/or against you, as temporary receiver, I do attempt to review and evaluate the terms of all settlements.

Although my knowledge of the facts is somewhat limited, it is nevertheless my opinion that your acceptance of a payment of \$395,000, together with the release of claims, would constitute a very satisfactory settlement. That opinion is based on the possible viability of some of the defenses asserted, the cost of litigation and the possibility of difficulties in collection, together with the delay in obtaining payment.

The Commission itself is therefore unaware of any objection to the proposed settlement.

If you have any questions, please call.

Very truly yours,

Robert A. Brunig  
Senior Trial Counsel

