

IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
 CHARLOTTE DIVISION  
 File No.: 3:04-CV-251

**FILED**  
 CHARLOTTE, N. C.  
 FEB 22 2005

U. S. DISTRICT COURT  
 W. DIST. OF N. C.

Michael J. Quilling, Receiver for )  
 Frederick J. Gilliland, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Grand Street Trust, Heartland Control )  
 Trust, Future Control Trust, Marie Margarite )  
 Gueco Mercado Paquette, Rein Evans )  
 Sestanovich, L.L.P. f/k/a Dressler Rein )  
 Evans & Sestanovich, L.L.P., Melrose )  
 Escrow, Inc., and Paul J. Cohen, )  
 )  
 Defendants. )

MOTION TO WITHDRAW AS  
 COUNSEL OF RECORD  
 and Incorporated Brief in Support

The law firm Blanchard, Jenkins, Miller, Lewis & Styers, P.A. (“law firm”), through the undersigned member of the law firm, E. Hardy Lewis, respectfully moves the Court for an Order allowing the law firm to withdraw from further representation of defendants Marie Margarite Gueco Mercado Paquette, Grand Street Trust, Heartland Control Trust, and Future Control Trust [hereinafter “Paquette defendants”] in this matter. In support of this motion, the law firm and Lewis respectfully show the Court as follows:

1. Counsel first communicated with Paquette defendants on 27 September 2004.
2. Without waiving any defenses, counsel determined that the deadline for responsive pleading was 5 October 2004 . Because of the short deadline, counsel was unable to secure any payment prior to making an appearance in this case.
3. Counsel has filed a motion to dismiss the complaint in this case, with incorporated memorandum, as well as spent significant time researching the many complex legal issues that are involved in this case.
4. There have been numerous communications between counsel and Ms. Paquette concerning the payment of legal fees, including several warnings stating that non-payment of fees would result in counsel seeking to withdraw from the case. These warnings started in October 2004. Despite repeated warnings, defendants have failed to remit good payment for fees. Counsel has not been paid anything for its work in this case.
5. Rule 1.16(b) of the North Carolina Revised Rules of Professional Conduct permits a lawyer to withdraw from representing a client (upon court approval) if “the client fails

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substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation has been fulfilled."

6. In accordance with Local Rule 7.1(A), counsel has conferred with other counsel in the case regarding this motion. Counsel has been authorized by counsel for co-defendant to represent that co-defense counsel has no objection to the Court granting permission to withdraw. In discussing this issue with counsel for plaintiff, it was decided that counsel for plaintiff will state his position in a response to this motion. Counsel believes plaintiff's counsel is principally concerned about the ability to serve pleadings on the trust defendants, given that, as quasi-corporate entities, they cannot represent themselves. Undersigned counsel is willing to remain counsel of record for a period of time sufficient to allow Ms. Paquette to secure other counsel for the trusts and, if she desires, for herself.

7. Given the early stage of this litigation, neither defendants nor the other parties will be prejudiced by the Court's granting the relief sought in this motion.

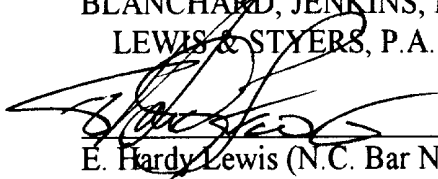
8. On several occasions, counsel has requested that defendants indicate in writing their consent to this motion. Aside from further representations that payment is forthcoming, defendants have failed to indicate whether or not they consent. To the extent this absence of expressed consent should be viewed as an objection to the motion to withdraw, Local Rule 83.1(C) provides that "withdrawal still may be obtained upon good cause shown if it is determined that a scheduled hearing or trial will not be delayed."

9. At the present early stage of this case, no hearing or trial has yet been scheduled. Therefore, no delay will result should this motion be granted.

10. Counsel has attached a proposed order that he thinks addresses the concerns of plaintiff. Should counsel for plaintiff indicate in his response that the proposed order does not sufficiently cover the issues he raises in the response, undersigned counsel will attempt to resolve any such issues directly with counsel for plaintiff. In the unlikely event these issues cannot be resolved (allowing for a revised proposed order), or in the event Ms. Paquette files a response, counsel respectfully requests a brief telephonic hearing regarding the relief requested.

This the 21 day of February, 2005.

BLANCHARD, JENKINS, MILLER,  
LEWIS & STYERS, P.A.



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*Attorneys for Paquette, Grand Street Trust,  
Heartland Control Trust, and Future Control Trust*

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day served the foregoing **Motion To Withdraw as Counsel of Record** in the above-entitled action upon all other parties to this cause by:

- Hand delivering a copy hereof;
- Transmitting a copy hereof via facsimile;
- Depositing a copy hereof, postage pre-paid in the United States Mail, properly


addressed to:

Michael J. Quilling  
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Marie Paquette (*also being served via electronic mail*)  
2701 Cartier Street  
Calgary, Alberta  
Canada, T2T 3J5

This the 21 day of February, 2005.

  
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E. HARDY LEWIS