

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

SECURITIES AND EXCHANGE COMMISSION	§ § §	
Plaintiff,	§ § §	
VS.	§ § §	NO. 3-05-CV-1328-L
MEGAFUND CORPORATION, ET AL.	§ § §	
Defendants.	§ § §	

ORDER

Michael J. Quilling, as Receiver for the Megafund Corporation Receivership Estate, has filed a sixth interim application for payment of \$28,826.50 in fees and \$4,583.11 in expenses incurred by the Receiver and his law firm, Quilling Selander Cummiskey & Lownds, P.C., from May 1, 2007 through July 31, 2007.¹ The Receiver was ordered to post a copy of the fee application on his website with notice to all interested parties that any objections must be filed with the court by August 31, 2007. No written objections have been received. The Securities and Exchange Commission, through its regional counsel, previously consented to payment of the amounts requested.

The court has reviewed the fee application and the exhibits attached thereto, and finds that most of the time spent, services performed, 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, Michael Quilling, Brent Rodine, and Stephen Tomasky have

¹ The court previously authorized the Receiver "to pay 100% of his expenses on a monthly basis, provided statements are sent to the SEC each month, no objections thereto have been presented, and the quarterly fee applications are filed as required." See Order, 5/8/06 at 4. As permitted by this order, the Receiver has reimbursed his law firm \$4,583.11 in expenses and now seeks court approval of that action.

charged nine hours each at their full hourly rates of \$350.00, \$150.00 and \$110.00, respectively, for travel to and from Houston, Texas on June 12, 2007 to seize property belonging to Gary McDuff. Tomasky charged another 11 hours at his full hourly rate of \$110.00 for travel to and from Houston on June 21, 2007 to oversee clean-up of the McDuff residence in preparation for its sale. "Courts in this circuit typically compensate travel time at one-half of the attorney's hourly rate absent evidence that any legal work was performed during such travel." *United States v. Cornerstone Wealth Corp., Inc.*, No. 3-98-CV-0601-D, 2006 WL 1524592 at *3 (N.D. Tex. Jun. 2, 2006) (Kaplan, J.) (citing cases). Because the Receiver has not segregated travel time from legal work performed by his lawyers on their Houston trips, the court declines to approve fees totaling \$6,700.00 at this time.²

To date, Receiver has recovered more than \$1.5 million for the Megafund Corporation Receivership Estate. With the approval of this fee application, the total fees and expenses paid to the Receiver are \$509,378.84,³ which is reasonable in light of the complexities of this litigation and the results obtained for defrauded investors, which includes a recent interim distribution of \$2.5 million. The court therefore determines that no further adjustments to the fees requested by the Receiver are warranted.

Accordingly, the Receiver's sixth interim application for payment of fees and expenses [Doc. #339] is approved as modified. The Receiver is authorized to pay the law firm of Quilling Selander Cummiskey & Lownds, P.C. the sum of \$22,126.50 in fees and \$4,583.11 in expenses incurred from

² This sum represents: (1) nine hours charged by Michael Quilling at the rate of \$350.00 per hour on June 12, 2007; (2) nine hours charged by Brent Rodine at the rate of \$150.00 per hour on June 12, 2007; and (3) a total of 20 hours charged by Stephen Tomasky at a rate of \$110.00 per hour on June 12 & 21, 2007.

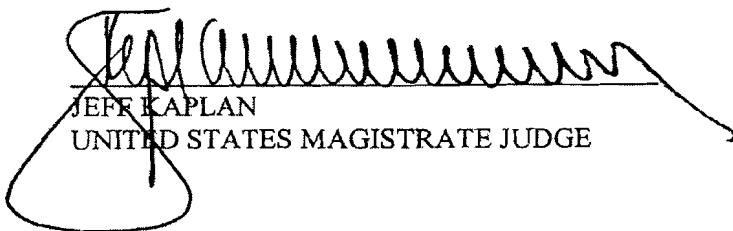
³ In addition to legal fees and expenses, the court has approved payments of \$74,904.91 in accounting fees to Litzler, Segner, Shaw & McKenney, LLP. No additional accounting fees are sought by the Receiver in his current fee application.

May 1, 2007 through July 31, 2007. All payments shall be chargeable to the Megafund Corporation Receivership Estate.

No further fee applications shall be filed prior to January 15, 2008. The Receiver may reurge his request for fees disallowed by this order in his next fee application.

SO ORDERED.

DATED: September 21, 2007.



JEFF KAPLAN
UNITED STATES MAGISTRATE JUDGE

A handwritten signature of "Jeff Kaplan" is written over a solid horizontal line. Below the line, the name "JEFF KAPLAN" is printed in capital letters, followed by "UNITED STATES MAGISTRATE JUDGE" on the next line.