

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

SECURITIES AND EXCHANGE COMMISSION, §
§
Plaintiff, §
§
v. § Civil Action No. 3:05-CV-1328-(BD)
§
MEGAFUND CORPORATION, STANLEY A. §
LEITNER, SARDAUKAR HOLDINGS, IBC., § ECF
and BRADLEY C. STARK, CIG, LTD., and § Referred to the U.S. Magistrate Judge
JAMES A. RUMPF, Individually and d/b/a §
CILAK INTERNATIONAL, §
§
Defendants, §
and §
PAMELA C. STARK, §
§
Relief Defendant. §

RECEIVER'S FINAL APPLICATION TO ALLOW AND PAY (1) RECEIVER'S FEES AND EXPENSES; (2) ATTORNEYS FEES AND EXPENSES; AND (3) ACCOUNTANTS FEES AND EXPENSES WITH BRIEF IN SUPPORT (MEGAFUND CORPORATION/CIG, LTD. RECEIVERSHIP ESTATE)

TO THE HONORABLE JEFF A. KAPLAN, UNITED STATES MAGISTRATE JUDGE:

Michael J. Quilling, Receiver, files this his Final Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys Fees and Expenses; and (3) Accountants Fees and Expenses (Megafund Corporation/CIG, Ltd. Receivership Estate) and, in support of such, would respectfully show unto the Court as follows:

BACKGROUND

1. On July 1, 2005 the Securities and Exchange Commission ("SEC") filed its Complaint and request for appointment of a receiver [Dkt. No. 1]. On July 5, 2005 the Court

appointed Michael J. Quilling as Receiver for the Defendants and Relief Defendant in this case [Dkt. No. 9]. On July 18, 2005 the SEC filed an Amended Complaint expanding this receivership to include other individuals and entities [Dkt. No. 27]. On July 19, 2005 the Court issued an Amended Order Appointing Temporary Receiver (“Order Appointing Receiver”) [Dkt. No. 36].

2. The Order Appointing Receiver authorizes the Receiver to employ such attorneys and accountants as is necessary and proper in connection with the claims process. Since his appointment, the Receiver employed the law firm of Quilling Selander Cumiskey & Lownds, P.C. (“QSCL”) as his general counsel. The Receiver is an attorney and a shareholder in that firm and has rendered many of the legal services addressed in this Amended Application as well as performing his duties as the Receiver. The Receiver also employed the accounting firm of Litzler Segner Shaw & McKenney, LLP (“LSSM”).

3. On August 12, 2005 the Receiver filed an Unopposed Motion to Designate Receivership Estates [Dkt. No. 48]. On August 15, 2005 the Court entered an Order that established two receivership estates within these proceedings, the Megafund Corporation/CIG, Ltd. Receivership Estate and the Sardaukar Holdings Receivership Estate [Dkt. No. 50].

4. On January 17, 2006 the Receiver filed an Agreed Motion to Expand Receivership to include Lancorp Financial Group, LLC [Dkt. No. 83]. On January 20, 2006 the Court entered an Order adding a third receivership estate, the Lancorp Financial Group Receivership Estate [Dkt. No. 84].

5. On November 30, 2005 the Receiver filed his First Interim Application to Allow and Pay (1) Receiver’s Fees and Expenses and (2) Attorneys’ Fees and Expenses and Brief in Support [Dkt. No. 75]. On February 22, 2006 the Court issued an Order approving the Application [Dkt. No. 92].

6. On April 10, 2006 the Receiver filed his Second Interim Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys' Fees and Expenses; and (3) Accountants Fees and Expenses [Dkt. No. 121]. On May 8, 2006 the Court issued an Order requiring the Receiver to file an amended application [Dkt. No. 139].

7. On May 18, 2006 the Receiver filed his Amended Second Interim Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys' Fees and Expenses; and (3) Accountants Fees and Expenses [Dkt. No. 144]. On June 1, 2006 the Court issued an Order approving the Amended Application [Dkt. No. 153].

8. On July 10, 2006 the Receiver filed his Third Interim Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys' Fees and Expenses; and (3) Accountants Fees and Expenses [Dkt. No. 166]. On August 14, 2006 the Court issued an Order approving the Application [Dkt. No. 187].

9. On October 6, 2006 the Receiver filed his Fourth Interim Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys Fees and Expenses; and (3) Accountants Fees and Expenses [Dkt. No. 211]. On November 15, 2006 the Court issued an Order denying the Fee Application without prejudice and directing the Receiver to re-file it after submitting an interim distribution plan to the Magistrate Judge for approval [Dkt. No. 234].

10. On February 8, 2007, the Receiver filed his Amended Fourth Interim Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys Fees and Expenses; and (3) Accountants Fees and Expenses [Dkt. No. 275]. On March 20, 2007, the Court issued an Order approving the Application [Dkt. No. 300].

11. On May 9, 2007, the Receiver filed his Fifth Interim Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys Fees and Expenses; and (3) Accountants Fees and

Expenses [Dkt. No. 317]. On June 1, 2007, the Court issued an Order approving the Application [Dkt. No. 325].

12. On August 9, 2007 the Receiver filed his Sixth Interim Application to Allow and Pay (1) Receiver's Fees and Expenses, (2) Attorney's Fees and Expenses; and (3) Accountants Fees and Expenses [Dkt. No. 339]. On September 21, 2007 the Court issued an Order approving the Application [Dkt. 358].

13. On January 20, 2007 the Receiver filed his Motion to Make Interim Distribution from the Megafund Receivership Estate [Dkt. No. 258]. On April 12, 2007, the District Court issued an Order approving the distribution [Dkt. No. 306] and since that time the Receiver has issued checks to holders of allowed claims totaling \$2.5 million.

**APPLICATION FOR FEES AND EXPENSES
OF THE RECEIVER AND HIS ATTORNEYS**

14. This Application seeks the approval and payment of fees and reimbursable expenses for the Receiver and QSCL for the time period from August 1, 2007 through March 31, 2008 as to the Megafund Corporation/CIG, Ltd. Receivership Estate and only that estate.

15. Pursuant to this Court's Order of May 8, 2005 [Docket No. 139] **the monthly expenses incurred have already been paid.**

16. During the period covered by this Application, the Receiver has incurred fees and expenses with respect to his activities and those of QSCL as to these proceedings on a monthly basis as follows:

Month	Fees	Expenses
August 2007	\$9,115.50	\$834.92
September 2007	\$3,990.00	\$664.29

October 2007	\$4,306.00	\$500.68
November 2007	\$3,936.00	\$231.66
December 2007	\$2,060.00	\$398.97
January 2008	\$7,364.00	\$41.56
February 2008	\$4,614.50	\$96.41
March 2008	\$9,578.00	\$33.02
TOTAL:	\$44,964.00	\$2,801.51

17. Exhibit "A", which is attached and incorporated for all purposes, conveys the following information for the time period of August 1, 2008 through March 31, 2008: (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 as Exhibit "A" reflect aggregate expenses by category during a given month.

18. Attached as Exhibit "B" are copies of each expense item that exceeds \$500.00 for the months covered by this Application.

JOHNSON FACTORS

19. In support of this request for compensation and reimbursement of expenses, the Receiver respectfully directs 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 QSCL are addressed below.

(a) The Time and Labor Required. The Receiver and QSCL respectfully refer the Court’s attention to Exhibit “A” which details the involvement of the Receiver and QSCL’s attorneys in this case during the period covered by this Application showing that a total of more than 242 hours of attorney, Receiver, and paraprofessional 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 that 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 QSCL have considerable experience in such areas.

(d) The Preclusion of Other Employment Due to Acceptance of the Case. The Receiver and QSCL 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 or lower than the rates charged by other practitioners of similar experience levels in the Northern District of Texas. During the course of these proceedings, the following timekeepers at QSCL have performed legal services on behalf of the Receiver with respect to these proceedings:

Lawyers:

- Michael J. Quilling (\$350.00 per hour), licensed in Texas in 1982 and Texas Board Certified in Business Bankruptcy Law and Civil Trial Law, Texas Super Lawyer 2004-2006;
- Arthur F. Selander (\$550.00 per hour) licensed in Texas in 1977;
- D. Dee Raibourn (\$250.00 per hour) licensed in Texas in 1998;
- Charles Baum (\$275.00 per hour) licensed in Texas in 1984;
- Marcie L. Schout (\$245.00 per hour) licensed in Texas in 2000; and
- Brent Rodine (\$150.00 per hour) licensed in Texas in 2005.

QSCL Attorney Profiles of all lawyers are attached hereto as Exhibit "C". During the course of these proceedings, the following paralegals have performed services on behalf of the Receiver with respect to these proceedings:

Paralegals:

- Stephen M. Tomasky (\$110.00 per hour) senior claims administrator for six years, has processed thousands of claims in receivership cases;
- Leslie D. Finn (\$100.00 per hour) claims administrator for four years, has processed thousands of claims in receivership cases;
- Cheryl Morris (\$135.00 per hour) paralegal for over 20 years and Board Certified in the litigation area for over 13 years; and,
- Christine Price (\$100.00 per hour) paralegal in the litigation area for 15 years.

(f) Whether the Fee is Fixed or Contingent. The Receiver's and QSCL'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 substantial.

(h) The Amount Involved and the Results Obtained. As to the Megafund Corporation/CIG, Ltd. Receivership Estate, the primary assets were located in Flower Mound, Texas. The Receiver seized a couple of vehicles, three houses and office contents and furnishings. The Receiver has also seized all known computer and hard copy books and records. The Receiver has liquidated the physical assets and is in the process of litigating/settling several lawsuits.

Megafund Corporation received at least \$17 million of investor funds, much of which was improperly diverted before about \$11 million was passed along to CILAK International and CIG, Ltd. which also diverted funds and sent the balance of about \$9.5 million to Sardaukar Holdings. 179 claims totaling \$13,352,925.00 have been processed by the Receiver and approved by the Court. \$2.5 million has been paid pro-rata to the holders of allowed claims.

Other actions by the Receiver are described in the Final Report submitted simultaneously with this Application.

(i) The Experience, Reputation and Ability of the Attorneys. QSCL has several attorneys who specialize exclusively in the practice of civil trial law. The practice of those attorneys regularly includes the representation of bankruptcy trustees and receivers. The reputation of QSCL's attorneys is recognized and respected in their community in Texas.

(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. QSCL did not represent the Receiver in these proceedings prior to being retained in these proceedings.

(1) Award in Similar Cases. QSCL 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.

**APPLICATION FOR FEES AND EXPENSES
OF THE RECEIVER'S ACCOUNTANT**

20. This Application also seeks the approval and payment of fees and reimbursable expenses for LSSM during 2007 as to the Megafund Corporation/CIG, Ltd. Receivership Estate and only that estate.

21. Exhibit "D," which is attached hereto and incorporated herein by reference for all purposes conveys the following information during 2007: (a) the number of hours worked by each accountant and staff member on a particular day; (b) the manner and type of work performed by each accountant 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 accountant and/or staff member.

FIRST COLONIAL FACTORS

22. In support of this request for interim allowance of compensation and reimbursement of expenses, the Receiver respectfully directs this Court's attention to those factors generally considered by Bankruptcy Courts in awarding compensation to professionals for services performed in connection with the administration of a debtor's estate, as enumerated in section 330 of the Bankruptcy Code and developed by case law. Specifically, section 330 provides, inter alia, that the allowance of professional compensation should be based upon the time, nature, extent and value of the services rendered as well as consideration of the cost of comparable services rendered in a non-bankruptcy context. The controlling authority in the Fifth Circuit is *In re First Colonial Corp.*

of America, 544 F.2d 1291 (5th Cir. 1977). That case identified twelve (12) factors that should govern this Court's decision:

(a) The Time and Labor Required. The Receiver and LSSM respectfully refer the Court's attention to Exhibit "D" which details the involvement of LSSM's accountants in this case during the period covered by this Application showing that more than three (3) hours of Accountant and staff time have been expended.

(b) Novelty and Difficulty of Questions Presented. The Receiver believes that the accounting and tracing questions encountered in representing the Receiver were of a complex and specialized nature.

(c) Skill Requisite to Perform Services Properly. The Accountants' firm has numerous members, including members who have performed services on behalf of the Receiver and who specialize exclusively in the practice of bankruptcy and insolvency accounting. Due to their expertise and skill in this highly specialized realm, the Receiver believes far more time would have been expended by less experienced professionals and with considerably less rewarding results. The array of financial and accounting consideration presented in this proceeding and the prompt and skillful action taken upon those problems by the Accountants required a very high degree of expertise and experience. Prompt, skillful action was utilized by the Accountants in providing professional services to the Receiver in this proceeding.

(d) Exclusion of Other Employment. The Receiver is unable to estimate the extent of other employment the Accountants were precluded from accepting by reason of the employment as accountants for the Receiver herein, but does not believe it to be significant.

(e) Customary Fees. The fees applied for herein are equivalent to customary fees allowed in other proceedings for similar services rendered and results obtained.

(f) Whether the Fee is Fixed or Contingent. The fees of the Accountants are fixed insofar as funds exist with which to pay them from the Receivership Estate. Payment of such fees, however, is subject to Court approval.

(g) The Amount Involved and the Results Obtained. This case involves in excess of \$17 million invested by hundreds of persons and entities. The accounting and tracing issues are complex and the bank records are extensive and voluminous, encompassing over 5,800 line item entries. As a result of the efforts of the Accountants, much of the work has already been accomplished.

(h) The Experience, Reputation, and Ability of Accountants. As stated above, the Accountants specialize in the practice of accounting and consultation. Much of the Accountants' practice has been devoted to asset management, accounting services, development of accounting data, preparation of tax returns for estates, formulation of plans of reorganization and consultation with creditors and estate representatives. The Accountants are recognized as experts in the accounting field and possess a reputation of high quality, integrity, and ability. They are regularly employed in cases pending before the Court in this district. Reed Nordyke is an accounting paraprofessional with over 20 years of experience.

(i) Undesirability of the Case. The Receiver does not believe the subject case or the representation of the Receiver in this proceeding was "undesirable."

(j) Nature and Length of the Professional Relationship with the Client. Prior to the institution of this proceeding, the Accountants have represented the Receiver from time to time with regard to general accounting matters and consultation in similar proceedings.

(k) Awards in Similar Cases. The Receiver believes that the services rendered herein for the Receiver have substantially benefitted this estate and that such services are of a reasonable value. The Receiver further represents that these fees are in conformity with fees allowed in similar proceedings for similar services rendered and results obtained.

WHEREFORE, the Receiver respectfully requests that the Court allow the requested compensation for professional services and expenses rendered by the Receiver and his legal counsel, and authorize the Receiver to pay QSCL \$44,964.00 (fees only) for the time period from August 1, 2007 through March 31, 2008 and LSSM \$418.50.

Respectfully submitted,

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By: /s/ Michael J. Quilling
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ATTORNEYS FOR RECEIVER

CERTIFICATE OF SERVICE

A true and correct copy of this pleading will be served upon all interested parties through the Court's electronic filing system.

This Application will also be posted on the Receiver's website, www.secreceiver.com after filing.

/s/ Michael J. Quilling