

IN 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-L

MEGAFUND CORPORATION, STANLEY A. §  
LEITNER, SARDAUKAR HOLDINGS, IBC., §  
and BRADLEY C. STARK, CIG, LTD., and §  
JAMES A. RUMPF, Individually and d/b/a §  
CILAK INTERNATIONAL, §

Defendants, §

and §

PAMELA C. STARK, §

Relief Defendant. §

**RECEIVER'S 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 WITH BRIEF IN SUPPORT  
(LANCROP FINANCIAL GROUP RECEIVERSHIP ESTATE)**

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

Michael J. Quilling, Receiver, files this 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 (Lancorp Financial Group 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. On July 5, 2005 the Court appointed Michael J. Quilling as Receiver in this case. On July 18, 2005 the SEC filed an Amended Complaint and

sought to add other individuals and entities to the receivership. On July 19, 2005 the Court issued an Amended Order Appointing Temporary Receiver ("Order Appointing Receiver").

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 Cummiskey & Lownds, P.C. ("QSCL") as his general counsel. The Receiver is an attorney and a shareholder of the law 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 [Docket No. 48]. On August 15, 2005 the Court entered an Order [Docket No. 50] that established two receivership estates within these proceedings, the Megafund Corporation/CIG, Ltd. Receivership Estate and the Sardaukar Holdings Receivership Estate.

4. On January 17, 2006 the Receiver filed an Agreed Motion to Expand Receivership [Docket No. 83] to add Lancorp Financial Group, LLC to the receivership. On January 20, 2006 the Court entered an Agreed Order Expanding Receivership and Appointing Receiver [Docket No. 84], which effectively created a third receivership estate, the Lancorp Financial Group Receivership Estate.

5. On April 11, 2006 the Receiver filed a Second Interim Application to Allow and Pay (1) Receiver's Fees and Expenses; (2) Attorneys' Fees and Expenses; and (3) Accountants Fees and Expenses [Docket No. 122]. On May 8, 2006 the Court issued an Order [Docket No. 139] requiring the Receiver to file an amended application. This Amended Application is responsive to that Order.

**SPECIFIC RESPONSES TO ORDER [ DOCKET NO. 139]**

**a. Experience and Billing Rates.**

Information regarding all QSCL timekeepers has been added below. QSCL Attorney Profiles for all attorneys have been attached as Exhibit "C".

**b. Receipts for Expenses Which Exceed \$500.00.**

Copies of receipts for each QSCL expense item which exceeds \$500.00 are attached as Exhibit "B". If the Court desires, and to make things easier in the future, the Receiver will gladly use the Government per diem rate for a given city for meal expenses, etc.

**c. Travel Time.**

The Receiver hereby certifies that when traveling, it is his practice to work while traveling. In fact, sometimes, the airplane flight to a destination is virtually the Receiver's only opportunity to prepare for the upcoming meeting. On the return flight the Receiver usually prepares pleadings to begin pursuit of whatever asset or event it was that he learned about as a result of the trip. The Receiver further uses airplane trips to discuss case strategy and action items with other QSCL lawyers who may be on the trip and/or with SEC representatives who are frequently on the same flights.

On many, many occasions when the Receiver and his counsel are required to fly, the actual travel time is far greater than that billed. Post-9/11 travel requires arrival at the airport far earlier than in the past. Flight delays (both departure and arrival) and/or cancellations are the standard, not the exception. On more than one occasion the Receiver has been forced to stay overnight unexpectedly through no fault of his own. These delays are not usually billed. In short, the Receiver makes the time adjustment on the front end and is very conscientious of fees and does his best to be as fair and reasonable as possible. The Receiver is mindful of the Court's concern and

has instructed all timekeepers to be more detailed in describing the work they do while traveling and to describe the entire travel time as well as the time billed in the future. The Receiver reviewed the invoices covered by this Amended Application and has adjusted a time entry resulting in a decrease on the March, 2006 invoice of \$875.00.

**d. Intra-Office Conferences.**

The Receiver has examined each invoice covered by the Application as to office conferences and is not sure what the Court means by “no further explanation.” Unless the Receiver has missed or misunderstood something, each reference to an office conference references what it addressed although sometimes in a general manner. However, in an effort to address the Court’s concern, the Receiver has revised the invoices attached hereto as Exhibit “A” and has highlighted the revised entries for the Court’s convenience. The Receiver will point out that (1) the office conferences are absolutely essential given the number of people gathering information and performing tasks on multiple fronts given the complexity of this case; (2) a concerted effort is made to only bill “one side” of the office conferences and/or to divide the time between timekeepers - *i.e.*, a 30-minute meeting is billed evenly by the attorneys; (3) the conferences represent less than 4% of the overall hours and fees for the period covered by the Application; (4) office conferences are used to “downstream” information from senior attorneys to junior attorneys to allow tasks to be performed by junior attorneys at lower billing rates; (5) if the Receiver had used counsel other than his firm, communication with the client (the Receiver) would be necessary and typically allowed; and (6) generalness in description is mandated because of the need to protect the attorney-client privilege and to not telegraph to third parties what actions the Receiver is contemplating (if invoices are made public by virtue of applications for fees before the action can be taken). The Receiver and all

timekeepers will endeavor to do a better job in the future of describing items covered by office conferences but they are, simply, necessary and are not, in the opinion of the Receiver, abusive.

e. **Deposition of Gary Lancaster.**

First, it should be noted that in an effort to save travel expenses of multiple lawyers and time associated with travel (even if billed at half rate) the Receiver arranged to have Gary Lancaster (“Lancaster”) travel to Dallas and paid his expenses (see Exhibit “B”). No travel time was invoiced. Second, the Receiver submits that it was appropriate for three lawyers to be in attendance. As the client, it was appropriate for the Receiver to attend especially given his knowledge of the overall facts based on his prior informal interviews with Lancaster and his investigation. It was also appropriate for James Moody to attend because he is a very seasoned insurance lawyer and is the lawyer assigned to pursuing potential estate claims against a carrier for E&O coverage (\$5,000,000), a negligence action against Max International (\$900,000) and legal malpractice against Kenneth Humphries (see Cause No. 3:06-CV-0299). He knows far better than the Receiver what questions to ask and areas to cover. As indicated by his time entry, he left the deposition after those areas had been covered. It was also appropriate for Brent Rodine to attend as he is the lawyer who reviewed and analyzed hundreds, if not thousands, of pages of documents produced by Lancaster and he had a far better grasp of them than either the Receiver or Moody. He will also be doing the legwork on any litigation and it is far easier to be effective having heard the testimony live as opposed to reading a transcript. If this Court believes it appropriate, the Receiver would suggest billing him at half rate, or \$75.00 per hour, thereby effectively turning him into a paralegal which is appropriate for a deposition of this importance and magnitude. In the ‘for what it’s worth’ category, the Receiver will note that the deposition occurred on a beautiful, sunny Saturday and everyone would have preferred to be elsewhere, including the two SEC lawyers in attendance.

The Receiver has also discovered that some of the billing rates used on the January, 2006 invoice were incorrect. The Receiver has made sure all rates are standard and are those reflected in paragraph 11(e) of this Amended Application. This change caused an increase in fees of \$928.00 on the January, 2006 invoice.

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

6. This Amended Application seeks the approval and payment of fees and reimbursable expenses for the Receiver and QSCL for the time period from January 1, 2006 through March 31, 2006 as to the Lancorp Financial Group Receivership Estate and only that estate.

7. Pursuant to Paragraph 16 of the Order Appointing Receiver, and prior to it being vacated, the Receiver has paid himself and QSCL 90% of the fees (\$11,729.70) and 100% of the expenses (\$475.88) for the month of February, 2006. No amounts for January or March, 2006 have been paid. The purpose of this Amended Application is to request Court approval of all fees and expenses and to allow payment of the 10% fee holdback (\$1,303.30) portion and the January and March, 2006 fees and expenses (\$32, 448.25).

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

Month	Fees	Expenses
January 2006	\$7,714.00	\$331.39
February 2006	\$13,033.00	\$475.88
March 2006	\$22,754.00	\$1,648.86
<b>TOTAL:</b>	<b>\$43,501.00</b>	<b>\$2,456.13</b>

9. Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes conveys the following information for the time period of January 1, 2006 through March

31, 2006: (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.

10. Attached hereto as Exhibit "B" are copies of each expense item which exceeds \$500.00 for the months covered by this Amended Application.

### **JOHNSON FACTORS**

11. In support of this request for allowance of 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 Amended Application showing that more than 167 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;
- James H. Moody (\$350.00 per hour) licensed in Texas in 1978, Texas Super Lawyer 2004-2006;
- D. Dee Raibourn (\$250.00 per hour) licensed in Texas in 1998; 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;
- Lisa Smith (\$100.00 per hour), claims administrator and investor relations for four years, has processed hundreds of claims in receivership proceedings; and
- Mary C. Brumley (\$85.00 per hour), insurance defense paralegal for two 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 Amended Application have been normal.

(h) The Amount Involved and the Results Obtained. As to the Lancorp Financial Group Receivership Estate, the primary assets are located in Oregon.

Other actions by the Receiver are described in the Interim Report submitted simultaneously with the Second Interim Fee 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.

(l) 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**

12. There are no accounting fees for this period for this Receivership Estate.

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 including the 10% fee holdback and the two months of unpaid fees and expenses, as reflected in paragraph 7 above.

Respectfully submitted,

QUILLING SELANDER CUMMISKEY & LOWNDS, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201-4240  
(214) 871-2100 (Telephone)  
(214) 871-2111 (Facsimile)

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

Michael J. Quilling  
State Bar No. 16432300  
Email: [mquilling@qscipc.com](mailto:mquilling@qscipc.com)

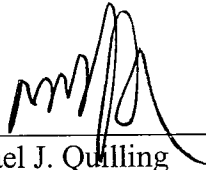
ATTORNEYS FOR RECEIVER

**CERTIFICATE OF SERVICE**

This is to certify that on the 17<sup>th</sup> day of May, 2006, a true and correct copy of the above and foregoing Amended Application was served, via first class mail, with full and proper postage prepaid thereon, to:

Stephen J. Korotash Securities and Exchange Commission 801 Cherry Street, Suite 1900 Fort Worth, Texas 76102	Scott Baker 10830 North Central Expressway Suite 475, B4 Dallas, Texas 75231
Steve Smoot Smoot Law Firm, P.C. 4545 Mt. Vernon Houston, Texas 77006	Bradley C. Stark 16960 Washington Street Riverside, California 92504
Pamela C. Stark 16960 Washington Street Riverside, California 92504	

This Amended Application will also be posted on the Receiver's website, [www.secreceiver.com](http://www.secreceiver.com) after filing.

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