

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**SECURITIES AND EXCHANGE COMMISSION**  
**Plaintiff,**

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**Civil Action No. 4:11-cv-655**

**v.**

**JAMES G. TEMME, and**  
**STEWARDSHIP FUND, LP,**  
**Defendants.**

**MOTION TO APPROVE SETTLEMENT AGREEMENT WITH BOYCE PARTIES**

COMES NOW, Keith M. Aurzada, as receiver in the above-captioned matter (the “Receiver”) for James G. Temme (“Temme”), Stewardship Fund, LP, and all other entities directly or indirectly controlled by Temme or Stewardship Fund, LP, including, but not limited to Stewardship Advisors, LLC, d/b/a Stewardship Advisors, LP, Stewardship Asset Management Genpar I, LLC, Stewardship Group, LLC, Destiny Fund, LP, and Stewardship Management, LP (collectively, the “Receivership Entities”), and submits this Motion to Approve Settlement Agreement with Boyce Parties (the “Motion”). In support of the Motion, the Receiver would respectfully show the Court as follows:

**I.**  
**BACKGROUND**

1. By this Motion, the Receiver seeks Court approval of a settlement agreement between the Receiver on one hand and Robert and Elizabeth Boyce and ER, LLC (collectively the “Boyce Parties”), on the other hand.

2. On October 14, 2011, the Commission instituted the above-captioned action, and the Receiver was appointed as receiver for the Receivership Entities through the Court's entry of the Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme (Dkt. No. 24); Agreed Order Appointing Receiver Over Stewardship Fund, LP, and Related Entities (Dkt. No. 25); and Order Appointing Receiver Over James Temme (Dkt. No. 30) (together, the "Receiver Orders"). Pursuant to the Receiver Orders, the Receiver is to "immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate and to any assets traceable to assets owned by the Receivership Estate." Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme ¶ 4 (Dkt. No. 24).

3. In 2011, the Boyce Parties advanced \$1.3 million to the Receivership Entities. In return, they received \$250,000 in cash, oil and gas leases of undetermined value, and 71 properties (mostly REO). The Boyce Parties paid ad valorem taxes on the properties and invested other sums to increase their value. The Boyce Parties sold 53 of the properties for net proceeds of approximately \$650,000 in December of 2011, leaving 18 properties remaining. Based on discussions with the Boyce Parties and his own investigation, the Receiver believes that the remaining 18 properties have a value of approximately \$50,000.

4. The Receiver believes that Stewardship Fund, LP has claims against the Boyce Parties arising out of their transactions and business dealings with the Receivership Entities and related entities. The Boyce Parties have indicated that they would contest any claim asserted by the Receiver.

5. In order to avoid the costs and expenses of litigating the Receiver's claims against the Boyce Parties, the Receiver and the Boyce Parties have agreed to a Compromise and Settlement Agreement (attached hereto as Exhibit A), in which:

- The Boyce Parties shall transfer to the Receiver 18 Contracts for Assignment of Deed relating to properties acquired from Receivership Entities;
- The Boyce Parties shall transfer to the Receiver 8 oil and gas leases currently held by them relating to approximately 11,709 acres and the associated overriding royalty interests;
- The Boyce Parties shall pay the Receiver \$50,000 in two installments of \$25,000, the first installment to be paid upon approval the Compromise and Settlement Agreement by the Court and the second installment to be paid on or before March 31, 2013.
- The Boyce Parties will release any claims they may have against the Receivership Estate arising from their business dealings with the Receivership Entities and the Receiver shall release the Boyce Parties from any claims relating to any transactions or business dealing with the Receivership Entities.

6. The Receiver believes that the cost to litigate its potential claims against the Boyce Parties would exceed or greatly diminish the value of any recovery for the Receivership Estate. The Receiver further believes that the Compromise and Settlement Agreement is fair and equitable and in the best interest of the Receivership Estate. Accordingly, the Receiver seeks authorization from the Court to enter into the Compromise and Settlement Agreement attached hereto as Exhibit A.

## **II.**

### **ARGUMENT**

7. A federally appointed receiver is permitted to enter into settlement agreements so long as he does so in good faith, within the terms of his appointment, and without misconduct, gross negligence, or criminal intent. *See, e.g., Securities and Exchange Com'n v. Funding Resource Group*, 2003 WL 21500431, at \* 1 (N.D. Tex. April 22, 2003); *Hawk v. Williams*, 2002 WL 31255096, at \*5 (N.D. Tex. Oct. 4, 2002); *Brewer v. Hill*, 453 F.Supp. 67, 69 (N.D. Tex. 1978).

8. The Receiver was appointed in this matter according to the Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme (Dkt. No. 24); Agreed Order Appointing Receiver Over Stewardship Fund, LP, and Related Entities (Dkt. No. 25); and Order Appointing Receiver Over James Temme (Dkt. No. 30) (together, the “Receiver Orders”). Pursuant to the Receiver Orders, the Receiver is to “immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate and to any assets traceable to assets owned by the Receivership Estate.” Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme ¶ 4 (Dkt. No. 24).

9. Moreover, under the Receiver Orders the Receiver is entitled to “contract and negotiate with any claimants against the Receivership Estate (including, without limitation, creditors) for the purpose of compromising or settling any claim . . . Perform all acts necessary to conserve, hold, manage, and preserve the value of the Receivership Estate, in order to prevent any irreparable loss, damage, and injury to the Estate [and] Enter into such agreements in connection with the administration of the Receivership Estate.” Agreed Order Appointing Receiver Over Stewardship Fund, LP, and Related Entities ¶ 5(f)(h) (Dkt. No. 25).

10. The Receiver believes in good faith that the Compromise and Settlement Agreement is in the best interest of the Receivership Estate and that it will result in recovery of Receivership Estate assets that would otherwise be irreparably devalued or lost entirely. Accordingly, the Receiver seeks immediate Court approval of the Compromise and Settlement Agreement.

### **III.**

### **RELIEF REQUESTED**

The Receiver seeks immediate approval of the Compromise and Settlement Agreement. The Receiver believes that the Compromise and Settlement Agreement maximizes value of the Receivership Estate. For these reasons, the Receiver seeks immediate approval of the Motion and the Compromise and Settlement Agreement.

Dated: April 25, 2012

**BRYAN CAVE LLP**

By: //s// Bradley J. Purcell  
Keith Miles Aurzada  
State Bar No. 24009880  
Jay L. Krystinik  
State Bar No. 24041279  
Bradley J. Purcell  
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*Counsel for Keith Miles Aurzada, Receiver*

**CERTIFICATE OF CONFERENCE**

I have discussed the relief requested herein with David Reece of the Securities and Exchange Commission. The relief requested herein is not opposed by the Securities and Exchange Commission.

//s// Bradley J. Purcell  
Bradley J. Purcell

**CERTIFICATE OF SERVICE**

I certify that on April 25, 2012, I served a true and correct copy of the foregoing pleading by United States First Class Mail, postage prepaid, to the following in accordance with the Federal Rules of Civil Procedure:

David Reece  
United States Securities and Exchange Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street  
Fort Worth, Texas 76102

John Helms, Jr.  
Helms, Roberts & Diaz LLP  
6060 N. Central Expressway, Suite 560  
Dallas, Texas 75206  
COUNSEL FOR JAMES G. TEMME

Michael J. Quilling  
Quilling, Selander, Lownds, Winslett & Moser  
Bryan Tower  
2001 Bryan Street  
Suite 1800  
Dallas, Texas 75201  
COUNSEL FOR ER, LLC AND ROBERT AND ELIZABETH BOYCE

Moreover, the foregoing will be uploaded to [www.stewardshipfundreceivership.com](http://www.stewardshipfundreceivership.com)

//s// Bradley J. Purcell  
Bradley J. Purcell

## COMPROMISE AND SETTLEMENT AGREEMENT

This Agreement is made between Keith Aurzada, in his capacity as receiver for Jay Temme, Stewardship Advisors, LLC and Stewardship Asset Management Genpar I, LLC (“Receiver”) on the one hand and Robert and Elizabeth Boyce and ER, LLC (collectively the “Boyce Parties”), on the other hand, effective as of the date the Court approves the Agreement.

### RECITALS

Whereas, the Receiver was appointed by the U.S. District Court for the Northern District of Texas, Dallas Division in Civil Action No. 4:11-cv-655 on October 28, 2011 as receiver for the individual and entities named above (“Receivership Entities”); and

Whereas, the Receiver has asserted various claims against the Boyce Parties arising out of their transactions and business dealings with the Receivership Entities and related entities; and

Whereas, the Boyce Parties dispute the claims of the Receiver; and

Whereas, the Receiver and the Boyce Parties desire to resolve their disputes and avoid the uncertainties and costs of litigation.

### AGREEMENTS

Now, therefore, in consideration of the agreements and promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Transfer of Assignments of Contracts for Deed. The Boyce Parties shall transfer to the Receiver 18 Contracts for Assignment of Deed relating to the properties listed in Schedule 1 attached hereto and shall deliver the originals of all documents in their possession relating to the properties to the Receiver. One or more of the properties may have been lost to tax foreclosure sale and, if so, shall not be transferred. To the extent necessary, the Boyce Parties shall execute any additional documents

reasonably requested to effectuate the transfers. The Receiver shall prepare all transfer documents and be responsible for the filing and cost of same.

2. Transfer of Oil & Gas Leases. The Boyce Parties shall transfer to the Receiver 8 oil and gas leases currently held by them relating to approximately 11,709 acres, and shall deliver the originals of all documents in their possession relating to the oil and gas leases to the Receiver. To the extent necessary, the Boyce Parties shall execute any additional documents reasonably requested to effectuate the transfers. The Receiver shall prepare all transfer documents and be responsible for the filing and cost of same.
3. Transfer of Royalty Interests. The Boyce Parties shall transfer to the Receiver the royalty interests relating to the oil and gas leases described in paragraph 2 currently held by them and shall deliver the originals of all documents in their possession relating to the royalty interests to the Receiver. To the extent necessary, they Boyce Parties shall execute any additional documents reasonably requested to effectuate the transfers. The Receiver shall prepare all transfer documents and be responsible for the filing and cost of same.
4. Payment of \$50,000 to the Receiver. The Boyce Parties shall pay the aggregate amount of \$50,000 to the Receiver, such amount to be paid in two installments of \$25,000, the first installment to be paid upon approval of this Agreement by the Court and the second installment to be paid on or before March 31, 2013.
5. Release of all Claims Against the Receivership Estate. The Boyce Parties hereby release any claims they may have against the receivership estate arising from their



business dealings with the Receivership Entities and shall not take any action to assert and/or file any claims against the receivership estate.

6. Release by Receiver. The Receiver hereby releases the Boyce Parties from all claims and causes of action, known or unknown, now existing or hereafter arising relating to any transactions or business dealing between the Receivership Entities (and any other related entities) and the Boyce Parties. To the extent of applicable law, this release shall cover any claims of any investors who dealt with the Receivership Entities.
7. Court Approval. The Receiver agrees to expeditiously seek approval of this Agreement by the Court. The effectiveness of this Agreement is expressly conditioned upon approval of the Agreement by the Court.
8. No Representations or Warranties. All transfers of assets herein by the Boyce Parties to the Receiver shall be “as is, where is” and no representations or warranties are being made by the Boyce Parties to the Receiver regarding the assets being transferred other than that any right, title or interest they may own with respect to same is being transferred to the Receiver.
9. Entire Agreement. This Agreement sets forth the entire agreement between the parties.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Keith Aurzada, in his capacity as  
Receiver and not individually

  
\_\_\_\_\_  
Robert Boyce

Elizabeth Boyce  
Elizabeth Boyce

Elizabeth Boyce  
ER, LLC  
By: Elizabeth Boyce  
Its: Member

SCHEDULE 1

Remaining Assigned Properties:

815 N. 13<sup>th</sup> Ave. Laurel, MS

7609 E. 112<sup>th</sup> ST., Kansas City, MO

1509 W. 24<sup>th</sup> St., Jacksonville, FL

2832 Lincolndale Ave., Ft. Wayne, IN

1803 Evans Ave., McKeesport, PA

2544 Falmouth Ave., Dayton, OH

3622 East Prospect St., Indianapolis, IN

2817 Ada Ave., Tyler, TX

905 W. 21<sup>st</sup> St., Bryan, TX

1685 Manchester Rd., Akron, OH

1521 Ames St., Saginaw, MI

2960 Hanchett St., Saginaw, MI

417 Durning St., Dayton, OH

5817 Woodgate Dr., Matteson, IL

6020 NE Country Rd. 612, Kalkaska, MI

293 Highland Ave., Henrietta, NC

3125 Pacific, Memphis, TN

110 E. Depew, Odin, IL

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**SECURITIES AND EXCHANGE COMMISSION**  
**Plaintiff,**

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**Civil Action No. 4:11-cv-655**

**v.**

**JAMES G. TEMME, and**  
**STEWARDSHIP FUND, LP,**  
**Defendants.**

**ORDER GRANTING RECEIVER’S MOTION TO APPROVE SETTLEMENT**  
**AGREEMENT WITH BOYCE PARTIES**

Came for consideration the Receiver’s Motion to Approve Settlement Agreement with Boyce Parties (the “Motion”) filed by Keith M. Aurzada as receiver (the “Receiver”) for James G. Temme, Stewardship Fund, LP, and all other entities directly or indirectly controlled by James G. Temme or Stewardship Fund, LP, including, but not limited to, Stewardship Advisors, LLC, d/b/a Stewardship Advisors, LP, Stewardship Asset Management Genpar I, LLC, Stewardship Group, LLC, Destiny Fund, LP, and Stewardship Management, LP (collectively, the “Defendants”). Based upon a review of the Motion, and the pleadings on file, the Court finds and concludes that (a) the relief requested in the Motion is in the best interests of the Receiver and his receivership estates; (b) proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and (c) good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion and all of the proceedings had before the Court in connection with the Motion. Therefore, it is hereby **ORDERED** that:

- i. The Motion is **GRANTED**.

ii. The Court hereby approves of the Compromise and Settlement Agreement attached as Exhibit A to the Motion.

iii. Within a reasonable time after this Order is entered, the Receiver shall post this Order on [www.stewardshipfundreceivership.com](http://www.stewardshipfundreceivership.com).

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2012.

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UNITED STATES MAGISTRATE JUDGE