



performing mortgages and notes at deeply discounted values that would be improved to become performing mortgages that would be resold at a profit.

2. As the Receiver has conducted his investigation, it has become apparent that the Defendants' means for acquiring notes and mortgages was to obtain funds from various groups or individuals to invest in limited partnerships in which the general partner would acquire at a discount tapes of distressed, non-performing mortgage loans.

3. In the spring of 2011, Defendants' scheme collapsed, payments to investors ceased, and lienholders began foreclosure proceedings on the properties underlying the mortgages held by the Defendants.

4. Since commencing his duties, the Receiver has identified through the loan servicing company database and public record searches most of the lienholders on each of the properties. The receivership is still in the discovery phase, with a large focus of the Receiver being to identify, locate, and secure assets.

#### **APPLICATION FOR FEES AND EXPENSES**

5. This Application seeks the approval and payment of fees and reimbursable expenses for Figari & Davenport, L.L.P ("*Figari*") for the time period from March 1, 2013 through September 30, 2013. The Receiver has retained Figari as outside counsel for the Receivership Estate to provide analysis, advice, and potentially pursue litigation by the Estate against escrow companies that conducted business with the Defendants. Figari is a well-respected law firm in the Eastern District of Texas and is experienced in litigation matters.

6. As demonstrated more fully in the invoices attached hereto as Exhibit A, Figari has spent substantial time reviewing documents received from the escrow companies, has

conducted legal analysis of potential claims against the escrow companies, and has provided the Receiver with valuable analysis of the potential causes of action.

7. The Receiver seeks authority to pay Figari \$28,020.56 in fees for the time period from March 1, 2013 through September 30, 2013, upon an order of this Court.

8. Exhibit A, which is attached and incorporated for all purposes, conveys the following information for the time period of March 1, 2013 through September 30, 2013: (a) the number of hours worked by Figari on a particular day; (b) the manner and type of work performed by Figari; (c) expenses incurred; and (d) the monetary value assigned to each task performed by Figari.

9. As detailed in Exhibit A, Figari's efforts thus far have centered around three main tasks: (i) reviewing documents received from the potential litigation defendants; (ii) conducting research regarding potential causes of action against the potential litigation defendants; and (iii) analyzing the possible outcomes of the potential litigation.

### **JOHNSON FACTORS**

10. 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. 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 Figari are addressed below.

(a) **The Time and Labor Required.** The Receiver respectfully refers the Court’s attention to Exhibit A, which details the involvement of Figari in this case during the period covered by this Application showing the total hours of professional time that have been expended.

(b) **The Novelty and Difficulty of the Questions.** The tasks reflected in Exhibit A involve the type of legal issues that are appropriately performed by a law firm with Figari’s skill and expertise.

(c) **The Skill Requisite to Perform the Service.** The Receiver believes that the services performed in this case and shown on Exhibit A have required individuals possessing substantial legal skills and expertise. Figari has considerable experience in such areas.

(d) **The Preclusion of Other Employment Due to Acceptance of the Case.** The Receiver is unaware of any representation Figari declined solely because of their services as legal 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 Eastern District of Texas. In fact, Figari has given the Receiver a ten percent (10%) discount below its typical rates. Moreover, where possible, Figari has utilized non-attorney staff, under attorney supervision, to complete tasks at a significant savings to the Receiver.

(f) **Whether the Fee is Fixed or Contingent.** Figari'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.** Figari's services were required in a timely fashion in order to allow the Receiver sufficient time to considering potential litigation before the close of this case.

(h) **The Experience, Reputation and Ability of the Attorneys.** Figari's practice regularly includes the types of services rendered in this case and shown on Exhibit A. Figari is a respected law firm utilizing experienced litigation counsel for this matter.

(i) **The Undesirability of the Case.** Figari's representation of the Receiver incident to this case has not been undesirable.

(j) **The Nature and Length of the Professional Relationship with the Client.** Figari did not represent the Receiver in these proceedings prior to the period for which the Receiver requests fees in this Application.

(k) **Award in Similar Cases.** The Receiver 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.

**WHEREFORE**, the Receiver respectfully requests that the Court allow the requested compensation for professional services and expenses rendered by Figari on an interim basis, and authorize the Receiver to pay Figari total compensation of \$28,020.56 for the time period from March 1, 2013 through September 30, 2013.

Dated: October 9, 2013

**BRYAN CAVE LLP**

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