

offerings and proceeds would be used to buy properties/mortgages at deeply discounted values, and that the properties/mortgages would be improved to be leased or resold at a profit.

2. As the Receiver has conducted his investigation, it has become apparent that the Defendants' means of acquiring properties 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 acquired and held by the Defendants. Many of the properties are in dilapidated conditions. Moreover, it is difficult to tell from the Defendants' records how the properties were acquired, the consideration paid for each of the properties, and the complete transactional history with respect to each property. Moreover, many of the properties were, and remain, delinquent on ad valorem taxes and have been lost to foreclosure.

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.

5. During the period of time for which fees are requested in this Application, the Receivership Estate's cash balance has increased from approximately \$1 million to approximately \$1.5 million, as detailed in the Operating Report attached hereto as **Exhibit B**.

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

6. This Application seeks the approval and payment of fees and reimbursable expenses for the Receiver and Bryan Cave LLP (“*BC*”) for the time period from June 1, 2013 through December 31, 2013.

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

Month	Fees	Expenses
June 2013	\$53,747.00	\$816.06
July 2013	\$60,516.00	\$3,861.47
August 2013	\$25,018.00	\$2,282.21
September 2013	\$34,082.00	\$4,050.64
October 2013	\$28,831.50	\$576.83
November 2013	\$29,826.00	(\$723.22)
December 2013	\$23,942.00	\$3,540.82
TOTAL:	\$255,962.50	\$14,404.81

8. **Exhibit A**, which is attached and incorporated for all purposes, conveys the following information for the time period June 1, 2013 through December 31, 2013: (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; (d) the monetary value assigned to each task

performed by a given attorney and/or staff member; and (e) each expense item incurred. Each of the invoices attached as Exhibit A reflect aggregate expenses by category during a given month. A summary of the time billed by each task code is also included at the end of the invoices.

DESCRIPTION OF RECEIVERSHIP ASSETS

9. As on June 1, 2013, the balance of the Receiver's liquid accounts totaled \$997,038. As of December 31, 2013, the balance of the Receiver's liquid accounts totaled \$1,485,291. This does not reflect other, non-liquid assets of the Receivership Estate, such as interests in notes, properties, or potential causes of action. This amount also does not include assets and potential assets of the Receivership Estate acquired or liquidated by the Receiver after December 31, 2013. For example, in January 2014, the Receiver acquired \$105,000 from the sale of a lake house (described below) and entered into two settlements which provide for payment to the Estate of \$700,000 (described below).

10. At this time, the Receiver seeks approval of all fees and expenses requested herein, on an interim basis with final approval to be determined at the close of the Receivership. However, the Receiver only seeks reimbursement of 80% of his fees and 100% of his expenses;

JOHNSON FACTORS

11. 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 the Receiver and BC, are addressed below.

(a) **The Time and Labor Required.** The Receiver and BC respectfully refer to **Exhibit A**, which details the involvement of the Receiver and BC’s attorneys in this case during the period covered by this Application showing that a total of 922 hours of attorney, Receiver, and paraprofessional time have been expended. The Receiver has endeavored to keep costs and fees down by, when possible, using secretarial assistance by employees who do not bill for their time, and by using paralegal staff who bill at lower rates than the Receiver and his counsel.

The Receiver’s efforts for the relevant period can be categorized and summarized as follows:

(i) **Summary Judgment**

12. On June 5, 2013, the Commission filed a Motion for Summary Judgment and Brief in Support [Dkt. No. 194] seeking a judgment on its claims against the Defendants (the “MSJ”). The Commission’s MSJ required extensive cooperation from the Receiver and his counsel, including an extensive declaration from the Receiver with hundreds of pages of exhibits. The Receiver and his counsel spent substantial time investigating the records and communications of the Defendants in preparing the declaration. The Receiver and his counsel also spent substantial time investigating and responding to factual allegations alleged in the Defendants’ response to the MSJ and the evidence supplied in support of the same [Dkt. Nos. 218, 240, 241]. Ultimately, although the Court denied the MSJ, the Court determined that it

found the Receiver's evidence credible and did not find credible the evidence offered in opposition to the Receiver [Dkt. No. 305].

(ii) **The Lakeside Assets**

13. Previously, the Receiver acquired through various settlements a pool of notes and mortgages from the Harbour and Cavco entities (referred to as the "**Lakeside Assets**") and sought Court authorization to sell the Lakeside Assets for \$195,000 (the "**Lakeside Sales Motion**").

14. On November 27, 2012, the Receiver received a non-binding letter of intent from HP Debt Exchange, LLC ("**HP**") to purchase the Lakeside Assets for \$250,000 (the "**Letter of Intent**"). Unbeknownst to the Receiver, after HP offered to purchase the Lakeside Assets from the Estate, it fraudulently purported to sell the Lakeside Assets to Mark Torok and related entities for \$450,000. The \$450,000 price was based on false representations by HP and its principal, Chris Ganter, regarding the quality and nature of the Lakeside Assets. Upon discovering the fraudulent sale of the Lakeside Assets to Torok, the Receiver filed a motion for contempt against HP.

15. As part of the motion for contempt, the Receiver conducted a thorough investigation of HP and its principal Chris Ganter. The Receiver also investigated the potentially fraudulent conduct of the Stewardship Receivership Claimants Association (the "**Association**") in perpetuating HP's scheme. After filing the motion for contempt, the Receiver and his counsel attended multiple evidentiary hearings in Beaumont related to the fraudulent conduct. Ultimately, the motion was granted and HP was ordered to disgorge the \$450,000 it received from Torok into the Court registry. The Court subsequently ordered the \$450,000 that was

disgorged from HP and Ganter to be paid to the Estate, which has been received by the Estate. This award represents a significant cash gain for the Estate during the Relevant Period.

(iii) The Lake House

16. Through his investigation, the Receiver located a lake house in Bonham, Texas titled in the name of Mr. and Mrs. Temme. As with other assets of the Estate, Mr. Temme did not voluntarily disclose the existence of the lake house. When the Receiver inquired as to the current ownership of the lake house, the Temmes alleged that it had been sold prior to the Receivership and produced a partially handwritten sales contract. On information and belief, the sales contract was fraudulent and, as a result, on October 1, 2013, the Receiver filed and the Court granted a Motion for Authority to (i) Assign Lease; (ii) Sell Real Property; (iii) Approve Sales Procedures; (iv) Enter into Listing Agreement and Request for Service by Publication [Docket No. 273]. As a result, the Receiver retained a real estate broker, who listed the lake house for sale for \$125,000. The Receiver received three offers to purchase the lake house, and accepted the highest all-cash offer of \$126,000. Although not reflected in the above accounting, the sale of the lake house resulted in a cash gain of over \$105,000 for the Estate in early 2014.¹

(iv) American Mutual Settlement

17. Prior to the Receivership American Mutual, LP (“**American Mutual**”) attempted to purchase 50 mortgages and promissory notes from the Defendants for \$508,676.61. American Mutual, however, did not receive assignments and allonges or the physical documents it purportedly purchased. As a result, the Receiver claimed that the Estate owned an interest in the assets.

¹ The sales proceeds of \$125,000 were used to pay costs associated with the sale of the lake house, including a 6% sales commission to the real estate agent and paying off of an approximately \$8,000 loan secured by the lake house.

18. After extensive negotiations with American Mutual, the Receiver entered into a settlement and release agreement in which the Estate provided American Mutual 40 of the 50 assets it attempted to purchase in exchange for a payment of \$50,000 to the Receivership Estate and a waiver of any and all claims against the Estate [Dkt. No. 214]. The \$50,000 settlement has been received by the Estate.

(v) **HSP Entities Settlement**

19. With the assistance of contingency fee counsel Jeffrey Goldfarb (*See* Section A), the Receiver has also investigated potential causes of action against the HSP Entities² (“HSP”). HSP paid \$1.5 million to certain Defendants to purchase an asset package. The assets, however, were never delivered to HSP. Subsequently, HSP was paid \$1.8 million from certain other Defendants, purportedly as reimbursement for the \$1.5 million prior payment as well as other amounts owing to HSP.

20. The Receiver prepared for litigation against the HSP Entities, but before filing suit, engaged in extensive negotiations with counsel for the HSP Entities. Based on those negotiations, the Receiver has determined to enter into a Settlement Agreement to resolve claims against the HSP Entities. Under the Settlement Agreement the HSP Entities will make a payment of \$550,000 to the Receiver for the benefit of the Receivership Estate³ and the Estate will release all claims against the HSP Entities.

² The HSP Entities include Home Solutions Capital, LLC, Home Solutions GP, LP, Home Solutions Advisors, LLC, Home Solutions Partners I, LP, Home Solutions Partners I REO, LLC, Home Solutions Partners III, LP, Home Solutions Partners III REO, LLC (“HSP III”), Home Solutions Partners IV, LP, Home Solutions Partners IV REO, LLC (“HSP IV”), Harbour Portfolio Advisors, LLC, Harbour Portfolio Capital, LLC, Harbour Portfolio GP, LP, Harbour Portfolio V, LLC (“Harbour V”), and Harbour Portfolio VI, LP, and affiliates, partners, and employees.

³ Contingency fee counsel will be paid \$105,763.18 from the settlement proceeds.

21. The Receiver has filed a motion to approve the settlement agreement [Dkt. No 281], which has not yet been approved by the Court due to an objection to the settlement. The Receiver anticipates that the objection will be withdrawn or overruled and that the Court will approve the settlement. In the event the motion is granted, the Estate will receive a substantial cash award over and above what is reflected in the accounting above.

(vi) **Oil and Gas Leases**

22. The Receiver has also engaged in substantial efforts to sell oil and gas leases that it obtained in a previous settlement. The Receiver obtained Court authorization to retain Symplex Energy Solutions to market the oil and gas leases [Dkt. No. 284]. The Receiver worked with Symplex to market the leases by publication in several newspapers, mailing a notice of sale to all investors in the Defendants, and holding a public auction of the oil and gas leases. Despite these efforts, the Receiver and Symplex have not yet located a buyer for the leases.

(vii) **Halo Settlement**

23. The Receiver has also alleged claims against Halo Companies, Inc. (“**Halo**”) and sought to resolve those potential claims through settlement with Halo. The Defendants and Halo had a close business relationship prior to the Receivership and, at one point, had entered into negotiations to merge their companies. Because of this close business relationship, Halo and the Defendants entered into several formal and informal business transaction, many of which were inadequately documented or not documented at all. As a result, of the poor documentation of transactions, the Receiver has determined that any claims against Halo would need to be proven with testimony from James Temme, who has asserted his Fifth Amendment rights in this matter and refused to provide testimony. Based on the lack of competent evidence, and other considerations detailed in the Reply in Support of Motion to Approve Settlement Agreement

with Halo Companies, Inc. [Dkt. No. 268], the Receiver endeavors to enter into a Settlement Agreement with Halo in which Halo will pay the Estate \$250,000 and waive all claims against the Estate [Dkt. No. 244].

24. The proposed settlement with Halo was objected to by two investors groups, the Association and the Berg Group.⁴ The Receiver and his counsel spent substantial time during the Relevant Period responding to the copious briefing filed by the Association and Berg Group related to the Halo Settlement. Moreover, the Receiver and his counsel have spent substantial time meeting with and responding to inquiries from the Association and Berg Group and their counsel related to Halo and the Halo Settlement.

25. Magistrate Judge Amos L. Mazzant has entered a Report and Recommendation approving the settlement agreement with Halo [Dkt. No 290] and the Receiver anticipates that the District Court will also approve the settlement agreement. In the event the motion is granted, the Estate will receive a cash award over and above the cash position reflected above.

(viii) Potential Litigation against Escrow Companies

26. The Receiver, with the assistance of outside counsel Andrew Whitaker (*see* Sec. A), spent substantial time during the Relevant Period investigating potential lawsuits against two escrow companies that conducted substantial business with the Defendants, American Equity Funding, LP (“**AEF**”) and Madison Settlement Services, LLC (“**Madison**”). Both AEF and Madison conducted substantial business with the Defendants, including performing escrow services, serving as a broker on sales and acquisitions of assets, and distributing funds to the Defendants and investors. AEF and Madison knew or should have known that the Defendants’

⁴ The Berg Group includes Bruce Berg, Stuart Cartner, Kevin Doyle, Walter Haydock, Edward Leh, Kevin Murphy, Philip Schantz, DAIS Partners, LP, Singer Bros., LLC, Skeleton Lake, LLC, and Wildcat Lake Partners.

conduct was fraudulent and reaped substantial profits from their business with the Defendants. As a result, the Receiver is seeking to negotiate pre-litigation settlements with AEF and Madison. In the event a settlement cannot be reached, the Receiver intends to pursue the Estate's claims against AEF and Madison.

(ix) **Administration of the Estate**

27. The Receiver and his staff also spent substantial time each week administering the Estate. On a daily basis, the Receiver receives mail addressed to the Defendants regarding assets that the Defendants own, service, previously owned, or previously serviced. This includes municipal ordinance violation notices, tax notices, foreclosures notices, utility bills, lawsuits related to the property, requests for information, and other similar notices and mail. The Receiver's staff must open, identify, catalogue, and (when appropriate) respond to such mail.

28. The Receiver and his staff also respond to daily phone calls and emails from parties affected by the Defendants and Receivership. Such inquiries often involve inaccurate or incomplete title documents, misappropriated escrow payments, overdue ad valorem taxes or threats of foreclosure, transfers of servicing rights, and the sale of mortgages and promissory notes to other entities. These inquiries often require considerable time to resolve because, as previously noted, the Defendants' business records are incomplete or non-existent.

(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. Moreover, the Defendants' complete lack of systematic record keeping and failure to complete basic paperwork has substantially hindered the Receiver's efforts.

(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. The Receiver and BC have considerable experience in such areas and have consulted additional resources where necessary.

(d) **The Preclusion of Other Employment Due to Acceptance of the Case.** The Receiver and BC 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 Eastern District of Texas and actually reflect a discount from the standard rates charged by the Receiver and his counsel. During the course of these proceedings, both lawyers and paralegals have performed services on behalf of the Receiver with respect to these proceedings. The timekeepers who have performed services for the Receiver, and their status at BC, are indicated in Exhibit A and in the chart below. BC Attorney Profiles of lawyers who have performed services for the Receiver are available at www.bryancave.com. Finally, part of the Receiver’s work in this case has been to catalogue thousands of entries concerning the investors, payments, and receipts. Where possible, non-billable BC staff has been used to complete those duties. The timekeepers utilized, their position, their standard rates for 2013, the rate applied here, as well as the amount of any applicable discount, are summarized as follows:

Name:	Position	Standard Rate 2013	% of Discount for 2013	Discounted Rate
Keith M. Aurzada	Partner	\$550.00	22%	\$430.00
Jay L. Krystinik	Associate	\$490.00	16%	\$410.00
Bradley J. Purcell	Associate	\$350.00	8%	\$320.00
LeEtta Detrich	Legal Assistant	\$150.00	26%	110.00
Lacy Johnson	Legal Clerk	90.00	NA	NA

(f) **Whether the Fee is Fixed or Contingent.** The Receiver's and BC'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 Experience, Reputation and Ability of the Attorneys.** BC 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 BC's attorneys is recognized and respected in their community in Texas.

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

(j) **The Nature and Length of the Professional Relationship with the Client.** BC did not represent the Receiver in these proceedings prior to being retained in these proceedings.

(k) **Award in Similar Cases.** BC 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 the Receiver and his legal counsel, and authorize the Receiver to pay BC \$219,174.81, representing \$204,770 (80% of \$255,962.50) in interim fees and \$14,404.81 (100% of \$14,404.81) in interim expenses for the time period from June 1, 2013 through December 31, 2013.

Dated: April 25, 2014

Respectfully submitted:

//s// Keith Miles Aurzada
Keith Miles Aurzada, Receiver

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CERTIFICATE OF CONFERENCE

I hereby certify that, in accordance with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission, I delivered the invoices attached to the foregoing and the Standardized Fund Accounting Report as Exhibits A and B respectively to David B. Reece, counsel for the Commission. Additionally, my counsel has discussed the relief requested with David B. Reece, and has been advised that the Commission does not object to the relief requested. Therefore this matter is present to the Court for determination.

//s// Keith Miles Aurzada
Keith Miles Aurzada, Receiver

CERTIFICATE OF SERVICE

I certify that on April 25, 2014, I served a true and correct copy of the foregoing pleading by electronic mail through the Court's CM/ECF system to all parties consenting to service through same, including to counsel for the SEC, the Defendants, and all others consenting to service through same.

Moreover, the foregoing will be uploaded to www.stewardshipfundreceivership.com

//s// Keith Miles Aurzada
Keith Miles Aurzada