

IN THE DISTRICT COURT OF OKLAHOMA COUNTY, OKLA.  
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

JAN 28 2004

Oklahoma Department of Securities,  
ex rel. Irving L. Faught, Administrator,

Plaintiff,

vs.

Accelerated Benefits Corporation, a Florida  
Corporation, *et al.*,

Defendants.

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
Deputy

Case No. CJ-99-2500-66  
Judge Daniel L. Owens

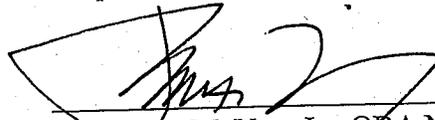
NOTICE OF HEARING

Please be advised that a hearing on Conservator's Application for Order Approving  
Attorney's Fees for the Period of December 1, 2003, through December 31, 2003, has been set for the

27<sup>th</sup> day of February, 2004, at 9:00 a.m., before the Honorable Judge Daniel L.

Owens.

Respectfully submitted,



Melvin R. McVay, Jr., OBA No. 6096  
Thomas P. Manning, OBA No. 16117  
PHILLIPS McFALL McCAFFREY  
McVAY & MURRAH, P.C.

Twelfth Floor, One Leadership Square  
211 North Robinson  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 235-4100  
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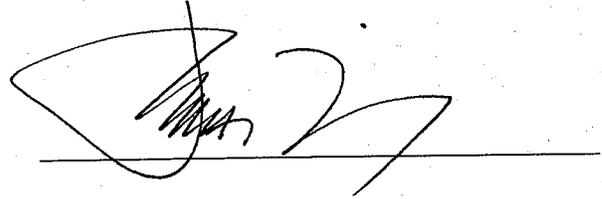
ATTORNEYS FOR CONSERVATOR,  
TOM MORAN

**CERTIFICATE OF MAILING**

The undersigned certifies that on the 26<sup>th</sup> day of January, 2004, a true and correct copy of the foregoing Notice of Hearing was mailed, first-class with postage prepaid, to:

Patricia A. Labarthe, Esq.  
Oklahoma Department of Securities  
First National Center, Suite 860  
120 North Robinson  
Oklahoma City, OK 73102  
*Attorney for Plaintiff*

Dino E. Viera, Esq.  
Fellers, Snider, Blankenship,  
Bailey & Tippens, P.C.  
100 North Broadway Avenue, Suite 1700  
Oklahoma City, Oklahoma 73102  
*Attorney for Defendants,  
Accelerated Benefits Corporation and  
American Title Company of Orlando*

A handwritten signature in black ink, appearing to be "Dino E. Viera", is written over a horizontal line.

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PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
Deputy

Case No. CJ-99-2500-66  
Judge Dan Owens

**INTERIM APPLICATION FOR ORDER APPROVING ATTORNEY'S FEES  
FOR THE PERIOD OF DECEMBER 1, 2003 THROUGH DECEMBER 31, 2003**

Conservator, Tom Moran, hereby respectfully applies to this Court for entry of an Order approving the interim application for attorney's fees of Phillips McFall McCaffrey McVay and Murrah, P.C. ("Phillips McFall"), counsel for Conservator for the period of December 1, 2003 through December 31, 2003. In support his application Conservator would show the Court as follows:

1. On February 6, 2002, the Court appointed Tom Moran as Conservator of certain assets of Defendant, Accelerated Benefits Corporation ("ABC"), and its agents, including American Title Company of Orlando and David Piercefield ("Conservatorship Assets"), including:
  - a. All life insurance policies owned or held beneficially, directly or indirectly, by or for the benefit of ABC and/or ABC Investors, that were purchased prior to October 1, 2000 (the "Policies");
  - b. All assets of ABC necessary to accomplish the objectives of the Conservatorship, including, but not limited to, computer hardware, databases, software, ABC Investor and viator files relating to the Policies, accounting and financial records

pertaining to premium payments and receipt and distribution of proceeds on the Policies, any deposit of cash, bond or guarantee, filing cabinets, office supplies, the lease to office space at 105 East Robinson Street, Suite 320, Orlando, Florida, and telephone systems;

- c. All premium reserve accounts and bank accounts into which ABC Investor funds or proceeds from the Policies have been deposited; and
- d. The right to recoup from the proceeds of the Policies all funds advanced by ABC to finance the payment of premiums on the Policies.

2. The Conservator was given the direction and authority to accomplish the following:

- a. To take custody, possession and control of the Conservatorship Assets as they are transferred to the Conservator;
- b. To manage all Conservatorship Assets pending further action by the Court including, but not limited to, the evaluation of the Policies, and to take necessary steps to protect the ABC Investors' interests including, but not limited to, the liquidation or sale of the Policies to institutional buyers and the assessment to ABC Investors of the future premium payments;
- c. Receive and collect any and all sums of money due or owing on the Policies to ABC or its agents;
- d. Seek the return of any cash, bond or guarantee on deposit with any regulatory agency or other entity on behalf of ABC or its agents;
- e. Make such payments and disbursements as may be necessary and advisable for the preservation of the Conservatorship Assets and as may be necessary and advisable in discharging his duties as Conservator including, but not limited to, the timely payment of all premiums for Policies that have not yet matured;
- f. Monitor the viators of the Policies by tracking the location of

the viators and periodically checking the health of the viators;

- g. Receive notice of the death of viators, file death claims on the viators, and collect the proceeds paid on the Policies as such mature;
- h. Disburse to each ABC Investor his proportionate share of the proceeds, after deducting premiums advanced, paid in matured Policies;
- i. Establish open communication with ABC Investors with proper disclosure of available options and consequences including, but not limited to, notice to ABC Investors of the Conservatorship Order within 30 days;
- j. Retain and employ attorneys, accountants, computer consultants and other persons as may be advisable or necessary to the exercise of the duties of the Conservator, and compensate such persons, subject to application and approval by the Court;
- k. Open and inspect any and all mail and/or deliveries related to the existence, location, identity and/or collection, preservation, maintenance or operation of Conservatorship Assets, and to notify any insurance company or third party administrator and the United States Postal Service to effect the forward delivery of any mail related to the Conservatorship Assets to a mail depository under the control of the Conservator;
- l. Institute, prosecute, defend, intervene in or become a party to such actions or proceedings in any state court, federal court or United States Bankruptcy Court as may in the Conservator's opinion be necessary or proper for the protection, maintenance and preservation of Conservatorship Assets, or the carrying out of the Conservatorship Order; and
- m. Exercise those powers necessary to implement the Conservator's conclusions with regard to the disposition of the Conservatorship pursuant to the orders and directives of the Court.

3. On February 21, 2002, the Court granted Conservator's application to employ Phillips

McFall as counsel and approved its hourly rates.

4. Since its employment as counsel, Phillips McFall has performed certain tasks, which include:

- a. Representation of Conservator's interests in matters and proceedings arising in, or relating to, this case;
- b. Advising Conservator concerning the administration of the Conservatorship and Conservator's rights and duties, and the claims of investors and other parties in interest;
- c. Investigation of possible causes of action belonging to the Conservatorship; and,
- d. Assisting with such other matters as the Conservator has requested from time to time.

5. Conservator seeks to compensate Phillips McFall at its regular hourly rates, plus Phillips McFall's actual and necessary expenses for work performed for the period of December 1, 2003 through December 31, 2003.

6. Conservator did not pay Phillips McFall a retainer. While Phillips McFall would normally have requested a retainer, Phillips McFall agreed to accept employment on the basis that it would be provided interim compensation.

7. The standards for evaluating this application are set forth in State, ex rel. Burk v. City of Oklahoma City, 1979 OK 115, 598 P.2d 659; and Oliver's Sports Center, Inc. v. National Standard Ins. Co., 1980 OK 120, 615 P.2d 291. Those standards include the following:

- a. **Time and Labor Required.** Phillips McFall has devoted substantial time and effort in its representation of Conservator and seeks compensation for services which are detailed in the statement attached hereto as Exhibit "A".
- b. **Novelty and Difficulty of Questions Involved.** Phillips McFall has

provided representation of the Conservator on numerous issues and tasks relating to the preservation of assets, pending litigation, potential litigation and applications to the Court for approval of Conservator's actions.

- c. **Skill Requisite to Perform Services Properly.** The Court previously approved the retention of Phillips McFall as general counsel because of the firm's experience and qualifications to render the services required by the Conservator.
- d. **Preclusion of Other Employment.** Phillips McFall has expended the time set forth in this application in representation of Conservator to the preclusion of other employment.
- e. **Fees Customarily Charged.** Phillips McFall has billed for its time on an hourly basis which is well within the professional rates customarily charged in this jurisdiction and which were previously approved by the Court on February 21, 2002.
- f. **Whether the Fee is Fixed or Contingent.** The fees charged by Phillips McFall are well within the professional rates customarily charged in this jurisdiction. The attorney's fees are neither fixed or contingent, but are based upon the reasonableness of such fees in relation to the work performed as a result of the representation.
- g. **Experience, Reputation and Ability of the Applicant.** The Court previously approved the retention of Phillips McFall as general counsel because of the firm's experience and qualifications to render the services required by the Conservator.

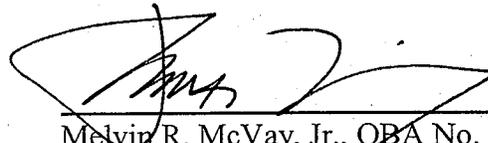
8. All professional services for which allowance of compensation is requested were performed by Phillips McFall for and on behalf of the Conservator.

9. This Application covers allowance of compensation for services performed from December 1, 2003 through December 31, 2003. During the period covered by this Application, Phillips McFall expended a total of 101.20 hours for services rendered on behalf of Conservator at hourly rates ranging from \$170.00 to \$240.00 per hour for a total fee of \$17,328.50, and has accrued \$10.85 in expenses. Exhibit "A" details the dates services were rendered, hours spent rendering the

services and descriptions of the services rendered.

WHEREFORE, premises considered, Conservator, Tom Moran, respectfully requests this Court approve payment of interim compensation to Phillips McFall in the amount of \$17,339.35 for the period of December 1, 2003 through December 31, 2003.

Respectfully submitted,



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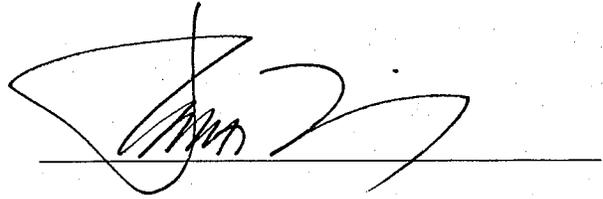
Melvin R. McVay, Jr., OBA No. 6096  
Thomas P. Manning, OBA No. 16117  
PHILLIPS McFALL McCAFFREY  
McVAY & MURRAH, P.C.  
Twelfth Floor, One Leadership Square  
211 North Robinson  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 235-4100  
Facsimile: (405) 235-4562  
ATTORNEYS FOR CONSERVATOR,  
TOM MORAN

**CERTIFICATE OF MAILING**

The undersigned certifies that on the 26<sup>th</sup> day of January, 2004, a true and correct copy of the foregoing was mailed via First Class Mail, postage prepaid, to the following:

Patricia A. Labarthe, Esq.  
Oklahoma Department of Securities  
First National Center, Suite 860  
120 North Robinson  
Oklahoma City, OK 73102  
Attorney for Plaintiff

Dino E. Viera, Esq.  
Fellers, Snider, Blankenship,  
Bailey & Tippens, P.C.  
100 North Broadway Avenue, Suite 1700  
Oklahoma City, Oklahoma 73102  
Attorney for Defendants,  
Accelerated Benefits Corporation and  
American Title Company of Orlando

A handwritten signature in black ink, appearing to read "Dino E. Viera", is written over a horizontal line. The signature is stylized and cursive.

Phillips McFall McCaffrey McVay & Murrah, P.C.  
Attorneys at Law  
Twelfth Floor  
One Leadership Square  
211 N. Robinson  
Oklahoma City, OK 73102  
(405) 235-4100

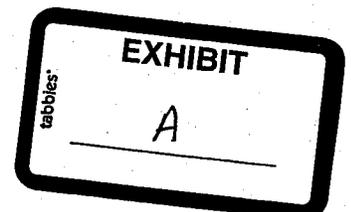
BILLING STATEMENT

Accelerated Benefits Corporation (ABC)  
c/o Tom Moran, Receiver, Heritage  
Hertigage Group  
3240 W. Britton Rd.  
Oklahoma City OK 73120

12/31/03  
ACCOUNT NO: 20861-12201M  
26

ATTN: Conservatorship

	HOURS
12/01/03	
MRM Legal Services Telephone conferences with client regarding case status and conservatorship issues; interoffice conferences regarding same; review special appearance of William S. Moran in Supreme Court appeal.	1.20
TPM Legal Services Returned call from Mr. Muskgrove (investor) re: Akin; telephone conference with Ms. Townsend; draft Motion and Brief.	5.60
12/02/03	
TPM Legal Services Telephone call from Investor re: sale status; telephone conference with Ms. Townsend re: premiums on irrevocables; prepare mailing matrix; prepare irrevocable voting exhibits; draft Brief.	5.30
12/03/03	
MRM Legal Services Work on conservatorship issues.	0.40
TPM Legal Services Draft Motion; draft Notice to investors; draft Affidavit.	4.90
12/04/03	
TPM Legal Services Review Motion to Withdraw from Ms. Farris.	0.20
MRM Legal Services Review special appearances by various investors.	0.30
12/05/03	
LAS Legal Services	



	HOURS
File Applications and Conservator's report at Oklahoma County Court Clerk's office. Take file stamped copies to Judge and set for hearing 1/9/04 at 9am.	0.30
TPM Legal Services	
Conference with J.Miller re: Answer and Crossclaim to interpleader Petition; draft Motion to Strike; review Special Appearance; review Investor Claim Forms.	3.90
MRM Legal Services	
Review and finalize Conservator's report for October, 2003, application for attorney fees for counsel for the Conservator and Conservator's application for fees and costs; interoffice conferences regarding motion to terminate irrevocable status of various policies and appeal issues regarding sale motion.	0.90
JM Legal Services	
Meet with TPM to discuss answer and cross-claim; start draft answer and cross-claim.	4.30
12/07/03	
JM Legal Services	
Draft answer and cross-claim.	3.50
MRM Legal Services	
Work on Conservatorship issues.	1.80
12/08/03	
JH Legal Services	
2 Deliveries to P. LaBarthe and D. Vino for TPM.	0.50
JM Legal Services	
Draft answer and counterclaim for TPM.	5.70
TPM Legal Services	
Review and revise Answer and Counterclaim; draft Motion to Strike.	3.40
12/09/03	
JM Legal Services	
Make changes to answer and counterclaim per TPM.	0.20
TPM Legal Services	
Draft Motion to Strike.	1.40
12/10/03	
TPM Legal Services	
Revise irrevocable brief; telephone call to Ms. Townsend re: irrevocable consent forms; telephone conference with Ms. Townsend re: Akin policy; revise Answer and Counterclaim.	5.90

	HOURS
12/11/03	
TPM Legal Services	
Returned call to Ms. Townsend; research re: Motion to Strike; telephone conference with Ms. Townsend re: third-party policies; telephone call from Ms. Townsend re: response to information request.	2.20
MRM Legal Services	
Review correspondence from opposing counsel regarding Akins lawsuit; work on issues relating to same.	0.90
12/12/03	
TPM Legal Services	
Review November fee statements; review November general ledger.	0.90
12/14/03	
MRM Legal Services	
Work on motion to strike special appearances, answer and cross-claim for the Akins Federal Court lawsuit and other conservatorship matters.	1.70
12/15/03	
MRM Legal Services	
Review special appearances filed in case; work on answer and cross-claim in Akin lawsuit.	1.30
12/16/03	
TPM Legal Services	
Draft Motion; telephone conference with Ms. Townsend re: irrevocables; telephone call from Ms. Townsend re: addresses.	3.60
MRM Legal Services	
Work on motion to strike special appearances, answer and cross-claim for the Akins Federal Court lawsuit and other conservatorship matters.	1.40
12/17/03	
TPM Legal Services	
Telephone call from Ms. Townsend re: irrevocables ; telephone call from Ms. Calise re: investor payments; meet with S.Hasenfratz re: Akin Answer and Counterclaim; revise Counterclaim; revise Motion to Strike; review letter to Pensco; telephone conference with Ms. Townsend re: same.	5.40
SAH Legal Services	
Review of pleadings and brief regarding	

	HOURS
interpleader action; review of prior memorandum and documentation.	2.10
MRM Legal Services	
Interoffice conferences with T. Manning and S. Hasenfratz regarding revisions to answer and cross-claim to be filed in the Akins lawsuit and the motion to strike special appearances filed in the Supreme Court appeal; follow-up regarding same.	1.10
12/18/03	
TPM Legal Services	
Revise Answer and Counterclaim; revise Motion to Strike; telephone conference with Ms. Townsend.	4.10
SAH Legal Services	
Detailed review and revision of Answer and Crossclaim.	3.40
MRM Legal Services	
Work on conservatorship issues.	0.90
12/19/03	
TPM Legal Services	
Revise Answer and Counterclaim; telephone conference with Ms. Townsend re: Akin investor addresses.	1.40
SAH Legal Services	
Finalize Answer and Crossclaim; prepare Entry of Appearance and related matters.	2.10
MRM Legal Services	
Work on answer and cross-claim to be filed in Akins lawsuit; interoffice conferences regarding same.	1.60
JH Legal Services	
Filing at Federal Court Clerks for SAH.	0.30
12/20/03	
MRM Legal Services	
Review and revise motion to strike special appearances filed in Supreme Court appeal.	0.80
12/23/03	
KAS Legal Services	
File Motion to Strike Special Appearances at Oklahoma County Court Clerk and Delivery to Judge Owens	0.30
KAS Legal Services	
TPM Legal Services	
Draft November Attorney Fee Application; draft November Conservator Fee Application; draft November Conservator's Report; telephone conference with Mr. Doyle re: November General Ledger and	

	HOURS
Bank Statements; letter to Mr. Moran re: Akin Answer and Cross-Claim.	2.40
JH Legal Services Filing at Supreme Court for TPM.	0.50
MRM Legal Services Review additional special appearances filed in appeal of order granting sale motion; review and revise interim applications for fees for conservator and for attorneys for conservator.	0.60
12/26/03	
MRM Legal Services Review, revise and further drafting of motion for order reconsidering irrevocable beneficiary status and brief in support; review files regarding same.	2.40
12/29/03	
KAS Legal Services file two Notice of Hearings at Oklahoma County Court Clerk.	0.30
JM Legal Services List those receiving copy of answer and cross-claim.	0.20
TPM Legal Services Revise Motion; telephone conference with Ms. Townsend re: various matters.	1.80
MRM Legal Services Meeting with T. Manning regarding comments and revisions to motion to rescind irrevocable policies and brief in support.	0.40
12/30/03	
JM Legal Services Record additional green cards received.	0.20
TPM Legal Services Revise Motion; telephone conference with Ms. Townsend re: irrevocable exhibit; draft mailing matrix; revise Affidavit; revise Notice to Investors.	4.50
MRM Legal Services Interoffice conference regarding personnel issues; work on other Conservatorship issues.	0.80
12/31/03	
TPM Legal Services Telephone conference with Ms. Townsend re: irrevocables; telephone call from Ms. Townsend re: PRA's; telephone conference with Ms. Townsend re: payments; revise Brief.	1.90

Accelerated Benefits Corporation (ABC)

(CONTINUED)

12/31/03

ACCOUNT NO: 20861-12201M

26

FOR CURRENT SERVICES RENDERED	101.20	17,328.50
Long Distance		6.65
Local Fax		1.50
TOTAL EXPENSES THROUGH 12/31/03		8.15
12/23/03 Mileage re: file documents at Supreme Court.		2.70
TOTAL ADVANCES		2.70
CURRENT ACTIVITY		17,339.35
BALANCE DUE		<u>\$ 17,339.35</u>

\*\*\*\*\* PLEASE NOTE \*\*\*\*\*

All payments received after 12/31/03 will  
appear on your 1/31/04 statement.