

Hearing → May 5, 2017 9. a.m

DISTRICT COURT FOR OKLAHOMACOUNTY OKLAHOMA COUNTY
STATE OF OKLAHOMA

MAR 30 2017

Oklahoma Department of Securities)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)
)
v.)
)
Seabrooke Investments, LLC, an Oklahoma)
limited liability company, *et. al.*)
)
Defendants.)

RICK WARREN
COURT CLERK
89_____

Case No. CJ-2014-4515

INTERIM APPLICATION FOR ORDER APPROVING
RECEIVER’S FEES AND EXPENSES FOR PERIOD OF
FEBRUARY 1, 2017 THROUGH FEBRUARY 28, 2017

Receiver, Ryan Leonard, submits this application for entry of an Order approving his interim application for Receiver’s fees and expenses for the period of February 1, 2017 through February 28, 2017, including fees of the Attorney and Accountant approved by this Court to assist the Receiver.

1. On September 11, 2014 the Plaintiff, Oklahoma Department of Securities (“Plaintiff”), filed its verified Petition for Permanent Injunction and other Relief (“Verified Petition”) and Application for Temporary Restraining Order, Order Freezing Assets, Order Appointing Receiver, Order for Accounting and Temporary Injunction (“Application”) pursuant to the Oklahoma Uniform Securities Act of 2004 (“Act”), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011). On that same day the Court entered a temporary restraining order in this matter and appointed Ryan Leonard as Receiver for Defendants.

2. On September 5, 2014 the Court entered an order granting a Temporary Injunction and Ancillary Relief and ordered that Ryan Leonard should remain as Receiver. The Receiver was given directions and authority to accomplish the following with regard to Defendants:

a. To take immediate custody, possession and control of any and all Assets, as well as any records or documents relating in any way to the Assets;

b. to retain or employ attorneys, accountants, consultants, management firms, and other persons as may be advisable or necessary to exercise the duties of the Receiver and to compensate such persons, all subject to approval by the Court;

c. to manage the business activities of Defendants, their affiliates, subsidiaries, and any related entities existing at the time of the filing of the Petition, and to conserve, hold and protect the Assets, pending further action by this Court;

d. to market the Assets of the Defendants for sale, including the retention of listing agents, realtors and brokers, and to evaluate all offers to purchase received. All sales of the Assets shall be subject to approval by the Court;

e. to release bank and financial accounts from the freeze as may, in the Receiver's opinion, be necessary or proper for the protection, maintenance, or preservation of the Assets or the carrying out of the terms of this Order;

f. to retain any employee of the Defendants, as may be advisable or necessary, including any individual Defendant, in control of, management of, participation in the affairs of, or on the premises of, the Defendants; and/or to dismiss any employee of the Defendants as may be advisable or necessary, including any individual Defendant, from control of, management of, or participation in the affairs of, or from the premises of the Defendants.

g. to receive and collect any and all sums of money due or owing to the Defendants at the time of the filing of the Petition; to collect the revenue and income generated by the maintenance and operation of the Assets whether the same are due or shall be necessary and advisable for the preservation of the Assets and as may be necessary and advisable to discharging his duties as Receiver;

h. to open bank and financial accounts in the name of the Receiver; to change the name of any Assets and/or the signing authority for any Asset, in order to reflect that the Asset is held in the name of the Receiver pursuant to this Order and/or to reflect that the Receiver is the only person authorized to deal with such Asset, including if necessary, instructing banks and financial institutions that the Receiver is the only person authorized to make withdrawals or transfers from any of the Defendants' bank and financial accounts existing at the time of the filing of the Petition. Any bank or financial institution shall be entitled to rely on this Order to open and make changes to such accounts as requested by Receiver.

i. to open and inspect any and all mail or deliveries addressed to Defendants to determine if same relate to the existence, location, identity or collection, preservation, maintenance or operation of the Assets, and to notify the United States Postal Service to effect the forward delivery of any email addressed to Defendants to a mail depository under the control of the Receiver; and to return personal mail to Defendants Tom W. Seabrooke and J. Karyn Seabrooke;

j. to institute, prosecute and defend, compromise, adjust, 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 Receiver's opinion, be necessary or proper for the protection, maintenance, or preservation of the Assets, or the carrying out of the terms of this Order, and likewise to defend,

compromise, adjust, or otherwise dispose of any or all actions or proceedings now pending in any court by or against Defendants where such prosecution, defense, or other disposition of such actions or proceedings is in the judgment of the Receiver, advisable or proper for the protection of the Assets; and

k. to exercise those powers necessary to implement the orders and directives of this Court.

3. As part of the order granting Temporary Injunction and Ancillary Relief, the Court ordered that the Receiver may apply to the Court for payment of fees, from time to time, in a reasonable sum to be determined by the Court and from such sources as approved by the Court and for reimbursement of reasonable expenses incurred in connection with his duties as Receiver. The Court previously approved the retention of Robert D. Edinger as legal counsel to the Receiver and the employment of an accountant. The Court determined that the Receiver's hourly fee shall be billed at the rate of \$265 per hour. Finally, the Court determined that payment of the fees and expenses of the Receiver shall have priority over any other claims made against the Defendants or the receivership estate.

4. The Receiver seeks interim compensation at his hourly rate approved by the Court for work performed, plus reimbursement of Receiver's actual and necessary expenses, for the period of February 1, 2017 through February 28, 2017. The Receiver further seeks compensation for the services of Attorney Robert D. Edinger and Accountant Barbara A. Ley, P.C. for the period February 1, 2017 through February 28, 2017. Edinger and Ley assisted the Receiver in the exercise of his duties, and the retention of their services by the Receiver was previously authorized by the Court.

5. The amount of the compensation of receivers and their attorneys rests in the sound discretion of the court in which the proceedings are pending. *Keenan v. Clark*, 188 P.2 219 (Okla. 1947).

6. During the period February 1, 2017 through February 28, 2017, the Receiver and his employees expended a total of 32 hours at hourly rates ranging from \$80 to \$265 per hour for a total fee of \$4,077. The Receiver also incurred \$122.76 in expenses and advances, making the total amount due \$4,199.76. Exhibit "A" details the hours spent rendering services and a description of the services rendered. The Receiver and his employees have expended the time set forth in this application in the execution of the Receiver's duties to the preclusion of other employment, and the charges set forth herein were reasonable and necessary.

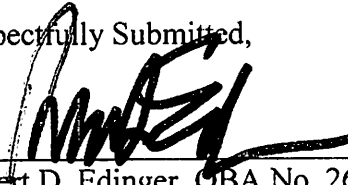
7. During the period February 1, 2017 through February 28, 2017, Attorney Robert D. Edinger expended a total of 4.85 hours at an hourly rate of \$295 per hour for a total fee of \$1,430.75. Edinger also incurred \$89 in expenses and advances, making the total amount due \$1,519.75. Exhibit "B" details the hours spent rendering services, a description of the services rendered, and the expenses incurred. Attorney Robert D. Edinger has expended the time set forth in this application in the assistance of the Receiver to the preclusion of other employment, and the charges set forth herein were reasonable and necessary.

8. During the period of February 1, 2017 through February 28, 2017, the Accountant Barbara A. Ley, P.C. expended a total of 15.3 hours at hourly rates ranging from \$85 to \$295 per hour for a total fee of \$3,206. Ley also incurred \$0.15 in expenses and advances during February, 2017, making the total amount due of \$3,206.15 for February, 2017. Exhibit "C" details the hours spent rendering services, a description of the services rendered, and the expenses incurred.

Accountant Ley has expended the time set forth in this application in the assistance of the Receiver to the preclusion of other employment, and the charges set forth herein were reasonable and necessary.

WHEREFORE, premises considered, Receiver Ryan Leonard respectfully requests this Court approve payment as interim compensation to the Receiver in the amount of \$4,199.76, to Attorney Robert Edinger in the amount of \$1,519.75 and to Accountant Barbara A. Ley, P.C. in the amount of \$3,206.15

Respectfully Submitted,



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ATTORNEY FOR THE RECEIVER,
RYAN LEONARD

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of March, 2017, a true and correct copy of this pleading was served via First Class Mail, postage prepaid, or by Email to:

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Jennifer Shaw
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J. Mark Lovelace
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MEYER, LEONARD & EDINGER, PLLC

100 PARK AVENUE
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Seabrooke et al. Receivership

Statement Date: March 29, 2017
Statement No. 4167
Account No. 1392.01
Page: 1

RE: Oklahoma County Case # CJ-2014-4515

Payments received after 03/29/2017 are not included on this statement.

Previous Balance \$12,027.18

Fees

			Hours	
02/02/2017	RTL	Multiple follow-up correspondence with M. Neeley, claimant re: filing of out-of-time proof of claim	0.30	79.50
02/07/2017	RTL	Conference with accountant C. Cartmill re: tax returns received from defendants to date, additional information needed, C. Cartmill to follow up with defendants' counsel; Brief meeting at accountants' office re: payables; Multiple follow-up correspondence re: defendants' counsel re: obtaining requested tax information from defendants	0.60	159.00
02/08/2017	NJ	Assist R Leonard with research, summary reports with regard to Seabrooke taxes; begin summary of recorded payments, entity affiliation, recorded re-payments for all claimants and Seabrooke entities to assist with tax prep	3.40	272.00
	RTL	Conferences with N. Jacobsen re: obtaining breakdown of investments made into/payments made by defendant entities for tax analysis	0.40	106.00
02/09/2017	NJ	Continue research on all Seabrooke entities, claimant documentation re amounts associated with each entity and re-payments related to each claim to assist with tax preparation	2.50	200.00
	RTL	Review correspondence from T. Wedel, Seabrookes' accountants re: explanation of prior years loss carry-forwards; Multiple follow-up correspondence with M. Robertson, K. Seabrooke, C. Cartmill re: same; Conference with C. Cartmill re: additional information needed from Seabrookes' accountants to clarify claimed losses	0.70	185.50
02/10/2017	RTL	Additional follow-up with accountant re: specific tax items needed from Seabrookes for 2004, 2007 and 2009 related to claimed losses	0.20	53.00



			Hours	
02/15/2017	NJ	Continue research, compiling details re financial information of all Seabrooke entities, claimant payments, re-payments for tax purposes	1.20	96.00
	RTL	Multiple additional follow-up with C. Cartmill re: obtaining information concerning non-operating losses from Seabrookes' accountant, authorization to proceed	0.40	106.00
02/16/2017	NJ	Preparation of summary report for assistance with tax preparation on all Seabrooke entities per R Leonard	1.30	104.00
	NJ	Review, update and finalize preliminary summary report for all Seabrooke entities per R Leonard in preparation for tax purposes	2.10	168.00
	NJ	Conference with R Leonard to discuss preliminary summary report and adjustments, updates and re-formatted report suggestions to assist with tax preparation for all Seabrooke entities	0.30	24.00
	NJ	Begin research of all proof of claim documentation for each claimant to determine exact amounts of payments, re-payments and associated entities to compare to summary report to assist with Seabrooke tax filings per R Leonard	0.60	48.00
	RTL	Receive call and conference with counsel for claimant M. Neeley re: filing of Motion to have proof of claim considered (Bricktown Capital claimant); Multiple correspondence with K. Seabrooke, C. Cartmill re: W-2's and W-3's for all defendant businesses 2009-institution of receivership; Multiple follow-up correspondence with counsel for M. Neeley re: agreement to motion to consider claim as if timely filed	0.90	238.50
	RTL	Review of tax related summary prepared by N. Jacobsen breaking down investments entity by entity; Conferences with N. Jacobsen re: same	0.50	132.50
02/17/2017	RTL	Brief meeting with accountant re: payables	0.30	79.50
02/20/2017	NJ	Review and research all claimant supporting documents to determine proof of payments, re-payments and associated Seabrooke entities to begin comparison to summary report to assist with Seabrooke tax filings per R Leonard	4.40	352.00
	NJ	Correspondence from R Leonard re Neeley claim, court status; update file and documentation re the same	0.30	24.00
	RTL	Brief conference with counsel re: application filed by M. Neeley, W. Doyle appeal	0.30	79.50
	RTL	Review Application for Order Permitting Proof of Claim to be Filed out of Time (Neeley claim); Follow-up conference with counsel re: unique issues surrounding timing of claim	0.40	106.00
	RTL	Correspondence and conference with counsel for Bank SNB re: inquiry into application filed by claimant M. Neeley, treatment of commercial deficiency claims	0.30	79.50
02/21/2017	RTL	Multiple correspondence with defendants' counsel re: new claimant application, confirmation of investment of funds; Follow-up with J. Shaw, Securities Department re: same	0.40	106.00

			Hours	
02/22/2017	RTL	Prepare Receiver's Response to Application to Submit Claim Out of Time; Follow-up with counsel re: same	0.70	185.50
02/23/2017	NJ	Continue research, review of all claimant supporting documentation to determine proof of payments, re-payments to and from associated Seabrooke entities to compare to summary reports to assist with tax filings per R Leonard	3.20	256.00
	NJ	Begin preparation of detailed summary report to assist in preparation of taxes for all Seabrooke entities	0.60	48.00
	NJ	Assist R Leonard, R Edinger with preparation of pleadings: Receivers Response to Application for Order Permitting Proof of Claim to be filed Out of Time	1.10	88.00
	NJ	Research Bricktown Capital investments per R Leonard for February 2007 confirmation dates	0.40	32.00
	RTL	Follow-up with counsel re: appeal status; Brief conference re: Response to Neeleys' application to submit claim out of time	0.30	79.50
	RTL	Review multiple 1099's for defendant entities; Follow-up correspondence with Receiver's accountant re: same	0.40	106.00
	RTL	Review of Bricktown Capital bank records provided by Department re: analysis of Neeley claim; Further review of Neeley's documentation; Review of claims of similarly-situated creditors (who invested \$67,000) to confirm bank records and Neeley investment	0.70	185.50
02/27/2017	NJ	Continue preparation of detailed summary report to assist in preparation of taxes for all Seabrooke entities	2.40	192.00
	RTL	Multiple correspondence with P. LaBarthe re: analysis of Neeley claim based upon defendants' bank records	0.20	53.00
02/28/2017	RTL	Follow-up correspondence with P. LaBarthe re: recommended approval of Neeley claim; Follow-up with N. Jacobsen re: approval of same	0.20	53.00
		For Current Services Rendered	<u>32.00</u>	<u>4,077.00</u>

Recap

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Nicole Jacobsen	23.80	\$80.00	\$1,904.00
Ryan T. Leonard	8.20	265.00	2,173.00

Expenses

01/30/2017	Photocopy and binding charges	119.16
02/20/2017	Photocopy charges	<u>3.60</u>
	Total Expenses	122.76
	Total Current Work	4,199.76

Seabrooke et al. Receivership
Account No. 1392.01
RE: Oklahoma County Case # CJ-2014

Statement Date: 03/29/2017
Statement No. 4167
Page No. 4

Payments

02/09/2017	Seabrook (1392.01) - Payment, thank you.	-474.50
02/17/2017	Seabrooke (1392.01) - Payment, thank you.	-2,150.70
03/20/2017	Seabrooke (1392.01) - Payment, thank you.	-9,401.98
	Total Payments	<u>-12,027.18</u>
	Balance Due	<u>\$4,199.76</u>

Robert Edinger PLLC
 100 Park Avenue, Suite 500
 OK 73102 US
 (405) 702-9900
 redinger@edingerpllc.com

Invoice

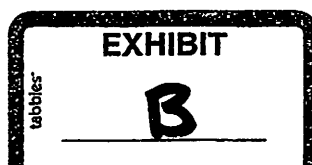
BILL TO
 Seabrooke Receivership
 Ryan Leonard, Receiver
 100 Park Avenue, Suite 500
 Oklahoma City, OK 73102

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
4535	03/29/2017	\$1,519.75	04/28/2017	Net 30	

DATE	ACTIVITY	QTY	RATE	AMOUNT
02/10/2017	295.00 Fees Prepare Receiver's Fee Application for Jan. 2017.	1:48	295.00	531.00
02/16/2017	295.00 Fees Draft Order approving Receiver's Fees & Expenses for Dec., 2016.	0:30	295.00	147.50
02/17/2017	295.00 Fees Appear at hearing and obtain Order approving Receiver's Fees & Expenses for Dec. 2016.	0:45	295.00	221.25
02/20/2017	295.00 Fees Review Application of Brent and Megham Neeley for leave to file proof of claim out of time and discuss same with Receiver.	0:30	295.00	147.50
02/20/2017	295.00 Fees Tel. from G. Gaines regarding Bank SNB's claims and what, if any, distribution will be available for general creditors.	0:24	295.00	118.00
02/20/2017	Lexis Lexis	1	89.00	89.00
02/22/2017	295.00 Fees Develop response to Application of Brent Neeley and Meghann Neeley for leave to submit proof of claim out of time.	0:24	295.00	118.00
02/23/2017	295.00 Fees Review and sign Receiver's Response to Application of Neeley's to file their proof of claim out of time.	0:18	295.00	88.50
02/23/2017	295.00 Fees Tel. with P. Labarthe regarding Neeley's Application.	0:12	295.00	59.00

BALANCE DUE

\$1,519.75



BARBARA A. LEY
A PROFESSIONAL CORPORATION
CERTIFIED PUBLIC ACCOUNTANT
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Oklahoma City, Oklahoma 73118
(405) 848-0255
FAX (405) 848-0148

03/01/2017

Ryan Leonard Receivership
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Oklahoma City, OK 73102-8017

Invoice No: 21468

Professional services rendered from February 1, 2017 through February 28, 2017 in connection with:

Feb 01, 2017	Reviewing prior year tax returns and supporting documents regarding NOL carry forward;	Cartmill	3.00	\$	585.00
Feb 02, 2017	Review Bricktown Capital tax returns for 2009 to 2014 for loss items allocated to Seabrooke personal returns contributing to NOLs;	Cartmill	0.75		146.25
Feb 02, 2017	Review Schedule C items contributing to NOLs;	Cartmill	2.10		409.50
Feb 02, 2017	Reviewing Oakbrooke Homes returns that contributed to NOLs;	Cartmill	1.00		195.00
Feb 03, 2017	Reviewing personal tax returns and QuickBooks items for NOL analysis;	Cartmill	1.00		195.00
Feb 07, 2017	Telephone call with Receiver regarding information received from Mark Robertson; email to Mark regarding same;	Cartmill	0.25		48.75
Feb 09, 2017	Telephone call with Receiver regarding NOL explanation from Todd Wedel;	Cartmill	0.25		48.75
Feb 09, 2017	Update with staff regarding NOL calculations, IRS examination report request and request for amended returns;	Ley	0.30		88.50
Feb 09, 2017	Reviewing Todd Wedel responses;	Cartmill	0.25		48.75



Feb 09, 2017	Discussing Seabrooke NOL items with Barbara, additional analysis, determine items to be requested;	Cartmill	1.75	341.25
Feb 10, 2017	Photocopy charges			0.15
Feb 10, 2017	Reviewing carryover items from 2013 to 2014; requesting additional information from Karyn Seabrooke;	Cartmill	0.75	146.25
Feb 10, 2017	Update with staff regarding Seabrooke carryovers and information to request;	Ley	0.20	59.00
Feb 14, 2017	Telephone call with Karyn Seabrooke;	Cartmill	0.15	29.25
Feb 14, 2017	Update on tax review items with staff;	Ley	0.30	88.50
Feb 14, 2017	Pull, print and save bank statements from BankSNB for December and January for three accounts;	Maker	0.25	22.50
Feb 15, 2017	Attempted call to Todd Wedel;	Cartmill	0.10	19.50
Feb 15, 2017	E-mails with Karyn Seabrooke and Receiver regarding Todd Wedel;	Cartmill	0.25	48.75
Feb 15, 2017	Telephone call with Todd Wedel regarding the information needed;	Cartmill	0.50	97.50
Feb 15, 2017	Reviewing 2009 audit report;	Cartmill	0.50	97.50
Feb 17, 2017	Prepare checks for December 2016 court order;	Maker	0.25	22.50
Feb 21, 2017	Telephone call with Todd Wedel regarding Seabrooke NOL carryforwards; downloading NOL carryback returns sent by Todd Wedel;	Cartmill	0.50	97.50
Feb 21, 2017	Reviewing NOL carryback returns;	Cartmill	0.55	107.25
Feb 22, 2017	Reviewing NOL carryback returns;	Cartmill	1.25	243.75
Feb 23, 2017	Brief review and saving of 1099s;	Cartmill	0.10	<u>19.50</u>
		Current Amount Due		<u>\$ 3,206.15</u>

Invoices are due and payable upon receipt.

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A handwritten signature in black ink, appearing to read 'Robert Edinger', written over a horizontal line.

Robert Edinger