

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA**

Oklahoma Department of Securities)
ex rel. Melanie Hall, Administrator,)
)
Plaintiff,)
)
v.)
)
Premier Global Corporation et al.,)
)
Defendants.)
_____)

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

JUN 15 2023

RICK WARREN
COURT CLERK

126 _____

Case No. CJ-2022-5066
Judge Don Andrews

**EMERGENCY MOTION OF RECEIVER FOR ORDER AUTHORIZING
FUNDING OF LITIGATION FEES IN TEXAS LITIGATION**

Eric L. Johnson (the “Receiver”), the receiver appointed in the above-captioned case, for his Emergency Motion for Order Authorizing Funding of Litigation Fees in Texas Litigation (the “Application”), states as follows:

BACKGROUND

1. On October 31, 2022, the Court entered the *Order Appointing Receiver* (the “Receivership Order”), made final on November 21, 2022, appointing the Receiver over the Receivership Entities including the assets of defendant Richard Dean (“Dean”).¹
2. Dean’s 100% interest in the entity, Settlements of Texas, Inc. (“SOT”), is part of the Dean receivership estate (the “Dean Receivership”).
3. Prior to the receivership action, SOT was engaged in litigation against Life Investors Management Company LLC (“LIMC”) and Terry Hollan (“Hollan”) in the case styled *Settlements of Texas, Inc., et al. v. Life Investors Mgmt Co., LLC, et al.*, Case No. 342-307672-19 pending in the 342nd District Court in and for Tarrant County, Texas, (the “District Court

¹ Capitalized terms used but not defined herein shall have the same meaning as in the Receivership Order.

Litigation”), and, subsequent to the receivership action, the appeal by LIMC and Hollan (the “Appeal”) of the final judgment (collectively, the “Texas Litigation”). Certain of the Plaintiffs/Appellees in the Texas Litigation are SOT, Richard D. Dean, and John Ted Bonham² (“Bonham”), (collectively, the “Texas Plaintiffs”). In the Texas Litigation, the Texas Plaintiffs are represented by Artoush Varshosaz and K&L Gates LLP (“K&L Gates”).

4. On February 6, 2023, the Texas District Court entered final judgment in favor of the Texas Plaintiffs in the approximate amount of \$1.95 million, \$800,000 in attorney fees, and \$275,000 in interest (the “Final Judgment”). After offsetting amounts the Texas Plaintiffs have already recovered, there is still approximately \$1.3 million remaining for recovery. A copy of the Final Judgment is attached hereto as Exhibit A. The Receiver estimates that the receivership estate’s beneficial share of the remaining amounts to be collected, if the Appeal is successful, is approximately \$650,000, which represents SOT’s, and therefore, Dean’s half of the unpaid judgment.

5. K&L Gates is currently owed \$32,908.00 for SOT’s share of fees incurred relating to the Texas Litigation since the time Dean’s accounts were frozen as part of this action. Bonham has paid his share current. K&L Gates will incur additional attorney fees and expenses in defending against the Appeal and seeking to enforce the collection of the Final Judgment. In addition to preserving the value of the Final Judgment in favor of the Texas Plaintiffs, a successful defense of the Appeal will uphold the take-nothing judgment obtained against LIMC and Hollan, thereby preventing a large claim against SOT’s assets and, consequently, the Dean Receivership. K&L Gates has represented that it will be the only counsel advising and representing SOT with respect to the Appeal.

² For purposes of full disclosure, Bonham was the lawyer of David Blackburn and is the party who took over/assumed his interest in the Texas Litigation.

6. The Receiver is currently in possession of \$420,852.44 from the Dean Receivership, exclusive of the \$245,000 previously set aside from the Dean Receivership for the payment of Dean's counsel fees.

7. This Emergency Motion is filed because time is of the essence due to the Texas appeal deadlines approaching in this case.

8. This Emergency Motion and Order submitted herewith is objected to by Defendants Dean and DDI due to a dispute as to how the SOT proceeds should be held by the Receiver upon satisfaction of fees owed to K&L Gates (see paragraph 9(ix)). The Emergency Motion and the Order submitted herewith is approved by the Oklahoma Department of Securities.

RELIEF REQUESTED

9. By this Motion, the Receiver seeks an Order from the Court granting the following relief (the "Requested Relief"):

- a. Authorizing the Receiver to immediately pay K&L Gates \$32,908.00 (the "Back Fees"), SOT's share of litigation fees and expenses related to the Texas Litigation,
- b. Authorizing the Receiver to pay SOT's share of the K&L Gates attorneys' fees and expenses on a going forward monthly basis (the "Monthly Fees"), conditioning the payment of the Monthly Fees on the following:
 - i. The Monthly Fees shall be paid out of the Dean Receivership ;
 - ii. The aggregate amount of Monthly Fees authorized to be paid by the Receiver, exclusive of the Back Fees and expenses, shall not exceed \$50,000 without further approval of the Court;
 - iii. K&L Gates will maintain detailed and itemized records of all professional services rendered in the Texas Litigation and any actual and necessary expenses incurred in connection with the legal services and provide such billing statements to the Receiver on a monthly basis. K&L Gates shall endeavor to provide such billing statements to the Receiver by the 10th day of each month with the first monthly statement due on June 10, 2023. Delivery to the Receiver shall be by electronic mail at pgcreceiver@spencerfane.com with a copy to the Receiver's counsel of record;

- iv. The Receiver has the right to dispute and withhold payment of any fees he believes to be unreasonable and any fee dispute will be resolved by this Court;
 - v. K&L Gates shall keep the Receiver fully apprised of the status of the litigation and related strategy thereto;
 - vi. On all material litigation decisions, SOT and K&L Gates must obtain the Receiver's consent including, without limitation, with respect to any actions to collect on the Final Judgment and with respect to settlement of the Texas Litigation;
 - vii. If SOT and Dean on the one hand, and the Receiver on the other, disagree as to material litigation decisions including with respect to any actions to collect on the Final Judgment and the settlement of the Texas Litigation, the Receiver's decision shall control; provided, however, any settlement of the Texas Litigation is subject to the approval by the Court after notice and hearing;
 - viii. The Receiver may cease funding the Texas Litigation by providing written notice to SOT, Dean, and K&L Gates; provided, however, that the Dean Receivership shall remain obligated for its share of any fees and expenses incurred prior to the issuance of such notice and K&L Gates may withdraw from its representation if it receives such a notice;
 - ix. After satisfaction of any fees owed to K&L Gates in accordance with the provisions of this motion, SOT's share of any future recovery will be deposited in a segregated receivership account connected with the Richard Dean receivership action and the disposition of such funds shall remain subject to further orders of the Court; and
 - x. SOT, Dean, and K&L Gates affirmatively agree and consent in writing to aforementioned funding conditions.
- c. Finding that any communications, documents, and/or information provided by Mr. Varshosaz and K&L Gates to the Receiver related to the Texas Litigation including, without limitation, monthly billing statements shall remain confidential subject to the attorney client and/or common interest privileges and authorizing the Receiver to execute any agreement to reflect such privileges.

BASIS FOR RELIEF

10. The Receivership Order, among other things, provides that the Receiver has the authority to do the following:

- a. “[T]o manage the business activities of the Receivership Entities, their affiliates, subsidiaries, and any related entities subject to the provisions set forth [in the Receivership Order] related to the suspension of business activities;”
- b. “[T]o conserve, hold and protect the Assets, pending further action by this Court. The Receiver shall assume control over the income and profits therefrom and all sums of money now or hereafter due and owing to the Receivership Entities. The Receiver shall have full power to sue for, collect, and receive, all Assets of the Receivership Entities and of other persons or entities whose interests are now under the Dean Receivership;”
- c. “[T]o use, sell, or lease property other than in the ordinary course of business pursuant to the provisions of [the Receivership Order] or subsequent orders of this Court, and to execute in a Receivership Entity’s stead such documents, conveyances, and Debtor consents as may be required in connection therewith;”
- d. “[T]o make such payments and disbursements as may be necessary and advisable for the preservation of Assets and as may be necessary and advisable in discharging his duties a Receiver;”
- e. “[T]o institute, prosecute and defend, compromise, adjust, intervene in or become 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...”;
- f. “[T]o waive or assert on behalf of the Receivership Entities the attorney client privilege or any other applicable privilege;” and
- g. “[T]o exercise all those powers necessary to implement or incidental to the specific powers, directions, and general authorizations set out in [the Receivership Order], other orders and directives of this Court and/y other applicable law, and further may take actions relating to the Receivership Entities and the Dean Receivership beyond the scope contemplated by the provisions set forth in [the Receivership Order]; provided, however, that the Receiver must obtain prior approval from this Court for any actions beyond scope contemplated herein unless such action is on an emergency basis and is necessary to prevent irreparable harm to the Assets and Dean Receivership.”

Receivership Order, pp. 3-10.

11. The Dean Receivership has direct beneficial interest in the Texas Litigation proceeds. The Receiver believes these interests are substantial and justifies the continued enforcement of the Final Judgment and defense of the Appeal. The Receiver also believes that the

receivership estate is adequately protected given the Receiver's consent rights and the other proposed conditions related to proposed funding.

12. Given the circumstances, it is essential that experienced attorneys with knowledge of the facts and circumstances of the Texas Litigation, remain engaged. Mr. Varshosaz and K&L Gates have substantial experience in litigating such matters in Texas and have worked extensively on this matter for a number of years. They know the intricate legal issues, facts, and dynamics of the parties. To bring in new counsel would both be expensive and could further delay the realization of this Asset.

13. For representation in connection with the Texas Litigation, fees will be charged at the hourly rates of K&L Gates professionals. These hourly rates are subject to periodic adjustments to reflect economic and other conditions, and to reflect the individual attorneys' increased experience and expertise in their respective areas of law. The persons who will be primarily working on these matters and their hourly rates are as follows:

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|----|----------------------------------|-------|
| a. | Artoush Varshosaz, Partner | \$800 |
| b. | Beth Petronio, Appellate Partner | \$895 |
| c. | Jamie Bryan, Partner | \$535 |
| d. | Aurora Barnes, Associate | \$595 |
| e. | Rory Hatch, Appellate Associate | \$535 |
| f. | Julie Garrett, Senior Paralegal | \$330 |

From time to time, other employees with K&L Gates may provide assistance. The Receiver believes for this type of litigation and jurisdiction that such rates are at or below market. Further, the expense for the prosecution will be shared between the receivership estate and co-plaintiff, Mr. Bonham.

WHEREFORE, the Receiver respectfully requests that the Court enter an Order granting the Requested Relief and for such other and further relief as the Court deems just and proper.

Date: June 15, 2023

Respectfully submitted,
SPENCER FANE LLP

By: 

Hilary Allen OK #16979
9400 N. Broadway Extension, Ste. 600
Oklahoma City, Oklahoma 73114
Phone: 405-844-9900
Facsimile: 405-844-9958
Email: hallen@spencerfane.com
ejohnson@spencerfane.com
achase@spencerfane.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served, via electronic mail and hand delivery, upon the parties listed below, this the 15th of June 2023.

Oklahoma Department of Securities
Patricia A. Labarthe, Esq.
Shaun M. Mullins, Esq.
Brad Davenport, Esq.
204 North Robinson, Suite 400
Oklahoma City, Oklahoma 73102

Steptoe & Johnson
Bruce W. Day, Esq.
Tara A. LaClair, Esq.
Mary H. Tolbert, Esq.
101 N. Robinson Ave., Suite 500
Oklahoma City, OK 73102

Nash Cohenour & Giessmann, PC
Rolling Nash, Jr., Esq.
Dennis S. Boxeur, Esq.
Bryan C. Dixon, Jr., Esq.
4101 Perimeter Center Drive, Suite 200
Oklahoma City, OK 73112

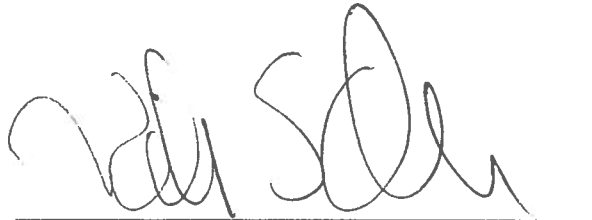
Conner & Winters, LP
Jeanette C. Timmons, Esq.
1700 One Leadership Square
211 N. Robinson Avenue
Oklahoma City, Oklahoma 73102

Christensen Law Group, PLLC
J. Clay Christensen, Esq.
Jonathan M. Miles, Esq.
Brock Z. Pittman, Esq.
Whitney Dockrey, Esq.
The Parkway Building
3401 N.W. 63rd Street, Suite 600
Oklahoma City, Oklahoma 73116

Shawn D. Twing, Esq.
Mullin Hoard & Brown, L.L.P.
500 S. Taylor, Suite 800
Amarillo National Bank Plaza II
Amarillo, TX 79101

Justin Williams, Esq.
Overman Legal Group
809 NW 36th Street
Oklahoma City, OK 73118

Steve Jonathan Parish
1016 Summerchase Cir.
Derby, KS 67037



Hilary S. Allen