

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JAN 10 2024

RICK WARREN
COURT CLERK

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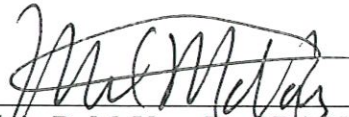
Oklahoma Department of Securities,)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)
)
vs.)
)
Accelerated Benefits Corporation, a Florida)
Corporation, *et al.*,)
)
Defendants.)

Case No. CJ-99-2500-66
Judge Sheila Stinson

NOTICE OF HEARING

Please be advised that a hearing on the (1) Interim Application for Order Approving Assistant Conservator's Fees and Expenses for the Period of September 1, 2023 through December 31, 2023, and (2) Interim Application for Order Approving Attorney's Fees for the Period of September 1, 2023 through December 31, 2023, has been set for the 7th day of March, 2024 at 11:00 A.m., before the Honorable Judge Sheila Stinson.

Respectfully submitted,



Melvin R. McVay, Jr., OBA No. 06096
Mark E. Hornbeek, OBA No. 33198
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PHILLIPS MURRAH P.C.
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*Attorneys for Assistant Conservator
Sherri Townsend*

CERTIFICATE OF SERVICE

The undersigned certifies that on the 14 day of January, 2024, a true and correct copy of the above and foregoing was served, via U.S. First-Class Mail, postage prepaid, to the following:

Patricia A. Labarthe, Esq.
OKLAHOMA DEPARTMENT OF SECURITIES
204 N Robinson, Suite 400
Oklahoma City, OK 73102-7001
Attorney for Plaintiff

William H. Whitehill, Jr., Esq.
FELLERS SNIDER BLANKENSHIP BAILEY
& TIPPENS, P.C.
100 N Broadway, Suite 1700
Oklahoma City, OK 73102
*Attorney for Defendants, Accelerated Benefits
Corporation and American Title Company of Orlando*



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JAN 10 2024

RICK WARREN
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Oklahoma Department of Securities,)
ex rel. Irving L. Faught, Administrator,)
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Plaintiff,)
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vs.)
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Accelerated Benefits Corporation, a Florida)
Corporation, *et al.*,)
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Defendants.)

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Case No. CJ-99-2500-66
Judge Sheila Stinson

**INTERIM APPLICATION FOR ORDER APPROVING ATTORNEY’S FEES
FOR THE PERIOD OF SEPTEMBER 1, 2023 THROUGH DECEMBER 31, 2023**

Assistant Conservator, Sherri Townsend, hereby respectfully applies to this Court for entry of an Order approving the interim application for attorney’s fees of Phillips Murrah P.C. (“Phillips Murrah”), counsel for the Assistant Conservator for the period of September 1, 2023 through December 31, 2023. In support of her application, the Assistant 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 Tom Moran's application to employ Phillips Murrah as counsel and approved its hourly rates.

4. On April 14, 2006, the Court entered an Order appointing Sherri Townsend as Assistant Conservator of the ABC Portfolio.

5. Since its employment as counsel, Phillips Murrah has performed certain tasks, which include:

- a. Representation of Conservator's and Assistant Conservator's interests in matters and proceedings arising in, or relating to, this case;
- b. Advising Conservator and Assistant Conservator concerning the administration of the Conservatorship and Conservator's and Assistant 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 and Assistant Conservator have requested from time to time.

6. The Assistant Conservator seeks to compensate Phillips Murrah at its regular hourly rates, plus Phillips Murrah's actual and necessary expenses for work performed for the period of September 1, 2023 through December 31, 2023.

7. The Conservator and Assistant Conservator did not pay Phillips Murrah a retainer. While Phillips Murrah would normally have requested a retainer, Phillips Murrah agreed to accept employment on the basis that it would be provided interim compensation.

8. 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 Murrah has devoted substantial time and effort in its representation of the Assistant Conservator and seeks compensation for services which are detailed in the statements attached hereto as Exhibit "A," "B," "C" and "D."¹
- b. **Novelty and Difficulty of Questions Involved.** Phillips Murrah has provided representation of the Assistant Conservator on numerous issues and tasks relating to the preservation and disposition of assets.
- c. **Skill Requisite to Perform Services Properly.** The Court previously approved the retention of Phillips Murrah as general counsel because of the firm's experience and qualifications to render the services required by the Conservator and Assistant Conservator.
- d. **Preclusion of Other Employment.** Phillips Murrah has expended the time set forth in this application in representation of the Assistant Conservator.
- e. **Fees Customarily Charged.** Phillips Murrah 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 Murrah are well within the professional rates customarily charged in this jurisdiction. The attorney's fees are neither fixed nor 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 Murrah as general counsel because of the firm's experience and qualifications to render the services required by the Conservator and Assistant Conservator.

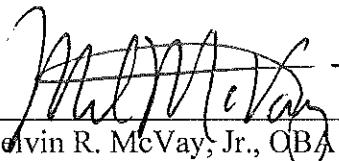
9. All professional services for which allowance of compensation is requested were performed by Phillips Murrah for and on behalf of the Assistant Conservator.

¹ In submitting these detailed statements, the Assistant Conservator and her counsel do not waive, limit, or otherwise modify any rights that they may have with respect to the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

10. This Application covers allowance of compensation for services performed from September 1, 2023 through December 31, 2023. During the period covered by this Application, Phillips Murrah expended a total of 202.30 hours of attorney time for services rendered on behalf of the Assistant Conservator at hourly rates ranging from \$220.00 to \$225.00 per hour, 2.70 hours of paralegal time at the billing rate of \$130.00 per hour, and 1.50 of courier time at the billing rate of \$60.00 per hour. In total, Phillips Murrah billed the Assistant Conservator \$45,525.00 in fees and \$210.57 in expenses and advances. Exhibits "A," "B," "C" and "D" detail the dates services were rendered, hours spent rendering the services and descriptions of the services rendered.

WHEREFORE, premises considered, the Assistant Conservator, Sherri Townsend, respectfully requests this Court approve the payment of interim compensation to Phillips Murrah for fees and expenses in the amount of \$13,368.49 for the month of September 2023, \$16,875.91 for the month of October 2023, \$12,567.17 for the month of November 2023, and \$2,924.00 for the month of December 2023.

Respectfully submitted,



Melvin R. McVay, Jr., OBA No. 06096

Mark E. Hornbeek, OBA No. 33198

Phoebe B. Mitchell, OBA No. 33978

PHILLIPS MURRAH P.C.

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Oklahoma City, Oklahoma 73102

Telephone: (405) 235-4100

Facsimile: (405) 235-4133

*Attorneys for Assistant Conservator
Sherri Townsend*

CERTIFICATE OF SERVICE

The undersigned certifies that on the 10th day of January, 2024, a true and correct copy of the above and foregoing was served, via U.S. First-Class Mail, postage prepaid, to the following:

Patricia A. Labarthe, Esq.
OKLAHOMA DEPARTMENT OF SECURITIES
204 N Robinson, Suite 400
Oklahoma City, OK 73102-7001
Attorney for Plaintiff

William H. Whitehill, Jr., Esq.
FELLERS SNIDER BLANKENSHIP BAILEY
& TIPPENS, P.C.
100 N Broadway, Suite 1700
Oklahoma City, OK 73102
*Attorney for Defendants, Accelerated Benefits
Corporation and American Title Company of Orlando*



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Oklahoma Department of Securities,)
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 Plaintiff,)
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 vs.)
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 Accelerated Benefits Corporation, a Florida)
 Corporation, *et al.*,)
)
 Defendants.)

Case No. CJ-99-2500-66
Judge Sheila Stinson

**INTERIM APPLICATION FOR ORDER APPROVING
ASSISTANT CONSERVATOR'S FEES AND EXPENSES
FOR THE PERIOD OF SEPTEMBER 1, 2023 THROUGH DECEMBER 31, 2023**

Assistant Conservator, Sherri Townsend, hereby respectfully applies to this Court for entry of an Order approving the interim application for Assistant Conservator's fees and expenses for the period of September 1, 2023 through December 31, 2023. In support thereof, the Assistant 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, ...;
- 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 Tom Moran's application to approve the hourly rates of Conservator and his employees.

4. On April 14, 2006, the Court entered an Order appointing Sherri Townsend as Assistant Conservator of the ABC Portfolio.

5. The Assistant Conservator seeks interim compensation at the hourly rates approved by the Court for work performed, plus reimbursement of the Assistant Conservator's actual and necessary expenses, for the period of September 1, 2023 through December 31, 2023.

6. The amount of compensation to be allowed rests within the sound discretion of the court. *Hudson v. Hubbell*, 1935 OK 138, 41 P.2d 844, (*see, also, Brann v. Harris*, 1935 OK 298, 47 P.2d 876).

7. The Assistant Conservator, and others who have assisted her, including Asset Servicing Group, have devoted substantial time and effort in the execution of the Assistant Conservator's duties and seek compensation as detailed in the statements attached hereto as Exhibits "A," "B," "C" and "D."¹

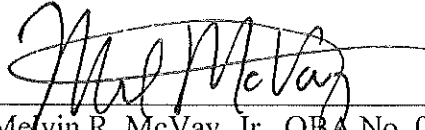
8. The Assistant Conservator, and others who have assisted her, including Asset Servicing Group, have expended the time set forth in this application in the execution of the Assistant Conservator's duties to the preclusion of other employment, and the charges set forth therein were reasonable and necessary.

9. This Application covers allowance of compensation for services performed from September 1, 2023 through December 31, 2023. During the period covered by this Application, the Assistant Conservator, and others who have assisted her, including Asset Servicing Group, expended a total of 519.90 hours at hourly rates ranging from \$25.00 to \$110.00 per hour for a total fee of \$33,808.75, have accrued \$5,125.05 for postage and shipping expenses, and have accrued \$2,000.00 in expenses for maintenance, storage and upkeep of investor database. Exhibits "A," "B," "C" and "D" detail the hours spent rendering the services, the descriptions of the services rendered, and the expenses incurred, if any.

WHEREFORE, premises considered, the Assistant Conservator, Sherri Townsend, respectfully requests this Court approve payment of interim compensation to the Assistant Conservator in the amount of \$8,189.43 for the month of September 2023, \$16,290.50 for the month of October 2023, \$10,476.48 for the month of November 2023, and \$5,977.39 for the month of December 2023.

¹ In submitting these detailed statements, the Assistant Conservator does not waive, limit, or otherwise modify any rights that she may have with respect to the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

Respectfully submitted,



Melvin R. McVay, Jr., OBA No. 06096
Mark E. Hornbeek, OBA No. 33198
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Telephone: (405) 235-4100
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*Attorneys for Assistant Conservator
Sherri Townsend*

CERTIFICATE OF SERVICE

The undersigned certifies that on the 10th day of January, 2024, a true and correct copy of the above and foregoing was served, via U.S. First-Class Mail, postage prepaid, to the following:

Patricia A. Labarthe, Esq.
OKLAHOMA DEPARTMENT OF SECURITIES
204 N Robinson, Suite 400
Oklahoma City, OK 73102-7001
Attorney for Plaintiff

William H. Whitehill, Jr., Esq.
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*Attorney for Defendants, Accelerated Benefits
Corporation and American Title Company of Orlando*

