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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

CAPITAL CONSULTANTS, LLC, f/k/a
CAPITAL CONSULTANTS, INC., JEFFREY
L. GRAYSON and BARCLAY GRAYSON,

Defendants.

Case No. CV 00-1290-KI

**SEVENTH AND FINAL FEE
APPLICATION OF THOMAS F. LENNON,
RECEIVER**

Date: December 17, 2007

Time: 1:30 p.m.

Dept: 9A

Judge: Hon. Garr M. King

Thomas F. Lennon ("Lennon" or "Receiver"), the Court-appointed permanent receiver for Capital Consultants, LLC, ("CCL"), through his attorneys, Allen Matkins Leck Gamble Mallory & Natsis LLP ("Allen Matkins"), submits his seventh and final application for payment of fees and reimbursement of expenses for the period May 1, 2006, through October 31, 2007 (the "Application Period"). In addition, the Receiver requests payment of the \$10,000 held back from prior interim applications, and approval of a sum not to exceed \$13,000 in fees and

expenses anticipated to be incurred to the closing of the receivership estate. Payment of these additional fees and expenses will be made only after submission of actual billing statements for review and approval by the Securities and Exchange Commission ("SEC") and Department of Labor ("DOL"), and counsel for the four large investor creditors. Finally, the Receiver requests a fee enhancement of \$200,000 for the extraordinary services and results that occurred in this case.

I.

CASE BACKGROUND AND THE RECEIVER'S FINAL REPORT

Interested parties are referred to the Receiver's periodic status reports (five Interim Reports have previously been filed) and his Final Report and Request for Final Instructions and Discharge on file with this Court and posted on the Receiver's website at www.tflinc.com for the history of the receivership case, the results achieved and current status relating to final distributions to creditors and case closing.

II.

SUMMARY OF FEES AND COSTS OF THE RECEIVER

This is the Receiver's seventh and final application. All fees and expenses requested in his six prior applications totaling \$806,475.50 in fees and \$87,000.86 in costs have been approved and authorized for payment, less the \$10,000 holdback.

For this Application Period, the Receiver has incurred fees in the amount of \$8,187.50 and costs of \$2,011.33. Of those sums, pursuant to the Court's May 8, 2001 Order, the Receiver has been paid 50% of fees and 100 % of costs, for certain monthly billings, totaling \$2,683.75 and \$1,421.56 respectively. As a result, for the Application Period, the Receiver is seeking payment at this time of only unpaid fees totaling \$5,503.75 and \$589.77 in unpaid costs, plus the \$10,000 holdback.

III.

RECEIVERSHIP ACTIVITIES DURING THE APPLICATION PERIOD

In order to provide assistance to the Court in evaluating the Receiver's services, his work has been categorized as follows.¹

- Accounting/Auditing

This category involves attending to accounting, banking and other general accounting tasks. The Receiver and his staff spent 16.9 hours and \$1,787.50 in fees during the Application Period on activities in this category.

- Fee Applications²

This category consists of time spent tracking and categorizing fees and expenses, preparing exhibits anticipated to be used in interim and final fee applications, and reviewing the fees of the Receiver's professionals. During the Application Period, 11.4 hours and \$1,140 in fees were incurred.

- General Receivership Issues

This category reflects services spent interfacing with representatives of the SEC, DOL and various other parties involved in the receivership, reviewing and providing input into various pleadings and strategy, administering distributions for creditors, and preparing to close the case. The Receiver and his staff spent 21.6 hours and \$4,440.00 in fees on these activities during the Application Period.

- Investor Creditors. Time in this category consists of attending to correspondence from investors. The Receiver and his staff spent 1.2 hours and \$210.00 in fees on these activities during the Application Period.

¹ While every effort is made to be consistent and accurate in the allocation of activities to the various categories, certain activities may lend themselves to more than one category, or may simply be difficult to categorize. Nevertheless, the exhibits reflect the actual time spent and an accurate description of the activities undertaken.

² Time spent in preparing fee applications has been specifically recognized as compensable activity. In re Nucorp Energy, Inc., 764 F.2d 655 (9th Cir. 1985).

- Tax Issues

Time spent in this category consists of reviewing CCL's tax returns which were prepared by the Receiver's accountants. The Receiver and his staff spent 3.7 hours and \$610.00 in fees during the Application Period.

Exhibit A reflects both the number of hours and the amount of fees incurred in each month, broken down by category. Exhibit B summarizes the Receiver's out of pocket expenses. Photocopies are charged at \$.20 per copy, and all other expenses are billed at cost. Travel expenses reflect coach airfare in all instances. Exhibit C contains the detailed billing statements of the Receiver and his staff by month and by billing category. The Receiver believes the attached exhibits provide sufficient detail and information to permit the Court and interested parties to evaluate the reasonableness of the work performed and the benefit to CCL clients and creditors. The Receiver and his staff have worked diligently to fulfill the duties assigned to him by the orders appointing him and, as a result, have provided a valuable service to the receivership estate.

IV.

THE RECEIVER'S REQUESTED COMPENSATION IS REASONABLE AND A FEE ENHANCEMENT IS APPROPRIATE

The Receiver's time and that of his staff has been billed at or below their customary rates and represents an average hourly billing rate of approximately \$150 per hour. Throughout this receivership case, for his own services, the Receiver has not billed more than \$250 per hour, although his billing rate charged in other cases has increased over time.

This case commenced in September 2000. At that time, the Receiver billed for his time and his staff at their then, customary hourly rates as follows:

Receiver	\$250.00
Project Manager	\$175.00
Assistant Project Manager	\$150.00
Case Administrators	\$ 60.00 - \$90.00

In the fourth, fifth and sixth fee applications, covering the period May 2003 through April 2006, the Receiver billed certain staff members at \$100 per hour (up from \$90), but continued to bill his own time and that of his project manager at the original hourly rates of \$250 and \$175, respectively. However, in multiple other cases in which the Receiver was appointed in the interim, his billing rates increased to keep pace with the prevailing market. As of October 2003, the Receiver's hourly rates in similar cases were \$300 for himself and \$225 for his project manager. In December 2005, the Receiver's senior case administrator billing rate increased to \$125 per hour. These rate increases were not passed on to the CCL receivership estate.

Consequently, the Receiver's compensation as compared to his own customary rates and comparable rates for other receivers during the seven-year history of this case has been significantly below market. Declaration of Thomas F. Lennon, ¶ 7. If the Receiver had billed his time and that of his Project Manager and staff at their standard hourly rates as they increased over the seven years, the Receiver's total fees would have been higher than the total sought for approval as set forth herein. Accordingly, it is appropriate that the Court consider and approve for payment to the Receiver an additional amount, as a retroactive rate correction or fee enhancement. See Burgess v. Klenske (In re: Manoa Finance Co.), 853 F.2d 687, 691 (9th Cir. 1988).

This is particularly appropriate in a case such as this, where the Receiver's services have been exemplary and have conferred an exceptional benefit to the estate. As set forth in the Receiver's Final Report, in terms of percentage return to investors, the CCL receivership case was a very successful one. In a money-in/money-out investor claim basis, the Receiver will have paid out approximately \$252 million, or \$.74 on the dollar, on the total allowed claims of \$343 million. The recovery for many investors will actually be higher due to additional recoveries against third parties, with only 50% of the net recoveries being audited against their allowed claim amounts.

Thus, the Receiver believes that a fee enhancement of \$200,000 is reasonable and justified in light of his static billing rates over the seven-year history of the case, the excellent results achieved for creditors and the *de minimus* impact such an award would have on the

distributions to creditors. In fact, such a \$200,000 fee award will impact distribution on allowed investor claims less than one-tenth of one cent on the dollar. The Receiver has previewed this request for a fee enhancement with both the SEC and DOL. Neither objects to the request.

V.

PRAYER

WHEREFORE, the Receiver requests an order as follows:

1. Approving fees and costs for the period May 1, 2006, through October 31, 2007, in the respective sums of \$8,187.50 and \$2,011.33;
2. Authorizing payment of \$5,503.75 in fees and \$589.77 in costs, which represents 100 % of the requested amount, less amounts previously paid;
3. Authorizing payment of fees held back from the prior interim fee applications of \$10,000;
4. Approving and authorizing payment of a fee enhancement in the sum of \$200,000;
5. Approving and authorizing payment of up to \$13,000 in anticipated fees and expenses, to the extent actually incurred, through the closing of the receivership estate. Payment of estimated fees and expenses of the Receiver and his professionals shall be made only after submission of his actual billing statements for review and approval by the Securities and Exchange Commission and Department of Labor; and
6. For such other and further relief as is appropriate.

Dated: November 21, 2007

/s/ Jeffrey R. Patterson

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