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OE Capital (collectively, the “Receivership Entities”). The Receiver also assumed control over the accounts and assets of Patrick O. Howard (“Howard”).

The Receiver engaged Palter Stokley Sims PLLC as the Receiver's counsel upon appointment on February 14, 2017. Palter Stokley Sims PLLC began work on this matter on February 14, 2017.

The Receiver engaged Howard LLP as the Receiver's accountants on February 14, 2017. The Court approved the Receiver's engagement of Howard LLP as the Receiver's accountants by the Court's Order dated March 13, 2017. (Dkt. 38).

The Receiver also engaged Net Vida to create the Receiver's informational website and provide web services to the Receiver, which was also approved by the Court by its Order dated March 13, 2017 (Dkt. 38).

Finally, as described in the Receiver's Quarterly Status report (Dkt. 60), the Receivership Defendants had not paid their outside accountants, Jasmine DiLucci/Masters of Taxation, Inc., at least \$6,754.04, a portion of which is over 90 days past due. Jasmine DiLucci/Masters of Taxation, Inc. (“Masters”), has been engaged by the Receiver to assist the Receiver by addressing a pending 941 tax issue that was already in progress at inception of the Receivership and by assisting the Receiver's tax professionals.

This Application seeks the Court's approval of payment from the Receivership's assets the fees and expenses for the Receiver, Palter Stokley Sims, PLLC, Howard LLP and Net Vida for the time period from February 14, 2017 through March 31, 2017 (the “Application Period”) pursuant to the Order Appointing Receiver (Dkt. 10) and the Unopposed Motion to Modify and Clarify Order Appointing Receiver (Dkt. 38).

As authorized by the Court's Order Modifying and Clarifying Order Appointing Receiver (Dkt. 39) and the Order Appointing Receiver (Dkt. 10), after presentment and no

objection from the Securities and Exchange Commission, the Receiver has paid 80% of the professional services fees and retained 20% of the professional services fees invoiced by Palter Stokley Sims PLLC, Howard LLP, and Netvida. This purpose of this Application is to request Court approval of all of the professional services fees and to authorize payment of the retained professional services fees.

A. Fee Schedule

The billing rates of all Palter Stokley Sims PLLC timekeepers, including the Receiver, reflect a discount from their standard billing rates. In general, Palter Stokley Sims PLLC has discounted its rates and capped the fees charged by its professionals at \$325 per hour.

Each Palter Stokley Sims, PLLC invoice includes a summary that reflects each timekeeper's: (1) name; (2) title; (3) hours worked; (4) the effective hourly rate; and (5) total fees billed. The Order Appointing Receiver limited the professional services fees and costs for the first thirty days (February 14, 2017 through March 16, 2017) to \$120,000. (Dkt. No. 10). The Receiver and his professionals' fees were well below the cap for the first thirty days.

In addition, Howard LLP's billing rates reflect a discount from its standard billing rates. Each Howard LLP invoice includes a summary that reflects each timekeeper's: (1) name; (2) title; (3) hours worked; (4) hourly rate; and (5) total fees billed.

The Receiver's, each Palter Stokley Sims, PLLC timekeeper's and each Howard LLP's timekeeper's name, title, standard billing rates and matter billing rates are reflected on **Exhibits A-1 and A-2**. **Exhibits A-1 and A-2** tabulate the aggregate hours and amount billed by each timekeeper from February 14, 2017 through March 31, 2017.

B. Billing History

This is the Receiver's initial Application. As to the Receiver, Palter Stokley Sims PLLC, Howard LLP and Net Vida, this Application covers the period from the inception of the

III. CURRENT AND PREVIOUS BILLINGS

A. Total Compensation and Amount Requested

The Receiver is requesting approval of fees in the amount of \$93,987.50 and expenses of \$272.48 to be paid from the Estate. The allocation of the fees among the Receiver, his counsel and his accountants is shown in **Exhibits A-1 and A-2**.

B. Previous Awards

This is the initial application by the Receiver.

C. Billing Summary

During the Application Period, the Receiver billed 185.2 hours to this matter, other timekeepers at Palter Stokley Sims PLLC billed 138.5 hours and Howard LLP billed 23.1 hours. An itemization of hours and dollars billed, per timekeeper, is reflected on **Exhibits A-1 and A-2**.

IV. RECORDS SUPPORTING THIS APPLICATION

In support of this Application, the Receiver has attached invoices from Palter Stokley Sims PLLC and Howard LLP for the Application Period. Attached as **Exhibits A-3 and A-4** are Palter Stokley Sims PLLC invoices numbers 00620 and 006367, respectively. Each Palter Stokley Sims PLLC invoice contains: (i) a summary of the time billed, rate and total billing per timekeeper and (ii) fees billed per task.

Attached as **Exhibit A-5** is Howard LLP's invoice number 1173163. Each Howard LLP invoice contains a summary of the time billed, rate and total billing per timekeeper.

Attached as **Exhibits A-6 and A-7** are Net Vida's invoices numbers 1137 and 1141, respectively.

V. ARGUMENT AND AUTHORITIES

A. The Court should use a lodestar analysis to determine a reasonable fee for the Receiver and his professionals.

The professional fees and expenses requested in this Application are governed by the lodestar method of calculation. *See Hensley v. Eckerhart*, 461 U.S. 424 (1983); *Louisiana Power & Light Co. v. Kellstrom*, 50 F.3d 319 (5th Cir. 1995); *SEC v. Tyler*, No. 3:02-CV-282-P, 2003 WL 21517879 (N.D. Tex. June 30, 2003) (Solis, J.). The lodestar is calculated by multiplying the number of hours reasonably expended by a reasonable hourly rate. *Hensley*, 461 U.S. at 433. In evaluating the reasonableness of the number of hours expended, the Court must "determine whether the total hours claimed are reasonable [and] also whether particular hours claimed were reasonably expended." *Kellstrom*, 50 F.3d at 325. Reasonable hourly rates may be determined by considering the applicant's regular rates and the prevailing rates in the community. *Id.* at 328. After multiplication of the two amounts, the Court may adjust the lodestar result upward or downward as it sees fit based on consideration of the twelve factors enumerated originally in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974); *Kellstrom*, 50 F.3d at 329. The factors include: (i) time and labor required; (ii) novelty and difficulty of issues; (iii) the skill required to perform the legal services properly; (iv) preclusion from other employment; (v) customary fees; (vi) fixed or contingent fees; (vii) time limitations imposed by client or other circumstances; (viii) results achieved; (ix) experience, reputation and ability; (x) the undesirability of the case; (xi) the nature and length of professional relationship with client; and (xii) awards in similar cases. *Id.*

In support of this Application, the Receiver submits the following exhibits for the Court's review:

1. **Exhibits A-1 and A-2**, tabulating the hours worked by each timekeeper;

2. **Exhibits A-3 and A-4**, reflecting the invoices for the professional fees and expenses covered by this Application showing: (a) the date the services were rendered; (b) the nature of the services rendered; (c) the time required for the performance of such services; and (d) the fees charged for each service rendered; and
3. Certification of W. Craig Stokley, stating the reasonableness of the rates charged and hours billed by professionals at Palter Stokley Sims PLLC and Howard LLP.

Both Palter Stokley Sims PLLC and Howard LLP have charged fees that are below the standard billing rates for the professionals working on this matter, and those fees are at or below customary fees charged by like professionals in their respective markets. In addition, the Receiver and Palter Stokley Sims PLLC limited their fees to less than \$79,000 for the first 30 days of the Receivership well below the Court Ordered limit of \$120,000. Further, Palter Stokley Sims PLLC's and Howard LLP's expenses for transportation, parking & tolls, postage and courier fees are billed at actual cost; and in-house copy, fax, phone and related charges have not been billed to the Receivership Estate. No request is made for overhead charges. The fees and expenses sought in this Application are reasonable and were necessary for proper administration of the duties and responsibilities charged to the Receiver by the Court.

B. The lodestar analysis supports the Application

Application of the relevant *Johnson* factors to the professional services provided in this case demonstrates that the fees and expenses should not be adjusted, either upward or downward.

1. Time and Labor Required.

The time and labor required for this receivership are set forth in the invoices attached for the Court's review. As demonstrated in those documents, the Receivership is complex due to a number of factors, including the Defendants' poor record-keeping; the need to operate a

business that the Receivership Entities lacked the funds to operate; the inherent difficulty in identifying, valuing and managing the intangible assets held by the Receivership Entities, which had not been accurately represented in Defendants' records and the need to support the Receivership Entities' operations sufficient to obtain the value from the Portfolio Companies described in the Receiver's Quarterly Report, in which a substantial portion of the Receivership Estate's assets are tied.

In addition, the lack of funds has made the Receiver's job much more difficult. As detailed in the Receiver's Initial Report, the Receivership Estate lacked sufficient funds to operate. As a result, the Receiver and his counsel had to spend extensive time negotiating termination of agreements and reduction in monthly operating expenses.

In short, since this case was instituted, the Receiver, his counsel and many of his employees have devoted substantial portions of their time to managing the Receivership's assets. Substantial assistance from legal counsel has been necessary to review and evaluate records, investigate leads of misappropriated funds and assets and to secure those assets, ensure that the Receivership could legally conduct operations, and for numerous other legal services. The services performed by the Receiver and Palter Stokley Sims PLLC during the Application Period include:

1. Taking possession and control over the business and assets of the Receivership Entities;
2. Coordinating and executing plans to marshal assets for the benefit of investors and creditors of the Receivership Entities and to ascertain the true nature and state of affairs of the businesses and activities of the Receivership Entities;
3. Mitigating the Receivership's expenses by vacating the leased premises and returning them to the landlord, with agreement to resolve the landlord's claim for remaining rent through the end of the lease term;
4. Coordination of retrieval of documents and electronic data from the Defendants' offices, and then review and analysis of such records;

5. Interview of Defendants, and Defendants' employees, vendors and suppliers;
6. Communication with investors and their respective counsel;
7. Establishment of a website by which to disseminate information updates;
8. Preparation of the Receiver's Initial Report within 30 days are required by the Court; and
9. Management of general activities of receivership estate, including dealing with tax, employment and insurance issues.

The time spent on these activities and others are detailed on the attached invoices.

Howard LLP works closely with the Receiver and his team to provide accounting support. Its work during the Application period is detailed in its attached invoice, but in summary, its services during the Application period include:

1. Setting up the Receivership 's books and records;
2. Analyzing the tax issues faced by the Receivership Entities; and
3. Determining corrections to investor tax statements and necessity of amendment of tax returns.

2. The Novelty and Complexity of the Issues

By its very nature, each receivership is unique and complex. This Receivership has been particularly complex, in part, due to: (a) the existence of Portfolio Company "investments" without the record-keeping, personnel or capital necessary to operate them; (b) deciphering the Receivership Entities' books and records, which were kept in an idiosyncratic fashion and scattered among various databases and electronic and paper files; (c) the intangible nature of the Receivership Entities' assets, which largely consist of interests and agreements for revenue sharing with the Portfolio Companies, which have little operating history; (d) the multitude of funds and mingling of investors' funds, which has created numerous classes of potentially

3. The Skill Required to Perform the Services.

The services performed in this matter required professionals who have specialized knowledge and experience, including on such topics as (a) substantive and procedural law applicable to receiverships; (b) accounting; (c) forensic financial analysis and fund tracing; (d) electronic data recovery; (e) assets administration and liquidation; and (f) tax. The Receiver, Palter Stokley Sims PLLC, and Howard LLP have considerable experience in such areas.

4. The Preclusion of Other Employment Due to Acceptance of the Case.

Neither, the Receiver, Palter Stokley Sims PLLC, nor Howard LLP has declined any specific representation solely because of the Receiver's work. However, because of the magnitude of the effort required, the Receiver and many of members of his team have devoted substantial portions of their time which would have been utilized in efforts for other paying clients.

5. The Customary Fee.

As set forth in the Certification of W. Craig Stokley filed in connection with this Application, the hourly rates charged in this matter are: (a) discounted off of the professional's ordinary and customary rates; (b) commensurate with the rates charged by other professionals of similar experience in their respective geographic markets; and (c) reasonable, necessary and commensurate with the skill and experience required for the activity performed.

6. Whether the Fee is Fixed or Contingent.

The fees of the Receiver, Palter Stokley Sims PLLC and Howard LLP are fixed insofar as they are based upon hourly rates. But, payment of any fees and expenses is contingent upon the Court's discretion and sufficient funds.

7. Time Limitations.

Time is of the essence in a receivership, especially in the initial stages. The efforts undertaken in this case related to the stabilization of the Receivership Entities' business operations, the recovery of receivership assets and analysis of records to locate assets were necessarily conducted on an expedited basis. In addition, the Court required that the Receiver make a comprehensive report regarding the estate within thirty days of his appointment. While certainly helpful to the Court, the parties and the Receiver in determining how to administer the Receivership, the report placed additional time pressure on the Receiver and his counsel.

8. The Amount Involved and the Results Obtained

This case involves investments (in debt or equity) by approximately 119 persons totaling more than \$13 million. The priority of these various claims is yet to be determined. There is also substantial additional debt. There are also assets – primarily causes of action and collection from the Portfolio Companies - that may have value but which have yet to be monetized. Thus, in terms of dollars returned to investors and other creditors, it is too early to tell how successful the Receiver and his professionals have been or will be.

That being said, the Receiver and his team have performed significant work and achieved real results for the Estate. As discussed above and in the Receiver's Quarterly Status Report, the Receiver has (i) stabilized the operating business of the Receivership Entities to allow realization of revenue from the Portfolio Companies' operations; (ii) reduced Estate expenses and (iii) provided the Court and the parties with a detailed analysis of the financial status of the Receivership Entities.

VI. CONCLUSION

For the reasons stated herein, the Receiver requests that the Court approve the Application.

Respectfully submitted,

/s/ Kimberly Sims

W. CRAIG STOKLEY

State Bar No. 24051392

cstokley@palterlaw.com

KIMBERLY M. J. SIMS

State Bar No. 24046167

ksims@palterlaw.com

PALTER STOKLEY SIMS PLLC

8115 Preston Road, Suite 600

Dallas, Texas 75225-8009

Tel: 214-888-3106

Fax: 214-888-3109

ATTORNEYS FOR RECEIVER

CERTIFICATE OF SERVICE

On May 15, 2017, I electronically filed the Receiver's Quarterly Fee Application via the Court's CM/ECF filing system, which will send a notice of electronic filing to all CM/ECF participants. I further certify that I served a true and correct copy of the foregoing document and the notice of electronic filing via UPS and electronic mail on all non-CM/ECF parties and/or their counsel.

/s/ Kimberly Sims

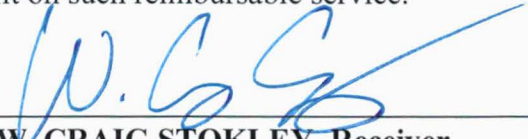
KIMBERLY M. J. SIMS

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RECEIVER'S CERTIFICATE IN SUPPORT OF QUARTERLY FEE APPLICATION

- (a) I have read the Application;
- (b) to the best of my knowledge, information and belief formed after reasonable inquiry, the Application and all fees and expenses therein are true and accurate and comply with the Billing Instructions;
- (c) all fees contained in the Application are based on the rates listed in the Fee Schedule attached hereto and such fees are reasonable, necessary and commensurate with the skill and experience required for the activity performed;
- (d) the amount for which reimbursement is sought does not include the amortization of the cost of any investment, equipment, or capital outlay,

- (e) the requests for reimbursement of services that were justifiably purchased or contracted for from third-parties (such as copying, imaging, bulk mail, messenger service, overnight courier, or title and lien searches), request reimbursement only for the amount billed to Palter Stokley Sims PLLC by the third-party vendor and paid by Palter Stokley Sims PLLC to such vendor. To the extent such services were performed within Palter Stokley Sims PLLC, it is not making a profit on such reimbursable service.



W. CRAIG STOKLEY, Receiver