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October 1, 2017, and May 31, 2018, [and] fees for the Receiver's and counsel's services of \$80,338.83," subject to a holdback of 20% in accordance with paragraph 62 of the Order Appointing Receiver. Fee Application 1-2 (Doc. 119). After careful consideration of the Fee Application and Appendix in Support, the court finds that the fees pertaining to the web-design services in the amount of \$2,208.75 and fees and expenses pertaining to the Receiver's and counsel's legal services in the amount of \$80,338.83 are reasonable and necessary, and that the Receiver's requests as to disbursements to be made at this time are reasonable and appropriate, subject to the holdback of 20% in accordance with paragraph 62 of the Order Appointing Receiver (Doc. 10) and the court's Order Modifying and Clarifying Order Appointing Receiver (Doc. 39).¹

With respect to the fees and expenses pertaining to accounting services in the amount of \$9,925, however, the court is unable to determine whether the fees and expenses are reasonable and necessary, or whether the Receiver's request as to disbursements at this time is reasonable and appropriate. Specifically, Exhibit B2, which the Receiver represents is the invoice he received from Howard L.L.P. for accounting services during the time frame of October 1, 2017, through May 31, 2018, is actually an invoice dated September 15, 2017 for "professional services

¹In reaching this conclusion, the court has taken into account the twelve factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974); see also *Cobb v. Miller*, 818 F.2d 1227, 1231 (5th Cir. 1987). The twelve factors are: "(1) the time and labor required, (2) the novelty and difficulty of the questions, (3) the skill requisite to perform the legal service properly, (4) the preclusion of other employment by the attorney due to acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by the client or the circumstances, (8) the amount involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10) the 'undesirability' of the case, (11) the nature and length of the professional relationship with the client, and (12) awards in similar cases." *Cobb*, 818 F.2d at 1231 n.5 (citing *Johnson*, 488 F.2d at 717-19).

through September 20, 2017.” Doc. 119-4 (Ex. B2). The Receiver already submitted this invoice from Howard L.L.P. to the court in connection with his Third Quarterly Fee Application, filed on February 1, 2017. *See* Doc. 99 at Ex.2. The court has already approved the Receiver’s request for payment of accounting services associated with this invoice. *See* Feb. 12, 2018 Order (Doc. 102). Absent supporting documentation pertaining to accounting services rendered for the time period from October 1, 2017, to May 31, 2018, the court cannot conclude that the Receiver’s request for authorization from the court to pay accounting services of \$9,925 is reasonable or necessary.

For these reasons, the court **grants** the Receiver’s Fee Application (October 2017 to May 2018) (Doc. 119), insofar as the Receiver seeks authorization to pay for web-design services and Receiver’s and counsel’s services subject to the holdback of 20% in accordance with paragraph 62 of the Order Appointing Receiver (Doc. 10) and the court’s Order Modifying and Clarifying Order Appointing Receiver (Doc. 39), and **denies** the Fee Application in all other respects.²

The court hereby **orders** that the Receiver be awarded fees as follows:

With respect to the time period from October 1, 2017, through May 31, 2018, the court **awards \$2,208.75** for web design services rendered by NetVida, and **\$80,338.83** to Palter Stokley Sims PLLC, subject to the holdback of 20% in accordance with paragraph 62 of the Order

² Paragraph 62 of the Order Appointing Receiver provides that:

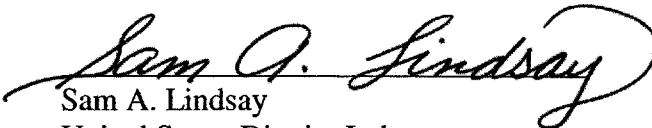
Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. *The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.*

Order Appointing Receiver ¶ 62 (Doc. 10).

Appointing Receiver, to be paid from the Estate. The court authorizes the Receiver to distribute this amount from the Estate, *subject to the holdback of 20% in accordance with paragraph 62 of the Order Appointing Receiver.*

Finally, in a February 12, 2018 Order, the court expressed its concerns that “as the Receivership continues, fees and expenses continue to grow[.]” Order 3 (Doc. 102). In that vein, the court directed the Receiver to include two items in his Fourth Quarterly status report, namely: (1) “a frank assessment of whether the Receivership should be continued,” and (2) an “approximation as to the amounts [the Receiver] anticipates the investors receiving based on the current value of the Receivership estate.” *Id.* In his Fourth Quarterly Status Report, the Receiver provided the court with a detailed assessment of numerous reasons to continue the receivership, including his recommendation that the receivership remain in place until at least the third quarter of 2018, and also provided a summary of anticipated amounts investors in the *Ponzi* scheme might receive. *See* Receiver’s Fourth Quarterly Status Report 1-5 (Doc. 105). As it is now the fourth quarter of 2018, after the time the Receiver recommended the Receivership remain in place, the court **directs** the Receiver in his next status report, in addition to the detailed requirements already set forth in paragraphs 45 and 46 of the Order Appointing Receiver, to include **a renewed assessment** of whether the Receivership should be continued, as well as an approximation as to the amounts he anticipates the investors receiving based on the current value of the Receivership estate. *See* Order Appointing Receiver ¶ 54 (requiring the Receiver to file a status report within thirty days of the end of each calendar quarter).

It is so ordered on this 16th day of November, 2018.


Sam A. Lindsay
United States District Judge

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Northern District of Texas

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Docket Text:

ORDER granting in part and denying in part [119] Motion Authorization to pay professional fees of accounting professional, web design, receiver, and receiver's counsel. (Ordered by Judge Sam A Lindsay on 11/16/2018) (svc)

3:17-cv-00420-L Notice has been electronically mailed to:

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