

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION, §

Plaintiff, §

vs. §

Civil Action No.: 3:06-CV-2136-P

ABC VIATICALS, INC., §

C. KEITH LAMONDA, §

and JESSE W. LAMONDA, JR., §

Defendants §

and §

LAMONDA MANAGEMENT FAMILY §

LIMITED PARTNERSHIP, §

STRUCTURED LIFE SETTLEMENTS, INC., §

BLUE WATER TRUST, §

and DESTINY TRUST §

Relief Defendants. §

**RECEIVER'S SECOND INTERIM APPLICATION TO ALLOW AND PAY  
FEES AND EXPENSES OF TRANSLATORS AND BRIEF IN SUPPORT**

TO THE HONORABLE JORGE A. SOLIS, UNITED STATES DISTRICT JUDGE:

Michael J. Quilling, Receiver, files this his Second Interim Application to Allow and Pay Fees and Expenses of Translators and in support of such would respectfully show unto the Court as follows:

**BACKGROUND**

1. On November 17, 2006, the Securities and Exchange Commission filed its Complaint and request for appointment of a receiver. On November 17, 2006, the Court issued its Order Appointing Receiver pursuant to which Michael J. Quilling was appointed to serve as Receiver in this case.

2. Pursuant to the terms of the Order Appointing Receiver, the Receiver was authorized to employ such attorneys as is necessary and proper in connection with performing his duties. The Receiver employed the law firm of Tong & Sung, P.C. n/k/a The Tong Law Firm ("Tong") in Houston, Texas to act as his English/Chinese translators. The Receiver chose Tong because Tom Tong is a very reputable lawyer the Receiver has known for years and both he and several members of his firm are fluent in English and Mandarin Chinese.

3. This Application seeks approval and payment of the fees and reimbursement of expenses for Tong for the time period from January 1, 2009 through December 31, 2009.

4. **Pursuant to paragraph 16 of the Order Appointing Receiver, the Receiver has paid Tong 90% of their fees (\$14,474.25) and 100% of their expenses (\$0.00). The purpose of this Application is to request Court approval of all of the fees and expenses and to allow payment of the 10% fee holdback (\$1,608.25).**

5. During the period covered by this Application, Tong has incurred fees and expenses with respect to his activities on behalf of the Receiver on a monthly basis as follows:

<b>Time Period</b>	<b>Fees</b>	<b>Expenses</b>
01/01/09 – 01/31/09	\$2,472.50	\$0.00
02/01/09 – 02/28/09	\$4,647.50	\$0.00
03/01/09 – 04/30/09	\$1,167.50	\$0.00
05/01/09 – 07/31/09	\$1,917.50	\$0.00
08/01/09 – 12/31/09	\$5,877.50	\$0.00
<b>TOTAL:</b>	<b>\$16,082.50</b>	<b>\$0.00</b>

6. Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes conveys the following information for the time period of January 1, 2009 through December 31, 2009: (a) the number of hours worked on a particular day; (b) the manner and

type of work performed by each attorney and staff member; (c) the customary billing rate for the person performing each task; and (d) the cumulative monetary value assigned to the tasks performed.

### **JOHNSON FACTORS**

7. In support of this request for allowance of compensation and reimbursement of expenses, the Receiver respectfully directs this Court's attention to those factors generally considered by courts in awarding compensation to professionals for services performed in connection with the administration of a receivership estate. As stated by the Fifth Circuit Court of Appeals in *Migis v. Pearle Vision, Inc.*, 135 F.3d 1041, 1047 (5th Cir. 1998) "The calculation of attorneys fees involves a well-established process. First, the court calculates a 'lodestar' fee by multiplying the reasonable number of hours expended on the case by the reasonable hourly rates for the participating lawyers. (cite omitted.) The court then considers whether the lodestar figure should be adjusted upward or downward depending on the circumstances of the case. In making a lodestar adjustment the court should look at twelve factors, known as the Johnson factors, after *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974)." Those factors as applied to the services rendered in this case by Tong are addressed below.

(a) The Time and Labor Required. The Receiver respectfully refers the Court's attention to Exhibit "A" which details the involvement of Tong in this case during the one-year period covered by this Application during which a total of more than 137 hours of attorney and paraprofessional time have been expended.

(b) The Novelty and Difficulty of the Questions. The translations involved were specialized in that they often included pleadings and legal terminology.

(c) The Skill Requisite to Perform the Service. The Receiver believes that the services performed in this case required individuals with legal experience who could understand the documents and accurately translate in English and Mandarin Chinese. Tong has all of those skills.

(d) The Preclusion of Other Employment Due to Acceptance of the Case. Tong did not decline any representation because of their services in this case.

(e) The Customary Fee. The hourly rates sought herein are commensurate with or lower than the rates charged by other practitioners of similar experience levels in the Northern District of Texas. As reflected in Exhibit "A" paralegals involved in the translations charged \$80.00 per hour and lawyers charged \$130.00 per hour for translation services and \$295.00 for legal services.

(f) Whether the Fee is Fixed or Contingent. Tong's fees are fixed insofar as monies exist by way of Receivership Assets from which to pay such fees. Payment of such fees, however, is subject to Court approval.

(g) Time Limitations Imposed by the Client or Other Circumstances. The time requirements during the period covered by this Application sometimes have been demanding because they required immediate translation of lengthy and complex legal documents.

(h) The Amount Involved and the Results Obtained. The services rendered by Tong have been extremely valuable and critical to the efforts of the Receiver. At least 2,500 of the investors are Taiwanese who speak and write only in Mandarin Chinese. The services rendered by Tong allow the Receiver and Examiner to communicate with those investors by email and to maintain mirror images of their respective websites in Mandarin Chinese. But for these services, communication with that group of investors would be virtually impossible.

(i) The Experience, Reputation and Ability of the Attorneys. The reputation of Tong's attorneys is recognized and respected in their community in Texas.

(j) The Undesirability of the Case. The representation of the Receiver incident to this case has not been undesirable.

(k) The Nature and Length of the Professional Relationship with the Client. Tong did not represent the Receiver in these proceedings prior to being retained in these proceedings.

(l) Awards in Similar Cases. The Receiver believes that the fees requested in this case are less than or equal to those which have been awarded in similar cases in this District.

WHEREFORE, the Receiver respectfully requests that the Court allow the requested compensation for professional services and expenses rendered by Tong and authorize the Receiver to pay the 10% fee holdback of \$1,608.25, as per itemization in Exhibit "A" attached hereto and for such other and further relief, general or special, at law or in equity, to which the Receiver and Tong may show themselves justly entitled.

Dated: April 21, 2011.

Respectfully submitted,

**QUILLING, SELANDER, LOWNDS  
WINSLETT & MOSER, P.C.**

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By: /s/ Michael J. Quilling

Michael J. Quilling

State Bar No. 16432300

Brent Rodine

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**ATTORNEYS FOR RECEIVER**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of April, 2011, a true and correct copy of this document was served via electronic notice to all parties requesting same, and via first class mail to C. Keith LaMonda, Reg. No. 26060-018, FCI-2, PO Box 1500, Butner, NC 27509.

/s/ Michael J. Quilling  
Michael J. Quilling