

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 FINAL APPLICATION TO ALLOW AND PAY ATTORNEYS'  
FEES AND EXPENSES OF U.K. COUNSEL AND BRIEF IN SUPPORT**

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

Michael J. Quilling, the court-appointed receiver in this case, ("Receiver") files this Final Application to Allow and Pay Attorneys' Fees and Expenses of U.K. Counsel and in support of such would respectfully show unto the Court as follows:

**SUMMARY**

The Receiver retained Blake Laphorn as his U.K. counsel to assist with litigation initiated by the receivership estate there. That litigation is now complete and the Receiver asks for authority to pay the full £380,909.74 due to U.K. counsel, which includes the court-ordered 10% holdback. Blake Laphorn has helped recover more than \$1.3 million for the receivership

estate and their total bills amount to less than 1.3% of the estate's total receipts. This is Blake Laphorn's final fee application and it will not perform any more work for the receivership estate.

### **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, which appointed Michael J. Quilling as the receiver for ABC Viaticals, Inc. ("ABC").

2. That order authorized the Receiver to employ attorneys as necessary to help perform his duties. The Receiver employed the law firm Blake Laphorn as his counsel in the United Kingdom to file a lawsuit there against the DMH Stallard law firm ("DMHS") and one of its former solicitors named Christopher John William Stenning ("Stenning"). That lawsuit alleged that DMHS and Stenning conducted due diligence into bonds that ABC purchased from Albatross Invest S.p.a. ("Albatross") but failed to discover that Albatross was a sham company, its bonds were fraudulent, and the documents supporting Albatross' bonds were forgeries.

3. Litigation in the United Kingdom demands a great deal more investigation, analysis, and proof of each allegation before filing suit than is required in the United States. The attorneys and staff at Blake Laphorn provided assistance to the Receiver by: (a) facilitating the investigation of DMHS, Stenning, and Albatross and gathering information about them from other parties located outside the United States; (b) determining what claims the Receiver had against DMHS and Stenning under the laws of the United Kingdom; (c) advising the Receiver about the realities of litigation, collection, and settlement in the United Kingdom; (d) preparing the extensive claim of particulars against DMHS and Stenning and filing it to initiate the lawsuit;

(e) handling the burdensome pre-suit and discovery procedures required in the United Kingdom; and (f) advising the Receiver during settlement negotiations and mediation with DMHS and Stenning.

4. The Receiver settled the lawsuit following years of investigating and litigating his claims and following two full days at mediation. The settlement resulted in a recovery for the receivership estate exceeding \$1.3 million. (Unopposed Mot. for Order Approving Settlement [Doc. 312]; Order Approving Settlement [Doc. 314].)

### **PENDING FEES**

5. This application seeks approval and payment of Blake Laphorn's fees, expenses, and 10% monthly hold back from December 2007 through November 24, 2011.

6. During the period covered by this application, the Receiver has incurred fees and expenses with respect to his U.K. counsel on a monthly basis as follows:

<b>Month</b>	<b>Fees (£)</b>	<b>Expenses (£)</b>
12/07	£16,007.50	£8,980.30
12/31/07	£0.00	£4,400.00
01/31/08	£4,658.50	£0.00
02/04/08 – 03/11/08	£6,622.00	£2,750.00
04/01/08 – 04/29/08	£1,578.50	£0.00
05/21/08 – 05/28/08	£3,088.00	£0.00
06/10/08 – 09/16/08	£3,503.50	£2,350.00
10/01/08 – 01/30/09	£7,430.50	£10,067.45
02/02/09 – 03/24/09	£2,727.00	£254.30
05/20/09 (credit correcting earlier bills)		(£1,663.15)
06/30/09	£8,036.50	£0.00
07/01/09 – 11/30/09	£3,003.00	£0.00

12/3/09 – 01/25/10	£1,809.50	£0.00
02/22/10 – 04/30/10	£13,331.00	£429.30
05/04/10 – 05/27/10	£5,274.50	£6,550.00
06/01/10 – 07/27/10	£6,150.00	£1,736.30
09/01/10 – 09/30/10	£13,945.70	£325.00
10/01/10 – 10/31/10	£12,726.60	£3,328.44
11/01/10 – 11/30/10	£15,649.00	£791.88
12/01/10 – 12/22/10	£20,335.50	£53.36
12/06/10 – 01/31/11	£12,382.50	£71.14
1/19/11 – 2/28/11	£22,662.50	£155.40
3/1/11 – 3/31/11	£64,193.00	£3,432.20
4/1/11 – 4/28/11	£25,371.10	£10,045.00
5/3/11 – 5/31/11	£34,369.00	£12,402.60
6/1/11 – 6/29/11	£3,611.00	£153.32
7/6/11 – 8/25/11	£2,590.50	£0.00
9/2/11 – 9/22/11	£2,011.50	£0.00
9/23/11 – 11/24/11	£1,203.00	£26.00
<b>TOTAL:</b>	<b>£314,270.90</b>	<b>£66,638.84</b>

7. To date, the Receiver has paid Blake Laphorn 90% of these fees (£282,843.81) and 100% of these expenses (£66,638.84). The 10% fee holdback totaling £31,427.09 remains unpaid.

8. Exhibit “A,” which is attached and incorporated by reference for all purposes, conveys the following information for the time period of December 2007 through November 2011: (a) the number of hours worked by each attorney and staff member on a particular day; (b) the manner and type of work performed by each attorney and staff member; and (c) the monetary value assigned to each task performed by a given attorney and/or staff member.

### **JOHNSON FACTORS**

9. In support of this request to allow compensation and reimbursement of expenses, the Receiver and Blake Laphorn respectfully direct 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: "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. 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)." *Migis v. Pearle Vision, Inc.*, 135 F.3d 1041, 1047 (5th Cir. 1998) (citations omitted). Those factors as applied to the services rendered in this case by Blake Laphorn 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 Blake Laphorn's attorneys in this case during the 48-month period covered by this Application, during which a total of more than 1,023 hours of attorney and paraprofessional time has been expended.

(b) The Novelty and Difficulty of the Questions. Many of the tasks reflected in Exhibit "A" involved factual and legal questions which were of substantial complexity.

(c) The Skill Requisite to Perform the Service. The Receiver believes that the services performed in this case by Blake Laphorn have required individuals possessing considerable trial experience and the unique qualifications required to prepare and file a lawsuit

in the United Kingdom. Blake Laphorn possesses those unique qualifications and has considerable experience in such litigation.

(d) The Preclusion of Other Employment Due to Acceptance of the Case. Blake Laphorn has not declined any representation solely because of their services as counsel for the Receiver.

(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 London. During the course of these proceedings, the following lawyers at Blake Laphorn have performed legal services on behalf of the Receiver with respect to these proceedings: Nick Arnold (£385.00 per hour), called to the bar in 1983; Jonathan Lloyd Jones (£385.00 per hour), called to the bar in 1979; Alex Shirtcliff (£235.00 per hour), admitted to the roll of solicitors in 2006; Ashkhan Candey (£185.00 per hour), admitted to the roll of solicitors in 2006; Richard Singleton (£185 per hour), admitted to the roll of solicitors in 2002; Lara Robson (£185 per hour), admitted to the roll of solicitors in 2007.

(f) Whether the Fee is Fixed or Contingent. Blake Laphorn's fees are fixed insofar as monies exist by way of Receivership Assets from which to pay such fees. Payment of those fees, and specifically the 10% holdback, 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 have been normal.

(h) The Amount Involved and the Results Obtained. Blake Laphorn is well-known law firm in London that has an extensive civil litigation practice. In these proceedings, Blake Laphorn handled the litigation against DMHS and Stenning that resulted in a recovery of more than \$1.3 million.

(i) The Experience, Reputation and Ability of the Attorneys. Blake Laphorn has several attorneys who specialize exclusively in the practice of civil trial law. The practice of those attorneys includes the representation of receivers and/or trustees. The reputation of Blake Laphorn's attorneys is recognized and respected in the United Kingdom.

(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. Blake Laphorn 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 asks that the Court approve Blake Laphorn's fees as reasonable and necessary to the Receiver's duties performed in these proceedings and authorize him to pay the 10% fee holdback totaling £31,427.09 that has been withheld for the period covered in this application. The Receiver also asks for such other and further relief, general or special, at law or in equity, to which he may show himself justly entitled.

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  
State Bar No. 24048770

**ATTORNEYS FOR RECEIVER**

**CERTIFICATE OF SERVICE**

I hereby certify that on February 7, 2012, 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-II, PO Box 1500, Butner, NC 27509.

/s/ Michael J. Quilling