

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

MICHAEL J. QUILLING, Receiver	§	
for Megafund Corporation and	§	
Lancorp Financial Group, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 3:06-CV-0959-L (BD)
	§	
v.	§	ECF
	§	
GARY McDUFF, Individually and d/b/a	§	Referred to the U.S. Magistrate Judge
SOUTHERN TRUST COMPANY and	§	
FIRST GLOBAL FOUNDATION,	§	
ROBERT REESE, Individually and d/b/a	§	
EXCEL FINANCIAL, INC., and	§	
SHANNON McDUFF, Individually and	§	
d/b/a SECURED CLEARING CORP.,	§	
	§	
Defendants.	§	

**PLAINTIFF’S APPLICATION FOR ATTORNEYS’
FEES AND COSTS AND BRIEF IN SUPPORT**

TO THE HONORABLE JEFF A. KAPLAN, UNITED STATES MAGISTRATE JUDGE:

COMES NOW, Michael J. Quilling, as Receiver for Megafund Corporation and Lancorp Financial Group, LLC, (“Plaintiff” or “Receiver”) and files this his Application for Attorneys’ Fees and Costs and would respectfully show the Court as follows:

1. On July 1, 2005, the Securities and Exchange Commission (“SEC”) filed an action against numerous parties accused of defrauding millions of dollars from investors. That case is pending before the United States District Court for the Northern District of Texas as *SEC v. Megafund Corporation, et al.*, Cause No. 3:05-CV-1328-L.

2. In connection with that case, the SEC sought to have a Receiver appointed for the

defendants and relief defendant. By Order dated July 5, 2005, the Court appointed Michael J. Quilling as Receiver for those individuals and entities and he has since continued to function in that capacity.

3. The Court overseeing that case issued additional Orders on January 20, 2006, and March 1, 2006, that expanded the receivership to include Lancorp Financial Group, LLC and the Lancorp Financial Fund Business Trust. Michael J. Quilling was appointed to act as Receiver for both entities and he has since continued to function in that capacity.

4. On May 30, 2006, the Receiver filed his Complaint [Dkt. No. 1] against Defendant Gary McDuff, individually and d/b/a Southern Trust Company and First Global Foundation (the "Defendant").¹ In his Complaint, the Receiver stated claims for fraudulent transfer and constructive trust and disgorgement. *Id.* He also petitioned the Court to award attorneys' fees and costs of court if successful. *Id.*

5. On October 20, 2006, the Receiver filed his Motion for Partial Summary Judgment [Dkt. No.] against the Defendant. The Defendant submitted his response [Dkt. No. 36] on November 21, 2006, followed by the Receiver's reply [Dkt. No. 38] on December 5, 2006.

6. Having considered the parties' briefs, the Court entered Judgment [Dkt. No. 41] in favor of the Receiver and against the Defendant on January 23, 2007.² Among other things, that Judgment directed the Receiver to file an application for attorneys' fees under Fed. R. Civ. P.

¹ That Complaint also named Robert Reese, individually and d/b/a Excel Financial, Inc., and Shannon McDuff, individually and d/b/a Secured Clearing Corp., as Defendants. The Receiver has since entered into a settlement agreement with Reese and has obtained a Final Order of Default Judgment [Dkt. No. 35] against Shannon McDuff. The Receiver did not recover or seek any attorneys' fees from those Defendants.

² On February 1, 2007, the Defendant filed a Notice of Interlocutory Appeal [Dkt. No. 42] to the Fifth Circuit Court of Appeals.

54(d)(2) within 14 days.

7. Fed. R. Civ. P. 54(d)(2) requires an application for attorneys' fees to "specify the judgment and the statute, rule, or other grounds entitling the moving party to the award [and] state the amount or provide a fair estimate of the amount sought."

8. In this case, judgment was rendered on claims arising under the Texas Uniform Fraudulent Transfer Act ("UFTA"). Section 24.013 of the UFTA expressly allows for "costs and reasonable attorney's fees as are equitable and just." Tex. Bus. & Com. Code §§ 24.013.

9. In pursuing this matter, the Receiver has incurred attorneys' fees totaling \$21,550.00 and costs totaling \$561.76. Those items are set forth more fully below:

Megafund / CIG, Ltd. Receivership Estate

A. Attorneys' Fees

Name	Position	Hourly Rate	Hours Billed	Total Billed
Michael J. Quilling	Receiver	\$350.00	4.9	\$1,715.00
Brent J. Rodine	Attorney	\$150.00	62.5	\$9,375.00
			Total:	\$11,090.00

B. Costs

Recipient	Description	Total Billed
U.S. District Court Clerk	Filing Fee for 754 Filing for Southern District of Texas	\$39.00
Land Records	Title Report for Property at Issue	\$162.38
	Total:	\$201.38

Lancorp Financial Group Receivership Estate

A. Attorneys' Fees

Name	Position	Hourly Rate	Hours Billed	Total Billed
Michael J. Quilling	Receiver	\$350.00	1.9	\$665.00
Brent J. Rodine	Attorney	\$150.00	64.5	\$9,675.00
Lisa Smith	Legal Assistant	\$100.00	1.2	\$120.00
			Total:	\$10,460.00

B. Costs

Recipient	Description	Total Billed
Clerk of Court	Filing Fee for Abstract of Judgment	\$27.00
Land Records	Title Report for Property at Issue	\$162.38
American Civil Process Service	Service of Summons and Complaint	\$120.00
U.S. District Court	Filing Fee for Complaint	\$350.00
Harris County Clerk	Filing Fee for Notice of Lis Pendens	\$25.00
	Total:	\$684.38

10. The Receiver submits that these fees are reasonable given the contested nature of this case, the amount of litigation required, the time devoted, and the results obtained. Furthermore, the Megafund and Lancorp Receivership Estates have already paid a substantial portion of these fees and are simply seeking to recover those losses from the Defendant. *See, e.g., Order* [Dkt. Nos. 186, 187] (3:05-CV-1328) (approving distributions from the Megafund and Lancorp Receivership Estates to pay attorneys' fees listed above).

WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully requests that this Court award the Receiver a total of \$21,550.00 in attorneys' fees and \$561.76 in costs against Defendant Gary McDuff, individually and d/b/a Southern Trust Company and First Global Foundation, as contemplated by Tex. Bus. & Com. Code §§ 24.013 and Fed. R. Civ. P. 56(d)(2).

Respectfully submitted,

QUILLING SELANDER CUMMISKEY & LOWNDS, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201-4240
(214) 871-2100 (Telephone)
(214) 871-2111 (Facsimile)

By: /s/ Brent J. Rodine
Michael J. Quilling
Texas State Bar No. 16432300
Email: mquilling@qsclpc.com
Brent J. Rodine
Texas State Bar No. 24048770
Email: brodine@qsclpc.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On the 6th day of February, 2007 a true and correct copy of the above and foregoing was sent via first class mail, with full and proper postage prepaid thereon, to:

Shannon McDuff
1314 Minchen Drive
Deer Park, Texas 77536

Gary McDuff
1314 Minchen Drive
Deer Park, Texas 77536

Barry S. Zisman
The Zisman Law Firm, P.C.
1412 Main Street. 23rd Floor
Dallas, Texas 75202

/s/ Brent J. Rodine