

1 **BOUTIN JONES INC.**  
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5 **QUILLING, SELANDER, LOWNDS, WINSLETT & MOSER, P.C.**  
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12 Attorneys for Michael J. Quilling  
13 Receiver of Defendants Secure Investment Services, Inc.,  
14 American Financial Services, Inc., and Lyndon Group, Inc.

11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

14 SECURITIES AND EXCHANGE COMMISSION,

15 Plaintiff,

16 v.

17 SECURE INVESTMENT SERVICES, INC.,  
18 AMERICAN FINANCIAL SERVICES, INC.,  
19 LYNDON GROUP, INC., DONALD F. NEUHAUS,  
and KIMBERLY A. SNOWDEN,

20 Defendants.

Case No. 2:07-cv-01724 GEB CMK

**RECEIVER'S FINAL APPLICATION  
TO ALLOW AND PAY ATTORNEY'S  
FEES AND EXPENSES OF LOCAL  
COUNSEL AND BRIEF IN SUPPORT**

**Hearing Date: March 2, 2015**  
**Time: 9:00 a.m.**  
**Courtroom: 10**

21 TO THE HONORABLE GARLAND E. BURRELL, JR., UNITED STATES DISTRICT  
22 JUDGE:

23 Michael J. Quilling, Receiver, files this, his FINAL Application to Allow and Pay  
24 Attorneys' Fees and Expenses of Local Counsel, and in support of such would respectfully show  
25 the Court as follows:

26 **BACKGROUND**

27 1. On or about August 23, 2007, the Securities and Exchange Commission filed its  
28 Complaint and request for appointment of a receiver. On October 31, 2007, the Court issued its

1 Order Appointing Receiver pursuant to which Michael J. Quilling was appointed to serve as  
 2 Receiver in this case.

3 2. Pursuant to the terms of the Order Appointing Receiver, the Receiver was  
 4 authorized to employ such attorneys as is necessary and proper in connection with the claims  
 5 process. Subsequent to his appointment, the Receiver employed the law firm of Boutin Jones  
 6 Inc. ("BOUTIN") as his local counsel.

7 3. This Application seeks approval and payment of the fees and reimbursement of  
 8 expenses for BOUTIN for the time period from September, 2014 through December, 2014.

9 4. Pursuant to paragraph 17 of the Order Appointing Receiver and after obtaining  
 10 the consent of the SEC, the Receiver has paid BOUTIN 90% of their fees and 100% of their  
 11 expenses. The purpose of this Application is to request Court approval of all of the fees and  
 12 expenses and to allow payment of the 10% fee holdback.

13 5. During the period covered by this Application, the Receiver has incurred fees and  
 14 expenses with respect to BOUTIN as to these proceedings on a monthly basis as follows:

Month	Fees	Expenses
September, 2014	\$885.50	
October, 2014	\$500.50	
November, 2014	-0-	
December, 2014	38.50	
<b>TOTAL</b>	<b>1,424.50\$</b>	<b>\$-0-</b>

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 21 6. Exhibit "A," which is attached hereto and incorporated herein by reference for all  
 22 purposes conveys the following information for the time period of September, 2014 through  
 23 December, 2014: (a) the number of hours worked by each attorney and staff member on a  
 24 particular day; (b) the manner and type of work performed by each attorney and staff member;  
 25 (c) the customary billing rate for each person rendering service in this matter; and (d) the  
 26 monetary value assigned to each task performed by a given attorney and/or staff member. Each  
 27 of the invoices attached hereto as Exhibit "A" reflect aggregate expenses by category during a  
 28 given month.

1 JOHNSON FACTORS

2 7. In support of this request for allowance of compensation and reimbursement of  
3 expenses, the Receiver and BOUTIN respectfully direct this Court’s attention to those factors  
4 generally considered by courts in awarding compensation to professionals for services performed  
5 in connection with the administration of a receivership estate. As stated by the Fifth Circuit  
6 Court of Appeals in *Migis v. Pearle Vision, Inc.*, 135 F.3d 1041, 1047 (5th Cir. 1998), “The  
7 calculation of attorneys fees involves a well-established process. First, the court calculates a  
8 ‘lodestar’ fee by multiplying the reasonable number of hours expended on the case by the  
9 reasonable hourly rates for the participating lawyers. [citation omitted.] The court then  
10 considers whether the lodestar figure should be adjusted upward or downward depending on the  
11 circumstances of the case. In making a lodestar adjustment the court should look at twelve  
12 factors, known as the Johnson factors, after *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d  
13 714 (5th Cir. 1974).” The Ninth Circuit has expressly adopted the Johnson factors in *Kerr v.*  
14 *Screen Extras Guild, Inc.*, 526 F.2d 67 (9<sup>th</sup> Cir. 1975); see also *Quesada v. Thomason*, 850 F.2d  
15 537, 539 (9<sup>th</sup> Cir. 1988). Those factors, as applied to the services rendered in this case by  
16 BOUTIN, are addressed below.

17 (a) The Time and Labor Required. The Receiver and BOUTIN respectfully refer the  
18 Court’s attention to Exhibit “A” which details the involvement of BOUTIN’s attorneys in this  
19 case during the four month period covered by this Application during which a total of 3.7 hours  
20 of attorney time has been expended.

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

23 (c) The Skill Requisite to Perform the Service. The Receiver believes that the  
24 services performed in this case have required individuals with experience in the U.S. District  
25 Court, Eastern District of California. BOUTIN has considerable experience in this district.

26 (d) The Preclusion of Other Employment Due to Acceptance of the Case. BOUTIN  
27 has not declined any representation solely because of their services as local counsel for the  
28 Receiver.

1 (e) The Customary Fee. The Receiver believes that the hourly rates sought herein are  
2 commensurate with or lower than the rates charged by other practitioners of similar experience  
3 levels in the Eastern District of California. During the course of these proceedings, the following  
4 lawyers at BOUTIN have performed legal services on behalf of the Receiver with respect to  
5 these proceedings: Maralee Eriksen, \$385.00 per hour, licensed in California since 2000  
6 (previously licensed in Wyoming).

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

10 (g) Time Limitations Imposed by the Client or Other Circumstances. The time  
11 requirements during the period covered by this Application have not been extreme.

12 (h) The Amount Involved and the Results Obtained. This case currently involves 32  
13 active insurance policies having a death benefit of close to \$30 million. In excess of 800  
14 investors invested more than \$31 million to purchase fractionalized interests in the insurance  
15 policies.

16 Since his appointment, the Receiver has closed all known bank accounts and has taken  
17 possession of all known books and records. He has obtained accurate, current information  
18 regarding each policy and has been able to pay premiums on the policies on a current basis. The  
19 Receiver has also arranged for a \$4.5 million line of credit to be utilized to pay premiums and  
20 other administrative expenses. A website is maintained by the Receiver so as to update the  
21 investors. Claim forms have been approved and mailed to all known investors. To date, 826  
22 claims have been received, with 772 claims totaling \$28,195,743.18 determined to be allowed by  
23 this Court. During this period, the Receiver has sought and obtained Court approval of the  
24 allowance of certain claims against the receivership estate and the disallowance of certain other  
25 claims.

26 (i) The Experience, Reputation and Ability of the Attorneys. BOUTIN has several  
27 attorneys who work exclusively in the practice of civil trial law. The practice of those attorneys  
28

1 includes the representation of parties before this Court. The reputation of BOUTIN's attorneys  
2 is recognized and respected in this community.

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

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

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

10 8. Finally, this Application requests authority by the Receiver to pay BOUTIN  
11 \$1,000.00 to cover the fees and expenses to handle potential miscellaneous matters necessary to  
12 close the case, such as submission of any papers connected with Court rulings on final fee  
13 applications and the Final Report, responding to investor inquiries, and the tender of any  
14 unclaimed distribution checks to the Court registry.

15 WHEREFORE, the Receiver respectfully requests that the Court allow the requested  
16 compensation for professional services and expenses rendered by BOUTIN and authorize the  
17 Receiver to pay the 10% fee holdback of \$142.45, as per itemization in Exhibit "A" attached  
18 hereto, authorize the Receiver to pay BOUTIN the amount of \$1,000.00 to cover fees and  
19 expenses to complete the matters necessary to close the case; and for such other and further  
20 relief, general or special, at law or in equity, to which the Receiver and BOUTIN may show  
21 themselves justly entitled.

22 BOUTIN JONES INC.

23  
24 Dated: January 29, 2015

25 By: /s/ Maralee Eriksen  
26 Maralee Eriksen  
27 Attorneys for Receiver of Defendants  
28 Secure Investment Services, Inc.,  
American Financial Services, Inc., and  
Lyndon Group, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of January, 2015, a copy of this Application was served on all interested parties through the Court's electronic filing system. In addition, a copy of this Application was served on the following other persons by First Class U.S. Mail:

Bazzle John Wilson  
1291 Nunneley Road  
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Ernest Jeremias  
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/s/ Maralee Eriksen

Maralee Eriksen

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