

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

In re:)	
)	
MISSISSIPPI PHOSPHATES CORPORATION, <i>et al.</i>)	Case No. 14-51667-KMS
)	
Debtor.)	

**SECOND INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT
OF EXPENSES SUBMITTED BY BURR & FORMAN LLP, ATTORNEYS FOR THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

COVER SHEET

1. Name of Applicant: Burr & Forman LLP, 420 North Twentieth Street, Suite 3400, Birmingham, Alabama 35203
2. Authorized to Provide Professional Services to: The Official Committee of Unsecured Creditors
3. Petition Date: October 27, 2014
4. Date of Retention: November 14, 2014
5. Date of Application to Employ: December 24, 2014 (Dkt. # 336)
6. Date of Order Granting Application to Employ: February 10, 2015 (*nunc pro tunc* to November 14, 2014) (Dkt. # 473)
7. Period for which compensation and reimbursement is sought: March 1, 2015 through May 31, 2015
8. Amount of compensation sought as actual, reasonable, and necessary: \$103,780.00.
9. Amount of expense reimbursement sought as actual, reasonable, and necessary: \$2,045.35.
10. Blended Hourly Rate of Attorneys: \$362.50
11. This is a/an: X interim final application

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

In re: MISSISSIPPI PHOSPHATES CORPORATION, <i>et al.</i> Debtor.))))))	Case No. 14-51667-KMS
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**SECOND INTERIM APPLICATION FOR COMPENSATION AND REIMBURSEMENT
OF EXPENSES SUBMITTED BY BURR & FORMAN LLP, ATTORNEYS FOR THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

COMES NOW, Burr & Forman LLP (“Applicant”), attorneys for the Official Committee of Unsecured Creditors (the “Committee”), pursuant to the *Court’s Granting Motion of the Debtors for an Administrative Order Pursuant to 11 U.S.C. §§ 331 and 503 to Establish a Procedure for Interim Compensation and Reimbursement of Expenses of Employed Professionals of the Debtors and the Official Committee of Unsecured Creditors* (“Compensation Order”) (Dkt. # 586), and in accordance with Fed. R. Bankr. P. 2016 and the *Stipulation Regarding Uniform Procedures For Attorney Timekeeping, Billing and Budgets* (Dkt. # 614) (the “Stipulation”), hereby request that this Court award it attorneys' fees and reimbursement of expenses and authorize payment thereof in the amount of \$105,825.35, consisting of fees in the amount of \$103,780.00 and expenses in the amount of \$2,045.35. This request is for legal services rendered to the Committee from March 1, 2015 through May 31, 2015. In support of this Application, Applicant sets forth as follows:

BACKGROUND

1. On October 27, 2014 (the “Petition Date”), Mississippi Phosphates Corporation (the “Debtor”) filed its voluntary petition for relief under chapter 11, title 11 of the United States Code (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of Mississippi, Southern Division (the “Bankruptcy Court”). The Debtor is operating its business as a debtor-in possession, and no trustee or examiner has been appointed in this case.

2. The Committee was appointed by the United States Trustee in the Debtor’s case on November 12, 2014 [Dkt. # 161]. Applicant has been retained as counsel for the Committee in Debtor’s bankruptcy case, and this Court has approved Applicant’s retention as counsel to the Committee pursuant to that certain *Order Granting Application of the Official Committee of Unsecured Creditors for an Order Authorizing the Employment and Retention of Burr & Forman LLP as Counsel Nunc Pro Tunc to November 14, 2014* [Dkt. # 473].

3. On March 27, 2015, Applicant filed its *First Interim Application for Compensation and Reimbursement of Expenses* [Dkt. # 657], as amended by the *Amended First Interim Application for Compensation and Reimbursements of Expenses* dated March 30, 2015 [Dkt. # 667], in which it sought allowance as an administrative expense claim fees in the amount of \$460,684.63 for services rendered and \$7,423.69 for expenses incurred as counsel to the Committee between November 14, 2014 and February 28, 2015 (the “First Interim Fee Period”).

4. On May 18, 2015, the Court entered the *Agreed Order Granting First Application for Compensation and Reimbursement of Expenses Submitted by Burr & Forman LLP, Attorneys for the Official Committee of Unsecured Creditors* [Dkt. # 760] awarding Applicant allowed fees as an administrative expense claim in the amount of \$457,132.75 for services rendered and

allowed expenses as an administrative expenses claim in the amount of \$7,423.69 for actual expenses incurred during the First Interim Fee Period.

5. Pursuant to the Compensation Order, Applicant has been paid interim compensation in the amount of \$213,333.53 and has been reimbursed for actual expenses of \$7,426.69 for a total payment of \$205,906.44 for services rendered and expenses incurred during the First Interim Fee Period.

6. All of the services for which Applicant seeks compensation hereunder were performed for, and on behalf of, the Committee between March 11, 2015 and May 31, 2015 (Second Interim Fee Period).

7. Person(s) who performed the services covered by this Application:

Name/Position	Admitted to Bar	Practice Group	Time	Hourly Rate	Fees Billed	No. of Rate Increases Since Case Inception
PARTNERS:						
Creswell, Bess P.	2004	Creditor's Rights & Bankruptcy	60.60	\$300.00	\$18,180.00	0
Creswell, Bess P. (Travel Rate) ¹	2004	Creditor's Rights & Bankruptcy	3.00	\$150.00	\$450.00	0
Gillespy, Gerald P.	1991	Commercial Litigation	3.00	\$475.00	\$1,425.00	1
Meek, Derek F.	1999	Creditor's Rights & Bankruptcy	50.50	\$425.00	\$21,462.50	0

¹ Bess Creswell, Derek Meek, and Marc Solomon have time billed for Non-Working Travel at only 1/2 of their normal billing rate.

Name/Position	Admitted to Bar	Practice Group	Time	Hourly Rate	Fees Billed	No. of Rate Increases Since Case Inception
Solomon, Marc P.	2002	Creditor's Rights & Bankruptcy	123.30	\$400.00	\$49,320.00	0
Solomon, Marc P. (Travel Rate)	2002	Creditor's Rights & Bankruptcy	4.80	\$200.00	\$960.00	0
ASSOCIATES:						
Heisterhagen, Kasee S. (2015)	2009	Creditor's Rights & Bankruptcy	10.80	\$250.00	\$2,700.00	1
Nardella, Michael A	2008	Creditor's Rights & Bankruptcy	0.10	\$325.00	\$ 32.50	1
PARALEGALS:						
Ivey, Michael (2015)	N/A	Creditor's Rights & Bankruptcy	29.20	\$200.00	\$5,840.00	1
Stinson, Meredith (2015)	N/A	Creditor's Rights & Bankruptcy	7.80	\$200.00	\$1,560.00	1
Tomes, Margaret (2015)	N/A	Creditor's Rights & Bankruptcy	17.80	\$125.00	\$1,850.00	1
TOTAL			307.90		\$103,780.00	

8. Applicant's fees for services rendered by its lawyers and paralegals as set forth in the table above are customary and usual in the legal community for handling matters of the types and complexity of both bankruptcy and non-bankruptcy issues of the kinds involved in this case.

9. The hourly rates are those customarily charged to Applicant's similarly situated bankruptcy and non-bankruptcy clients for similar legal services. Applicant's rates are similar to those of other bankruptcy professionals involved in this case.

10. Applicant's hourly rates charged in this case are consistent with the rates that Applicant charges in other comparable chapter 11 cases, regardless of the location of the chapter 11 case. Moreover, Applicant's rate structure is appropriate and not different from (a) rates that Applicant charges for other non-bankruptcy representations or (b) the rates of other comparably skilled professionals in the national marketplace for legal services.

11. Applicant's rates are at par with or lower than the rates Applicant would otherwise charge for an engagement of this size and complexity. Additionally, Applicant agreed to discount its standard rates for Derek Meek, Marc P. Solomon, and Bess M. Parrish Creswell in this case, and have agreed to not increase the rates of these attorneys in this case when Applicant's standards rates were increased firm wide on January 1, 2015.

12. Applicant is regularly involved in bankruptcy work and has a great deal of expertise in that field, and submits that this factor has been and continues to be important in the case at bar.

13. Applicant requests that the Court approve the fees and expenses contained in this fee application incurred by Applicant during the Second Interim Fee Period, and submits this Application pursuant to Sections 330 and 331 of the Bankruptcy Code.

14. Section 330 provides that the Bankruptcy Court may award to Applicant (1) reasonable compensation for actual, necessary services rendered to the Committee based on the nature, extent, and value of such services, the time spent on such services, Applicant's skill and experience in the bankruptcy field, and the cost of comparable services other than in a case under this title; and (2) reimbursement for actual, necessary expenses. 11 U.S.C. § 330. In determining the allowance of attorneys' fees and reimbursement of expenses under section

330 of the Bankruptcy Code, the Fifth Circuit has concluded that the Bankruptcy Court must: (1) determine the nature and extent of the services rendered; (2) determine the value of those services; and (3) consider the twelve factors adopted by the Fifth Circuit in *Johnson v. Georgia Highway Exp., Inc.*, 488 F.2d 714, 717 (5th Cir. 1974), overturned on other grounds by *Blanchard v. Bergeron*, 489 U.S. 87 (1989). *See also Migis v. Pearle Vision, Inc.*, 135 F.3d 1041, 1047 (5th Cir. 1998). Applicant has addressed each of the issues separately below.

NATURE AND EXTENT OF THE SERVICES RENDERED

15. Applicant has expended substantial time and effort in providing counsel to the Committee in connection with all aspects of the bankruptcy case during the Second Interim Fee Period, as more fully set forth herein.

VALUE OF SERVICES

16. An objective estimate of value of the services of a creditors' Committee attorney is determined by multiplying the number of hours reasonably expended by the attorney's reasonable hourly rate. *See Brantley v. Surles*, 804 F.2d 321, 325 (5th Cir. 1986) (citing *Blum v. Stenson*, 465 U.S. 886 (1984)) (holding that an award of attorney's fees should normally be based on multiplying a reasonable number of hours worked by a reasonable rate of compensation); *Louisiana Power & Light Co. v. Kellstrom*, 50 F.3d 319, 324 (5th Cir. 1995) (finding that the district court must multiply the reasonable hours by the reasonable hourly rates). This estimate is referred to as the "lodestar" method. The attorney's reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by attorneys of reasonably comparable skill, experience, and reputation.

17. During the course of Applicant's assistance to the Committee during the Second Interim Fee Period, Applicant utilized lawyers and legal assistants with different skills and expertise, as necessary. Applicant's hourly rates reflect those of differing skills and experience of its lawyers and are in conformity with the prevailing market rates of the legal communities and municipalities outlined above. Applicant's hourly rates are neither more nor less than the hourly rates received by attorneys with comparable skill and experience in both bankruptcy and non-bankruptcy matters.

REASONABLENESS OF RATES AND HOURS

18. A determination of the reasonableness of the rates and hours submitted by Applicant involves consideration of the twelve (12) factors set forth below. *See Johnson*, 488 F.2d at 717.

(a) ***Time and Labor Required:*** Applicant has spent a substantial amount of time in the present case during the Second Interim Fee Period, and Applicant has also expended much effort because this case has required such effort for a thorough and complete job. Attached hereto as **Exhibit A** are detailed itemized records of Applicant's time and expenses which report the substance and time of every transaction performed by Applicant. Applicant has itemized telephone calls, correspondence, conferences, research, and document preparation time with respect to each aspect of the case. The time expended includes time for staff which has proven a cost effective means of handling some matters. Applicant submits that there has been a significant amount of time spent in the present case.

(b) ***The Novelty and Difficulty of the Question:*** Applicant has been requested to advise the Committee on various novel and difficult legal issues and problems, all of which

required the attention of Applicant to fulfill its duties and obligation to the Committee. The complexity and difficulty of the issues presented in this case warrant the full allowance of the fees requested and the services performed.

(c) ***The Skills Requisite to Perform the Professional Services Properly:*** Applicant submits that a high degree of skill has been and continues to be essential in the representation of the Committee. The difficulty of the issues involved has often required the immediate attention of experienced attorneys; however, Applicant has made every effort to delegate matters not requiring the services of more experienced attorneys to less experienced attorneys with a lower hourly rate.

(d) ***The Preclusion of Other Employment by Applicant Due to the Acceptance of the Case:*** While time and effort requirements of the representation of the Committee have not caused Applicant to be precluded from representing other clients, the time-sensitive nature of this bankruptcy case has demanded that this matter be given top priority. The representation of the Committee has not caused any conflicts of interest to occur.

(e) ***The Customary Fee:*** Applicant avers that its hourly rates set out herein are the rates it typically charges, and that said fees are customary, fair, and reasonable in the community.

(f) ***Whether the Fee is Fixed or Contingent:*** The fee is not contingent, other than the client's ability to pay, and no amount of the fee has been guaranteed by any third party.

(g) ***Time Limitations Imposed by the Client or the Circumstances:*** Many of the matters that Applicant has handled for the Committee have been time-sensitive.

(h) ***The Amount Involved and the Results Obtained:*** The fee requested by Applicant is reasonable given the size and complexity of the case and the results obtained thus far. As illustrated in the Project Summary Sheets set forth in **Exhibit B**, Applicant has been diligent in representing the Committee's interests in the Debtor's bankruptcy case within a very short time period.

(i) ***The Experience, Reputation and the Ability of the Professionals:*** As stated above, Applicant has extensive experience with representing debtors, creditors, and creditors' Committees in bankruptcy matters. Derek Meek, Marc Solomon, and Bess M. Parrish Creswell are bankruptcy lawyers with considerable experience in complex chapter 11 cases, and they have worked on all aspects of the bankruptcy-related work that has arisen in these cases. These attorneys have been assisted by junior attorneys and paralegals in their field as needed in order to provide excellent legal service to the Committee in the most cost-effective manner possible. Applicant submits that its regular involvement in bankruptcy work and its expertise in the field has been and continues to be important in the case at bar. The skill and experience of Applicant's attorneys has been of benefit to the Committee, and the complexity and difficulty of the issues involved in this case warrant the full allowance of fees requested for the services performed by Applicant.

(j) ***The Undesirability of the Case:*** Applicant submits that the case at bar is not undesirable.

(k) ***The Nature and Length of Professional Relationship with the Client:*** Not applicable.

(l) ***Awards in Similar Cases:*** Applicant relies on this Court's experience and knowledge with respect to fee awards in similar cases. Applicant submits that the fees requested in this Application are comparable to those awarded in similar cases of this nature and complexity.

STATEMENTS REGARDING RETENTION

19. The following is provided in response to the questions set forth in the U.S. Trustee Appendix B Guidelines:

(a) **Question:** Did Applicant agree to any variations from, or alternatives to, Burr & Forman's standard billing arrangements for this engagement?

Answer: Yes. Applicant agreed to cap the hourly rate of Derek Meek at \$425, whereas his standard rate is \$440.

(b) **Question:** If fees sought in this Application as compared to the fees budgeted for the time period covered by this Application are higher than 10% or more, did you discuss the reason for variation with the client?

Answer: While a few specific project categories were over the budget through April 2015, the overall fees sought in this Application (which include fees and expenses through May 2015) are within the overall budget of \$567,000.

(c) **Question:** Have any of the professionals included in this fee application varied their hourly rate based on the geographic location of the bankruptcy case?

Answer: No.

(d) **Question:** Does the fee application include time or fees related to reviewing or revising time records or preparing, reviewing, or revising invoices?

Answer: No.

(e) **Question:** Does the fee application include time or fees for reviewing time records to redact any privileged or other confidential information?

Answer: No.

(f) **Question:** If the fee application includes any rate increases since retention: (i) did your client review and approve those rate increases in advance? (ii) Did your client agree when

retaining the law firm to accept all future rate increases?

Answer: The fee application includes standard step increase rates for those individuals identified specifically herein. The client reviewed and approved those rates in advance and agreed when retaining the law firm to accept all future rate increases.

BUDGET AND STAFFING ANALYSIS

20. As set forth in the Project Summary Sheets (Exhibit B), through May 31, 2015 Applicant was over budget in some limited categories but remains within its estimated overall budget through April 30, 2015 of \$567,000.

21. The Project Fee Codes² are as follows:

<u>Project Fee Code</u>	<u>Project Fee Category</u>
1	Asset Analysis & Recovery
2	Asset Disposition & Sale Process
3	Assumption & Rejection of Contracts, Leases & Insurance Issues
4	Challenge Investigation
4(a)	Avoidance Actions & Non-Challenge Investigation
4(b)	Settlement
5	Budgeting (Case)
6	Case Administration
7	Claims Administration and Objections
8	Committee Governance & Related Issues
9	Employment and Fee Application Preparations
10	Employment and Fee Application Objections
11	Financing and Cash Collateral
12	Contested Matters/Adversary Proceedings
13	Meetings & Communication with Committee and Creditors
14	Non-Working Travel
15	Plan and Disclosure Statement
16	Real Estate

² Project Codes 12, 16, 17, 19 and 20 did not have any activity during the Second Interim Fee Period. As such, no Project Summary Sheets have been prepared for these codes.

<u>Project Fee Code</u>	<u>Project Fee Category</u>
17	Relief from Stay and Adequate Protection
18	Reporting and Other Communications with US Trustee
19	Tax Issues
20	Valuation of Assets

22. All services for which compensation is requested were performed on behalf of the Committee pursuant to the Order Granting Application of the Official Committee of Unsecured Creditors for an *Order Authorizing the Employment and Retention of Burr & Forman LLP as Counsel Nunc Pro Tunc to November 14, 2014* [Dkt. # 473] (the “Retention Order”) dated February 10, 2015, and not on behalf of the Debtor, any creditor, or other person or persons. Applicant has not received any payments from the Debtor, the Committee or the estate, nor is Applicant holding any sums. There is no agreement or understanding between Applicant and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with this case.

CONCLUSION

WHEREFORE, Applicant hereby respectfully requests that allowance be made to it in the total amount of \$105,825.35, including compensation for necessary professional legal services rendered to the Committee in the amount of \$103,780.00, and for reimbursement of actual and necessary costs and expenses in the amount of \$2,045.35 during the time period covered by this Interim Application.

Dated: July 1, 2015.

/s/ Bess M. Parrish Creswell

Bess M. Parrish Creswell (*pro hac vice*)
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and

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CERTIFICATE OF SERVICE

I certify that the foregoing pleading was filed electronically through the Court's ECF system and served electronically on all persons who are registered users of the CM/ECF System for the Bankruptcy Cases. I further certify that the foregoing pleading was served on all persons and entities listed on the Shortened Service List approved by the Court in the Bankruptcy Cases.

Dated: July 1, 2015.

/s/ Bess M. Parrish Creswell

EXHIBIT A
SHORTENED SERVICE LIST

ALSTON & BIRD LLP
WILLIAM S. SUGDEN
RE: INTEROCEANIC CORPORATION
ONE ATLANTIC CENTER
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WILLIAM L SMITH
RE: ROBERT E JONES
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JACKSON, MS 39201
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RE: DUPONT
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RE: PHOSPHATE HOLDINGS INC
650 POYDRAS STREET, STE 2500
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HELLER DRAPER PATRICK ET AL
WILLIAM PATRICK
RE: PHOSPHATE HOLDINGS INC
650 POYDRAS STREET, STE 2500
NEW ORLEANS, LA 70130
(ECF PARTY)

HORNE LLP
1020 HIGHLAND COLONY PKWY, STE 400
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HUDSON BAY CREDIT OPPORTUNITIES
ATTN: STUW, LLC
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HUDSON BAY MASTER FUND LTD
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IFC ACQUISITION GROUP LLC
ATTN: STUW, LLC
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IFC ACQUISITION GROUP LLC
ATTN NICK WALSH
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RE: BP ENERGY COMPANY
101 PARK AVE.
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CRAIG M GENO
RE: SPECIAL COUNSEL TO DEBTORS
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W JARRETT LITTLE
RE: HC2 HOLDING INC
PO BOX 927
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LENTZ & LITTLE PA
W J LITTLE JR
RE: HC2 HOLDING INC
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CAREY L. MENASCO
RE: PREMIER CHEMICAL & SERVICES LLC
701 POYDRAS STREET, SUITE 5000
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LACEY ELIZABETH ROCHESTER
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LACEY ELIZABETH ROCHESTER
RE: PREMIER CHEMICAL & SERVICES LLC
701 POYDRAS STREET, SUITE 5000
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LLOYD I MILLER TRUST A-1
ATTN ERIC W FANGMANN
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WEST PALM BEACH, FL 33405

LLOYD I MILLER TRUST A-1
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LLOYD I MILLER TRUST A-2
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LLOYD I MILLER TRUST A-2
ATTN: STUW, LLC
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LMA SPC FOR AND ON BEHALF OF THE MA
ATTN: STUW, LLC
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LOCKE LORD LLP
STEVE BRYANT
RE: BROCK SERVICES LLC
2800 JPMORGAN CHASE TOWER
600 TRAVIS
HOUSTON, TX 77002

LOCKE LORD LLP
C DAVIN BOLDISSAR
RE: BROCK SERVICES LLC
601 POYDRAS STREET, STE 2660
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RICHARD GAAL
RE: FLEXICREW STAFFING INC
11 NORTH WATER STREET, STE 13290
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ROBERT B MCGINLEY JR
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BRIAN HERMANN
RE: HC2 HOLDING INC
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PAUL WEISS RIFKIND ET AL
JULIE MARTINELLI
RE: HC2 HOLDING INC
1285 AVENUE OF THE AMERICAS
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D MEYERS
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PINE RIVER CREDIT RELATIVE VALUE MA
ATTN: STUW, LLC
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PINE RIVER DEERWOOD FUND, LTD.
ATTN: STUW, LLC
777 THIRD AVE.
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PINE RIVER FIXED INCOME MASTER FUND
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PINE RIVER MAP
ATTN: STUW, LLC
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PINE RIVER MASTER FUND LTD.
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VIRTUS KG FUND LP
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