

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

In re:

Ulrich Felix Anton Engler,
Private Commercial Office, Inc.,
And PCO Client Management, Inc.,

Case No. 9:08-bk-04360-MGW
Chapter 7
(Substantively Consolidated)

Debtors.

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**INTERIM APPLICATION FOR ALLOWANCE AND PAYMENT OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES TO
DR. EUGEN FRITSCHI OF THE LAW FIRM OF
BÜHLMANN & FRITSCHI RECHTSANWÄLTE
AS SPECIAL COUNSEL FOR CHAPTER 7 TRUSTEE, ROBERT E. TARDIF, JR.**

- 1. Name of applicant: Dr. Eugen Fritschi (attorney at law in Switzerland)
of Bühlmann & Fritschi Rechtsanwälte
Talacker 42
8001 Zurich
Switzerland
- 2. Role of applicant: Special Counsel for Chapter 7 Trustee
- 3. Name of certifying professional: Dr. Eugen Fritschi (attorney at law in Switzerland)
- 4. Date case filed: March 31, 2008
- 5. Date of application for employment: April 8, 2010
- 6. Date of approving employment:
- 7. If Debtor's counsel, date of Disclosure of Compensation from: N/A
- 8. Date of this application: September 13, 2011
- 9. Dates of services covered: April 16, 2010 – September 16, 2011
- 10. If case is chapter 7, amount trustee has on hand: N/A

Fees

- 11. Total fee requested for this period (from exhibit 1 and 3) CHF 34'551.10
- 12. Balance remaining in fee retainer account, not yet awardedCHF 0.00
- 13. Fees paid or advanced for this period, by other sources CHF 7'470.05
- 14. Net amount of fee requested for this period..... CHF 27'081.05

Expenses

- 15. Total expenses reimbursement requested for this period CHF 5'386.30
- 16. Balance remaining in expense retainer account, not yet receivedCHF 0.00
- 17. Expenses paid or advanced for this period, by other sourcesCHF 0.00
- 18. Net amount of expense reimbursements requested for this period CHF 5'386.30
- 19. Gross award requested for this period (Nr. 11 + Nr. 18) CHF 39'937.40
- 20. Net award requested for this period (Nr. 14 + Nr. 18)..... CHF 32'467.35
- 21. If final Fee Application, amounts of net awards requested in interim applications but not previously awarded (total from History of Fees and Expenses, following pages): N/A
- 22. Final fee and expense award requested (Nr. 20 + Nr. 21)..... CHF 32'467.35

History of Fees and Expenses

- 1. Dates, sources and amounts of retainers received:..... CHF 7'470.05
May 20, 2010 - debtor's payment (Stefan Gut) in action pauliana case
- 2. Dates, sources and amounts of third party payments received:None
- 3. Prior fee and expense awards:.....None

Certification

I'm the professional with responsibility in this case for compliance with the current Mandatory Guidelines on Fees and Disbursements for Professionals in the Middle District of Florida Bankruptcy Cases (the "Guidelines").

I have read the Applicant's application for compensation and reimbursement of expenses (the "Application").

To the best of my knowledge, information and belief formed after reasonable inquiry, the Application complies with the Guidelines.

To the best of my knowledge, information and belief formed after reasonable inquiry, the fees and disbursements sought fall within the Guidelines, except as specifically noted this Certification and described in the Application.

Except to the extent that fees or disbursements are prohibited or restricted by the Guidelines, the fees and disbursements sought are billed at rates and in accordance with practices customarily employed by the Applicant and generally accepted by the Applicant's clients.

In providing a reimbursable service or disbursement (other than time charged for paraprofessionals and professionals), the Applicant does not make a profit on that service or disbursement (except to the extent that any such profit is included within the permitted allowable amounts set forth in the Guidelines for photocopies and facsimile transmission).

In charging for a particular service or disbursement, the Applicant does not include in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment, or capital outlay (except to the extent that any such amortization is included within the permitted allowable amounts set forth herein for photocopies and facsimile transmission).


In seeking reimbursement for a service which the Applicant justifiably purchased or contracted for from a third party, the Applicant is requesting reimbursement only for the amount billed to the Applicant by the third-party vendor and paid by the Applicant to such vendor.

A complete copy of the Application (including all relevant exhibits) will be furnished to the Chapter 7 Trustee, the Debtors, the U.S. Trustee, and their respective counsel, at the time it is filed with the Court.

To my knowledge, there are no variances with the provisions of the Guidelines.

I HEREBY CERTIFY that the foregoing is true and correct.

Dated this 13th day of September, 2011.



.....
Dr. Eugen Fritschi (Attorney-at-law in Switzerland)
of Bühlmann & Fritschi Rechtsanwälte, Talacker 42
8001 Zurich
Switzerland
Special Counsel to Robert E. Tardif, Jr., Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
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In re:

Ulrich Felix Anton Engler,
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**INTERIM APPLICATION FOR ALLOWANCE AND PAYMENT OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES TO
DR. EUGEN FRITSCHI OF THE LAW FIRM OF
BÜHLMANN & FRITSCHI RECHTSANWÄLTE
AS SPECIAL COUNSEL FOR CHAPTER 7 TRUSTEE, ROBERT E. TARDIF, JR.**

Dr. Eugen Fritschi (the “Applicant”), attorney at law in Switzerland, of Bühlmann & Fritschi Rechtsanwälte, as special counsel for Robert E. Tardif, Jr. (the “Trustee”), Chapter 7 Trustee for the substantively consolidated bankruptcy estates of Ulrich Felix Anton Engler, Private Commercial Office, Inc., and PCO Client Management, Inc. (hereinafter referred to as “Engler”, “PCO”, and “PCOM”, respectively, or collectively as the “debtors”), hereby applies for interim allowance and payment of compensation for professional services rendered and reimbursement of expenses pursuant to Sections 328, 330, 331 and 503(b) of Title 11 of the United States Code (hereinafter the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (hereinafter the “Bankruptcy Rule(s)”) and the United States Department of Justice, Executive Office for United States Trustee’s Guidelines For Reviewing Applications For Compensation And Reimbursement Of Expenses Filed Under 11 U.S.C. § 330 (hereinafter the “Guidelines”).

Exhibits to Application

In accordance with the Guidelines, the following exhibits are annexed to this application:

- Exhibit 1: First Interim Invoice and Summary of Expenses and Disbursements (4/16/2010 - 12/31/2010 – VAT 7.6%)
- Exhibit 2: Summary of Professional and Paraprofessional Time (4/16/2010 - 12/31/2010)
- Exhibit 3: Second Interim Invoice and Summary of Expenses and Disbursements (1/1/2011 - 9/8/2011 – VAT 8%)
- Exhibit 4: Summary of Professional and Paraprofessional Time (1/1/2011 - 9/8/2011)

The applicant seeks an interim award of fees of **CHF 32'467.35** consisting of compensation for **133.33 hours** worked during the Application Period and compensation under the Swiss Federal Act on the Freedom of Movement for Lawyers (Lawyers' Act, FAFML – *Bundesgesetz über die Freizügigkeit der Anwälte BGFA*). The applicant believes that the requested interim fee of **CHF 32'467.35** is reasonable considering the twelve factors enumerated in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th circuit, Jan. 21, 1974), made applicable to bankruptcy proceedings by *In re First Colonial Corp. of America*, 554 F.2d 1291 (5th circuit, Jan. 10, 1977).

As indicated by the Applicant at the employment as special counsel and as customary for the Applicant, the calculation of fees and expenses underlying this fee application is based on the currency **Swiss Francs**. Due to momentary currency exchange rate fluctuation it is impossible to provide you with a current Swiss Franc – US Dollar exchange rate.

I. Retention of Applicant, Disclosure of Compensation and Requested Award

On March 8, 2010, the Trustee, Robert E. Tardif, Jr. filed the Application to Employ Special Counsel for the Applicant. The order of the court is still pending.

In Accordance with the Court Order Authorizing Employment of Dr. Annerose Tashiro as special counsel for the Trustee [CP # 121] of March 24, 2009, Dr. Annerose Tashiro signed a letter of engagement and power of attorney on June 9, 2011 with the Applicant in order for the applicant to be able to pursue the claims of the bankruptcy estate of PCO/Engler in Switzerland.

This is the Applicant's first interim fee application file in this case. Applicant seeks an interim fee award of CHF 27'081.05 in fees for services rendered and CHF 5'386.30 for

reimbursement of expenses. The fees and expenses were incurred in the Application Period from April 16, 2010, through September 8, 2011.

II. CASE BACKGROUND

On March 31, 2008 (hereinafter the "Petition Date"), a group of Creditors filed involuntary petitions for relief under Chapter 7 of the Bankruptcy Code against Engler and PCO with the Clerk of this Court. On December 4, 2007, the District Court (*Amtsgericht*) of Mannheim, Germany, had already issued an international warrant for Engler's arrest with respect to criminal charges involving the perpetration of a Ponzi scheme. Approximately one month after the Petition Date, the Public Prosecutor's Office of Mannheim, Germany issued a request to the United States Government for Engler's arrest and extradition. Engler is currently a fugitive of justice.

On April 29, 2008, the Court entered orders for relief against Engler and PCO.

On April 30, 2008, the Trustee was appointed and currently serves as the permanent Chapter 7 Trustee for the Debtors' bankruptcy cases.

On June 24, 2008, the Court entered an order substantively consolidating the assets and liabilities of the Debtors' bankruptcy estates.

On April 23, 2010, the Court entered an order substantively consolidating the assets and liabilities of PCOM with and into the bankruptcy estates of Engler and PCO *nunc pro tunc* to March 31, 2008.

As of June 22, 2010, 1,221 Proofs of Claim in the aggregate amount of \$312,999,841.01 were filed in the Engler bankruptcy case and 210 Proofs of Claim in the aggregate amount of \$205,085,382.63 were filed in the PCO bankruptcy case.

The Debtors failed to appear for their previously scheduled Meetings of Creditors.

III. DESCRIPTION AND SUMMARY OF SERVICES PERFORMED

Since the beginning of the Application Period the Applicant and the consulted attorney and paralegals of Bühlmann & Fritschi Rechtsanwälte, Zurich, performed various tasks in the name of Chapter 7 Trustee, Robert E. Tardif, Jr. here in Switzerland. The main task was to take actions in retrieving payments made by Engler, PCO and PCMO to costumers in Switzerland under the terms of Fraudulent Conveyance (*Actio Pauliana*). In most of the cases the Applicant filed debt enforcement at the debt enforcement office in charge for the particular debtor. In Detail the Applicant perused claims against the following costumers of Engler, PCO and PCMO (short description of the current fact of the matter):

1. Annovazzi Guido:

Guido Annovazzi is a German resident. The Transaction Detail Report names Mr. Annovazzi's address on Kapellenstrasse 19A, 76287 Rheinstetten / Germany. Since Mr. Annovazzi does not reside in Switzerland, he cannot be prosecuted here.

2. Auctum Investment Management AG :

The owed amount of CHF 88'310.25 including 5 % of interest, calculated from 16th May 2007 on was put in on 23rd April 2010. No notice has been received so far from the debtor or the debt enforcement office.

3. Balta Enterprises, Ltd.:

Balta Enterprises, Ltd. has no registered offices in Switzerland and therefore cannot be prosecuted under Swiss law.

4. Batinova Immobilien AG:

The Company Registry of the canton of Schwyz declares the liquidation of Batinova Immobilien AG. The Swiss Bank Commission Market issued a decree on 30th August 2007, which ordered the liquidation of the company due to insolvency. Batinova can not be prosecuted. The liquidation proceedings have started four years ago.

5. Baumeler Matthias:

After paying the fee of CHF 125.- on 28th April 2010, the debt enforcement office tried to deliver the payment order to Mr. Baumeler. The delivery failed due to the relocation of the debtor. The debt enforcement office was able to locate Mr. Baumeler. He seems to have changed his residence to Zellerhof 1, 8854 Siebnen. We would like to suggest to you to file the request for debt prosecution again for the amount of CHF 24'897.80 plus 5 % of interest since 4th September 2010.

6. Beer Kurt:

The debt enforcement request of CHF 456'835.60 plus 5 % of interest since 7th September 2010 was filed on 23rd April 2010. No notice has been received so far from the debt enforcement office Villmergen concerning the delivery of the payment order. The debtor has not reacted to the request of payment.

7. BGV Lüthi Erwin:

We received a letter from Mr. Lüthi dated 29th April 2010. He denies the claim, saying that the claimed amount was not justified and that he had been prosecuted mistakenly. Hereafter he returned several documents to our address. The debt enforcement office Seeland (Dienststelle Seeland) delivered the payment order to Mr. Lüthi on 3rd May 2010 for the amount of CHF 36'235.70 plus interest of 5 % since 7th September 2007. The debtor made opposition against the payment order on 6th May 2010 without any explanation.

8. Bonnevie-Svendse Jörgen:

The payment order dated 3rd May 2010 in the amount of CHF 9'240.- plus 5 % of interest since 4th September 2007, was delivered to the debtor. The debtor then made an unsubstantiated opposition against the payment order on 4th May 2010.

9. Breves Treuhand AG /Eternal Stiftung:

The request for the debt prosecution in the amount of CHF 237'300.- plus 5 % interest since 6th August 2007 was sent away on 18th May 2010. The debt enforcement office has not replied to our request yet. During a telephone conversation of 21st May 2010 the director of Breves Treuhand AG stated that his company is not the debtor of the prosecuted sum but his client, Eternal Foundation, is. We will resume the negotiations with the debtor in the attempt of either enforcing repayment of the due sum or reaching a mutual agreement about the repayment modalities.

10. Brom Peter:

The request for debt prosecution was processed in the amount of CHF 15'618.- plus 5 % of interest since 4th September 2010 on 23rd April 2010 through the debt enforcement office of Seeland of canton Bern. The debtor made an unsubstantiated opposition against the fore mentioned debt enforcement on 11th May 2010.

11. Brühlmann B. and U.:

The debt prosecution request against spouses Brühlmann was made on 23rd April 2010 in the amount of CHF 13'576.40 plus 5 % of interest since 7th September 2007. The debtors - an elder couple - explained to us over the phone that they previously invested over CHF 13'576.40 in PCO/Ulrich Engler. The couple had been informed about the liquidation of PCO/Ulrich Engler by the bankruptcy court. Since Mrs. and Mr. Brühlmann did not

understand the contents of the letter sent by the U.S. court of bankruptcy, they didn't claim their investment from PCO/Ulrich Engler. Mrs. Brühlmann intends to allocate the prosecuted amount to their claim. The debtors opposed against the payment order of CHF 13'576.40 on 5th May 2010 without any given reason.

12. Censor Consulting AG:

The Censor Consulting AG is not based in Switzerland and cannot as a result be prosecuted under Swiss law.

13. CM Consulting AG:

The CM Consulting AG was prosecuted on 28th April 2010 in the amount of CHF 29'807.65 plus interest since 7th September 2007. We haven't gotten any news; neither from the debt enforcement office nor from the debtor so far.

14. David Collenberg:

The payment order, which amounted to CHF 1'040'562.45 plus interest of 5 % since 4th September 2007 was delivered to the debtor on 26th April 2010 by the debt enforcement office of Sargans. The debtor claimed opposition against the payment order without giving a reason for the opposition.

15. Comfina AG:

Comfina AG has gotten liquidated and is not registered anymore. There's no possibility of debt prosecution of a non-existing company.

16. Corleoni Manuela:

The debtor was prosecuted by the debt enforcement office of Baar on 23rd April 2010 for the amount of CHF 15'750.- plus interest of 5 % since 4th September 2007.

17. Corleoni Maria:

The Zurich 8 debt enforcement office's payment order of CHF 12'600.- plus interest of 5 % since 2nd August 2007 was handed out to the debtor on 28th April 2010 at the office's premises. The debtor opposed against the payment order on 29th April 2010, without naming a reason.

18. Corleoni Oscar:

The debt enforcement office of Zug delivered the payment order of CHF 405'683.30 plus interest of 5 % since 7th September 2007 to the debtor on 29th April 2010. The debtor opposed against the payment order the same day. No reason was given for Mr. Corleoni's opposition to the payment order.

19. De Martino Eduardo:

The request for debt prosecution of CHF 27'153.75 plus interest of 5 % since 4th September 2007 was handed in on 23rd April 2010. The payment order was delivered by the debt enforcement office on 23th April 2010. The debtor made an opposition against the payment order the same day.

20. Depetro Gaetano:

The amount of CHF 11'030.10 plus interest of 5 % since 4th September 2007 was prosecuted on 23rd April 2010. The debt enforcement office of Zurich 12 requested a fee of CHF 150.-, which was paid for on 28th April 2010. Subsequently the debt enforcement office Zurich 12 let us know in the letter of 10th May 2010 that the debtor will stay abroad until 15th June 2010. We received no further information after that.

21. Di Liberto Daniela:

The letter of 23rd April 2010 to the debtor wasn't delivered because of her relocation. The debt enforcement office confirmed the debtor's move. As a result the request for debt enforcement has been annulled by the debt enforcement office. The debtor's new address at Rikonerstrasse 15, 8310 Grafstal was confirmed by the debt enforcement office.

22. Emst Fina Frank:

The person does not reside in Switzerland and cannot be prosecuted on Swiss territory.

23. Euro Connect AG:

The Euro Connect AG has been liquidated in accordance with the Swiss Federal Debt Enforcement and Bankruptcy Act of 11th April 1889 due to bankruptcy on March 11, 2008. Therefore a claim could not be filed in this case.

24. Famob AG / Heliteps AG:

The request for debt prosecution for Famob AG of CHF 42'334.05 plus interest of 5 % since 4th September 2007 was processed on 27th April 2010. The prosecution of Heliteps AG was placed on the same day in the amount of CHF 58'580.55 plus interest of 5 % since 4th September 2007. We haven't received any news concerning the foregoing prosecution of Famob AG as yet. Heliteps AG made an opposition against the payment order on 7th May 2010. The responsible person at Heliteps AG communicated afterwards that the company will try it's best to repay the owed amount.

25. Graufilu Holding Corporation:

The request for debt prosecution of CHF 1'968'478.65 plus 5 % of interest since September 4, 2007 was filed at the debt enforcement office on April 23, 2010. The letter of April 23, 2010 was returned to us since the Swiss post wasn't able to deliver it to the debtor's address. The debt enforcement office of Binningen informed us through its letter of April 30, 2010 that the debtor cannot be found under the referenced address. The prosecution couldn't be continued.

26. Gut Stefan:

Stefan Gut promised during the telephone conversation of 11th May 2010 to transfer the owed amount of CHF 6'568.-. This amount plus interests has been transferred as promised by the debtor. On 21th May 2010 we withdrew our request for debt prosecution. Stefan Gut is the only debtor so far who actually accepted and repaid his debt.

27. Hechelmann Uwe:

The claim of CHF 13'296.55 plus interest of 5 % since 7th September 2007 was set into prosecution on 23rd April 2010. The Swiss postal service couldn't deliver the letter to the debtor as he had moved and returned it to the debt enforcement office on 23rd April 2010. The debt enforcement office am alten Rhein requested an advance on costs, which was paid for on 28th April 2010. The debt enforcement office informed us later that Mr. Hechelmann does no longer reside in Switzerland. He relocated to Germany (Kemptnerstrasse 8, D-88131 Lindau). The debt enforcement request couldn't be pursued in Switzerland any further.

28. Himmelsbach Technik AG:

The request for debt prosecution of CHF 291'081.55 plus interest of 5 % since 7th September 2007 was made on 23rd April 2010. The debt prosecution office of Cham delivered the

payment order on 26th April 2010. The debtor raised opposition against the payment order on 28th April 2010 without giving a reason.

29. Himmelsbach Steven:

The payment order of CHF 293'265.- plus interest of 5 % since 17th August 2007 was delivered to the debtor by the debt enforcement office of Meilen-Herrliberg-Erlenbach on 29th April 2010. The debtor made an opposition against the payment order on the same date.

30. Isler Corleoni Sandra:

The request for debt prosecution in the amount of CHF 28'350.- plus interest of 5 % since 4th September 2007 was handed in on 23rd April 2010. The payment order was processed and delivered by the debt enforcement office of Menzingen on 28th April 2010. The debtor made an immediate opposition against the payment order.

31. Lüder Maria:

The request for debt prosecution of CHF 33'140.- plus interest of 5 % since 7th May 2007 was handed in on 23rd April 2010. The debt enforcement office asked for an advance on costs of CHF 100.- on 26th April 2010. We made this payment on 28th April 2010. We received a letter from Ms. Lüder's attorney, Stephan Kramer, on 30th April 2010. Mr. Kramer opposed to the prosecution of the amount, mentioned above. He objected to the existence of a legal basis for actions based on Fraudulent Conveyance (actio pauliana). Nevertheless, the payment order was received by the debtor on 12th May 2010. Ms. Lüder opposed against the right to enforce without specifying her opposition.

32. Miftari-Iseni Jusuf:

A request for debt prosecution of CHF 128'836.70 plus 5 % of interest since 4th September 2007 was made against Mr. Jusuf Miftari. We've received a notice from the bankruptcy office of the canton Thurgau, stating the insolvency of the debtor and announcing the beginning of bankruptcy procedures over his assets. Thereafter, we claimed the owed amount of CHF 128'850.55. The bankruptcy office wrote on 19th May 2010 that our claim will be defeated, if we would not withdraw it because of Gabriele Balsiger's payment. We sent a letter to the bankruptcy office on 21st May 2010, explaining that the claim originated from U.S. bankruptcy proceedings in the case of Ulrich Engler / PCO and that there was no connection to Gabriele Balsiger whatsoever. Therefore, we wouldn't revoke our request of prosecution.

Additionally, we announced that in case of refusal of our claim we would consider an appeal against their decision.

33. Proxima Consulting AG:

We handed in a request for debt prosecution against the debtor (Proxima Immobilien AG in Kilchberg) of CHF 152'447.55 plus 5 % of interest since 7th September 2007 on 23rd April 2010. The debtor explained in his letter of 6th May 2010 that he had not ever had any kind of business relation to PCO or IQ.Finance Balsiger. Proxima Consulting AG is headquartered on Marshall Island and is not the company we've been looking for.

34. Reinhardt Heidrun:

Mrs. Reinhardt resides in Germany and cannot be prosecuted in Switzerland. Her address is mentioned in the Transaction Detail Report as follows: Hebbbergstrasse 96/2, D-70794 Filderstadt.

35. Rey Andreas:

The request for debt prosecution amounting to CHF 10'696.85 plus 5 % interest since 4th September 2007 was made on 23rd April 2010. Mr. Rey wrote us a letter saying that he hasn't received as large an amount as listed in the Transaction Detail Report and that he'd prove his inquiry by sending us his bank account statements. His payment order was delivered by the debt enforcement office of Uzwil on 28th April 2010. Mr. Rey put in an opposition against the payment order without naming a reason.

36. Rossier Marie-France:

The request for debt prosecution of CHF 17'855.- plus interest of 5 % since 9th July 2007 was put in on 23rd April 2010. Since the debtor moved away, the debt enforcement office of the county of Sense rejected the request of prosecution. The new residence of the debtor is located at Boglerenstrasse 11 in 8700 Küsnacht.

37. Schelker Hans-Peter:

The payment order of CHF 109'946.95 plus interest of 5 % since 7th September 2010 was sent off by the debt enforcement office of Kleinandelfingen and received on 12th May 2010 by the debtor. The debtor put in an opposition against the right to enforce on 14th May 2010. No reason was given.

38. Schumacher Gerda:

The request for debt execution of CHF 8'439.45 plus interest of 5 % since 7th September 2007 was made on 23rd April 2010. The payment order was delivered by the debt enforcement office of Sargans on 4th May 2010. The debtor put in an opposition against the payment order without substantiating the same day.

39. Studer Bernd:

The debtor could not be found in Switzerland.

40. Studer Roland:

This debtor could not be found in Switzerland either.

41. Szekely Ilona:

The request for debt prosecution of CHF 17'056.85 plus 5 % interest since 7th September 2010 was handed in on 23rd April 2010. The debt prosecution office of Opfikon informed us about the relocation of the debtor by the letter of 28th April 2010, rejecting our request. The new residence of the debtor could not be detected by the debt prosecution office. Our letter of 23rd April 2010 was not delivered to her address and was returned to our premises by the post office. We have no information whatsoever about Ms. Szekely's current location.

42. Wiesli Petra:

We prosecuted the debtor for the sum of CHF 96'600.- plus 5 % interest since 4th September 2007 on 23rd April 2010. The debt enforcement office Neerach delivered the payment order on 30th April 2010. The debtor put in an opposition against the right to enforce upon delivery without specifying her reason.

43. Wirz Herbert:

The request for debt prosecution of CHF 108'170.60 plus 5 % of interest since 4th September 2007 was sent off on 23rd April 2010. The debtor subsequently received the payment order on 26th April 2010 from the debt prosecution office Männedorf-Uetikon-Oetwil. He opposed against the payment order on 28th April 2010.

Due to the still pending approval of the US bankruptcy proceedings of Engler, PCO and PCMO here in Switzerland by the Swiss Financial Market Supervisory FINMA it is not possible to proceed in taking the next step necessary to enforce the claims of the Chapter 7 Trustee, Robert E. Tardif, Jr. here in Switzerland. Because it's now more than one year that the debt prosecution was made and because the payment order is valid only for one year, we had to withdraw some of the debt prosecutions. We informed the debtors that we will again file the claims of PCO/Engler against them after the decision of FINMA in the pending process of approving the US bankruptcy proceedings. As soon as the approval is granted the Applicant will file the law suits necessary to retrieve the sums received by the various costumers of Engler, PCO and PCMO stated above.

IV. INDEXING OF TASKS BY ACTIVITY CODES

As set forth in the preceding description and summary of the services performed, Applicant's services as reflected in the time records in Exhibit 1 have almost exclusively been focused on **Asset Analysis and Recovery**. The state of actual litigation apart for the necessary first step of enforcing the claim by filing at the public debt enforcement office hasn't been reached yet do to the pending process of approving the US bankruptcy proceedings by the FINMA here in Switzerland. All pending matters are still in the stadium of negotiation or pre-trial.

V. EVALUATION OF SERVICES RENDERED: FIRST COLONIAL CONSIDERATIONS

This Application presents the nature and extent of the professional services rendered by the Applicant in connection with its representation of the Trustee. The recitals set forth in the daily diaries attached hereto constitute only a summary of the time spent.

American Benefit life Ins. Co. v. Baddock (In re First Colonial Corp.), 544 F.2d 1291 (5th Cir.), *cert. denied*, 431 U.S. 904 (1977), enumerates twelve factors a bankruptcy court should evaluate in awarding fees. *First Colonial* remains applicable in the Eleventh Circuit to the determination of reasonableness of fees to be awarded under the Bankruptcy Code. *Grant v. George Schuman Tire & Battery Company*, 908 F.2d 874 (11th Cir. 1990); 2 COLLIER ON BANKRUPTCY ¶ 330.05[2][a] at 330-33 through 330-37 (L. King 15th ed. 1991); see also *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981). The twelve factors are:

- a) The time and labor required;
- b) The novelty and difficulty of the questions presented;
- c) The skill required to perform the legal services properly;
- d) The preclusion from other employment by the attorney due to acceptance of the case;
- e) The customary fee for similar work in the community;
- f) Whether the fee is fixed or contingent;
- g) The time limitations imposed by the client or circumstances;
- h) The amount involved and results obtained;
- i) The experience, reputation and ability of the attorneys;
- j) The undesirability of the case;
- k) The nature and length of the professional relationship with the client; and
- l) Awards in similar cases.

First Colonial, 544 F.2d at 1298-99.

Based upon the standards set forth in Sections 330 and 331 of the Bankruptcy Code as well as in *First Colonial*, the Applicant believes that the fair and reasonable value of its services rendered during the period covered by this Application is in the amount of **CHF 32'467.35.**

a) Time Nature and Extent of Services Rendered, Results Obtained and Related First Colonial Factors

So far the Applicant and the consulted team of Attorneys and paralegals have spend 111.75 hours in pursuing the claims of Chapter 7 Trustee, Robert E. Tardif, Jr. in the bankruptcy case of Engler, PCO and PCMO. The first steps have been taken to retrieve sums here in Switzerland that legitimately belong to the bankruptcy estate of Engler, PCO and PCMO in Fort Myers, FL. Considering the Number of debtors requested for payment to the bankruptcy estate of Engler, PCO and PCMO the hours spend in negotiation, analysis and recovery are reasonable. The average hourly rate of CHF 234.42 for the services performed as requested in this Application is on the very lower end of hourly rates requested for legal services in Switzerland.

b) Novelty and Difficulty of Questions Presented

The combination of cross-border bankruptcy proceedings and domestic enforcement of foreign state claims here in Switzerland due to the discovery of a ponzi scheme in the USA could most likely be considered a novelty. Due to that novelty the Swiss Financial Market Supervisory FINMA is still unaware how to proceed in the approval of the US bankruptcy proceedings in Switzerland.

c) Skill Requisite to Perform Services Properly

The mere prosecution of fraudulent conveyance claims alone requires a certain amount of experience and skills. In addition to that the case of the matter is even more complicated taken in account the transnational context of this bankruptcy case. It not only requires the skills and experience of dealing with domestic claims but with claims in an international connexion (especially language skills and basic knowledge of foreign laws).

d) Preclusion from Other Employment by Attorney Due to Acceptance of Case

The Applicant's representation in this case did not preclude him from accepting other employment.

e) Customary Fee

The customary hourly rate for the attorneys rendering services reflected by this Application are: Dr. Eugen Fritschi – CHF 300.-. The hourly rate for the paralegals working on this case are: Emilia Reznik – CHF 220.-, Felix Siegfried – CHF 220.-, Ronald Kehr – CHF 200.-. These hourly rates reflect the hourly rates the Applicant bills to his clients in other similar bankruptcy cases.

f) Whether Fee is Fixed or Contingent

Applicant's compensation in these matters is subject to Court approval and is therefore contingent. The Court should consider this factor, which militates in favour of a fee in the amount requested. The amount requested is consistent with the fee which the Applicant would charge his clients in other non-contingent, bankruptcy cases.

g) Time Limitations Imposed by Client or Circumstances

The circumstances of this case did not impose exceptional time constraints on the Applicant.

h) Experience, Reputation and Ability of Attorneys

The Applicant has almost 15 years of experience in debt enforcement matters in Switzerland. He provides services to the Swiss Financial Market Supervisory FINMA on different occasions. He most often acts as a free agent for regulatory enforcement in the Name of FINMA. Above that the Applicant has a PhD. at the University of Zurich on the field of debt enforcement. Therefore he has the skills and experience needed to successfully and properly fulfil the tasks given to him by the Chapter 7 Trustee, Robert E. Tardif, Jr.

i) "Undesirability" of Case

The Applicant is privileged to perform services for the Chapter 7 Trustee not only on his field of interest but in a certain international context. The case can in no way be considered undesirable for the Applicant.

j) Nature and Length of Professional Relationship with Client

The Applicant will precede with the prosecution of the claims under the terms of fraudulent conveyance in the name of the Chapter 7 Trustee, Robert E. Tardif, Jr. in Switzerland.

k) Awards in Similar Cases

The amount requested by the Applicant is reasonable in terms of awards in cases of lower magnitude and complexity. The compensation which the Applicant requests comports with the mandate of the Bankruptcy Code, which directs that services be evaluated in light of comparable services performed in non-bankruptcy cases in the community. The fees requested by the Applicant reflect an average hourly rate of approximately CHF 243.42.

VI. CONCLUSION

The Applicant has performed extensive and valuable services for the Trustee in this case. For this reason and all of the reasons set forth in this Application, Applicant requests an interim award of CHF 26'196.85 in fees and expenses. Furthermore, Applicant reserves its right to supplement this Application prior to any hearing hereon.

Wherefore, the Applicant respectfully requests the Court to enter an Order awarding the Applicant an interim award of CHF 32'467.35 in fees and expenses and granting such other and further relief as the Courts deems appropriate.

Respectfully submitted,



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Dr. Eugen Fritsch (attorney at law in Switzerland)

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