

**IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION
www.flsb.uscourts.gov**

IN RE:)	
)	Chapter 7
ULRICH FELIX ANTON ENGLER;)	CASE NO. 9:08-bk-04360-MGW
PRIVATE COMMERCIAL OFFICE, INC.;)	
and PCO CLIENT MANAGEMENT, INC.)	
)	
Debtors.)	
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**SUMMARY OF SECOND APPLICATION FOR COMPENSATION
AND REIMBURSEMENT OF EXPENSES BY THOMAS A. TUCKER
RONZETTI, ESQ. AND KOZYAK TROPIN & THROCKMORTON, P.A.,
AS SPECIAL LITIGATION COUNSEL FOR TRUSTEE**

1.	Name of Applicant:	Thomas A. Tucker Ronzetti, Esq. and Kozyak Tropin & Throckmorton, P.A.
2.	Role of Applicant:	Special Litigation Counsel for Chapter 7 Trustee
3.	Name of certifying professional:	David A. Samole
4.	Date case filed:	March 31, 2008
5.	Date of application for employment:	December 22, 2010
6.	Date of order approving employment:	January 3, 2011
7.	Date of Disclosure of Compensation form:	N/A
8.	Date of this application:	December 21, 2011
9.	Dates of services covered:	April 1, 2011 to November 30, 2011
10.	If case is Chapter 7, amount trustee has on hand:	\$7,420,953.80
	Fees...	
11.	Total fee requested for this period (from Exhibit 1)	\$73,578.50
12.	Balance remaining in fee retainer account, not yet awarded	(\$15,000.00)
13.	Fees paid or advanced for this period, by other sources	(\$ 0.00)
14.	Net amount of fee requested for this period	\$73,578.50
	Expenses...	
15.	Total expense reimbursement requested for this period	\$ 5,924.96
16.	Balance remaining in expense retainer account, not yet received	(\$ 0.00)
17.	Expenses paid or advanced for this period, by other sources	(\$ 0.00)
18.	Net amount of expense reimbursements requested for this period	\$ 5,924.96
19.	Gross award requested for this period (#11 + #15)	\$79,503.46
20.	Net award requested for this period (#14 + #18)	\$79,503.46

History of Fees and Expenses on Following Page

History of Fees and Expenses.

1. Dates, sources, and amounts of retainers received:

<u>Dates</u>	<u>Sources</u>	<u>Amounts</u>	<u>For fees or costs?</u>
2/08/2011	Trustee	\$15,000.00	Both

2. Dates, sources, and amounts of third party payments received:

<u>Dates</u>	<u>Sources</u>	<u>Amounts</u>	<u>For fees or costs?</u>
None			

3. Prior fee and expense awards.

	<u>Prior Fee Awards</u>	<u>Prior Expense Awards</u>
First Interim Application...		
Dates covered by application: 12/25/10 to 3/31/11		
Amount of fees requested:	\$13,090.00	\$
Amount of expenses requested:	\$	\$672.75
Amount of fees awarded:	\$13,090.00	\$
Amount of expenses awarded:	\$	\$672.75
Amount of fee retainer authorized to be used:	\$	
Amount of expense retainer authorized to be used:		\$

	<u>Prior Fee Awards</u>	<u>Prior Expense Awards</u>
Fee award, net of retainer:	\$	\$
Expense award, net of retainer:		\$
Date of final award: 7/13/11		
Amount of fees actually paid:	\$13,090.00	
Amount of expense reimbursement actually paid:		\$672.75
Portion of fees requested but not awarded, which applicant wishes to defer to final fee application: \$0.00		
Portion of expenses requested but not awarded, which applicant wishes to defer to final fee application:		\$0.00

Summary of All Prior Applications and Awards

Total fees requested	\$13,090.00
Total fees awarded	\$13,090.00
Prior fees awarded but not yet paid, if any (Do not include holdbacks in this number)	\$ 0.00
Total prior fees requested but not awarded, Deferred to final fee application	\$ 0.00
Total expenses requested	\$ 672.75
Total expenses awarded	\$ 672.75
Prior expenses awarded but not yet paid, if any (Do not include holdbacks in this number)	\$ 0.00
Total prior expenses requested but not awarded, Deferred to final fee application	\$ 0.00

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Debtor.)	
	/	

SECOND APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES BY THOMAS A. TUCKER RONZETTI, ESQ. AND KOZYAK TROPIN & THROCKMORTON, P.A., AS SPECIAL LITIGATION COUNSEL FOR TRUSTEE

Thomas A. Tucker Ronzetti and Kozyak Tropin & Throckmorton, P.A. (the “Applicant”), as special litigation counsel for Robert E. Tardif, Jr., the Chapter 7 Trustee (the “Trustee”), hereby apply for interim the 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 Bankruptcy Code, Rule 2016 of the Federal Rules of Bankruptcy Procedure, and the United States Trustee’s Guidelines as set forth in 11 U.S.C. § 330 (the “Guidelines”).

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

Exhibit “1” - Summary of Professional and Paraprofessional Time who have provided services to the Trustee during the Application Period;

Exhibit “2” - Summary of Requested Reimbursements of Expenses; and

Exhibit “3” - The applicant’s complete time records during the Application Period.

I. RETENTION OF APPLICANT, DISCLOSURE OF COMPENSATION AND REQUESTED AWARD

1. On January 3, 2011, this Court approved the retention of KT&T as special litigation counsel to the Trustee (Doc. No. 549).

2. This is Applicant's second interim fee application filed in this case. Applicant seeks an interim fee award of \$73,578.50 in fees for services rendered and \$5,924.96 for reimbursement of expenses. The fees and expenses were incurred in the period April 1, 2011 through November 30, 2011 (the "Application Period").

II. DESCRIPTION AND SUMMARY OF SERVICES PERFORMED

3. The Debtors involved in this case, through its primary principal, perpetrated a massive Ponzi scheme. Two of the Debtors' primary banking institutions were Suntrust Bank and Wells Fargo Bank, N.A. (the "Banks"). Applicant's services during this application period were related exclusively to the Trustee's ongoing investigation as to the Debtors' separate prepetition relationships and activities by, through and with the Banks, including but not limited to, (a) preparation and service of subpoenas, (b) prosecuting motions to compel served on the Banks; (c) addressing related discovery disputes, (d) substantial review of documents and related electronic records and other materials provided by the Banks; and (e) providing preliminary analyses and reports to the Trustee. The Trustee and KT&T are preparing to move on to the next portion of the discovery phase, which will include examinations of the Bank's applicable representatives and other pre-litigation discovery. Special Litigation Counsel provided the above-described services, and an itemized listing of the services rendered is attached to this Application as Exhibit 3.

III. EVALUATION OF SERVICES RENDERED: FIRST COLONIAL CONSIDERATIONS

KT&T believes that the requested fee of \$73,578.50 for 347.0 hours worked is reasonable considering the twelve factors enumerated in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Circuit 1974), made applicable to bankruptcy proceedings by In re First Colonial Corp. of America, 544 F.2d 1291 (5th Cir. 1977), as follows:

The Time and Labor Required:

The time and labor required in the rendition of services to the Trustee are reflected in Exhibits "1", "2" and "3" to this Application. KT&T's professionals and paralegals devoted a total of 347.0 hours to providing services to the Trustee for the period from April 1, 2011 through November 30, 2011. All attorneys and paralegals of KT&T record the time expended in rendition of professional services in this case by recording a detailed description of the services rendered, and diligently attempting to avoid duplication of effort.

The Novelty and Difficulty of the Services Rendered:

Tucker A. Tucker Ronzetti and David A. Samole are primarily responsible for this matter and are experienced commercial litigation and bankruptcy practitioners, respectively. In addition, Brett von Borke and Jessica Elliott provided substantial legal services in connection with this matter. All such KT&T professionals have the knowledge, experience and skills necessary to handle the issues, analysis, tasks performed and related services required in this case.

The Skill Requisite to Perform the Services Properly:

In order to perform the services and obtain the results required in its representation of the Trustee, KT&T's legal skill and experience in the areas of bankruptcy and commercial litigation was required.

The Preclusion of Other Employment by the Professional Due to the Acceptance of the Case:

KT&T did not turn away representation that was proffered during the Application Period.

The Customary Fee:

KT&T's customary hourly rates for the level of attorneys working on this case range from \$250.00 to \$500.00. The rates charged by the attorneys providing services to the Trustee are well

within the reasonable range for hourly rates charged by most commercial litigation and bankruptcy firms in South Florida capable of handling litigation matters.

Whether the Fee is Fixed or Contingent:

KT&T's compensation in this matter is contingent in that it is subject to Court approval, and the availability of funds in the estate for payment of same.

Time Limitations Imposed by the Client or Other Circumstances:

The circumstances of this case did not impose certain time constraints on the Applicant. KT&T was required to respond expeditiously upon communicating with SunTrust and Wachovia in order to gathering necessary factual and legal information.

The Experience, Reputation, and Ability of the Professional:

KT&T is a well known law firm in South Florida with a national reputation for commercial litigation and bankruptcy law, and its members and associates working on this case are experienced in matters of this kind. KT&T and its attorneys possess extensive knowledge, expertise, and experience in the areas of law relevant to these cases, including complex commercial litigation, bankruptcy, fraudulent transfer actions, fraud litigation in the context of Ponzi schemes, banking litigation, complexities of unwinding leveraged buy-outs in bankruptcy, secured transactions, and professional malpractice. KT&T and each of its partners are "AV" rated by Martindale-Hubbell.

The Undesirability of the Case:

KT&T does not deem this case undesirable in any way.

The Nature and Length of the Professional Relationship of the Client:

This is the first engagement KT&T has performed for the Trustee.

Awards in Similar Cases:

The Bankruptcy Code, pursuant to 11 U.S.C. § 330, provides that the extent of compensation

to professionals shall be reasonable compensation that may be awarded to professionals based on the nature, the extent and value of such services, the time spent on such services, and the cost of comparable services in other cases under Title 11 of the United States Code, and for the reimbursement of actual and necessary expenses incurred on behalf of the Trustee.

The Applicant further represents that the fees applied for are in conformity with the fees allowed in similar proceedings for similar services rendered and results obtained. The hourly rates requested by KT&T are the ordinary and usual hourly rates billed by KT&T to both bankruptcy and non-bankruptcy clients.

IV. CONCLUSION

WHEREFORE, KT&T seeks a second interim award of fees in the amount of \$73,578.50 and costs in the amount of \$5,924.96 for a total payment of \$79,503.46, and that such amounts be paid at this time.

CERTIFICATION

1. I have been designated by KT&T as the professional with responsibility in this case for compliance with the Guidelines.
2. I have read KT&T's Application, which complies with the Guidelines, and the fees and expenses sought fall within the Guidelines.
3. The fees and expenses sought are billed at rates and in accordance with practices customarily employed by the Applicant and generally accepted by the Applicant's clients.
4. In seeking reimbursement for the expenditures described on Exhibit 2, the Applicant is seeking reimbursement only for the actual expenditure and has not marked up the actual cost to provide a profit or to recover the amortized cost of investment in staff time or equipment or capital outlay (except to the extent that the Applicant has elected to charge for in-house photocopies and

outgoing facsimile transmissions at the maximum rates permitted by the Guidelines).

5. In seeking reimbursement for any service provided by a third party, the Applicant is seeking reimbursement only for the amount actually paid by the Applicant to the third party.

The following are the variances with the provisions of the Guidelines, the date of each court order approving the variance, and the justification for the variance: NONE.

KOZYAK TROPIN & THROCKMORTON, P.A.
Special Litigation Counsel for the Chapter 7 Trustee
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Coral Gables, Florida 33134
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Email: tr@kttlaw.com; das@kttlaw.com

By: /s/ David A. Samole
Thomas A. Tucker Ronzetti
Florida Bar No. 965723
David A. Samole
Florida Bar No. 582761

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Application, with exhibits as indicated, was served (i) via the Court's CM/ECF notification to those parties who are registered CM/ECF participants in this case on this 21st day of December 2011.

By: /s/ David A. Samole
David A. Samole

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