

**EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION

IN RE:

ULRICH FELIX ANTON ENGLER and  
PRIVATE COMMERCIAL OFFICE, INC.,

Debtors.

Case No. 9:08-bk-04360-MGW

Case No. 9:08-bk-04365-MGW

Jointly Administered

**DECLARATION OF KIRSTEN I. BAIER, ESQUIRE IN  
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

I, KIRSTEN I. BAIER, do declare as follows:

1. I am licensed to practice law in Florida and have been an active member in good standing of The Florida Bar since 1988.
2. I am a shareholder of the law firm of Fowler White Burnett, P.A. ("Fowler White").
3. Fowler White has been retained to represent Klaus Wolfschmidt, Reinhard Muller, and Anneliese Schmitt (the "Petitioning Creditors") in this case.
4. The Petitioning Creditors have agreed to pay Fowler White a reasonable fee for its services.
5. From October 4, 2007, Fowler White has represented the Petitioning Creditors in connection with the above-styled action. The services provided in the course of Fowler White's representation of the Petitioning Creditors have included the investigation and prosecution of the Debtors' involuntary cases, and the direct assistance provided to the Trustee in the initial stages of the Debtors' cases.
6. On October 4, 2007, the Petitioning Creditors retained Fowler White Burnett, P.A. ("Fowler White") to represent them with respect to Ulrich Felix Anton Engler a/k/a Ulrich

Engler a/k/a Richard Engler a/k/a Richie Engler (“Engler”) and Private Commercial Office, Inc. (“PCO”) (collectively, the “Debtors”). Fowler White investigated the Debtors and determined that Engler and PCO were running a large-scale, international Ponzi scheme. Administrative Expense Application ¶ 1.

7. Engler and PCO ran a unique investment scam. They solicited German speaking investors from Germany, Austria and Switzerland, and other countries, to invest in their “day trading” investment model. They promised very high rates of return. Anyone who agreed to join the “investment program” was given, in exchange for the investment, a document which purported to be a Promissory Note, in English, rather than German, and such Promissory Note purported to be governed by Florida law. The notes memorialized the promised investment return at a rate which, under Florida law, is clearly usurious. Administrative Expense Application ¶ 2.

8. Engler and PCO’s pattern of behavior was that if any disgruntled customer sued to recover the invested money (other than customers represented by one particular Florida law firm which had previously represented an affiliate of PCO, PCO Client Management, Inc., which was subsequently consolidated with the Debtors herein by order of this Court), then Engler and PCO would aggressively defend and claim among other defenses that the debt was void as a matter of law, due to the customers’ charging Engler and PCO criminally usurious interest rates. Administrative Expense Application ¶ 3.

9. Having investigated and uncovered the widespread nature of the fraud, and established that several default judgments had been obtained on behalf of customers represented by the above-mentioned Florida law firm in December 2007 and in January 2008, the Petitioning Creditors and Fowler White resolved to bring it to an end at a time when the described

judgments totaling approximately \$43 million dollars and several writs of garnishment could be challenged as avoidable transfers by timely filing involuntary bankruptcy petitions against Engler and PCO. Administrative Expense Application ¶ 4.

10. On March 31, 2008 (the "Petition Date"), with the assistance of Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis, P.A. ("Trenam Kemker"), Petitioning Creditors filed two involuntary petitions for relief under Chapter 7 of the Bankruptcy Code against the Debtors (Doc. 1, Doc. 1 in 9:08-bk-04365-MGW).

11. During the months of April through October of 2008 (the "Gap Period"), the Trustee requested the Petitioning Creditors' assistance, and the assistance provided by the Petitioning Creditors (through Fowler White) resulted in the recovery of assets for the Estates and the prosecution of Engler. During the Gap Period, the Petitioning Creditors provided direct assistance to the Trustee in the initial stages of the Debtors' cases, including but not limited to:

- a. providing the Trustee with substantial information obtained by the Petitioning Creditors prior to the Petition Date;
- b. assisting the Trustee in obtaining necessary basic information for the preparation of Schedules, such as the identities and addresses (to the extent known at the time) of the hundreds of victims in Germany, Switzerland and Austria, and in other countries;
- c. preparing and (with local co-counsel and upon authority of the Trustee and this Court) filing an application for recognition of the U.S. bankruptcy proceedings in the competent German Court and publishing required Notices in Germany, Switzerland, and Austria;
- d. providing documents relating to the recovery of assets and the prior

judgments to be challenged;

- e. providing other relevant information including, without limitation, information on the Debtors' associates, transfers of assets, and bank records and their analysis for several accounts of the Debtors and of PCO Client Management, Inc. at SunTrust Bank and Wachovia Bank, all for the benefit of the Estates; and
- f. researching Debtors' assets which were subsequently recovered by the Trustee for the Estates.

See Administrative Expense Application ¶ 5,

12. As evidenced by the correspondence between Fowler White and the Trustee attached hereto as **Composite Exhibit A**, the Trustee requested that much of the work be performed pre-retention.

13. A review of the business records maintained by Fowler White reflects that Fowler White has spent the following amount of time and incurred fees on behalf of the Petitioning Creditors:

<b>Timekeeper Name</b>	<b>Year Admitted to Practice</b>	<b>Hourly Rate</b>	<b>Billed Hours</b>	<b>Billed Amount</b>
Charles Becker, Paralegal	N/A	\$110	31.00	\$3,410.00
Kirsten I. Baier, Shareholder	1988	\$365	174.40	\$63,656.00
Daniel Frank, Attorney	2008	\$215 <sup>1</sup>	8.25	\$1,773.75
Lina Fernandez, Paralegal	N/A	\$150 <sup>2</sup>	3.00	\$390.00
Elba Gonzalez, Paralegal	N/A	\$125	36.40	\$4,550.00

<sup>1</sup> Daniel Frank's hourly rate changed in January 2008 from \$200 to \$215 per hour.

<sup>2</sup> Lina Fernandez's hourly rate changed in January 2008 from \$130 to \$150 per hour.

John S. Graham, Associate	2008	\$160	7.50	\$1,200.00
Juan Martinez, Attorney	1994	\$350	7.70	\$2,695.00
Ronald G. Neiwirth, Shareholder	1972	\$450 <sup>3</sup>	31.70	\$12,680.00
Judy Rodman, Paralegal	N/A	\$160 <sup>4</sup>	5.30	\$838.00
		<b>TOTAL</b>	<b>305.25</b>	<b>\$91,192.75</b>

14. No further administrative expense claims will be sought in this matter by the Petitioning Creditors.

15. The legal services rendered and the amount of time to perform the services is set forth in the Application for Administrative Expense Claim Pursuant to 11 U.S.C. §§ 503(b)(3)(A), 503(b)(3)(B), and 503(b)(4) by Klaus Wolfschmidt, Reinhard Muller, and Anneliese Schmitt (Doc. 864) (the “Administrative Expense Application”).<sup>5</sup> The facts contained in the Administrative Expense Application are true and correct.

16. The description of legal services and time involved was compiled by the use of daily time logs, which are and were made simultaneous with or near the time of performing each legal service by the persons indicated, and which logs are kept in the regular course of business of the firm.

17. Based on Fowler White’s standard hourly rate for the attorneys and paralegals who have expended time on this matter, the Petitioning Creditors have incurred fees for services rendered by this firm of **\$91,192.75**.

<sup>3</sup> Ronald G. Neiwirth’s hourly rate changed in January 2009 from \$400 to \$450 per hour.

<sup>4</sup> Judy Rodman’s hourly rate changed in January 2008 from \$130 to \$160 per hour.

<sup>5</sup> In the Administrative Expense Application, the Petitioning Creditors seek an administrative claim in the total amount of \$106,750.22. \$10,997.16 of the administrative claim was approved by the Order (I) Granting Motion for Reconsideration, (II) Partially Approving Application for Administrative Expense Claim, and (III) Setting Final Evidentiary Hearing (Doc. 884), including Trenam, Kemker, Scharf, Barkin, Frye, O’Neill & Mullis, P.A.’s fees and expenses for serving as local counsel to Fowler White in the amount of \$6,816.47, and the cost of publishing notice of the Debtors’ bankruptcy cases abroad in the amount of \$4,180.69.

18. On behalf of the Petitioning Creditors, the costs delineated in the Administrative Expense Application have been expended by this firm in the total amount of **\$4,560.31**.

19. This declaration, under penalty of perjury, is executed pursuant to 28 U.S.C. Section 1746.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on March 13, 2013.

  
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KIRSTEN I. BAIER, ESQUIRE

**COMPOSITE EXHIBIT A**



**Kirsten Baier - Re: Engler/Private Commerical Office**

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**From:** Kirsten Baier  
**To:** rtardif@comcast.net  
**Date:** 6/23/2008 2:46 PM  
**Subject:** Re: Engler/Private Commerical Office  
**CC:** Ronald G. Neiwirth

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Bob,

as discussed, I will try to get the publications.

I confirm our conference call tomorrow, Tuesday, at 1 PM. I will call your cell phone at 239 738 3872.

Thanks.

KIRSTEN BAIER

Kirsten I. Baier, Esq.  
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>>> "Robert E. Tardif Jr." <rtardif@comcast.net> 6/23/2008 1:00 PM >>>

Ms. Baier – At the initial meeting of creditors there was some discussion of giving notice of the bankruptcy by publication in some European outlets. Are you able to advise me of the names of the newspapers in which we could publish notice? Also, is there any particular contact that you can give me to determine the costs, etc.?  
Bob Tardif

**FOWLERWHITE**  
ATTORNEYS AT LAW  
**BURNETT**

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June 30, 2008



Robert E. Tardif, Jr., Esq.  
8695 College Parkway, Suite 1220  
Fort Myers, FL 33919

Re: Klaus Wolfschmidt v. Ulrich Engler et. al.  
Case No. 07-CA-13742  
Matter No.: 73958

Dear Mr. Tardif:

Enclosed herein please find bank records we subpoenaed from Wachovia Bank and SunTrust Bank regarding accounts held by Ulrich Engler, Private Commercial Office, Inc. and PCO Client Management, Inc. After review of the bank records, we subsequently requested additional documents from both banks however were denied any additional documents resulting from Defendant's Motion to Quash.

Sincerely,

Kirsten I. Baier

JCM/cwb  
Enclosures  
[owb] W:\73958\BTTR431-Trustee.CWB(6/28/12-19:57)

**From:** Kirsten Baler  
**To:** rtardif@comcast.net  
**Date:** 7/2/2008 5:09 PM  
**Subject:** Engler et al.  
**Attachments:** lettr to Suntrust Bank.pdf; LETTR02-Wachovia.pdf; Memo bank records analysis.pdf; Congro Finanz - PCO Engler -- Fuchs Transfers - 4-14-2008.pdf

**CC:** Ronald G. Neiwirth  
Bob,

per our earlier conversation, I attach copy of our memorandum of analysis of the bank documents we received from Suntrust and Wachovia and provided to you overnight. I also attach our requests for further transaction records which we did not receive due to PCO Client Management, Inc.'s motions to quash our subpoenas to the banks.

Attached you will also find bank transaction records for \$675,000 from the debtors' accounts to Angelika Neumeler-Fuchs, her accounts at Colonial Bank, Alabama, and American Express Centurion Bank in Salt Lake City, within 1 year prior to filing the petition. Also included are wire transfer records for \$34,500 in 2006 from the Salt Lake City account to a German account of ANF at the county savings and loan of the city of Muehldorf, Germany.

In addition, per our analysis of the bank records ANF received \$404,000 on 9-13-07 from the Wachovia account, see our memorandum.

Per the memorandum, please also see \$513,689.69 wired to Ruedlger Klein on 10-4-07 to the county savings and loan of the city of Rosenheim, Germany.

As we discussed, I propose to file the appropriate motions with the German courts having jurisdiction in these locations to certify the opening of the US bankruptcy proceedings and providing enforcement powers to the interim trustee to pursue these assets, bank documents and the person of ANF for the Rule 2004 examination, as well as the recovery of approx. Euro 70-80,000 (currently approx. \$130,000) currently held by the German criminal authorities.

Best regards,

Kirsten

KIRSTEN BAIER

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