

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60573 CIV-MORENO
Magistrate Judge Garber

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MUTUAL BENEFITS CORP.,
JOEL STEINGER a/k/a JOEL STEINER,
LESLIE STEINGER a/k/a LESLIE STEINER,
and PETER LOMBARDI,

Defendants,

VIATICAL BENEFACTORS, LLC,
VIATICAL SERVICES, INC.,
KENSINGTON MANAGEMENT, INC.,
RAINY CONSULTING CORP.
TWIN GROVES INVESTMENTS, INC.,
P.J.L. CONSULTING, INC.,
SKS CONSULTING, INC., and
CAMDEN CONSULTING, INC.,

Relief Defendants.

**SECOND INTERIM PETITION FOR FEES AND COSTS OF
RACHLIN COHEN & HOLTZ, COMPUTER FORENSIC
DIVISION, AS COMPUTER CONSULTANTS TO THE
RECEIVER AND MEMORANDUM IN SUPPORT**

(June 26, 2004 – September 30, 2004)

**Pursuant to Court Order, all objections to this Application
must be filed and served within ten (10) days of this
Application.**

Rachlin Cohen & Holtz (RC&H) hereby requests this Court to enter an order authorizing the Receiver to pay the reasonable computer consultant's fees and costs

incurred by RC&H from June 26, 2004 through September 30, 2004, and in support of this application states

1. Attached as **Exhibit 1** is a summary of RC&H fees and expenses. **Exhibit 2** is a summary of all RC&H's timekeepers, their billing rates and the total hours that were charged by each timekeeper in their representation of the Receiver through September 30, 2004 (the "Application Period"). RC&H has agreed to a 10% reduction in its fees for services provided to the Receiver, as reflected in **Exhibit 2**, representing a savings to the receivership of \$862.50.¹

2. The Receiver retained RC&H to assist in the acquisition, extraction and analysis of data from computer hard drives, servers, workstations, and other media and other related services as required. During this Application Period, RC&H has assisted the Receiver and his counsel in responding to request for production of electronic information from the OIR, as well as assisting the Receiver and his counsel and the forensic accountants in gathering information from the MBC database, and has assisted in the creation of a database containing MBC and VSI data for the purpose of responding to inquiries from investors and agents.

4. For the Application Period, RC&H seeks reimbursement for total project fees in the amount of **\$7,762.50**, which reflects a 10% discount (of \$862.50) and total expenses in the amount of **\$0**. The services rendered to the Receiver fall under the following categories:

¹ RC&H maintains detailed time records that are kept contemporaneously with the services performed. Receiver's counsel will, within ten days, seek to file these detailed records under seal to the Court for review *in camera* and ex

- a. **Requests for Electronic Data** - RC&H gathered electronic data at MBC in response to requests for production of documents served on the Receiver by the ORI and other regulatory agencies.
- b. **Database Export** - RC&H also assisted in the creation of a database comprised of MBC's investor database and VSI's database in order to allow the Receiver and Claims Administrator to respond to inquiries from investors and agents on the status of policies.

5. I have carefully reviewed the attached exhibits and I am responsible for supervising all RC&H personnel on the case. I certify that the hours expended and the costs incurred were necessary and reasonable to provide services to the Receiver during the Application Period. RC&H has discounted its normal rates for the services rendered in matters of this kind.

MEMORANDUM OF LAW

This Court entered an Order authorizing the Receiver to retain RC&H as computer consultant for the MBC matter. In that Order, this Court found that the RC&H rates described in Exhibit A2 are fair and reasonable. *See Order Approving Receiver's Notice of Intention to Retain Rachlin Cohen & Holtz as Computer Consultant* dated June 4, 2004. This Court has the power to award the Receiver fees for his services and for expenses incurred by the Receiver in the performance of his duties. *See Donovan v. Robbins*, 588 F.Supp. 1268, 1272 (N.D. Ill. 1984). The Receiver has incurred the expense of RC&H (computer consultant) in furtherance of his duties. RC&H has provided services to the Receiver to assist in stabilizing MBC's operations and effectively protecting,

parte.

controlling and maintaining MBC and VSI's computerized data. RC&H respectfully submits that it is entitled to be compensated for the services provided to the Receiver.

WHEREFORE, Rachlin Cohen & Holtz, by and through the undersigned, respectfully requests that this Court enter an Order Authorizing the Payment of \$7,762.50 in fees and reimbursement of \$0 in costs for this Application Period. A proposed form of Order is attached.

Dated: December 17, 2004

Respectfully submitted,

Rachlin Cohen & Holtz
One S. E. Third Avenue
10th Floor
Miami, FL 33131

By: 

Arieh Davidoff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Application, with all exhibits, was forwarded by undersigned counsel for the Receiver, via facsimile and U.S. Mail to all parties on the attached Service List this 17th day of December, 2004.

COLSON HICKS EIDSON
Attorneys for Receiver
255 Aragon Avenue, 2nd Floor
Coral Gables, FL 33134
Ph. No. 305-476-7400

By: 

Curtis Miner

SERVICE LIST OF RECEIVER

December 10, 2004

Case No.: 04-60573 CIV-Moreno

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EXHIBIT 1

SUMMARY OF SECOND INTERIM APPLICATION FOR
COMPENSATION OF FEES AND COSTS OF
RACHLIN COHEN & HOLTS,
COMPUTER FORENSIC DIVISION,
AS COMPUTER CONSULTANTS TO THE RECEIVER

1	Name of Applicant	Rachlin Cohen & Holtz Computer Forensic Division
2	Role of applicant	Computer Consultants to the Receiver
3	Name of certifying professional	Arieh S. Davidoff
4	Date receiver appointed	May 4, 2004
5	Date of application for employment	May 28, 2004
6	Date of order approving employment	June 3, 2004
7	Dates of services rendered	June 26, 2004 - September 30, 2004
8	Total fees requested for this period	\$8,625.00
9	Less 10% Discount	\$862.50
10	Total discounted fees requested for this period	\$7,762.50
11	Total expenses requested for this period	\$0.00
12	Total fees and expenses award requested	\$7,762.50

EXHIBIT 2

SUMMARY OF TIMEKEEPER HOURS & BILLING RATE

<u>Timekeeper</u>	<u>Hours Worked</u>	<u>Discounted Rate</u>	<u>Amount</u>
Davidoff, Arieh	57.5	\$150.00	\$8,625.00
Less: 10% discount			(\$7,762.50)

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Defendants,

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VIATICAL SERVICES, INC.,
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RAINY CONSULTING CORP.
TWIN GROVES INVESTMENTS, INC.,
P.J.L. CONSULTING, INC.,
SKS CONSULTING, INC., and
CAMDEN CONSULTING, INC.,

Relief Defendants.

**ORDER GRANTING
SECOND PETITION FOR FEES AND COSTS OF
RACHLIN COHEN & HOLTZ, COMPUTER FORENSIC DIVISION**

THIS CAUSE came before the Court on Rachlin Cohen & Holtz's Second Interim Petition for Fees and Costs (the "Petition"). The Court has heard comments by interested parties, carefully reviewed the Petition and case file and is otherwise fully advised in the premises.

THE COURT notes that by prior Order this Court authorized the Receiver to "appoint one or more special agents, employ legal counsel, actuaries, accountants, claims administrators, clerks, consultants and assistants as the Receiver deems necessary and to fix and pay their reasonable compensation and expenses"subject to the approval by this Court at the time the Receiver accounts to the Court for such expenditures and compensation.

Pursuant to that provision, by prior Order the Court approved Receiver's application to employ Rachlin Cohen & Holtz ("RCH") as Receiver's computer consultant in this action. In the instant Petition, RCH seeks to have the Court authorize the Receiver to compensate RCH for services rendered for the period from June 26, 2004 through September 30, 2004. In total, the Petition seeks approval of the payment of \$7,762.50 in fees and \$0 in costs, which reflects a 10% courtesy discount of \$862.50.

Accordingly, after due consideration, it is

ORDERED and **ADJUDGED** that Rachlin Cohen & Holtz's Second Interim Petition for Fees and Costs is hereby **GRANTED** and Receiver, Roberto Martínez is hereby authorized to pay Rachlin Cohen & Holtz the sum of \$ _____ which represents reasonable fees and costs incurred during this Application Period.

DONE and **ORDERED** in Chambers in the Southern District this ____ day of _____, 2004, in Miami, Florida.

FEDERICO A. MORENO
United States District Judge

Copies furnished to:

All parties on the attached Service List.

SERVICE LIST OF RECEIVER

December 10, 2004

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