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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

HILDA L. SOLIS, Secretary of the United States  
Department of Labor,

Plaintiff,

v.

MATTHEW D. HUTCHESON, HUTCHESON  
WALKER ADVISORS LLC, GREEN VALLEY  
HOLDINGS LLC, and the RETIREMENT  
SECURITY PLAN AND TRUST, f/k/a PENSION  
LIQUIDITY PLAN AND TRUST,

Defendants.

Case No.: 1:12-CV-00236-EJL

**FEBRUARY 2013 INDEPENDENT FIDUCIARY REPORT**  
**AND FEE NOTICE OF COSTS AND EXPENSES**

PURSUANT TO THE Preliminary Injunction entered on June 13, 2012 [Doc. 16], Jeanne B. Bryant, Independent Fiduciary for Retirement Security Plan & Trust (RSPT) submits this Tenth Report and Notice for the period beginning February 1, 2013 – February 28, 2013.

## I. ACTIVITY REPORT

There have been a number of issues that have occurred with RSPT since the last report of the Independent Fiduciary (“IF”). The IF informed the Employer members of the current status of their individual collections involving the monthly administration fee. Attached as **Exhibit 1** is a report noting the collections and payments made from the account for previously approved fees and cost through February 2013. With the collection of the outstanding amounts, there are currently sufficient funds expected from the monthly collections to pay the fees and costs for administration noted in this report. The IF has requested that the accounting firm of Latimore Black who has been hired to assist with 5500 issues be aware of the monthly collections and work with the IF to spread out any charges to fall within this collection period. The first invoice for this work is included with this report. The total amount anticipated for this work in 2013 should be \$48,000. In order to continue to pay all costs for the plan within the structure of the monthly administrative fees, the IF is requesting that \$5,000 be approved each month for payment to Latimore Black until the end of the work is completed. This is noted in the discussion on February fees later in the report.

As noted in the last report, the IF has now hired contingency counsel, and has received payment from ASPIre for any amounts due for previously approved fees and costs concerning the PCB investment from those members holding such accounts. All costs will be paid by the RSPT and/or its Plans on an ongoing basis, pursuant to the payment submission and approval procedures previously outlined in the court’s Preliminary Injunction Order entered on June 13, 2012. The IF held a conference call on December 19, 2012 with the RSPT Employer group holding investments involved with the previous actions of Matthew Hutcheson to discuss possible resolution of some of the issues involved with that transaction. A separate report

concerning those issues and a proposed settlement has been filed with the Court on January 18, 2013. On February 15, 2013, the Court issued its Order granting the IF's motion concerning the proposed settlement. The ballots have been sent out with a response deadline of March 19, 2013. A separate report is being filed summarizing the ballots received – the majority of ballots accepted the Fletcher compromise.

## II. ANTICIPATED FUTURE ACTIVITIES AND RESOLUTION OF ISSUES

The IF takes this opportunity to inform the Court and the parties to this litigation of the following issues, and anticipated means of resolution of same, involving the RSPT Plans. The IF will post a copy of this Report and Fee Notice on its web site and will inform the sponsors of the RSPT Plans of such posting as noted below after filing of same with this Court.

Early Withdrawal Procedures. As stated in earlier reports an early withdrawal process has been discussed with the Department of Labor and the IF filed information and the process that would be followed in the October Report filed with the Court in early December. There were no objections filed to that process. On January 28, 2013, withdrawal forms and draft resolutions were sent to eleven employers whose plans do not hold the PCB investment. On that same day, all of the remaining employers in RSPT whose plans do hold PCB investments were sent information regarding the amounts required to be paid, plus lost earnings calculations and requesting those employers to respond if they intend to participate in the early withdrawal process. As of this report, six employers have requested such termination.

Valuations for Individual Employers. Employers under the terms of the RSPT Plans' Documents are required to provide an annual independent business valuation to the Plans' trustee and administrator. A deadline of September 15, 2012 had already been established by the previous administrator. This business valuation is necessary to the valuation of qualified

employer securities held in each of the RSPT Plans. All but forty submitted their independent business valuations in time for use in the 2011 Forms 5500 filed October 15, 2012. For those that did not, the form was filed utilizing last year's valuation. The Independent Fiduciary continues to work with Plans concerning their business valuations and is reviewing all forms for any corrections needed after discussion with the Department of Labor. Business Valuations for Plan Year 2012 will be necessary not only for Form 5500 purposes but also for Early Withdrawal Process purposes. To that end, all employers were notified that the Business Valuations for Plan Year 2012 are due May 20, 2013. This will avoid any costly delays or needed extensions.

Forms 5500 for Plan Year 2011 filed. A completed Form 5500 along with audit was filed timely with the U.S. Department of Labor. Also, as now indicated by the U.S. Department of Labor, Forms 5500 for each employer sponsored plan within the RSPT were also filed timely. A total of 106 Forms 5500 were filed in connection with RSPT as of October 15, 2012. There have been continuing discussions with the Department of Labor concerning issues with these forms for the 2011 plan year and expected issues with the upcoming 2012 plan year filing. The IF is consulting with the accounting firm of Lattimore Black concerning these issues, and any costs for this work are noted.

### III. ACCOUNTINGS REGARDING THE RSPT PLANS

As noted in Section 18 of the June 13, 2012 Preliminary Injunction, before causing the RSPT Plans to pay compensation, fees or expenses, the IF is to provide written notice (the "Fee Notice") of such compensation, fees or expenses, by filing the Fee Notice (such as set forth herein) with the Court, and by serving a copy of that filing to the Secretary of the U.S. Department of Labor, Employee Benefits Security Administration, Huteson and HWA. The IF intends to submit her Fee Notice and Activity Report on a monthly basis. If, within fifteen

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AND EXPENSES – PAGE 4

(15) days after filing of a Fee Notice, no objection to the Fee Notice, nor to payment by the Plan of the compensation, fees or expenses described therein, is filed with the Court, such compensation, fees or expenses shall be deemed reasonable expenses of the RSPT Plans and shall be paid by the RSPT Plans without further action or approval of the Court. The fees and expenses will be allocated as outlined above. In an effort to reduce costs, copies of this Report and Fee Notice are being posted to a website of the IF's company Receivership Management, Inc. ("RMI") and the participating employers will be given notice of the filing.

Attached hereto as **Exhibit 2** is a schedule of the hourly rates for the Independent Fiduciary and the hourly rates of any staff of Receivership Management, Inc. that might be used to carry out the terms of the Court's June 13, 2012 Preliminary Injunction.

Attached hereto as **Collective Exhibit 3** are expense summaries for the period of February 1, 2013 – February 28, 2013. The February costs are within the expected payments from the monthly amounts at this time, assuming approval of the process noted for Lattimore Black.

Total expenses, as listed on **Collective Exhibit 3** include \$1,650.00 in IF fees, \$4,646.02 in legal expenses, and \$9,952.69 in contract labor expenses (which include auditor fees and identified charges for other fees, postage, copies, telephone, travel, etc.) for the period of February 1, 2013 – February 28, 2013. Please note that Lattimore Black have included the exact amount of their fees in their invoice as well as noting the charge for \$5,000 so that their costs will be spread out to prevent an additional administrative cost to be assessed to the plan in the following months. Therefore a total cost through February, 2013 for Lattimore Black in the amount of \$5,000 is requested. Future reports will reflect the specific details of the work done that will encompass the anticipated charge for the entire project of \$48,000.

Please note that counsel have, as necessary, redacted exact descriptions of litigation issues in order to protect applicable privileges, and the IF may also redact the names of employers and or members as to protect the companies or the members involved when responding to individual questions if required. The IF believes that the remaining descriptions are sufficient for approval of the charges requested. All expenses and fees are separated between those costs necessary for administration and those costs necessary for asset recovery, and will be paid as noted in previous reports. Upon final replacement by contingency counsel, costs for asset recovery efforts are expected to be minimal.

In the absence of any objection, total reimbursement for \$1,650.00 in IF fees, \$4,646.02 in legal expenses and \$9,952.69 in contract labor expenses for administration and litigation will be paid from the Plan's expense reserve in accordance with the Court's June 13, 2012 Preliminary Injunction. The exact amounts and the parties to be paid are listed below:

1.	Jeanne Barnes Bryant	\$1,650.00
2.	Lattimore Black Morgan & Cain PC	\$5,000.00
3.	Angstman Johnson	\$3,783.52
4.	Berry & Tudor	\$862.50
5.	Receivership Management Inc.	\$4,952.69
	\$3,981.50/Contract labor	
	\$971.19/Other expenses	

Pursuant to the Court's June 13, 2012 Preliminary Injunction [Doc. 16], if no objection is filed with the Court within fifteen (15) days after the filing of this Notice and Report, the IF will proceed to authorize payments due counsel and any other parties listed.

DATED this 28<sup>th</sup> day of March, 2013.

/s/ Matt Christensen  
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MATTHEW T. CHRISTENSEN  
Attorney for Trustee

