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Attorney for the Independent Fiduciary, Jeanne Bryant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

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

Plaintiff,

v.

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

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.

JANUARY 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
Ninth Report and Notice for the period beginning January 1, 2013 – January 31, 2013.

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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 January 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.

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.

1 II. ANTICIPATED FUTURE ACTIVITIES AND RESOLUTION OF ISSUES

2 The IF takes this opportunity to inform the Court and the parties to this litigation of the
3 following issues, and anticipated means of resolution of same, involving the RSPT Plans. The IF
4 will post a copy of this Report and Fee Notice on its web site and will inform the sponsors of the
5 RSPT Plans of such posting as noted below after filing of same with this Court.
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8 Early Withdrawal Procedures. As stated in earlier reports an early withdrawal process has
9 been discussed with the Department of Labor and the IF filed information and the process that would be
10 followed in the October Report filed with the Court in early December. There were no objections filed
11 to that process. On January 28, 2013, withdrawal forms and draft resolutions were sent to eleven
12 employers whose plans do not hold the PCB investment. On that same day, all of the remaining
13 employers in RSPT whose plans do hold PCB investments were sent information regarding the amounts
14 required to be paid, plus lost earnings calculations and requesting those employers to respond if they
15 intend to participate in the early withdrawal process.
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18 Valuations for Individual Employers. Employers under the terms of the RSPT Plans'
19 Documents are required to provide an annual independent business valuation to the Plans' trustee
20 and administrator. A deadline of September 15, 2012 had already been established by the
21 previous administrator. This business valuation is necessary to the valuation of qualified
22 employer securities held in each of the RSPT Plans. All but forty submitted their independent
23 business valuations in time for use in the 2011 Forms 5500 filed October 15, 2012. For those that
24 did not, the form was filed utilizing last year's valuation. The Independent Fiduciary continues
25 to work with Plans concerning their business valuations and is reviewing all forms for any
26 corrections needed after discussion with the Department of Labor. Business Valuations for Plan
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1 Year 2012 will be necessary not only for Form 5500 purposes but also for Early Withdrawal
2 Process purposes. To that end, all employers were notified that the Business Valuations for Plan
3 Year 2012 are due May 20, 2013. This will avoid any costly delays or needed extensions.
4

5 Forms 5500 for Plan Year 2011 filed. A completed Form 5500 along with audit was
6 filed timely with the U.S. Department of Labor. Also, as now indicated by the U.S. Department
7 of Labor, Forms 5500 for each employer sponsored plan within the RSPT were also filed timely.
8 A total of 106 Forms 5500 were filed in connection with RSPT as of October 15, 2012. There
9 have been continuing discussions with the Department of Labor concerning issues with these
10 forms for the 2011 plan year and expected issues with the upcoming 2012 plan year filing. The
11 IF is consulting with the accounting firm of Latimore Black concerning these issues, and any
12 costs for this work are noted.
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15 III. ACCOUNTINGS REGARDING THE RSPT PLANS 16

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18 As noted in Section 18 of the June 13, 2012 Preliminary Injunction, before causing the
19 RSPT Plans to pay compensation, fees or expenses, the IF is to provide written notice (the “Fee
20 Notice”) of such compensation, fees or expenses, by filing the Fee Notice (such as set forth
21 herein) with the Court, and by serving a copy of that filing to the Secretary of the U.S.
22 Department of Labor, Employee Benefits Security Administration, Hutcheson and HWA. The
23 IF intends to submit her Fee Notice and Activity Report on a monthly basis. If, within fifteen
24 (15) days after filing of a Fee Notice, no objection to the Fee Notice, nor to payment by the Plan
25 of the compensation, fees or expenses described therein, is filed with the Court, such
26 compensation, fees or expenses shall be deemed reasonable expenses of the RSPT Plans and
27 shall be paid by the RSPT Plans without further action or approval of the Court. The fees and
28

1 expenses will be allocated as outlined above. In an effort to reduce costs, copies of this Report
2 and Fee Notice are being posted to a website of the IF's company Receivership Management,
3 Inc. ("RMI") and the participating employers will be given notice of the filing.
4

5 Attached hereto as **Exhibit 2** is a schedule of the hourly rates for the Independent
6 Fiduciary and the hourly rates of any staff of Receivership Management, Inc. that might be used
7 to carry out the terms of the Court's June 13, 2012 Preliminary Injunction.
8

9 Attached hereto as **Collective Exhibit 3** are expense summaries for the period of January
10 1, 2013 – January 31, 2013. The January costs are within the expected payments from the
11 monthly amounts at this time

12 Total expenses, as listed on **Collective Exhibit 3** include \$3,015.00 in IF fees, \$1,695.40
13 in legal expenses and \$7,759.02 in contract labor expenses (which include auditor fees and
14 identified charges for other fees, postage, copies, telephone, travel, etc.) for the period of January
15 1, 2013 – January 31, 2013. Please note that counsel have, as necessary, redacted exact
16 descriptions of litigation issues in order to protect applicable privileges, and the IF may also
17 redact the names of employers and or members as to protect the companies or the members
18 involved when responding to individual questions if required. The IF believes that the remaining
19 descriptions are sufficient for approval of the charges requested. All expenses and fees are
20 separated between those costs necessary for administration and those costs necessary for asset
21 recovery, and will be paid as noted in previous reports. Upon final replacement by contingency
22 counsel, costs for asset recovery efforts are expected to be minimal.
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26 In the absence of any objection, total reimbursement for \$3,015.00 in IF fees, \$1,695.40
27 in legal expenses and \$7,759.02 in contract labor expenses for administration and litigation will
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1 be paid from the Plan's expense reserve in accordance with the Court's June 13, 2012

2 Preliminary Injunction. The exact amounts and the parties to be paid are listed below:

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|---|---------------------------------|------------|
| 4 | 1. Jeanne Barnes Bryant | \$3,015.00 |
| 5 | 2. Angstman Johnson | \$107.50 |
| 6 | 3. Berry & Tudor | \$1,587.90 |
| 7 | 4. Receivership Management Inc. | \$7,759.02 |
| | \$6,114.50/Contract labor | |
| | \$1,644.52/Other expenses | |

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

11 DATED this 28th day of February, 2013.

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14 /s/ Matt Christensen

15 MATTHEW T. CHRISTENSEN

16 Attorney for Jeanne B. Bryant, the Independent
17 Fiduciary for RSPT Plans
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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of February, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the individual(s) so noted below.

Jamila B. Minnicks	minnicks.jamila@dol.gov
Michael R. Hartman	hartman.michael@dol.gov
Michael A. Schloss	schloss.michael@dol.gov
Raymond E. Patricco	raymond.patricco@usdoj.gov
Michael J. Elia	mje@mbelaw.net
J. Graham Matherne	gmatherne@wyattfirm.com
Matthew T. Christensen	mtc@angstman.com

All others as listed on the Court’s ECF Notice.

I further certify that on the 28th day of February, 2013, I served a copy of the foregoing notice on the following individuals or entities via US Mail, postage prepaid.

Matthew D. Hutcheson
33 Pinnacle Court
Donnelly, ID 83615

Matthew D. Hutcheson
14076 Morell Road
McCall, Idaho 83638

Monty W. Walker
c/o R. Bradford Huss
Trucker Huss, APC
One Embarcadero Center, 12th Floor
San Francisco, CA 94111

DATED: February 28, 2013

/s/ Matt Christensen
Matthew T. Christensen