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6 Proposed Tax Accountants for Receiver
THOMAS C. HEBRANK

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION - LOS ANGELES

11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

14 CHARLES P. COPELAND,
15 COPELAND WEALTH
16 MANAGEMENT, A FINANCIAL
ADVISORY CORPORATION, and
17 COPELAND WEALTH
18 MANAGEMENT, A REAL ESTATE
CORPORATION,

19 Defendants.
20

Case No. 11-08607-R-DTB

**RECEIVER'S APPLICATION TO
EMPLOY LAVINE, LOFGREN,
MORRIS & ENGELBERG, LLP AS
HIS TAX ACCOUNTANT**

Date: January 23, 2012

Time: 10:00 a.m.

Ctrm: 8

Judge: Hon. Manuel L. Real

1 Thomas C. Hebrank ("Receiver"), the Court-appointed permanent receiver for
2 Copeland Wealth Management, A Financial Advisory Corporation ("CWM"),
3 Copeland Wealth Management, A Real Estate Corporation ("Copeland Realty"), and
4 their subsidiaries and affiliates (collectively, the "Receivership Entities"), hereby
5 applies for an order approving his employment of Lavine, Lofgren, Morris &
6 Engelberg, LLP ("Lavine Lofgren") as his tax accountant.

7 I. INTRODUCTION

8 The Judgment appointing the Receiver, among other things, authorizes,
9 empowers and directs him to:

10 (c) "to conduct such investigation and discovery as may be necessary
11 to locate, account for and recover all of the assets of or managed by"
12 the Receivership Entities, "and to engage and employ attorneys,
13 accountants and other persons to assist in such investigation and
14 discovery";

15 . . .

16 (g) "to employ attorneys, accountants and others to investigate and,
17 where appropriate, to institute, pursue, and prosecute all claims and
18 causes of action"

19 Docket No. 3, Judgment, Part V. Although the Judgment authorizes the Receiver to
20 employ accountants, the Receiver believes it is prudent to seek this Court's approval
21 for his employment of Lavine Lofgren as his tax accountant and the initial budget
22 for tax accounting services. The Receiver has selected Lavine Lofgren due to its
23 extensive experience in preparing real estate investment partnership tax returns and
24 competitive rates, including a 10% discount on fees the firm has agreed to provide in
25 this case. If the Court has concerns regarding the Receiver's choice of tax
26 accountant, the hourly rates of Lavine Lofgren's accountants, or other aspects of
27 Lavine Lofgren's engagement, the Receiver believes it is best to address those
28 concerns as soon as possible.

II. PROCEDURAL BACKGROUND

On October 18, 2011, the Securities and Exchange Commission ("Commission") filed its Complaint for Violations of The Federal Securities Laws ("Complaint"), together with the Consent of Defendants Copeland, CWM and Copeland Realty ("Consent"), and the Proposed Judgment of Permanent Injunction and Other Relief as to Defendants Copeland, CWM and Copeland Realty. Docket Nos. 1 and 2. On October 25, 2011, the Court entered the Judgment of Permanent Injunction and Other Relief as to Defendants Copeland, CWM and Copeland Realty, appointing the Receiver as permanent receiver for CWM, Copeland Realty, and their subsidiaries and affiliates ("Judgment"). Docket No. 3.

Among other things, the Complaint alleges that Copeland, CWM and Copeland Realty committed fraud (a) in the offer and sale of limited partnership interests (investment contracts) in 23 limited partnerships managed by CWM and Copeland Realty (the Private Equity Funds, Fixed Income Funds and Real Estate Funds), and (b) while acting as an investment advisor. Specifically, the Complaint alleges that, in violation of the Fixed Income Fund limited partnership agreements, more than \$18.6 million was loaned from the Fixed Income Funds to (1) Copeland Realty, (2) Real Estate Funds managed by Copeland Realty, (3) accounting clients of related non-party The Copeland Group, a Consulting and Accountancy Corporation ("Copeland Accountancy"), (4) companies in which the Private Equity Funds held interests, (5) other Fixed Income Funds, and (6) Copeland family members. Complaint, ¶¶ 17-19. The Complaint also alleges that the "loans from the Fixed Income Funds to the Real Estate Funds allowed the Real Estate Funds to pay their operational expenses as well as continue their distribution payments, essentially a Ponzi-like scheme in which new investor funds were paid to existing clients." Complaint, ¶ 20.

The Commission further alleges that Copeland misrepresented to clients that the Fixed Income Funds were "guaranteed" and that, in violation of the Real Estate

1 Fund limited partnership agreements, Copeland Realty (a) caused the Real Estate
2 Funds to loan approximately \$1.8 million to other Real Estate Funds, and
3 approximately \$500,000 to clients of Copeland Accountancy and CWM,
4 (b) transferred approximately \$5.7 million from the Real Estate Funds to CWM,
5 which was used to trade put options, and (c) paid itself approximately \$2.4 million
6 in commissions and other compensation in connection with the purchase and sale of
7 real estate. Complaint, ¶¶ 21-25.

8 The Consent of Defendants Copeland, CWM and Copeland Realty neither
9 admits or denies the allegations in the Complaint, but consents to entry of the
10 Judgment, leaving the issue of the amount of disgorgement and civil penalties to be
11 determined at a later date upon motion by the Commission. The Judgment, among
12 other things, authorizes, empowers and directs the Receiver to:

- 13 (a) "take custody, control, possession and charge... of all funds,
14 assets" of the Receivership Entities;
15 (b) "to have control of, and to be add as the sole authorized signatory
16 for, all accounts" of the Receivership Entities;
17 (c) "to conduct such investigation and discovery as may be necessary
18 to locate, account for and recover all of the assets of or managed by"
19 the Receivership Entities, "and to engage and employ attorneys,
20 accountants and other persons to assist in such investigation and
21 discovery";
22 (d) "to take such action as is necessary and appropriate to preserve
23 and... prevent the dissipation, concealment or disposition of any
24 assets of or managed by" the Receivership Entities;
25 (e) "to make an accounting, as soon as practicable, to this Court and
26 the Commission";
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1 (f) "to make such payments and disbursements from the funds and
2 assets... as may be necessary and advisable in discharging his or her
3 duties as permanent receiver";

4 (g) "to employ attorneys, accountants and others to investigate and,
5 where appropriate, to institute, pursue, and prosecute all claims and
6 causes of action";

7 (h) "to have access to, monitor, and redirect all mail";

8 (i) "to operate and control the content of information posted on any
9 Internet web site maintained" by the Receivership Entities; and

10 (j) "to exercise all lawful powers" of the Receivership Entities "and
11 their officers, directors, employees".

12 Judgment, Part V.

13 The Judgment also restrains and enjoins all persons seeking relief of any kind
14 against the Receivership Entities from (a) "commencing, prosecuting, continuing or
15 enforcing any suit or proceeding", (b) "using self-help or executing or issuing or
16 causing the execution or issuance of any court attachment, subpoena, replevin,
17 execution or other process for the purpose of impounding or taking possession of or
18 enforcing a lien upon any property or property interests" of the CWM or Copeland
19 Realty; and (c) "doing any act or thing whatsoever to interfere with taking control,
20 possession or management by the permanent receiver appointed hereunder of the
21 property and assets" of CWM and Copeland Realty, "or in any way to interfere with
22 or harass the permanent receiver or his or her attorneys, accountants, employees or
23 agents or to interfere in any manner with the discharge of the permanent receiver's
24 duties and responsibilities hereunder." Judgment, Part VIII.

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1 **III. THE RECEIVER'S ENGAGEMENT OF LAVINE LOFGREN**

2 Receivers in equity receiverships are charged with the following general
3 duties and tasks:

4 (a) To secure, take possession of, preserve and protect the assets of the
5 Receivership Entities, including to prevent the dissipating of such assets;

6 (b) To investigate the financial activities of the Receivership Entities, perform
7 a forensic accounting, and present such accounting to the Court, the Commission,
8 and interested parties;

9 (c) To investigate, and where appropriate, pursue claims and causes of action
10 against third parties;

11 (d) To receive, review and evaluate claims asserted against the receivership
12 estate;

13 (e) To formulate and propose to the Court a plan of distributing receivership
14 estate assets to those with allowed claims on an equitable basis; and

15 (f) To report to the Court, the Commission and interested parties regarding the
16 status of the Receiver's activities and the receivership estate.

17 The receivership estate includes (a) CWM, a financial advisory business with
18 approximately \$124 million in client funds under its management, (b) two Private
19 Equity Funds that CWM manages, (c) Copeland Realty, a real estate investment and
20 management business that, among other things, manages the three Fixed Income
21 Funds and eighteen Real Estate Funds, (d) three Fixed Income Funds, and
22 (e) eighteen Real Estate Funds. The Real Estate Funds own eight commercial
23 properties which all together were purchased for approximately \$70 million.

24 The Complaint alleges that the Receivership Entities raised over \$60 million
25 from the limited partners of the Private Equity, Fixed Income and Real Estate
26 Funds, and that the Fixed Income Funds made more than \$4.7 million in loans to
27 individuals and entities not part of the receivership. The financial statements for the
28 Receivership Entities reflect that CWM, Copeland Realty, the Fixed Income Funds,

1 the Private Equity Funds and the Real Estate Funds (collectively, the "Limited
2 Partnerships"), in the aggregate, owe one another approximately \$16.4 million on
3 account of intercompany loans, have invested approximately \$3.1 million in one
4 another, and are owed approximately \$6.5 million on account of loans to limited
5 partners, CWM clients, Charles Copeland and other related parties.

6 The Receiver needs a well-qualified tax accountant to assist him in, among
7 other things, (a) preparing federal and state partnership and corporate tax returns,
8 (b) advising the Receiver regarding tax issues affecting the receivership entities and
9 the receivership estate, and (c) conferring with the Internal Revenue Service and the
10 state taxing authorities. Lavine Lofgren will not be tasked with providing forensic
11 accountant services. The forensic accounting the Receiver is charged with
12 conducting under the Judgment will be handled by the Receiver himself and his
13 staff.

14 As addressed below, Lavine Lofgren is particularly well suited to this case
15 given its strengths in real estate partnership and corporate taxation.

16 **A. Lavine Lofgren's Experience and Expertise in Real Estate**
17 **Partnership Taxation**

18 The Receiver selected Lavine Lofgren due to its substantial experience and
19 expertise in real estate partnership taxation. A copy of Lavine Lofgren's firm
20 resume is attached as Exhibit "A".

21 **B. Conflict Checks**

22 Lavine Lofgren has confirmed that it has no prior relationships with any of
23 (a) the Receivership Entities, (b) Defendant Charles P. Copeland, or his sons C.
24 Lawrence Copeland and Donald Copeland, (c) The Copeland Group, A Consulting
25 and Accountancy Corporation, (d) Jeanne Minnerly, former director of CWM,
26 (e) the limited partners of the Private Equity, Fixed Income and Real Estate Funds.
27 The firm will run supplemental conflict checks as additional creditors and interested
28 parties are identified.

1 **C. Compensation and Reimbursement of Expenses**

2 The hourly rates for the accountants that the Receiver anticipates will be
3 involved on a regular basis are as follows:

Name	Position/Department	Hourly Rate	Discounted Hourly Rate
Dennis Lavine	Partner/Tax	\$275	\$248
Scott Jablow	Manager/Tax	\$210	\$189
Jeff Alvarez	Manager/Tax	\$190	\$171
Helen Li	Staff/Tax	\$135	\$122

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12 The firm periodically reviews and adjusts its hourly rates for accountants in
13 light of their additional experience and expertise. The rates listed above, however,
14 will not be adjusted until at least September 2012. The firm will strive to achieve a
15 blended hourly rate for the receivership under \$185 per hour. The fees will be based
16 on the time spent and the nature, extent, and value of the services performed on
17 behalf of the Receiver. The hourly rates above are those normally charged by
18 Lavine Lofgren, discounted by 10%. Lavine Lofgren will make every effort to
19 avoid unnecessary administrative expenses and ensure that all services performed
20 are essential to the efficient administration of the receivership.

1 **D. Estimated Fee for Preparation of Federal and State Tax Returns**

2 The Receiver and Lavine Lofgren estimate that tax preparation fees for the
3 receivership for the preparation of partnership and corporate tax returns will be as
4 follows:

5	<u>Entity</u>	<u>For Year Ending</u>	<u>Type of Return</u>	<u>Fee Estimate</u>
6	Copeland Realty, Inc.	June 30, 2010	Corporate	\$ 1,500
7	Copeland Realty, Inc.	June 30, 2011	Corporate	\$ 1,500
8	Copeland Realty, Inc.	June 30, 2012	Corporate	\$ 1,500
9	Charles P. Copeland, Inc. dba Copeland Group Financial Advisors	May 31, 2011	Corporate	\$ 1,500
10	Charles P. Copeland, Inc. dba Copeland Group Financial Advisors	May 31, 2012	Corporate	\$ 1,500
11	Copeland Fixed Income One LP	December 31, 2011	Partnership	\$ 1,800
12	Copeland Fixed Income Two LP	December 31, 2011	Partnership	\$ 1,800
13	Copeland Fixed Income Three LP	December 31, 2011	Partnership	\$ 1,800
14	Copeland Properties 2, LP	December 31, 2011	Partnership	\$ 2,400
15	Copeland Properties 4, LP	December 31, 2011	Partnership	\$ 2,300
16	Copeland Properties 5, LP	December 31, 2011	Partnership	\$ 3,000
17	Copeland Properties 7, LP	December 31, 2011	Partnership	\$ 2,100
18	Copeland Properties 8, LP	December 31, 2011	Partnership	\$ 2,300
19	Copeland Properties 9, LP	December 31, 2011	Partnership	\$ 2,400
20	Copeland Properties 10, LP	December 31, 2011	Partnership	\$ 2,400
21	Copeland Properties 12, LP	December 31, 2011	Partnership	\$ 1,800
22	Copeland Properties 15, LP	December 31, 2011	Partnership	\$ 1,800
23	Copeland Properties 16, LP	December 31, 2011	Partnership	\$ 2,400
24	Copeland Properties 17, LP	December 31, 2011	Partnership	\$ 1,800
25	Copeland Properties 18, LP	December 31, 2011	Partnership	\$ 2,300

26 Of course, these figures are only estimates – actual fees will no doubt vary to
27 some degree. It is not possible to anticipate all issues that will arise or the amount
28 of time each will require. Depending upon the availability of prior year workpapers
and schedules, additional fees related to depreciation allocations and earmarking of
the deferred gain could be incurred. Other issues that could result in additional fees
include completeness of accounting information, the sale of partnership property,
transfers of a partner's interest in a partnership by either sale or death of a partner,
Unrelated Business Taxable Income disclosure (IRA partners), withholding related

1 to foreign partners or state nonresident partners and changes in method of
2 accounting if partnerships found to be tax shelters. Nevertheless, the estimates
3 above provide a very general budget for tax preparation fees for the period January 1
4 through October 31, 2012.

5 **E. Fee Applications**

6 The Receiver and Lavine Lofgren will file quarterly interim fee applications
7 to advise the Court of the status of their activities, discuss any concerns the Court
8 may have, and obtain interim approval of fees and costs. Final approval of fees and
9 costs will be sought at the conclusion of the receivership.

10 **IV. ARGUMENT**

11 "The power of a district court to impose a receivership or grant other forms of
12 ancillary relief does not in the first instance depend on a statutory grant of power
13 from the securities laws. Rather, the authority derives from the inherent power of a
14 court of equity to fashion effective relief." *SEC v. Wencke*, 622 F.2d 1363, 1369
15 (9th Cir. 1980). The "primary purpose of equity receiverships is to promote orderly
16 and efficient administration of the estate by the district court for the benefit of
17 creditors." *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir 1986). As the appointment
18 of a receiver is authorized by the broad equitable powers of the court, any
19 distribution of assets must also be done equitably and fairly. *See S.E.C. v. Elliot*,
20 953 F.2d 1560, 1569 (11th Cir. 1992).

21
22 District courts have the broad power of a court of equity to determine the
23 appropriate action in the administration and supervision of an equity receivership.
24 *See SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005). The Ninth
25 Circuit explained:

26 A district court's power to supervise an equity receivership
27 and to determine the appropriate action to be taken in the
28 administration of the receivership is extremely broad. The
district court has broad powers and wide discretion to
determine the appropriate relief in an equity receivership.

1 The basis for this broad deference to the district court's
2 supervisory role in equity receiverships arises out of the
3 fact that most receiverships involve multiple parties and
4 complex transactions. A district court's decision
concerning the supervision of an equitable receivership is
reviewed for abuse of discretion.

5 *Id.* (citations omitted); *see also Commodities Futures Trading Comm'n. v. Topworth*
6 *Int'l, Ltd.*, 205 F.3d 1107, 1115 (9th Cir. 1999) ("This court affords 'broad deference'
7 to the court's supervisory role, and 'we generally uphold reasonable procedures
8 instituted by the district court that serve th[e] purpose' of orderly and efficient
9 administration of the receivership for the benefit of creditors."). Accordingly, the
10 Court has broad equitable powers and discretion in the administration of the
11 receivership estate.

12 Here, the magnitude and complexity of the assets of the receivership estate,
13 the commingling of funds and volume of intercompany transfers, and the extensive
14 loans and other transfers to third parties warrant the engagement of well-qualified
15 tax accountant by the Receiver. The Receiver has selected Lavine Lofgren as his
16 tax accountant due to its extensive experience in real estate partnership and
17 corporate taxation, and its competitive billing rates. The firm has agreed to discount
18 its fees for this engagement by 10%. Moreover, the Receiver believes that Lavine
19 Lofgren's experience and skill will substantially reduce the number of tax
20 accountant hours required.

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V. CONCLUSION

Based on the foregoing, the Receiver requests an order approving his employment of Lavine, Lofgren, Morris and Engelberg, LLP as his tax accountant.

Dated: December 22, 2011

LAVINE, LOFGREN, MORRIS &
ENGELBERG, LLP


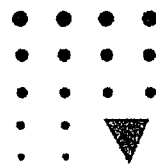
By: 
DENNIS M. LAVINE
Proposed Tax Accountant for Receiver
THOMAS C. HEBRANK

EXHIBIT "A"

Exhibit A

STATEMENT OF QUALIFICATIONS

December 8, 2011



**LAVINE, LOFGREN,
MORRIS & ENGELBERG**

— C P A s —

Our Firm

Lavine, Lofgren, Morris & Engelberg, LLP is one of the largest and fastest growing tax and accounting firms in San Diego, with approximately 60 employees. Headed by six partners, the firm has significant technical resources not generally found in a local CPA firm.

The strength, experience and depth we have built into our firm make us an attractive alternative to the large, international firms. Because our partners work directly with clients, we have created the service-oriented environment that one finds missing in a big firm. Personal service, continuity of engagement members and high quality, proactive services are the foundation of our firm. As a member of BKR International, an association of independent CPA firms across the nation and throughout the world, we have access to expertise not otherwise available at the local firm level in San Diego.

We allocate considerable resources to ensure our talented professionals provide cutting edge service to our clients. We constantly review current industry trends, discuss industry problems and monitor tax legislation for opportunities.

Our clients principally include closely held businesses and owners/investors. Many public companies also take advantage of our tax expertise and accounting services. Our clients range in size from start-up companies to companies with hundreds of millions in sales. We also have a large practice in multi-state filings and tax services. The industries we serve include manufacturing, products, technology, professional services, real estate, construction, distribution, retail, and sports/entertainment.

We take pride in the depth of experience and talent of our people and are committed to providing the highest quality audit, accounting and tax services that San Diego has to offer. As the situations arise, we can draw upon national resources, including those in Washington D.C., to assist in client matters. Because ***Lavine, Lofgren, Morris & Engelberg, LLP*** is an independent accounting firm without the costs associated with a national firm, we are able to structure our fees to reflect the needs of local businesses. Clients receive the same expertise found at international firms at significantly less cost.

Peer Review

As a member of the American Institute of Certified Public Accountants, our Firm must undergo a review of its quality controls every three years by an independent CPA firm. As we have an extensive accounting and audit practice, the most comprehensive form of review is required. An unqualified opinion was received on our system of quality control during our most recent review. This is the highest rating granted to a CPA firm.

Timely Service

All of our professionals recognize the importance of timely service. When we commit to due dates, we follow through. Telephone calls are respectfully returned promptly to ensure the needs of our clients are met.

Our proactive approach also means that we contact our clients periodically throughout the year to get together, understand what issues are affecting them, and provide plans of action.

These are principles of the firm. Because our partners and managers are heavily involved, our clients can be assured that we will provide quick turnaround for their needs.



Dennis Lavine – Tax Partner

Dennis Lavine possesses over 27 years of public accounting experience which includes 7 years with the national accounting firm of Touche Ross. Dennis received his undergraduate degree at the University of North Carolina, he moved to San Diego and received his Master of Business Administration from the University of San Diego.

Dennis specializes in tax consulting for individuals and closely held corporations and has worked with businesses which include manufacturing, professional service, construction and real estate development companies. He has been named by **Money Magazine** as one of San Diego's four outstanding tax practitioners, and recognized as Accountant Advocate of the year by the Small Business Administration for his contribution to the small business segment of the San Diego economy.

Dennis is very active in community business and civic activities. He has served as Chairman of the San Diego Chamber of Commerce Small Business Recognition Committee, Board Member and Chairman of the Finance Committee of the California Southern Small Business Development Corporation and as Chairman of the California Society of CPAs Committee on Taxation.

H. Scott Jablow – Tax Manager

Scott has over 15 years of experience assisting a wide range of clients with their tax compliance and planning needs, including partnerships, closely held corporations, real estate transactions, like-kind exchanges, tenancy-in-commons and adjustments under IRC 754. Scott is a graduate from the University of Delaware with a Bachelor of Science degree in accounting. He is a member the California State Board of Accountancy and California Society of CPA's.

Jeff Alvarez – Tax Manager

Jeff Alvarez has 7 years of experience assisting a wide range of our clients with their tax compliance and planning needs, including real estate, venture capital, and professional service firms. Jeff holds a Bachelor of Science degree from San Diego State in Business Administration with a concentration in Finance and a Master of Science degree from San Diego State University in Accountancy with an emphasis in Taxation.



Helen Li – Tax Staff

Helen Li possesses over 7 years of experience in the tax field serving mid-size clients, including consolidated and multi-state corporations, partnerships, individuals, and nonprofit organizations. She has experience in many industries, including manufacturing, distribution, and construction. Helen received a BS in Electrical Engineering from Shanghai Jiao Tong University, Shanghai, China, and a MS in Accounting from University of Southern California. She also has four years of experience in private industry working on financial reporting and payroll administration.

In addition, with a staff of 60, we offer variety and depth in order to address specific issues that may arise at any time of year.

All considered, our team at Lavine, Lofgren, Morris & Engelberg, LLP brings you:

- A personal approach to service
- A flexible yet professional service delivery system
- A desire to work with your in-house staff to keep compliance fees to a minimum and to maximize value
- Substantial, experienced support in the form of other partners, managers and staff in the office
- Creative and proactive advice
- Resources of an international association of independent CPA firms

FEES

LLM&E takes pride in providing top quality service and creative ideas for our clients—at a reasonable price. With our rates approximately 40% below those of national firms, you may find that you utilize our services more. You would also benefit from more experienced personnel working on your engagement. Better service, less cost creates long-term value in our client relationships.

Our objective is to keep our professional fees to a minimum for compliance issues, while providing personal, professional service of great value in all that we do. Standard hourly rates (subject to change) are as follows:

Partner	\$225 - 350
Manager	\$125 - 210
Staff Accountant	\$ 90 - 190

