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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No. SACV 15-1329-JLS (JCGx)

Date: August 01, 2018

Title: Consumer Financial Protection Bureau et al. v. Pension Funding, LLC et al.

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Present: **Honorable JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE**

Terry Guerrero  
Deputy Clerk

N/A  
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:      ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER (1) GRANTING RECEIVER’S NINTH INTERIM APPLICATION FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES; AND (2) GRANTING GENERAL COUNSEL’S NINTH INTERIM APPLICATION FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES (Docs. 181, 182)**

Before the Court are two Interim Fee Applications filed by Krista Freitag, the court-appointed Receiver, and Allen Matkins, her general counsel. (Freitag App., Doc. 181; Matkins App., Doc. 182.) The Court finds these matters appropriate for disposition without oral argument. *See* Fed. R. Civ. P. 78(b); C.D. Cal. R. 7-15. Accordingly, the hearing on these Applications scheduled for August 3, 2018, at 2:30 p.m. is VACATED. For the reasons provided below, the Court GRANTS both Applications.

The Court’s prior orders have addressed in detail the factual background of this case and the legal standard governing fee applications for a receivership. (*See* Docs. 95, 115, 129, 137, 150, 157, 167.) Accordingly, the Court proceeds directly to its discussion of the instant Applications.

**I. RECEIVER’S NINTH INTERIM APPLICATION**

Freitag’s Application, which covers the period from January 1, 2018, through March 31, 2018, seeks interim approval of \$25,450.20 in fees and \$2,603.92 in expenses. (Freitag App. at 1.) Freitag seeks an order from the Court authorizing payment on an

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interim basis of 80 percent—or \$20,360.16—of her fees, and 100 percent of her expenses. (*Id.*) The twenty percent holdback would be recoverable at the conclusion of the receivership. (*Id.*)

The Receiver’s work during the application period falls into the following six broad categories: (1) general receivership (10 percent of requested fees), (2) asset investigation and recovery (2 percent of requested fees), (3) reporting (4 percent of requested fees), (4) operations & asset sales (31 percent of requested fees), (5) claims & distributions (51 percent of requested fees), and (6) employment/fees (2 percent of requested fees). (*Id.* at 3.)

As in the last fee period, the first three categories involve comparatively small expenses. First, the Receiver’s general receivership duties involved “income tax matters, agency requests, and website updates.” (*Id.* at 4.) The Receiver’s specific work during this application period included responding to a subpoena in a Florida state court action involving an Investor, reviewing the prospective timeline for the Receivership estate, and updating the website. (*Id.*) The Receiver asserts that her work in this category is “largely non-recurring” and will likely “reflect minimal time on a go-forward basis.” (*Id.*) The Receiver’s total fees for this category amount to \$2,582.55. (*Id.*) Second, the Receiver’s asset investigation and recovery work related to Pensioner research and collection efforts. (*Id.*) Total fees for this category equal \$543.15. (*Id.*) Third, the Receiver’s reporting work, totaling \$902.25, focused on preparing the Eighth Interim Report. (*Id.* at 4–5.)

The Receiver’s work in operations and asset sales accounted for \$7,800.30. This category of work increased by approximately 19% from the Eighth Application Period. Her work consisted of “monthly Pensioner payment collections, analysis of pensioner accounts, and other operational matters.” (*Id.* at 5.) Overall, the Receiver describes her work in this category as “consistent” and “crucially important.” (*Id.*)

The Receiver’s largest category of work was claims and distributions, which accounted for \$13,011.30 in fees, a significant increase from the previous period. (*Id.* at 3.) However, this increase was expected, as the Receiver used this fee period to prepare and execute the second interim distribution payments to Investors. (*Id.*) Additionally, the Receiver responded to inquiries from Pensioners, Investors, agents, and others regarding the status of their investments or debts. (*Id.* at 5.) Although the Receiver

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anticipates that inquiries will generally continue to decrease overtime, she notes that they increased significantly in this period due to the execution of the second interim distribution. (*Id.*) In response to this increase in volume, and in order to limit the resultant fees, the Receiver used appropriate template responses, posted answers to Frequently Asked Questions, and engaged associates who billed at lesser rates as the first line of correspondence. (*Id.*) Because most of the work associated with the second interim distribution has been completed, the Receiver anticipates that fees in this category will decrease in the Tenth Application Period. (*Id.* at 6.)

The last category, employment and fees, covers the Receiver’s time spent preparing the Eighth Interim fee request. (*Id.*) Total fees in this category amounted to \$610.65. (*Id.*)

In support of her application, Freitag submits a ten-page chart detailing the hours billed and her expenses. (*See* Receiver’s Timesheets, Ex. A to Freitag App., Doc. 181.) A review of this chart shows that five practitioners with billing rates ranging from \$112.50 to \$265.50 performed work during this fee period. These rates are consistent with the rates proposed by Freitag in her application to serve as receiver and reflect a ten percent discount on Freitag’s regular billing rate. (“E3 Receiver Credentials,” Ex. A to Stip. at 2, Doc. 57-2.) Accordingly, this chart appears consistent with Freitag’s representation that she “anticipate[s] a blended hourly billing rate of less than \$225[.]” (*Id.*)

Separately, Freitag seeks to recover expenses totaling \$2,603.92. (Freitag App. at 6.) The majority of these expenses relate to postage expenses associated with the second interim distribution payments. (*Id.* at 7; *see also* Receiver’s Timesheets at 20.)

The Court finds that the requested fees are reasonable and adequately supported. Based on the Application and the evidence submitted in support thereof, the Court concludes that Freitag’s Application is reasonable, and the Court ORDERS payment of

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80 percent of Freitag’s receivership fees, \$20,360.16, and 100 percent of her requested expenses, \$2,603.92.

**II. COUNSEL’S NINTH INTERIM APPLICATION**

Matkins’ Application, which also covers the period from January 1, 2018 through March 31, 2018, seeks interim approval of \$27,204.75 in fees and \$139.56 in expenses. (Matkins App. at 1.) Like Freitag, Matkins requests an order authorizing interim payment of 80 percent—or \$21,763.80—of the firm’s fees and 100 percent of its expenses. (*Id.*) The firm’s fees fall into the following six categories of work: (1) general receivership (4 percent); (2) asset investigation (29 percent), (3) reporting (5 percent), (4) claims and distributions (4 percent), (5) third party recoveries (51 percent), and (6) employment/fees (7 percent). (*Id.* at 2.)

Matkins’ general receivership work, which accounted for \$1,071 of Matkins’ fees, involved responding to the subpoena in the Florida state court Investor action. (*Id.* at 3.)

Asset investigation covers Matkins’ work representing the Receiver’s interests in thirty-five contracts where the Pensioner has entered bankruptcy and eleven contracts where the receivership entities have obtained default judgments or settlements. (*Id.* at 3.) During this period, Matkins continued monitoring the bankruptcy cases for status and payments to the Receivership Entities. (*Id.*) The firm’s work involved reviewing case dockets and key filings, preparing and filing necessary proofs of claim, communicating with counsel for the bankruptcy trustees, filing motions for approval of settlements, updating the Receiver on recovery strategies, and updating the log that tracks the status of bankruptcy cases. (*Id.*) Like in the last several Application periods, Matkins has written off 2.6 hours of time billed by partner Yale Kim for his work in this category. (*Id.* at 3–4.) This write-off converts Mr. Kim’s effective hourly rate to \$455.75. (*Id.* at 4.)

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Considering this write-off and the value of the work performed, the Court finds that the \$7,796.70 billed for asset investigation is fair and reasonable. (*Id.* at 3.)

Counsel’s reporting work consisted of drafting the Eighth Interim Report, which includes a detailed description of the Receiver’s activities during the first quarter of 2018. (*Id.* at 4.) Total expenses for this category amount to \$1,445.85. (*Id.*)

Matkins’ work in the fourth category, claims and distributions, focused on responding to inquiries from Investors, Pensioners, and their counsel concerning their claims, and assisting the Receiver in preparing Investor notices regarding the second interim distributions. (*Id.*) Matkins’ fees for this category total \$1,071.00. (*Id.*)

The fees for the third party recoveries category total \$13,945.95. (*Id.* at 5.) This category covers Matkins’ work on two defaulted pensioner collection actions. (*Id.*) Matkins assisted the Receiver in settling one of these actions and filed a motion for summary judgment in the other action. An associate performed the majority of this work at a discounted rate of \$306.00. (*Id.*)

Matkins’ work under the final fee category, “employment/fees,” consisted of preparing the Eighth Interim Fee Applications. (*Id.*) Total fees for this category amount \$1,874.25. (*Id.*)

In support of this Application, Matkins has submitted detailed billing records organized by the category of work performed. (Gen. Counsel Timesheets, Ex. A to Matkins App., Doc. 182.) These billing records indicate that three attorneys performed work on this case during the instant Application period with hourly billing rates between \$306.00 and \$562.50. (*See id.* at 17, 27.) Additionally, the billing chart provides an itemized accounting of the \$206.53 in expenses for which the firm seeks reimbursement. (*Id.* at 10–11.) These expenses are primarily comprised of messenger fees and the costs of Pacer document searches. (*See id.*; *see also* Matkins App. at 5–6.)

The Court finds Matkins’ fees and expenses fair and reasonable—particularly in light of Matkins’ delegation of some work to an associate and the write-off of 2.6

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hours—and ORDERS immediate payment of 80 percent of Matkins’ requested fees, which is \$21,763.80, and 100 percent of the firm’s expenses, \$139.56.

**III. CONCLUSION**

For the reasons stated above, the Court GRANTS both Freitag’s and Matkins’ Applications. The Court ORDERS immediate payment of 80 percent—or \$20,360.16—of Freitag’s fees, and 100 percent of her expenses. Further, the Court ORDERS immediate payment of 80 percent—or \$21,763.80—of Matkins’ fees and 100 percent of the firm’s expenses. The 20 percent holdback of each applicant’s fees will be recoverable, with the Court’s approval, upon the conclusion of the receivership.

Initials of Preparer: tg