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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No. 8:15-cv-01329-JLS-JCG

Date: February 21, 2019

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 ELEVENTH INTERIM APPLICATION FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES (Doc. 196); (2) GRANTING GENERAL COUNSEL’S ELEVENTH INTERIM APPLICATION FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES (Doc. 197); AND (3) ORDERING UPDATED ESTIMATED TIMELINE OF RECEIVERSHIP**

Before the Court are two Interim Fee Applications, one filed by Krista Freitag, the court-appointed Receiver, and one filed by Allen Matkins Leck Gamble Mallory & Natsis LLP (“Allen Matkins”), the Receiver’s general counsel. (Freitag App., Doc. 196; Allen Matkins App., Doc. 197.) Allen Matkins also noticed a hearing on the Applications. (Doc. 198.) The Court finds these matters appropriate for disposition without oral argument. *See* Fed. R. Civ. P. 78; C.D. Cal. R. 7-15. Accordingly, the hearing on these Applications scheduled for February 22, 2019, at 10:30 a.m., is removed from the calendar. For the reasons provided below, the Court GRANTS both Applications. Moreover, on its own motion, the Court ORDERS that the Receiver, in the next Status Report, provide an estimated timeline as to when she expects to complete unwinding the receivership assets and resolving the subject transactions.

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,

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115, 129, 137, 150, 157, 167.) Accordingly, the Court proceeds directly to its discussion of the instant Applications.

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

Freitag’s Application, which covers the period from July 1, 2018, through September 30, 2018, seeks interim approval of \$9,504.45 in fees and \$386.67 in expenses. (Freitag App. at 2.) Freitag seeks an order from the Court authorizing payment on an interim basis of 80 percent—or \$7,603.56—of her fees, and 100 percent of her expenses. (*Id.*) The 20 percent holdback would be recoverable at the conclusion of the receivership. (*Id.*)

The Receiver’s work during this application period falls into the following six broad categories: (1) general receivership (6.7 percent of requested fees), (2) asset investigation and recovery (5.0 percent of requested fees), (3) reporting (10.1 percent of requested fees), (4) operations and asset sales (53.6 percent of requested fees), (5) claims and distributions (20.1 percent of requested fees), and (6) employment/fees (4.5 percent of requested fees). (*Id.* at 4.)

As in the last fee period, minimal fees were attributable to the first three categories. First, the Receiver’s general receivership duties involved “general matters, income tax matters, agency requests, and website updates” associated with the Receivership Entities. (*Id.* at 4-5.) The Receiver’s total fees for this category, \$634.95, are minimal and comport with the Receiver’s continued assessment that her work in this category is “largely non-recurring” and will likely “reflect minimal time on a go-forward basis.” (*Id.* at 5.) Second, total fees pertaining to the Receiver’s asset investigation and recovery work, which “primarily relate[d] to mediation, settlement efforts in a Pensioner collection matter,” amounted to \$477.90. (*Id.*) Third, the Receiver’s reporting work, totaling \$963.69, focused on preparing the Tenth Interim Report. (*Id.*)

The Receiver’s largest category was operations and asset sales. This work consisted of “monthly Pensioner payment collections, analysis of Pensioner accounts, minimal power of attorney [] account clean-up, and other operational matters.” (*Id.*)

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Overall, the Receiver describes her work in this category as “consistent” and “crucially important.” (*Id.*) Total fees for operations and asset sales amounted to \$5,091.30. (*Id.*)

The Receiver’s work related to claims and distributions totaled \$1,912.50 in fees, a similar amount as in the Tenth Application Period. (*Id.* at 6.) The Receiver’s work during the Eleventh Application Period involved responding to “direct inquiries from Pensioners, Investors, agents and others regarding the impact of the Forensic Accounting Report and orders thereon, the Investors’ investments, and the Pensioners’ accounts (including payment status and collection), and [reissuing] a few interim distribution checks.” (*Id.* at 5-6.) The Receiver anticipates that inquiries will generally continue to decrease over time. (*Id.* at 6.) The Receiver continues to use appropriate template responses, posted answers to Frequently Asked Questions, and associates who bill at lesser rates as the first line of correspondence. (*Id.*)

The last category, employment and fees, covers the Receiver’s time spent preparing the Tenth Interim Fee Application. (*Id.* at 6.) Total fees in this category amounted to \$423.90 and remain steady compared to the previous fee period. (*Id.*)

In support of her application, Freitag submits a chart detailing the hours billed and her expenses. (*See* Receiver’s Timesheets, Ex. A to Freitag App., Doc. 196 at 11-15.) A review of this chart shows that four 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., Doc. 57-2 at 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 \$386.67. (Freitag App. at 6.) The majority of these expenses relate to “postage expenses associated with the second interim distribution payments, website updates and postage expenses associated with collections, general Investor, and general Pensioner communications.” (*Id.*; *see also* Receiver’s Timesheets at 14.)

The Court finds that the requested fees and expenses 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

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ORDERS payment of 80 percent of Freitag’s receivership fees, \$7,603.56, and 100 percent of her requested expenses, \$386.67.

Separately, the Court notes that January 8, 2019 marked three years since the Court appointed Freitag as Receiver. The Court therefore finds it appropriate to order an updated estimated timeline as to when the Receiver will have completed her duties, including unwinding and resolving the transactions that are the subject of this case. The Receiver is ORDERED to brief this updated timeline with the Receiver’s next Status Report. Commensurate with the Court’s prior Order, such briefing may be filed under seal. (*See* Order Granting App. to Seal, Doc. 178.)

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

Allen Matkins’s Application, which also covers the period from July 1, 2018 through September 30, 2018, seeks interim approval of \$9,750.15 in fees and \$88.14 in expenses. (Allen Matkins App. at 2.) Like Freitag, the Allen Matkins firm requests an order authorizing interim payment of 80 percent of the firm’s fees—or \$7,800.12—and 100 percent of its expenses. (*Id.*) The firm’s fees fall into the following six categories of work: (1) general receivership (11.5 percent), (2) asset investigation (39.3 percent), (3) reporting (10.4 percent), (4) claims and distributions (3.5 percent), (5) third party recoveries (12.8 percent), and (6) employment/fees (22.5 percent). (*Id.* at 3.)

General receivership relates to the firm’s assistance to the Receiver in addressing concerns relating to potential issues for pensioner after the Receiver’s anticipated discharge by this Court and communications with counsel for the Consumer Financial Protection Bureau regarding such concerns. (*Id.* at 4.) The total fees arising from this category of work amount to \$1,120.50.

Asset investigation covers the firm’s work representing the Receiver’s interests in 35 contracts where the Pensioner has entered bankruptcy and 11 contracts where the Receivership Entities have obtained default judgments or settlements. (*Id.*) During this period, the firm 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 in the cases, preparing and filing necessary proofs of claim and amendments to

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proofs of claim, communications with counsel representing bankruptcy trustees, and providing updates to the Receiver and advising on recovery strategies.” (*Id.*) In past Application Periods, the firm had written off time billed for “time-intensive” work by partner Yale Kim to reduce his effective hourly rate related to work in this category. (*Id.*) These write-offs were to satisfy the Court’s expectation that such time-intensive work would be done by an associate or at a lower rate (*Id.* (citing Order, Doc. 129 at 7).) The firm notes, however, that the number of affected cases has dwindled to the point that related work is no longer “time-intensive”—the firm spent fewer than eight hours in this category this fee period—and requests to bill Mr. Kim at his full rate. (*Id.* at 5.) The Court finds the requested rates and total fees, which amount to \$3,834.45, fair and reasonable under the circumstances.

Counsel’s reporting work consisted of preparing the Tenth Interim Report, which includes a detailed description of the Receiver’s activities during the second quarter of 2018, including cash recovered, forensic accounting work, investor communications, and post-receivership receipts and disbursements. (*Id.*) Additionally, the Report includes the Receiver’s recommendations for the continued administration of the receivership estate. (*Id.*) Total expenses for this category amount to \$1,012.50. (*Id.*)

The firm’s work in the fourth category, claims and distributions, focused on responding to inquiries from Investors, Pensioners, and their counsel concerning their claims. (*Id.*) Counsel’s fees for this category total \$337.50. (*Id.*)

The fees for the category of third-party recoveries total \$1,251.45. (*Id.*) This primarily covers the firm’s work on a defaulted Pensioner collection action. (*Id.*) The firm assisted with efforts to settle the action, pursuant to which the defaulted Pensioner involved is making payments. (*Id.*)

Work under the final fee category, “employment/fees,” consisted of preparing the Tenth Interim Fee Applications. (*Id.* at 5-6.) Counsel’s total fees for this category amount to \$2,193.75. (*Id.* at 6.)

In support of this Application, the firm has submitted detailed billing records organized by the category of work performed. (Gen. Counsel Timesheets, Ex. A to Allen Matkins App., Doc. 197 at 10-25.) These billing records indicate that four attorneys performed work on this case during the instant fee period with hourly billing rates

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between \$274.50 and \$742.50. (*See id.* at 11, 15, 17, 19, 23.) Additionally, the billing chart provides an itemized accounting of the \$88.14 in expenses for which the firm seeks reimbursement. (*Id.* at 11.) These expenses are primarily comprised of messenger fees and document searches. (*See id.*; Allen Matkins App. at 6.)

The Court finds the fees and expenses described by the firm fair and reasonable and ORDERS immediate payment of 80 percent of the firm’s requested fees, which is \$7,800.12, and 100 percent of the firm’s expenses, \$88.14.

**III. CONCLUSION**

For the reasons stated above, the Court GRANTS both Freitag’s and Allen Matkins’s Applications. The Court ORDERS immediate payment of 80 percent—or \$7,603.56—of Freitag’s fees, and 100 percent of her expenses—\$386.67. Further, the Court ORDERS immediate payment of 80 percent—or \$7,800.12—of Allen Matkins’s fees and 100 percent of the firm’s expenses—\$88.14. The 20 percent holdback of each applicant’s fees will be recoverable, with the Court’s approval, upon the conclusion of the receivership. The Court further ORDERS that the Receiver, with the next Status Report, provide an updated estimated timeline as to when she expects to complete unwinding and resolving the subject transactions.

Initials of Preparer: tg