

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CHARLES P. COPELAND, COPELAND
WEALTH MANAGEMENT, A FINANCIAL
ADVISORY CORPORATION, AND
COPELAND WEALTH MANAGEMENT, A
REAL ESTATE CORPORATION,

Defendants.

) CASE NO. CV 11-8607-R
)
) ORDER APPROVING IN PART AND
) DENYING IN PART THE FEE
) APPLICATIONS OF THE RECEIVER,
) RECEIVER'S COUNSEL, AND
) RECEIVER'S ACCOUNTANTS

Before the Court are (1) the seventh interim fee application of Mulvaney, Barry, Beatty, Linn & Mayers LLP ("Counsel"); (2) the second interim fee application of Lavine, Lofgren, Morris & Engelberg, LLP ("Receiver's Accountants"); and (3) the eighth interim fee application of Thomas C. Herbank ("the Receiver").

The court appointing the Receiver is responsible for compensating the Receiver and his attorneys, and it has the power to fix their compensation. *Drilling & Exploration Corp. v. Webster*, 69 F.2d 416, 418 (9th Cir. 1934). The Receiver and his attorneys should recover fees that "reasonably, but not excessively, compensate the professionals for their efforts." *In re Alpha Telecom, Inc.*, 2013 WL 840065, at * 17 (D. Ore. 2013). It is not necessary for the Court to

1 rule on each and every entry on a fee application as “percentage cuts [are] a practical means of
2 trimming fat from a fee application.” *New York State Ass’n for Retarded Children, Inc. v. Carey*,
3 711 F.2d 1136, 1146 (2d Cir. 1983).

4 Counsel requests approval of \$118,998.00 in fees and \$4,972.20 in expenses for the period
5 of July 1, 2013 to September 30, 2013. Consistent with previous orders of this Court, Counsel
6 only requests payment of 75 percent of the fees at this time, for a total immediate payment amount
7 of \$89,248.50 in fees and \$4,972.20 in expenses for a grand total of \$94,220.70.

8 The attorneys are billing at an hourly rate of \$295.00 which is a reasonable amount in light
9 of the status of this case as an equity receivership and the attorneys’ experience and expertise.
10 Furthermore, Counsel performed many tasks during the applicable period that were beneficial to
11 the Receivership Estate, including opposing a motion to modify the Receivership stay and
12 preparing a motion to distribute Copeland Properties 18.

13 However, in reviewing Counsel’s billing records the Court determines that Counsel should
14 not be awarded the entire amount of its requested fees. Counsel requests compensation for five
15 hours of attorney time spent preparing the fee application as well as several hours for various tasks
16 that the Court finds to be administrative, non-legal work. The Court also finds that the amount of
17 time spent on certain tasks is excessive. In light of the status of this case an equitable receivership,
18 an analysis of the billings records submitted by Counsel, and considering the amount of work that
19 has been done during the application period, the Court finds that approval of fees in the amount of
20 \$90,000.00 is appropriate. Payment of 75 percent of this amount, which is \$67,500.00, is
21 authorized at this time.

22 As for Counsel’s requested expenses, there are two entries labeled simply: “Transportation
23 E.” One entry is for \$112 and the other is for \$100.90. These entries lack specificity sufficient to
24 allow the Court to determine their reasonableness and are therefore not approved. Expenses are
25 approved in the reduced amount of \$4,759.10.

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1 The Receiver requests approval of \$27,540.00 in fees and \$908.45 in expenses for the
2 period of July 1, 2013 to September 30, 2013. Consistent with previous orders of this Court, the
3 Receiver only requests payment of 75 percent of the fees at this time, for a total immediate
4 payment amount of \$20,655.00 in fees and \$908.45 in expenses, for a grand total of \$21,563.45.

5 The Receiver's request is reasonable. The requested fees equate to a \$169.27 per hour rate.
6 The Receiver has undertaken many tasks during the application period that were beneficial to the
7 Receivership Estate and have moved this case closer to resolution. For example, the Receiver has
8 worked to settle claims with individuals and entities who owe money to the estate and he has
9 participated in resolving various claims against Copeland Properties 18.

10 The Accountants request approval of \$17,341.00 in fees and \$60.00 in costs for the period
11 of March 1, 2013 to August 15, 2013, as well as \$6,134.00 in fees for the previous period.

12 The Court, by order dated December 20, 2012 (Doc no. 206), reserved judgment on the
13 additional fees from the previous application period. In their previous application the Accountants
14 requested \$12,268.00 for these services, which they admit were not originally contemplated under
15 the agreement. The Accountants now seek only \$6,134.00 of that amount, and they contend that
16 the services were necessary. The \$6,134.00 is for "tax research and other computations" for
17 various Copeland entities. The Accountants spent 74.20 hours on these tasks and therefore the
18 amount requested reflects a \$82.67 hourly rate. The \$17,341.00 the Accountants request for the
19 current term reflects an hourly rate of \$144.75.

20 The Receiver relied on the Accountants' reports in creating distribution proposals and the
21 accounting in this case was therefore important. There were several Receivership entities and the
22 Accountants had to do research with respect to all of them. The amount and importance of the
23 work, along with the reasonable hourly fee, supports approving the Accountants' fees. Although
24 the tax research was not originally contemplated by the parties it is apparent that it was of vital
25 importance and therefore the Accountants should be compensated for it at the reduced rate that
26 they request.

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1 **IT IS HEREBY ORDERED** that the fee applications are approved in part and denied in part as
2 stated herein.

3 Dated: January 2, 2014.

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7 MANUEL L. REAL
8 UNITED STATES DISTRICT JUDGE
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