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4 Receiver

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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 SECURITIES AND EXCHANGE  
COMMISSION,

11 Plaintiff,

12 vs.

13 ALVIN R. BROWN, FIRST  
CHOICE INVESTMENT, INC.,  
14 and ADVANCED CORPORATE  
ENTERPRISES, INC., d/b/a A-  
15 CORP ENTERPRISES a/k/a  
ACORP DEVELOPMENT a/k/a A-  
16 CORP INVESTMENT,

17 Defendants.

CASE NO. CV 13-01629-ABC  
(VBKx)

**FIRST INTERIM APPLICATION  
FOR APPROVAL AND  
PAYMENT OF FEES AND COSTS  
TO KRISTA FREITAG,  
RECEIVER**

Date: September 9, 2013

Time: 10:00 a.m.

Ctrm: 680

United States Courthouse

Edward R. Roybal Federal Building

255 East Temple Street

Los Angeles, CA 90012-3332

Judge: Hon. Audrey B. Collins

19  
20 Krista Freitag (“Receiver”), the Court-appointed Receiver herein, files her first  
21 interim fee application. This is Receiver’s first fee application in this case, and  
22 Receiver has not been paid for any services rendered in this case.

23 With this application, for the period from March 7, 2013 through June 30, 2013,  
24 Receiver respectfully requests that the Court award and authorize for immediate  
25 payment:

- 26 (1) \$41,139.38 in interim fees for services performed by Receiver and her  
27 staff;  
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1 (2) \$2,179.18 in interim reimbursement to Receiver for costs advanced by  
2 Receiver; and

3 (3) \$10,140.18 in costs to be paid directly to computer forensic vendor for  
4 services performed by vendor in conjunction with takeover of the  
5 entities.

6 Detailed descriptions of the services rendered are contained in Exhibit B attached to  
7 the Declaration of Krista L. Freitag (“Freitag Declaration”) filed concurrently  
8 herewith. Exhibit C to the Freitag Declaration is a chart reflecting the hours and fees  
9 billed to each category of services on a monthly basis during the period from March 7,  
10 2013 through June 30, 2013. Exhibit D thereto is a summary of costs (both those  
11 advanced by Receiver, and those incurred but as-yet unpaid and still owing to vendor).  
12 During the period from March 7, 2013 through June 30, 2013, the Receiver and her  
13 staff have spent 200.88 hours at an overall blended billing rate of \$201 per hour. The  
14 Receiver has discounted all fees by ten percent (10%) from regular hourly billing  
15 rates.

## 16 I.

### 17 STATEMENT OF THE CASE

#### 18 A. Procedural Posture

19 On March 7, 2013, the Securities and Exchange Commission (“Commission”)   
20 filed a complaint (Docket No. 3) initiating the instant litigation against Defendants   
21 Alvin R. Brown, First Choice Investment, Inc. (“Defendant FCI”) and Advanced   
22 Corporate Enterprises, Inc. (“Defendant ACorp”) alleging violations of various   
23 securities laws. Among other things, the Complaint alleges that Defendants misled   
24 investors by:

25 (1) falsely promising 10 percent annual returns;

26 (2) falsely promising a planned initial public offering at the end of 2012 that   
27 would net investors 150 percent of their initial investment;

1 (3) falsely representing to attract investors that the offering was registered with  
2 the Commission;

3 (4) falsely promising high returns and investment safety; and

4 (5) enticing existing investors into investing more money through a phoney “re-  
5 allocation” program in which an institutional investor would purportedly purchase  
6 investor shares at a premium.

7 At the Commission’s request, on March 7, 2013, the Court entered its order  
8 (Docket No. 5) appointing Receiver as a temporary receiver for Defendant FCI and  
9 Defendant ACorp and the entities they control and manage with full powers of an  
10 equity receiver. Thereafter, Defendant Brown stipulated to the appointment of  
11 Receiver on a permanent basis (Docket No. 17). On April 8, 2013, the Court so  
12 ordered (Docket No. 18).

13 In accordance with the paragraph VI(G) of the Court’s March 7, 2013 order  
14 (Docket No. 5), the Receiver retained Sullivan Hill as her counsel. The Receiver gave  
15 notice of her retention of counsel in her first report to the Court (Docket No. 19).

16 On May 6, 2013, the Receiver filed an interim report and request for  
17 instructions regarding the scope of Receiver’s authority (Docket No. 19). On May 23,  
18 2013, the Court entered an order extending the Receiver’s rights and responsibilities  
19 to two of Defendant’s affiliated entities, First Choice Energy Partners, LP, a/k/a First  
20 Choice Oil and Gas Energy Partners (“FCEP”) and Advanced Concepts Enterprises,  
21 Inc. (“ACE”).

22 Pursuant to the Court’s orders, the Receiver is charged with, among other  
23 things, (1) assuming control over the receivership entities and their assets, (2)  
24 performing an accounting of the assets and financial condition of the receivership  
25 entities, (3) investigating, locating, and accounting for receivership assets, and (4)  
26 preparing reports for the Court.

27 Defendant Alvin R. Brown has invoked his right against self-incrimination  
28 under the Fifth Amendment. This fact has hampered the Receiver’s investigation in

1 locating assets and in contacting individuals who received material sums of money  
2 disbursed from subject bank accounts.

3 **B. Receivership Activities**

4 **1. Takeover of Entities**

5 Upon her appointment, Receiver took control of the receivership entities,  
6 including taking control of offices and records (described below), bank accounts and  
7 websites. To the extent the contact information was made available to the Receiver,  
8 she notified the entities' agents, vendors and investors of her appointment. As  
9 described above, Receiver's efforts in this regard have been hampered by the  
10 Defendant Brown's invoking his Fifth Amendment rights against self-incrimination.

11 **2. Securing Offices and Records**

12 Since her appointment, Receiver has secured various offices from which the  
13 receivership entities conducted business – including several offices which Defendant  
14 Brown concealed from her, and which Receiver discovered on her own. Those efforts  
15 have included securing the business and financial records of the entities located  
16 thereon, vacating the premises, and terminating leases where applicable. On May 14,  
17 2013, the Receiver noticed the Court of her intent to abandon certain personal  
18 property found in one of the premises (Docket No. 24). On May 24, 2013, the  
19 Receiver turned possession of the premises along with the personal property therein  
20 back to landlord. On July 3, 2013, the Receiver terminated the Canoga Park office  
21 lease. The Receiver is in the process of retrieving said personal property from an  
22 individual's residence, where the personal property was taken upon abandonment of  
23 this office.

24 **3. Recovery of FCEP Funds on Deposit with Colorado Law Firm**

25 In the course of her investigation, Receiver discovered significant funds on  
26 deposit in the client trust account of The Wilson Law Firm, P.C. in Fort Collins,  
27 Colorado on behalf of FCEP. The Colorado law firm cooperated with Receiver, and  
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1 ultimately turned over to her the sum of \$182,750, along with documentary evidence  
2 regarding investor names, contact information, and respective contributions.

#### 3 **4. Receiver's Accounting**

4 Receiver has performed an extensive "sources and uses of funds" analysis in an  
5 effort to locate from where the receivership entities raised money, and where it went.  
6 On July 1, 2013, she submitted the preliminary analysis (and a summary thereof) as  
7 part of an interim report to the Court (Docket No. 29). Receiver's analysis will "pave  
8 the way" for the balance of the receivership. Because the Receiver obtained only  
9 limited financial documentation and records from various sources, her accounting is  
10 based primarily on bank records.

#### 11 **5. Efforts to Locate and Obtain Additional Records**

12 In the course of her investigation, Receiver was able to track large sums of  
13 money transferred to accounts maintained at Canadian Imperial Bank of Canada  
14 ("CIBC"). CIBC's fraud department has been cooperative with Receiver, but is  
15 unable to release to Receiver the records identifying the recipients of such funds  
16 absent certain legal process in Canada. Receiver is presently evaluating the costs of  
17 such process. Receiver also worked with the Ontario Securities Commission in hopes  
18 of obtaining the records through them, but the Canadian regulator is only able to  
19 produce the records to the Commission, and pursuant to applicable international  
20 treaties, the Commission is unable to share the records with Receiver.

#### 21 **6. Moving Forward**

22 The accounting provided to date does materially address where the funds for the  
23 Defendant FCI, Defendant ACorp (Canadian investors only) and FCEP came from  
24 and where they went. The Receiver is working to analyze and obtain missing  
25 documentation primarily related to the sources and uses of funds for Defendant ACorp  
26 (non-Canadian investors) and Defendant ACE.

27 For Defendant FCI, Defendant ACorp (Canadian investors only) and FCEP, it  
28 appears that the vast majority of the funds raised from investors were transferred

1 either to Defendant Brown, to certain individuals or to third parties in Canada.  
2 Receiver is attempting to evaluate the legal grounds for recovering funds from these  
3 recipients, as well as the “collectability” of any judgment for same. She does not want  
4 spend estate funds on recovery efforts unless she has a good faith belief that the  
5 efforts are likely to produce a net economic benefit to the estates. This already  
6 difficult process is greatly hampered by Defendant Brown’s having invoked his Fifth  
7 Amendment right against self-incrimination. Receiver intends to file shortly a  
8 Receiver’s Report outlining possible next steps in the case.

9 **C. Financial Position of Receivership Estates**

10 As of June 24, 2013 – the date of the most recent interim report filed by  
11 Receiver (Docket No. 28) -- the Receiver has approximately \$224,946.34 in cash on  
12 hand across all four estates, all of which cash appears to be materially unencumbered.  
13 Accrued administrative expenses total approximately \$86,430.97, and consist of the  
14 following:

- 15 (1) \$41,139.38 Receiver’s Fees requested herein;  
16 (2) \$12,319.36<sup>1</sup> Receiver’s Costs requested herein; and  
17 (3) \$32,972.23 Legal Fees and Costs requested concurrently herewith.

18 **D. Allocation of Fees Among Entities**

19 The Receiver presently has four distinct receivership estates under her control –  
20 one for each of the entities the Court has placed into receivership. The Receiver  
21 intends to allocate the fees and costs awarded under this application pro rata among  
22 the estates based on the cash positions of the estates as of June 24, 2013, the date used  
23 in the most recent interim report filed by Receiver (Docket No. 29). Accordingly, the  
24 estates will bear the following percentage of fees and costs awarded under this  
25 application:

- 26 (1) FCI 7.28%
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28 <sup>1</sup> Includes \$10,140.18 of forensic computer specialists used in conjunction with takeover of the receivership entities.

- 1 (2) A-Corp 0.84%
- 2 (3) FCEP 90.84%
- 3 (4) ACE 1.04%

4 The instant fee application is interim in nature, and the present allocation of  
 5 fees and costs among the estates may be “trued up” at a later time, to the extent  
 6 necessary to ensure that each estate bears its fair share of administrative expenses.

7 **II.**

8 **SUMMARY AND DESCRIPTION OF SERVICES AND CHARGES**

9 The Receiver's work during the period from March 7, 2013 through June 30,  
 10 2013 falls into the following categories:

- 11 A. General Receivership
- 12 B. Asset Investigation & Recovery
- 13 C. Reporting
- 14 D. Legal Matters & Pending Litigation

15 **A. General Receivership (“A”)**

16 During the period from March 7, 2013 through June 30, 2013, the Receiver  
 17 (a) participated in initial meetings and conferences with the SEC and legal counsel, (b)  
 18 handled general administrative matters including reviewing mail, emails and other  
 19 correspondence directed to the Receivership Entities, (c) provided notice of the  
 20 receivership to all investors, and related correspondence, (d) administered the bank  
 21 accounts of the Receivership Entities; and (e) maintained and updated the Receiver’s  
 22 website with case information and documents.

Name	Title	Rate	Hours	Fees
K. Freitag	Receiver	\$247.50	22.70	\$5,618.25
G. Rodriguez	Director	\$180.00	17.90	\$2,772.00
K. McClain	Administrative	\$67.50	2.40	\$162.00
TOTAL			<b>43.00</b>	<b>\$8,552.25</b>
Avg. Hourly Rate		\$198.89		

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2 **B. Asset Investigation & Recovery (“B”)**

3 Services in this category include time spent during the period from March 7,  
4 2013 through June 30, 2013 on (a) initial and subsequent takeover of initial and  
5 additional offices discovered, (b) review of limited and dated entity financial  
6 statements and accountings, (c) preparation and analysis of detailed bank transactional  
7 data, investments, and inter-affiliate transactions; and (d) securing receivership estate  
8 assets, including recovery of funds.

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Name	Title	Rate	Hours	Fees
K. Freitag	Receiver	\$247.50	65.58	\$16,231.88
G. Rodriguez	Director	\$180.00	26.40	\$4,203.00
L. Ryan	Associate Director	\$157.50	21.10	\$3,323.25
K. McClain	Administrative	\$67.50	11.20	\$553.50
<b>TOTAL</b>			<b>124.28</b>	<b>\$24,311.63</b>
Avg. Hourly Rate		\$195.61		

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16 **C. Reporting (“C”)**

17 This category contains time spent by the Receiver, with the assistance of  
18 counsel, preparing her Initial Report, which was filed on May 6, 2013 and her  
19 Preliminary and Accounting Report, which was filed on July 1, 2013.

20

Name	Title	Rate	Hours	Fees
K. Freitag	Receiver	\$247.50	32.50	\$8,043.75
G. Rodriguez	Director	\$180.00	.30	\$54.00
<b>TOTAL</b>			<b>32.80</b>	<b>\$8,097.75</b>
Avg. Hourly Rate		\$246.88		

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1 **D. Legal Matters & Pending Litigation (“D”)**

2 Services in this category include the Receiver’s work on (a) review of Court  
3 Orders; and (b) correspondence relating to potential investor issues with the  
4 receivership.

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Name	Title	Rate	Hours	Fees
K. Freitag	Receiver	\$247.50	.50	\$123.75
G. Rodriguez	Director	\$180.00	.30	\$54.00
TOTAL			.80	\$177.75
Avg. Hourly Rate		\$204.79		

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10 **E. Costs**

11 Receiver requests reimbursement of a total of \$2,179.18 in costs actually  
12 advanced by the firm on behalf of the receivership estates, broken down as follows:

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Type of Cost	Amount
Legal Services (Copy, Facsimile)	\$411.45
Overnight Delivery	\$38.50
Postal	\$125.30
Travel Expenses	\$471.32
Storage/Moving	\$652.61
<b>TOTAL</b>	<b>\$2,179.18</b>

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21 Receiver requests authority to pay a total of \$10,140.18 in costs incurred in the  
22 takeover of the receivership entities, as follows:

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Type of Cost	Amount
Forensic Computer Specialists	\$10,140.18

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**III.**

**THE REQUESTED FEES ARE REASONABLE AND SHOULD BE  
APPROVED**

**A. Efficient Staffing – Customary Rates**

The Receiver believes her request is fair and reasonable and that the fees and costs incurred were necessary to the administration of the receivership estate. The Receiver's request for compensation is based on his customary billing rates charged in similar matters, discounted by ten percent (10%). Pursuant to agreement with the Commission, the Receiver has discounted the hourly rates of its professionals by 10 percent. This discount saved the estates \$4,113.94 ( $\$41,139.38 \times .10$ ) during the period covered by this application.

The blended hourly rate for all services provided by the Receiver during the Application Period is \$201. The Receiver's billing rates are comparable or less than those charged in the community on similarly complex matters.

The services that were performed were essential to the estates and benefited creditors and other parties-in-interest. This fee application has been submitted to the Commission in accordance with the Commission's rules on the compensation of professionals for receivers.

**B. Costs**

The Receiver also requests Court approval of reimbursement of \$2,179.18 in costs advanced by her, and \$10,140.18 in costs to be paid directly to computer forensic vendor for services performed by vendor in conjunction with takeover of the entities. A summary of costs is included as Exhibit D to the Freitag Declaration.

**IV.**

**CONCLUSION**

The Receiver has worked diligently and efficiently in fulfilling her duties and has provided valuable service in that regard. Based on the foregoing, Receiver

1 respectfully requests that the Court enter an order in substantially the form submitted  
2 as Exhibit "1" herewith:

- 3 (1) awarding and authorizing for immediate payment \$41,139.38 in interim  
4 fees;
- 5 (2) awarding and authorizing for immediate payment \$2,179.18 in  
6 reimbursement of costs advanced by Receiver;
- 7 (3) awarding and authorized for immediate payment \$10,140.18 costs to be  
8 paid directly to computer forensic vendor for services performed by  
9 vendor in conjunction with takeover of the entities; and
- 10 (4) granting such other relief as the Court may find just and proper.

11 Dated: August 5, 2013

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13 By:   
14 Krista L. Freitag, Receiver



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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

ALVIN R. BROWN, FIRST CHOICE  
INVESTMENT, INC., and  
ADVANCED CORPORATE  
ENTERPRISES, INC., d/b/a A-CORP  
ENTERPRISES a/k/a ACORP  
DEVELOPMENT a/k/a A-CORP  
INVESTMENT,

Defendants.

CASE NO. CV 13-01629-ABC (VBKx)

**[PROPOSED] ORDER  
APPROVING FIRST INTERIM  
APPLICATION FOR APPROVAL  
AND PAYMENT OF FEES AND  
COSTS OF KRISTA L. FREITAG,  
RECIEVER**

Ctrm: 680  
United States Courthouse  
Edward R. Roybal Federal Building  
255 East Temple Street  
Los Angeles, CA 90012-3332  
Judge: Hon. Audrey B. Collins

The First Interim Application for Approval and Payment of Fees and Costs (“Fee Application”) of the Court appointed Receiver, Krista L. Freitag (“Receiver”), came on regularly for hearing on September 9, 2013 at 10:00 a.m, United States District Judge Audrey B. Collins presiding. Christopher V. Hawkins appeared on behalf of Sullivan Hill Lewin Rez & Engel (“Sullivan Hill”) as counsel for the Receiver and there were no other appearances at the hearing.

The Court having considered the Fee Application, the supporting Declaration of Krista L. Freitag filed on August 5, 2013 (Docket nos. 35, 36), the representations of counsel at the hearing; no opposition to the Fee Application having been filed; notice appearing proper; and good cause appearing therefor,

1 **IT IS HEREBY ORDERED** that the Receiver is awarded interim fees in the  
2 amount of \$41,139.38, plus interim costs in the amount of \$12,319.36, for a total  
3 interim award of \$53,458.74 for the period of March 7, 2013 through June 30, 2013,  
4 as prayed for in the Fee Application.

5 **IT IS SO ORDERED.**

6  
7 Dated: , 2013

HON. AUDREY B. COLLINS  
UNITED STATES DISTRICT JUDGE