

IN THE DISTRICT COURT OF POTTAWATOMIE COUNTY  
STATE OF OKLAHOMA

**FILED**  
IN DISTRICT COURT

**JUL 02 2004**

POTTAWATOMIE COUNTY, OK.  
CECIL DUNLAP, COURT CLERK

BY \_\_\_\_\_ DEPUTY

OKLAHOMA DEPARTMENT OF )  
SECURITIES *ex rel.* IRVING L. )  
FAUGHT, Administrator, )

Plaintiff, )

v. )

Case No. C-03-1239

THE HICKMAN AGENCY, INC., an )  
Oklahoma corporation; MERL WILLIAM )  
HICKMAN, SR., an individual; SARAH )  
L. HICKMAN, an individual; and MERL )  
WILLIAM HICKMAN, JR., an individual, )

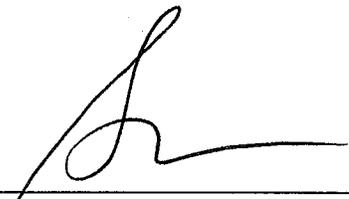
Defendants. )

**NOTICE OF HEARING ON  
INTERIM APPLICATION OF RECEIVER, STEPHEN J. MORIARTY  
FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Please be advised that a hearing on Receiver's Interim Application for Compensation and Reimbursement of Expenses for the period April 1, 2004 through June 30, 2004 has been set for

9:00 A. M. on the 29<sup>th</sup> day of July, 2004 before the

Honorable Douglas L. Combs.



STEPHEN J. MORIARTY (OBA #6410)  
ANDREWS DAVIS  
100 North Broadway, Suite 3300  
Oklahoma City, OK 73102  
Phone: 405-272-9241  
Fax: 405-235-8786  
Court Appointed Receiver for Defendants

CERTIFICATE OF MAILING

This is to certify that on the 2<sup>nd</sup> day of July, 2004, the foregoing was sent by U.S. Mail, first class, postage prepaid to:

Patricia A. Labarthe, Esq.  
Oklahoma Department of Securities  
First National Center, Suite 860  
120 North Robinson  
Oklahoma City, OK 73102

Terry West, Esq.  
Brad West, Esq.  
124 West Highland  
Shawnee, OK 74801



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Stephen J. Moriarty

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Defendants. )

INTERIM APPLICATION OF RECEIVER, STEPHEN J. MORIARTY  
FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES

Comes now Stephen J. Moriarty ("Receiver"), the Court appointed receiver for The Hickman Agency, Inc. ("Agency"), and Merl William Hickman, Sr., Merl William Hickman, Jr., and Sarah L. Hickman (collectively referred to as "Hickman" or "Defendants"), and for his interim application for compensation and reimbursement of expenses, alleges and states as follows:

1. On December 17, 2003, this Court entered its order appointing the Receiver; the appointment continued pursuant to the Temporary Injunction entered herein on December 22, 2003 (collectively referred to as the "Order"). Pursuant to the Order, the Receiver was given "immediate and exclusive custody, control and possession of all assets ... of Defendants, of whatever kind and description, and wherever situated." Further, Receiver was given the authority

“to take the necessary steps to protect the interests of Investors, including the liquidation or sale assets of Defendants...”

2. Pursuant to the Order, “the Receiver may apply to the Court for compensation, from time to time, in a reasonable sum to be determined by the Court and from such sources as approved by the court and for reimbursement of reasonable expenses incurred with his duties as Receiver.”

3. On December 22, 2003 the Court granted Receiver’s application to approve the hourly rates of Receiver and other professionals.

4. Receiver seeks interim compensation at the hourly rate approved by the Court for work performed, plus reimbursement of Receiver’s actual and necessary expenses, for the period April 1, 2004 through June 30, 2004.

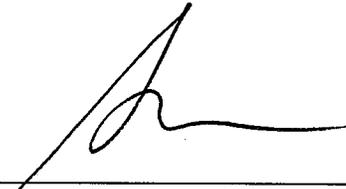
5. The amount of compensation to be allowed rests within the sound discretion of the Court. Hudson v. Hubbell, 1935 OK 138, 41 P. 2d 844.

6. Receiver has devoted substantial time and effort in the execution of his duties and seeks compensation as detailed in the statement attached as Exhibit “A”. The charges set forth in Exhibit “A” were reasonable and necessary.

7. Receiver resides in Edmond, Oklahoma and maintains a law practice in Oklahoma City. In order to discharge his duties Receiver has been required to spend considerable time at the office of The Hickman Agency in Shawnee. Receiver has not charged the receivership estate, nor will he seek compensation for, any travel time between Edmond and Shawnee. Due to the extensive time required to discharge his duties herein, Receiver has been forced to decline other legal representations.

8. This Application covers allowance of compensation and reimbursement of expenses for the period April 1, 2004 through June 30, 2004. During the period covered by this application, Receiver expended a total of 95.75 hours at an hourly rate of \$235.00 for a total fee of \$22,501.25. In addition, Receiver seeks reimbursement of expenses in the amount of \$1,494.06, as detailed in Exhibit "B" hereto.

WHEREFORE, Receiver respectfully requests that this Court enter an Order approving interim compensation to Receiver in the amount of \$22,501.25 and reimbursement of expenses in the amount of \$1,346.06, for the period April 1, 2004 through June 30, 2004.



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STEPHEN J. MORIARTY (OBA #6410)  
ANDREWS DAVIS  
100 North Broadway, Suite 3300  
Oklahoma City, OK 73102  
Phone: 405-272-9241  
Fax: 405-235-8786  
Court Appointed Receiver for Defendants

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120 North Robinson  
Oklahoma City, OK 73102

Terry West, Esq.  
Brad West, Esq.  
124 West Highland  
Shawnee, OK 74801

  
\_\_\_\_\_  
Stephen J. Moriarty

4/1/04 Hickman 8:00-11:30 3.5 hrs

Continue preparations for auction; multiple t/c's with investors re:1099's

4/2/04 Hickman 8:30-1:45 5.25 hrs

Multiple t/c with Markwell and Canadian Valley Electric Co-op re: termination of service/resumption of service for auction; travel to Seminole to make payment to resume service

4/3/04 Hickman 6:30-10:45 16.25 hrs (no charge)

Attend auction at Hickman property

4/5/04 Hickman 8:00-3:30 7.5 hrs

Reconcile receipts from auction; prepare bank deposit re: same; meeting with Vernon Markwell re: final accounting/payment/sales tax issues; draft and revise objection to OESC re: Bill, Jr. claim for unemployment

4/6/04 Hickman 8:30-11:30 3.0 hrs

Meeting with Wilma Edmonson re: account and 1099 issues; multiple t/c with investors (1099 and tax issues) and with purchasers at auction

4/7/04 Hickman 8:00-10:30  
2:00-2:30 3.0 hrs

Draft and revise Receiver's Report re: boat auction; draft and revise Motion for Sale of Corvette; file same; obtain hearing dates; t/c with Carol Rutledge re: Margaret Conti's 1099

4/9/04 Hickman 1.2 hrs

Multiple T/C's with investors and their accountants re: tax issues

4/12/04 Hickman 4.3 hrs

Meeting with BOK re: checks returned for insufficient funds at auction; multiple T/C's with investors re: tax issues

4/14/04 Hickman 2.3 hrs

Follow-up on insufficient funds checks; meeting with Lori Bynum at ODS re: documents received from investors and calculation of potential restitution; multiple T/C's with investors re: tax issues; set up meeting with Congressman Istook's office and IRS/OTC re: tax issues

4/15/04 Hickman 1.2 hrs

Draft demand letters re: insufficient funds checks; multiple T/C's with investors re: tax issues; T/C with Brad West re: land and Mustang

4/16/04 Hickman 3.8 hrs

Factual research re: overpayment by FMCC (\$4500); T/C with CIT re: mobile home and R/V; t/c with Vernon Markwell re auction of newly identified items and potential auction of land

4/21/04 Hickman 2.1 hrs

Multiple t/c with Pat Paradise and Virgil Holden re: attempts to reschedule 4/22 meeting; draft e-mails to Congressman Istook's office re: same; extended t/c with Wilma Edmonson re: tax and 1099 issues; follow-up on collection of insufficient funds checks

4/22/04 Hickman 4.6 hrs

Preparation for and attendance at meeting at Congressman Istook's office with IRS re: investor tax issues; meeting with Virgil Holden re: tax issues; multiple t/c attempting to identify contacts on Ways and Means Committee

4/29/04 Hickman 3.8 hrs.

Preparation for and attendance at hearing on Corvette. Meeting with Jerry O'Connor re: Corvette. T/C with Steve Wagner re: Corvette title. Meeting at Tag Agency to obtain duplicate titles.

5/6/04 Hickman 0.3 hrs

T/C with Patty LaBarthe re: status and re: OESC appeal

5/10/04 Hickman 1.0 hrs

Draft and revise OESC appeal re: Bill, Jr. unemployment benefits

5/12/04 Hickman 1.3 hrs

Legal research re: homestead claims

5/13/04 Hickman 1.5 hrs

Legal research re: ability to impose equitable liens on property fraudulently obtained.

5/19/04	Hickman	5.3 hrs
Meeting with Mark Toffoli re: investor suit to impose constructive trust on receivership property; legal research re: same. Meeting with Vernon Markwell re: land issues.		
5/20/04	Hickman	0.2 hrs
T/C with Patty LaBarthe re: status and OESC appeal		
5/25/04	Hickman	2.5 hrs
T/C with Patty Labarthe re: claims against Angela and Peter Frigulieto; review bankruptcy materials re: Angela and Peter re: structure of possible settlement of claims.		
5/28/04	Hickman	1.8 hrs
Factual and legal research re: land sale		
6/1/04	Hickman	2.0 hrs
Review IRS memo re: treatment of investor claims. Meeting with Patty Labarthe and Lori Bynum re: status and investor tax claims		
6/2/04	Hickman	3.5 hrs
Draft and revise Motion re: Jeep. Meetings in Shawnee/Meeker with Jerry O'Connor (Corvette/car auction) and Vernon Markwell (land sales)		
6/3/04	Hickman	1.6 hrs
Meeting with Patty Labarthe re: status and OESC appeal. Travel to Shawnee for meeting on vehicles and to file Jeep Motion.		
6/4/04	Hickman	1.8 hrs
Review Markwell materials and analysis re: potential land sales		
6/7/04	Hickman	3.2 hrs
Preparation for and attendance at OESC appeal. Meeting with Patty Labarthe re: status		
6/8/04	Hickman	3.5 hrs

Begin analysis of investor responses. Review correspondence from Angela Friguletto counsel; conduct inventory of jewelry; meeting with Patty Labarthe re: endorsement of check for proceeds from vehicle sale

6/10/04 Hickman 4.8 hrs

Continue review of investor responses; appear at Court docket re: Jeep hearing; multiple T/C's with Brad West re: same. Review appellate decision from OESC; T/C with Patty Labarthe re: same.

6/14/04 Hickman 1.6 hrs

Continue analysis of investor responses

6/18/04 Hickman 3.1 hrs

Attend entry of criminal pleas by Bill, Sr. and Bill, Jr.. Commence preparation for hearing on Jeep, including review of bank records and interviews of John Fleming and Regina Green

6/24/04 Hickman 3.5 hrs

Continue analysis of investor claims. T/C with Sarah Timberlake re: Bradford Life Insurance Company; T/C with Patty Labarthe re: same

6/24/04 Hickman 2.0 hrs

Continue analysis of investor claims. Meeting with Sarah Timberlake re: Bradford Life Insurance Company.

6/29/04 Hickman 2.2 hrs

Continue analysis of investor claims. Follow-up correspondence with Congressman Istook's office re: investor tax claims

6/30/04 Hickman 3.5 hrs

Preparation for Jeep hearing

MILEAGE REIMBURSEMENT

<u>DATE</u>	<u>MILES</u>	<u>AMOUNT</u>
4/1/04	104 X 0.37	38.48
4/2/04	164 X 0.37 (Seminole)	60.68
4/3/04	104 X 0.37	38.48
4/7/04	104 X 0.37	38.48
4/9/04	104 X 0.37	38.48
4/12/04	104 X 0.37	38.48
4/14/04	104 X 0.37	38.48
4/15/04	104 X 0.37	38.48
4/16/04	104 X 0.37	38.48
4/22/04	104 X 0.37	38.48
4/24/04	104 X 0.37	38.48
4/26/04	104 X 0.37	38.48
4/27/04	170 X 0.37 (Edmond/Chandler/Shawnee)	62.90
4/28/04	104 X 0.37	38.48
4/29/04	120 X 0.37 (Edmond/Shawnee/Meeker)	44.40
4/30/04	104 X 0.37	38.48
5/3/04	104 X 0.37	38.48
5/4/04	104 X 0.37	38.48
5/6/04	104 X 0.37	38.48
5/7/04	150 X 0.37 (Edmond/Chandler/Shawnee)	55.50
5/8/04	122 X 0.37 (Meeker)	45.14
5/10/04	104 X 0.37	38.48
5/14/04	104 X 0.37	38.48
5/17/04	104 X 0.37	38.48
5/19/04	104 X 0.37	38.48
5/20/04	104 X 0.37	38.48
5/21/04	104 X 0.37	38.48
5/24/04	104 X 0.37	38.48
5/28/04	104 X 0.37	38.48
6/2/04	104 X 0.37	38.48
6/4/04	104 X 0.37	38.48
6/7/04	104 X 0.37	38.48
6/10/04	104 X 0.37	38.48
<u>TOTAL</u>		<u>\$1,346.06</u>