



the Receiver were reasonable and necessary for the Receiver to perform his Court-ordered duties.

The Court concludes the Motion should be, and is hereby, GRANTED.

It is therefore ORDERED that payment for interim fees and expenses of \$26,000.62 to the Receiver for services rendered to the ProphetMax Receivership Estate and IB Capital Receivership Estate during the Seventeenth Fee Period is approved.

SIGNED this 13th day of April, 2023.

  
\_\_\_\_\_  
LEE YEAHEL  
UNITED STATES DISTRICT JUDGE



*Highway Express, Inc.*, 488 F.2d 714, 717-19(5th Cir.1974).<sup>1</sup> The Court in the Stanford Receivership observed that this particular receivership is essentially equivalent to a Chapter 7 bankruptcy. *See* Civ. Action No. 3;09-cv-072 4, Doc. 1093 at 39 ("Ultimately, this particular receivership is the essential equivalent of a Chapter 7 bankruptcy. While a different federal statutory scheme - one that is looser and more flexible than the Bankruptcy Code-is at work, the overall purposes and objectives of the Stanford receivership track the overall purposes and objectives present in the Bankruptcy Code and a Chapter 7 proceeding."). Therefore, the factors governing the analysis of requests for professional fees and expenses incurred in the bankruptcy context are also relevant to the Court's valuation of the Receiver's fee applications.

Under 11 U.S.C. § 330(a)(3), in examining a request for fees and expenses to be awarded to an examiner, trustee under chapter 11, or other professional in the context of a bankruptcy, a court considers, in addition to the amounts involved and results obtained, "the nature, the extent, and the value of such services, taking into account all relevant factors, including (A) the time spent on such services; (B) the rates charged for such services; (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under [11 U.S.C. § 330(a)(3)]; (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance,

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<sup>1</sup> Under *Johnson*, courts consider the following factors in determining whether the time spent, services performed, expenses incurred, and hourly rates charged are reasonable and necessary: (1) the time and labor required for the litigation; (2) the novelty and complication of the issues; (3) the skill required to properly litigate the issues;(4) whether the attorney was precluded from other employment by the acceptance of this case; (5) the attorney's customary fee; (6) whether the fee is fixed or contingent; (7) whether the client or the circumstances-imposed time limitations; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorney; (10) the "undesirability" of the case; (11) the nature and length of the attorney-client relationship; and (12) awards in similar cases. *Id.* at 717-19. In applying these factors, "the district court must explain the findings and the reasons upon which the award is based. However, it is not required to address fully each of the 12 factors." *Curtis v. Bill Hanna Ford, Inc.*, 822 F.2d 549, 552 (5th Cir. 1987) (citation omitted); *see also SEC v. W.L. Moody & Co., Bankers (Unincorporated)*, 374 F. Supp. 465,480 (S.D. Tex. 1974), *aff'd*, *SEC v. W.L. Moody & Co.*, 519 F.2d 1087 (5th Cir. 1975); *SEC v. Mega. fund Corp.*, No. 3:05-CV-1328-L, 2008 WL 2839998, at \*2 (N.D. Tex. June 24, 2008); *SEC v. Fifth Ave. Coach Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973).

and nature of the problem, issue, or task addressed; (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under [11 U.S.C. § 330(a)(3)]." 11 U.S.C. § 330(a)(3).

#### **A. PENDING ING SETTLEMENT**

A telephonic hearing was held on all pending motions before the Court on March 22, 2023. On March 23, 2023, the Court entered an Order granting the Receiver's First Amended Motion to Approve Settlement, to Issue Ancillary Channeling and Bar Injunctions, and to Establish Distribution Procedures [Dkt. 250]. Once that Order becomes final and no longer appealable, the Receiver will notify ING's counsel of such, and the distribution phase of the ING settlement will begin. The ING settlement is being paid in EUROS. Exchange rates based on April 10, 2023; the ING settlement will result in a payment to investors of approximately 34% of their approved claim amounts.<sup>2</sup>

#### **B. MOTION FOR FIRST INTERIM DISTRIBUTION**

On March 23, 2023, the Court also entered an Order granting the Receiver's Unopposed Motion for Disbursement of Funds for Approval of First Interim Distribution Plan & Procedures. [Dkt. 249]. This distribution would be distributed from funds the Receiver has recovered and would represent a payment to investors of approximately 20% of their approved claim amounts.

#### **C. RECEIVER'S ACTIVITIES FOR THIS FEE PERIOD**

Due to the hearing on March 22, 2023, and the anticipation of the two upcoming distributions the Receiver continued to receive a significant number of direct emails and telephone

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<sup>2</sup> XE: Convert EUR/USD (April 10, 2023). Retrieved from <https://www.xe.com/currencyconverter/convert/?Amount=1&From=EUR&To=USD>

calls from investor claimants requesting updates. Correspondingly, a significant amount of time during the Fee Period was spent communicating with investors.

The Receiver spent a considerable amount of time preparing for and attending a telephonic hearing with the Court at which all eleven pending motions were argued. Once the signed Orders from those motions were posted to the Receivership website, a significant number of investors contacted the Receiver via email and telephone regarding the timing of their distribution. The Receiver and his paralegals fielded these inquiries.

The Receiver continued to contact the DPPO regarding the timing of the \$7.3 million in Slovakian funds and when it is expected to be repatriated.

Lastly, as previously reported, the Receiver's paralegals attempted to contact approved investor claimants who have been unresponsive to postcards sent to their last known addresses, emails and telephone numbers. They continue to reestablish contact via internet searches. They have reestablished contact with approximately ten investors. While most of the ensuing discussions and communications with these investors were handled by the paralegals, the Receiver did participate in a few of those discussions.

#### **D. PARALEGAL'S ACTIVITIES FOR THIS FEE PERIOD**

The majority of the paralegal's activities occurred either right before the hearing on March 22, 2023, or afterward. The Court granted eleven motions; the signed orders were downloaded from the Courts electronic filing system and combined with the corresponding motions. The signed orders were posted on the Receivership website with updates on both the website and social media account. They responded to approximately 100 investor claimants via email and telephone regarding responses to claim questions, provided status updates and responded to individual specific questions, as they pertained to their claims and the timing of anticipated distributions. They

validated or updated their contact information where applicable and updated the investor spreadsheet; as previously stated above, they also attempted to locate approved investor claimants, that over the years, lost contact with the Receivership.

The senior paralegal spent time assisting the Receiver with preparation for the hearing as well as attend the hearing. She also updated the IB Capital ProphetMax bookkeeping notebook for to include all expense activity the Receiver was approved to issue.<sup>3</sup> Her total hours for the month of March were 27.40; her invoiced totaled \$2,322.00. His paralegals total hours for the month of March were 11.90; his invoice totaled \$707.00.<sup>4</sup>

#### **E. Expenses**

The Receiver's law firm incurred a total expense of \$47.10 from the time period January 1, 2023 through March 31, 2023 for the Texas Western District electronic court filing system.

### **CONCLUSION AND PRAYER FOR RELIEF**

The Receiver requests the Court to approve his Seventeenth Fee Application totaling \$22,924.52 for his invoice which includes time expended by the Receiver for the one-month time period between March 1, 2023, through March 31, 2023. Attached as Exhibit 1 to this Motion for Approval of Seventeenth Fee Application and Brief in Support are the redacted invoice detailing all the Receivers time entries during the Fee Period.

The Receiver requests the Court enter the proposed Order filed with this Motion to approve the payment of interim expenses of \$3,076.10 for the invoices of his two paralegals and \$49.10

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<sup>3</sup> The IB Capital ProphetMax notebook includes all bank statements, invoices, court papers with corresponding orders and an Excel spreadsheet of account activity.

<sup>4</sup> The Receiver's senior paralegal invoiced 13.8 hours at \$50.00 per hour which is thirty-three percent of her normal hourly rate for a total of \$690.00 and 13.6 hours at \$120.00 per hour which is 20% of her normal hourly rate for a total of \$1,632.00. The Receiver's paralegal invoiced 4.9 hours at \$30.00 per hour which is 70% of his normal hourly rate for a total of \$147.00 and 7 hours at \$80.00 per hour which is 20% for a total of \$560.00. [Dkt. 265]

expense for the Texas Western District electronic court house filing system to the Receiver for the ProphetMax Receivership Estate and IB Capital Receivership Estate during the Seventeenth Fee Period, which were both reasonable and necessary for the Receiver to fulfill his Court-ordered duties.

Respectfully submitted,  
GUY HOHMANN

By: /s/ Guy Hohmann

Guy Hohmann  
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**RECEIVER FOR THE PROPHETMAX AND  
IB CAPITAL RECEIVERSHIP ESTATES**

**CERTIFICATE OF CONFERENCE**

The Receiver conferred with Timothy Mulreany, counsel for the CFTC, who stated the CFTC does not take a position on the Motion nor the relief sought herein.

/s/ Guy Hohmann  
Guy Hohmann

**CERTIFICATE OF SERVICE**

On April 11, 2023, I electronically submitted the foregoing document with the Clerk of the Court of the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Guy Hohmann  
Guy Hohmann



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES COMMODITY	§
FUTURES TRADING COMMISSION,	§
	§
<i>Plaintiff,</i>	§
	§
v. § Civil Action No. A-12-CV-0862-LY	§
	§
SENEN POUSA, INVESTMENT	§
INTELLIGENCE CORPORATION,	§
DBA PROPHETMAX MANAGED FX,	§
JOEL FRIANT, MICHAEL DILLARD, and	§
ELEVATION GROUP, INC.,	§
	§
<i>Defendants.</i>	§

**ORDER GRANTING RECEIVER'S  
MOTION FOR APPROVAL OF SEVENTEETH FEE APPLICATION**

Before the Court is the Receiver's Motion for Approval of the Seventeenth Fee Application and Brief in Support ("Motion"), covering the one-month time period from March 1, 2023, through March 31, 2023.

Before the Court is the Receiver's Motion for Approval to Pay his Fees and Expenses for the following:

1. Receiver's fees of \$22,924.52
2. Senior paralegal total expenses of \$2,322.00.
3. Paralegal total expenses of \$707.00
4. The Hohmann Law Firm expense of \$47.10 for Texas Western District Electronic Court filing system from January 1, 2023 through March 31, 2023.

Having considered the Motion, the evidence presented, and arguments of counsel, if any, the Court finds the time spent, services performed, hourly rates charged, and expenses incurred by

the Receiver were reasonable and necessary for the Receiver to perform his Court-ordered duties. The Court concludes the Motion should be, and is hereby, GRANTED.

It is therefore ORDERED that payment for interim fees and expenses of \$26,000.62 to the Receiver for services rendered to the ProphetMax Receivership Estate and IB Capital Receivership Estate during the Seventeenth Fee Period is approved.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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LEE YEAKEL  
UNITED STATES DISTRICT JUDGE



# The Hohmann Law Firm

# INVOICE

Norwood Tower  
 114 West 7th Street, Suite 1100  
 Austin, Texas , 78701  
 Guyh@hohmannlaw.com  
 www.hohmannlaw.com  
 O: 5125519808

Number	1274
Issue Date	3/1/2023
Due Date	3/31/2023
Email	guyh@hohmannlaw.com

## Bill To:

Guy Hohmann Receiver for ProphetMax and IB Capital  
 114 West Seventh Street  
 Suite 1100  
 Austin, Texas 78701  
 O: 512-495-1438

## Time Entries

Time Entries	Rate	Hours	Sub
GMH-RCVR 3/1/2023 Emails with investor regarding status and tax issue, email to my Cypriot counsel regarding [REDACTED], review and revise Sixteenth Fee Application and conference with Ryn Hohmann regarding [REDACTED].	\$658.75	2.60	\$1,712.75
GMH-RCVR 3/2/2023 Emails to and from the DPPO regarding status of Slovakian proceeding, lengthy email to my Slovakian counsel regarding [REDACTED], emails with Mr. Dione's and Mr. Gallagher's counsel egarding testimony at Mr. Dione's sentencing hearing, email to my Slovakian counse [REDACTED], review and revise Sixteenth Fee Application.	\$658.75	4.70	\$3,096.13
GMH-RCVR 3/6/2023 Emails with my Cypriot counsel regarding [REDACTED].	\$658.75	0.60	\$395.25
GMH-RCVR 3/13/2023 Emails from investors regarding status, email to the widow of an investor claimant regarding background information in connection with receivership and two pending motions to allow distributions of approximately 50% of the investors approved claim amount, telephone conference with investor's widow regarding same.	\$658.75	1.20	\$790.50
GMH-RCVR 3/14/2023 Emails to and from the DPPO regarding Powers of Attorney over four Moroccan Accounts, review and revise Powers of Attorney for Emade Echade, and Rabiaa and Essadia Moutaouakkil. Email to Emade Echade's counsel regarding Powers of Attorney over Banque Populaire accounts.	\$658.75	1.70	\$1,119.88

Exhibit 1

Time Entries	Rate	Hours	Sub
GMH-RCVR 3/15/2023 Review information from Morocco's Exchange Offsite website, email to my prospective new French counsel regarding [REDACTED].	\$658.75	0.60	\$395.25
GMH-RCVR 3/20/2023 Emails with Ms. Hailey Suggs regarding possible conference calls, emails with Mr. Muireany regarding same.	\$658.75	0.30	\$197.63
GMH-RCVR 3/21/2023 Review of outline for Arguments from September 12, 2022 hearing and prepare outline of Arguments of Motions filed between October 24, 2022 and March 3, 2023.	\$658.75	6.20	\$4,084.25
GMH-RCVR 3/22/2023 Continue with review of 11 motions and prepare outline of arguments and attend telephonic hearing in connection with same.	\$658.75	5.80	\$3,820.75
GMH-RCVR 3/23/2023 Emails from and to my French counsel regarding next steps, email from counsel for investor's estate regarding recent hearings and expected time frame for distributions, emails with ING's counsel regarding Order approving settlement, email from and to my French counsel regarding [REDACTED], emails with East West Bank regarding Approval of ING settlement. Emails with Emade Echade regarding Rabiaa Moutaouakkil's passport and irrevocable transfer orders instead of powers of attorney.	\$658.75	2.80	\$1,844.50
GMH-RCVR 3/27/2023 Emails with my Cypriot and Moroccan counsel regarding [REDACTED], email from ING's counsel, review of selected portions of the Settlement Agreement and Schedules, email to ING's counsel regarding timing of settlement, triggering event and notice provisions, email to Dennis Roossien regarding background information in connection with Dr. Price and Bojan Schianetz/Zimmerman dispute.	\$658.75	2.30	\$1,515.13
GMH-RCVR 3/29/2023 Review and revise Motion to Incur Travel Expenses, review and revise Motion for Approval to Pay Expenses for my Moroccan and French counsel and conference with Ryn Hohmann regarding [REDACTED], review and revise proposed budget for Moroccan travel.	\$658.75	4.40	\$2,898.50
GMH-RCVR 3/30/2023 Voicemail from and telephone conference with wife of deceased investor regarding background information and upcoming distribution and possible future distribution .	\$658.75	0.40	\$263.50
GMH-RCVR 3/31/2023 Final revisions to Motion to Incur Travel Expenses and Proposed Budget, email to my French counsel regarding [REDACTED], conference with Ryn Hohmann regarding [REDACTED].	\$658.75	1.20	\$790.50
	<b>Time Entries Total</b>	<b>34.80</b>	<b>\$22,924.52</b>

Total (USD)	\$22,924.52
Paid	\$0.00
Balance	\$22,924.52

Terms & Conditions

Net 30

Exhibit 1