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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
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DEPUTY

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

UNITED STATES COMMODITY §
FUTURES TRADING COMMISSION, §
PLAINTIFF, §

V. §

CAUSE NO. 1:12-CV-862-LY

§
§
SENEN POUSA, INVESTMENT §
INTELLIGENCE CORPORATION D/B/A §
PROPHETMAX FX, JOEL FRIANT, §
ELEVATION GROUP, INC. D/B/A §
ELEVATION GROUP FX, AND §
MICHAEL DILLARD, §
DEFENDANTS. §

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

Before the court in the above-styled cause of action is the Receiver's Unopposed Motion for Approval of Third Interim Fee Application and Brief in Support, filed May 22, 2013 (Clerk's Doc. No. 70). On July 18, 2013, the court held a hearing on the motion, at which the Receiver and attorneys for the United States Commodity Futures Trading Commission and Securities and Exchange Commission were present. Before the hearing, the court received numerous letters and emails from the investor victims in this case objecting to the Receiver's request for approval of fees, which the court reviewed *in camera* before the hearing. Following the hearing, the Receiver filed a response to these objections (Clerk's Doc. No. 75). Having considered the motion, the investors' objections, the Receiver's response, the arguments presented at the hearing, and the entire case file, the court is of the opinion the motion should be granted.

On September 18, 2012, this court appointed Guy M. Hohmann as the Receiver for the assets of Defendants Senen Pousa, Investment Intelligence Corporation d/b/a ProphetMax Managed FX,

and Joel Friant, as well as their affiliates and subsidiaries. The court's order entitled the Receiver, including counsel to the Receiver, to reasonable compensation for the performance of duties under the order and for the cost of actual expenses incurred by them. The order further directed that these fees and expenses are to be recovered from assets held by, in the possession or control of, or which may be received by the Defendants.

The court's order requires that the Receiver file with the court any periodic requests for payment of such compensation. The court previously granted requests for interim fees from the Receiver on November 15, 2012, and February 6, 2013. The current fee application covers the expenses incurred by the Receiver and his legal team from November 1, 2012 to March 31, 2013. The Receiver requests the court's approval to pay interim fees of \$84,425.40 to the Receiver and interim fees and expenses of \$218,566.98 to the retained professionals who rendered services to the receivership estate during the fee period. The Receiver attaches to his motion redacted invoices summarizing the time spent, services performed, hourly rates charged, and expenses incurred by the Receiver and his attorneys.

The court has reviewed the invoices and considered the factors established by the Fifth Circuit in determining the reasonableness of professional fees and expenses. *See Johnson v. Ga. Highway Exp., Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974). The court finds the time spent, services performed, hourly rate charged, and fees and expenses incurred to be reasonable in light of the complexity of the Receiver's work, which includes communicating and coordinating with foreign governments and entities in order to assist in the seizure of foreign assets. The court also notes that the Receiver has rendered services to the estate at a 15% discount to his and his legal team's customary billing rates and has provided an additional 10% deduction from the Receiver's and the

legal team's fees for this fee period, equating to a \$27,480.60 total reduction in the Receiver's fees and a \$66,208.90 total reduction in legal fees incurred by the estate during this period.

The court emphasizes that the granting of the Receiver's motion represents the court's interim, not final, approval of fees. The fee amount approved herein may be reduced if the court deems it appropriate to do so when the Receiver submits his final motion for approval of total fees upon the resolution of this case and the closure of the receivership. Accordingly,

IT IS HEREBY ORDERED that the Receiver's Unopposed Motion for Approval of Third Interim Fee Application and Brief in Support (Clerk's Doc. No. 70) is **GRANTED**.

IT IS FURTHER ORDERED that payment in the amount of **\$84,425.40** for service rendered for and by the Receiver from November 1, 2012 through March 31, 2013 is **APPROVED**.

IT IS FINALLY ORDERED that payment in the amount of **\$218,566.98** for services rendered and expenses incurred by Hohmann, Taube & Summers, L.L.P. from November 1, 2012 through March 31, 2013 is **APPROVED**.

SIGNED this 27th day of November, 2013.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE