

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

UNITED STATES COMMODITY  
FUTURES TRADING COMMISSION,

*Plaintiff,*

v.

SENE POUSA, INVESTMENT  
INTELLIGENCE CORPORATION,  
*DBA* PROPHETMAX MANAGED FX,  
JOEL FRIANT, MICHAEL DILLARD, and  
ELEVATION GROUP, INC.,

*Defendants.*

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Civil Action No. A-12-CV-0862-LY

**RECEIVER’S MOTION FOR APPROVAL TO PAY EXPENSES  
FOR JANUARY 1, 2022 THROUGH APRIL 30, 2022**

Guy M. Hohmann, the Court-appointed Receiver in the above-referenced ProphetMax Receivership matter and the ancillary IB Capital matter, files this Motion for Approval to Pay Expenses covering January 01, 2022, through April 30, 2022 (the “Motion”). The Receiver believes this Motion and brief in support demonstrate the expenses are reasonable and necessary.

**I. Van Oosten Schulz de Korte Advocaten, Amsterdam, the Netherlands**

Fees incurred with this firm relate to a number of conferences and communications with counsel for ING Bank, the Dutch Public Prosecutor’s Office and the Receiver concerning the Receiver’s claims against various relief defendants which includes emails, letters, telephone conference calls. The Receiver’s Dutch counsel has also been of considerable assistance in helping to facilitate a recent settlement with ING Bank (“ING”).

Total fees and expenses for their most recent invoice which includes an accumulation of time in January and February for telephone calls, emails and input on a status report. Included on

their March invoice is one call in November they did not invoice for in an earlier statement. Their invoice total is EUR €1,043.00 (USD 1084.63).<sup>1</sup>

## **II. Munsch, Hardt**

The Munsch Hardt firm's time in January through April related primarily to assisting the Receiver with foreign recovery efforts and other communications with third parties. These communications included communications with criminal defense counsel from Florida who represent two alleged U.S. Suspects (Gallagher and Dion) that participated in the I.B. Capital fraud; he also assisted with ING developments and pending settlement. He attended a call with the Securities Exchange Commission regarding the Pousa matter. He also attended a conference call with defense counsel regarding their inquiry for information pertinent to Gallagher and Dion. He also had a conference with the Department of Justice and follow-up emails.

Total fees and expenses for their most recent invoice for their combined fee note for January and February time amounts to \$3,153.50. Their most recent invoice for April amounts to \$1,487.50.

## **III. Senior Paralegal**

The senior paralegal's primary activities for the months of January through April of 2022 continued to focus on correspondence with investors answering their claim questions, providing status updates. She also validated or updated their contact information where applicable and updated the investor spreadsheet and monitored the Receivership email box daily for general investor inquiries.

The senior paralegal assisted the Receiver's with revising and editing numerous documents as they related to the Status Report, Interim Status report and other court documents

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<sup>1</sup> XE: Convert EUR/USD (May 13, 2022). Retrieved from <https://www.xe.com/currencyconverter/convert/?Amount=1043&From=EUR&To=USD>

and assisted with the preparation of uploading all the documents to electronic CM/ECF PACER Court system.<sup>2</sup>

Additional focus for the months of February through April included preparing individual claim waivers and release documents for each investor claimant which included addressing headers with claimant's name, address and claim amount. The waiver and release is a requirement by ING to be signed by each investor claimant as part of the pending ING Settlement. She telephoned investor claimants that have not responded to any other means of the Receivers communication including postcards sent to their last known address.<sup>3</sup> Her hours invoiced by month for January was 87.00, total hours for February 74.50, total hours for March 86.40 and total hours for April 59.50; her time was invoiced at \$50.00 per hour which is one-third of her normal hourly rate for a total of \$15,305.00.

#### **PRAYER FOR RELIEF**

The Receiver requests the Court enter the proposed Order filed with this Motion to approve the payment of total expenses of \$19,543.13 referenced above. The expenses 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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114 West 7<sup>th</sup> Street  
Suite 1100  
Austin, Texas 78701  
(512) 495-1438

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<sup>2</sup> The Receiver's Senior Paralegal assisted with eleven Court documents as they relate to A-12-CV-0862-LY and the ancillary matter 1:19-CV -00930-LY.

<sup>3</sup> There are a total of 953 investor claimants of which 118 (85 located in the U.S.) are non-responsive. The senior paralegal's focus was telephoning U.S. investors while Tim Mulreany worked with his partners contacting investor claimants outside the U.S. She continues to work on this project until all waiver and release documents are completed, and all attempts to reach non-responsive investors have been exhausted.

**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*

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Guy Hohmann

**CERTIFICATE OF SERVICE**

On May 17, 2022, 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*

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Guy Hohmann

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*Plaintiff,* §

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*Defendants.* §

**ORDER ON RECEIVER’S MOTION FOR APPROVAL TO PAY EXPENSES FOR  
 JANUARY 01, 2022 THROUGH APRIL 30, 2022**

Before the Court is the Receiver’s Motion for Approval to Pay Expenses to  
 approve the payment of expenses for January 01, 2022, through April 30, 2022 (the “Motion”)  
 for the following expenses:

1. Van Oosten Schulz de Korte Advocaten, for total fee and expenses EUR €1,043.00 (USD 1084.63).
2. Munsch, Hardt for their invoice total fees and expenses \$4,641.00.
3. Senior paralegal fees \$15,305.00.

Having considered the Motion, the evidence presented, and arguments of counsel, if any,  
 the Court finds the Motion should be, and is hereby, GRANTED.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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LEE YEAKEL  
 UNITED STATES DISTRICT JUDGE

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

UNITED STATES COMMODITY  
FUTURES TRADING COMMISSION,

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Having considered the Motion, the evidence presented, and arguments of counsel, if any,  
the Court finds the Motion should be, and is hereby, GRANTED.

SIGNED this 14th day of June, 2022.

  
LEE YEAKEL  
UNITED STATES DISTRICT JUDGE