

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SECURITIES AND EXCHANGE)
COMMISSION,)

Plaintiff,)

v.)

DETROIT MEMORIAL PARTNERS, LLC)
and MARK MORROW,)

Defendants.)

CIVIL ACTION FILE NO.
1:13-CV-01817-WSD

**RECEIVER’S TENTH APPLICATION FOR COMPENSATION AND
REIMBURSEMENT OF EXPENSES (FIRST QUARTER 2016)**

Jason S. Alloy, the Receiver for Detroit Memorial Partners (“DMP”), files this Tenth Application seeking the Court’s approval to pay the Receiver’s professional service fees and expenses for the period January 1, 2016 through March 31, 2016 (the “Time Period”).

The Receiver’s counsel submitted a complete copy of this Application to the SEC, Mark Morrow, and DMP’s nonparty members for their review on April 15, 2016, and no party expressed any objection. The Receiver sent a revised version of the same parties on April 29, 2016 adding an invoice from the accounting firm

McLean Koehler Sparks & Hammond (“McLean Koehler”), and again no party expressed any objection.

INFORMATION ABOUT THE APPLICANT AND THE APPLICATION

Billing Instructions § C(1)(a) through (d)

1. ***Date the Receiver was Appointed:*** November 22, 2013.
2. ***Date of the Order Approving Employment of the Applicant.*** The law firm Robbins Ross Alloy Belinfante Littlefield, LLP (“Robbins Firm”) was approved as counsel to the Receiver on November 26, 2013, although the Robbins Firm began providing legal services to DMP on September 24, 2013. The accounting firm McLean Koehler was approved on March 26, 2014. The law firm Dykema Gossett, PLLC (“Dykema”) was approved on June 17, 2015.
3. ***Date Services Commenced:*** The Robbins Firm’s services commenced on September 24, 2013. The Receiver first consulted with McLean Koehler on February 4, 2014. The Dykema Firm began providing services on May 4, 2015.
4. ***Names and Hourly Rates of All of Applicant’s Professionals and Paraprofessionals.*** See the Fee Schedule attached hereto as **Exhibit B**.
5. ***Whether the Application is Interim or Final, and the Dates of Previous Orders on Interim Applications Along with Amounts Requested and the Amounts Allowed or Disallowed, All Amounts of Previous Payments, and***

Amount of Any Allowed Applications which Remain Unpaid. This is the tenth interim Application for fees filed by the Receiver. Applications have been approved through the Fourth Quarter of 2015, and all approved fees through the Fourth Quarter have been paid to the appropriate service providers. The previous applications were as follows:

Date of Application	Amt. Requested	Date Order Entered	Amt. Allowed (fees/expenses)
Feb. 14, 2014 [Doc. 68]	\$22,669.67	Mar. 2, 2014 Order [Doc. 75] June 3, 2014 Judgment [Doc. 88]	\$22,669.67 (full amount)
May 15, 2014 [Doc. 86]	\$83,006.00	June 3, 2014 Order & Judgment [Docs. 87 & 89]	\$83,006.00 (full amount)
Aug. 14, 2014 [Doc. 97]	\$58,553.17	Nov. 25, 2014 Order [Doc. 106]	\$58,553.17 (full amount)
Nov. 14, 2014 [Doc. 103]	\$66,889.83	Nov. 21, 2014 Order [Doc. 104]	\$66,889.83 (full amount)
Feb. 16, 2015 [Doc. 111]	\$34,340.27	Feb. 17, 2015 Order [Doc. 112]	\$34,340.27 (full amount)
May 15, 2015 [Doc. 116]	\$57,735.44	June 5, 2015 Order [Doc. 117]	\$57,735.44 (full amount)
Aug. 14, 2015 [Doc. 127]	\$99,412.90	Sept. 2, 2015 Order [Doc. 131]	\$99,412.90 (full amount)

Nov. 16, 2015 [Doc. 133]	\$63,990.20	Feb. 3, 2016 Order [Doc. 149]	\$63,990.20 (full amount)
Feb. 15, 2016 [Doc. 151]	\$75,316.42	N/A	N/A
Mar. 3, 2016 (Amended) [Doc. 153]	\$65,399.92	Mar. 9, 2016 Order [Doc. 155]	\$36,307.92 (partial amount)

CASE STATUS (NARRATIVE)

Billing Instructions § C(2)(a) through (e)

6. ***Amount of Cash on Hand; Amount and Nature of Accrued***

Expenses; Amount of Unencumbered Funds in the Estate. As reflected in the Standardized Fund Accounting Report attached hereto as **Exhibit A**, DMP's total cash on hand at the close of the Time Period was \$13,314,957.59.

DMP's accrued expenses for the Time Period are (1) \$28,006.17 in attorneys' fees and expenses from the Robbins Firm, and (2) \$8,575.00 in fees from the accounting firm McLean Koehler, and (3) \$45,042.31 in fees and expenses from Dykema. DMP's total accrued expenses for the Time Period are \$73,048.48.

The Receiver is unaware of any additional unencumbered funds in the estate at this time.

7. *Summary of the Administration of the Case, Including All Funds Received and Disbursed, and When the Case Is Expected to Close.*

a. Closing of Sale of DMP's 49% Interest in Midwest Memorial Group (MMG)

As reported in the Receiver's Supplement to Notice of Sale of 49% Interest in MMG [Doc. 154], the sale to Park Lawn Corporation ("Park Lawn") closed on March 8, 2016, and the Receiver deposited the proceeds of the sale totaling \$7,919,425.00, in the Receivership account. The balance at the close of the quarter was \$13,314,957.59.

b. Resolution of Dispute with MMG's Management Regarding Compensation as a Result of the Sale.

Westminster Memorial Group, LLC ("WMG") and DMP have a liability to MMG's Chief Executive Officer Jim Price and Chief Operating Officer Doug Miller for money contractually due to Mr. Price and Mr. Miller from the sale of MMG. The amount of the liability, and DMP's share of it, is uncertain. DMP's share of the liability ranges from approximately \$150,000 to \$300,000 (plus attorneys' fees), depending on the outcome of a contractually-based adjustment proceeding (the "Adjustment Proceeding"). Dykema is currently representing DMP in the Adjustment Proceeding. The Receiver expects the Adjustment

Proceeding to conclude within the next 45 days, and thus DMP should know the amount that it owes Mr. Price and Mr. Miller at that time.

c. Creditor Claims Proceedings

The Receiver is in the process of preparing a Motion to Approve a Plan of Distribution of the Assets of the Receivership (the “Motion for Plain of Distribution”) that will set forth whether, and how much, each of the individuals and entities asserting claims against the Receivership estate should be paid. This process requires both the selection of a fair and equitable framework to be applied to claimants generally, plus a detailed analysis of (1) how much each claimant put into DMP, (2) the terms on which the funds were given to DMP (e.g. as debt, equity contribution, or otherwise), (3) how much information the claimant had about DMP at the time the investment was made, (4) how much each claimant received back from DMP (these amounts vary widely by claimant), and (5) the relative equity of paying one type of claim over the other. The Receiver intends to file the Motion for Plan of Distribution once the Adjustment Proceeding is resolved so that it is clear how much money is available for distribution from the Receivership account.

d. Participation in MMG Capital Call.

The Receiver obtained authorization from the Court to contribute \$382,000 in Receivership funds to MMG in response to a capital call on June 29, 2015 [Doc. 124]. Of that, the Receiver contributed \$245,000 to MMG on July 9, 2015, leaving a remainder of \$137,000. The Receiver contributed the remaining \$137,000 to MMG on February 23, 2016.

e. Response in Opposition to Cathedral of St. Augustine's Petition for Leave to Serve as "Amicus Curiae."

On December 24, 2015, counsel for the "Cathedral of St. Augustine's" (the "Cathedral") filed a motion purporting to seek leave to serve as "amicus curiae" to the Court regarding the sale of the 49% Interest, seeking to submit a future "bid" to the Court for the 49% Interest. [Doc. 142.] The Receiver responded in opposition on January 11, 2016. [Doc. 146.] The motion has not been ruled upon.

f. Motion for Contempt Against Tarek M. Baydoun, Jeffrey R. Hicks, the Meridian Law Group, Abdul K. Charara, and Waad Charara.

In August of 2015, Abdul K. Charara and Waad Charara, by and through their counsel the Meridian Law Group and attorneys Tarek M. Baydoun and Jeffrey R. Hicks, filed a lawsuit against DMP in state court in Michigan, in a case styled Charara v. Midwest Memorial Group et al. (Mich. 3d Cir. Ct., filed August

6, 2015) (see Doc. 141-1). The Plaintiffs also filed suit against DMP member David Shipper and Defendant Mark Morrow.

The Receiver demanded that Mr. Baydoun, lead counsel for the Chararas, dismiss the Michigan lawsuit as against DMP, Shipper, and Morrow pursuant to this Court's Order Appointing Receiver [Doc. 51]. Mr. Baydoun refused. The Receiver filed a Motion for Contempt against Mr. Baydoun on August 13, 2015. [Doc. 126.] The motion was heard by the Court on January 4, 2016.

On February 11, 2016, the Court entered an Order granting the motion in part as to Mr. Baydoun, denying it in part as to the other respondents, and ordering Mr. Baydoun to pay the Receiver's attorneys' fees incurred due to Mr. Baydoun's contempt. [Doc. 150]. The Court directed the Receiver to detail in a separate submission the attorneys' fees he "incurred to respond to Mr. Baydoun's communications and to prosecute his Contempt Motion." [Doc. 150 at 27.] The Receiver filed an application seeking payment of these fees on March 3, 2016. [See Doc. 152.]

On March 21, 2016, the Court ordered Mr. Baydoun to pay to the Receiver, as a civil contempt sanction, attorneys' fees in the amount of \$25,162.32. [Doc. 158.] After the Receiver initiated collection efforts, Mr. Baydoun agreed to a payment plan to resolve the matter.

g. When the Case is Expected to Close.

See paragraph 8 below.

8. ***Summary of Creditor Claims Proceedings.*** The Receiver sent claim forms to potential claimants on August 15, 2014, with responses due by November 14, 2014. The Receiver and his counsel have evaluated the claim forms, along with the documents submitted in support of each. The Receiver expects to present a Motion for Plan of Distribution to the Court once the Adjustment Proceeding described above is resolved.

9. ***Description of Assets in the Receivership Estate, Including Approximate or Actual Valuations, Anticipated or Proposed Dispositions, and Reasons for Retaining Assets Where No Disposition is Intended.*** A complete description of the assets in the Receivership Estate was provided in the Accounting filed on February 21, 2014. [Doc. 73.] The assets at the close of the Time Period were the cash on hand totaling \$13,314,957.59, plus the value DMP's rights under the earn-out provision in the Stock Purchase Agreement with Park Lawn.

Under the terms of the earn-out provision, DMP is entitled to receive additional cash consideration if MMG meets certain earnings benchmarks (defined in the Agreement) in the years 2016, 2017, and 2018. Under the terms of the earn-out, DMP may elect to receive not less than 10% but up to 100% of its share of the

earn-out for the 2016 calendar year. DMP may elect to receive not less than 33% but up to 100% of its share of the earn-out for the 2017 calendar year. For the 2018 year, DMP will receive the remaining percentage of its share of the earn-out. Ultimately, while DMP has a minimum percentage of the earn-out that it must elect to receive for years 2016 and 2017, DMP could opt to accelerate the earn-out in either of those years.¹

Regarding anticipated dispositions, see paragraph 8 above.

10. ***Descriptions Of Liquidated and Unliquidated Claims Held by the Receiver.*** The Receiver has analyzed the potential claims that DMP may currently have against third parties, and all claims that third parties may have against DMP. Thus far, other than the Motion for Contempt against Mr. Baydoun, the Receiver has not identified any potential claims for which the potential benefits to DMP's creditors and its likelihood of success on the merits outweigh the anticipated costs of litigation. However, the Receiver will continue to consider any claims DMP has against third parties.

¹ The Receiver understands the importance of closure for the Receivership. The Receiver plans to recommend in the Motion for Plan of Distribution that current funds be paid to the claimants now, and any payments under the earn-out will be distributed in the future when and if they are received.

CURRENT AND PREVIOUS BILLINGS

Billing Instructions § C(3)(a) through (c)

11. ***Total compensation and expenses requested.*** The total compensation and expenses requested at this time for the Time Period are (1) \$28,006.17 in attorneys' fees and expenses from the Robbins Firm, and (2) \$8,575.00 in fees from the accounting firm McLean Koehler, and (3) \$45,042.31 in fees and expenses from Dykema.

12. ***Any amount(s) previously requested, and total compensation and expenses previously awarded by the Court.*** See paragraph 5 above.

13. ***Total hours billed and total amount of billing for each person who billed time during the period for which fees are requested.*** See Billing Summary for Professionals and Paraprofessionals, attached hereto as **Exhibit C**.

STANDARDIZED FUND ACCOUNTING REPORT

Billing Instructions § C(4)

14. Attached as **Exhibit A** is a Standardized Fund Accounting Report for the Time Period.

PRESENTATION OF FEES AND EXPENSES

Billing Instructions § D(1) et seq.

15. Attached as **Exhibit D-1** is a detailed invoice from the Robbins Firm reflecting the time entries during the Time Period. The time entries are categorized

in chronological order in the “Activity Categories” listed in § D(5)(a) of the Billing Instructions.

16. Attached as **Exhibit D-2**, **D-3**, and **D-4** are Dykema’s January, February, and March invoices reflecting time spent advising DMP regarding the sale of the 49% Interest to Park Lawn and the Adjustment Proceeding.

17. Attached as **Exhibit D-5** is McLean Koehler’s current invoice for professional services rendered in connection with the preparation of MMG’s tax return. Pursuant to the terms of the sale of the 49% Interest to Park Lawn, WMG and DMP are jointly responsible for the preparation of the returns, and they have agreed to split the cost of the services 51%/49% in accordance with their former membership percentages in MMG. As reflected on the invoice, \$17,500 is currently due to McLean Koehler. DMP’s portion of that is \$8,575.00.

18. Attached as **Exhibit E** is the Receiver’s Certification of the information contained in this Application.

19. Attached as **Exhibit F** is a proposed Order Granting Receiver’s Tenth Application for Compensation and Reimbursement of Expenses.

ADDITIONAL REPRESENTATIONS BY THE RECEIVER
Receiver Order ¶ 49(B)

20. The fees and expenses requested herein were incurred in the best interests of the Receivership Estate.

21. The Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

WHEREFORE, the Receiver asks this Court to approve all of the fees and expenses described herein and attached, and to authorize the immediate payment of same to the extent that funds are available to do so.

Respectfully submitted this 16th day of May, 2016.

/s/ Jason S. Alloy _____

Jason S. Alloy

Georgia Bar No. 013188

ROBBINS ROSS ALLOY BELINFANTE

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Telephone: 678-701-9381

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*Appointed Receiver for Defendant
Detroit Memorial Partners, LLC*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RECEIVER'S TENTH APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES (FIRST QUARTER 2016)** has been prepared with one of the font and point selections approved by the Court, and that it has been filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all attorneys of record. The foregoing was also personally served by email and U.S. Mail on Defendant Mark Morrow at his last known addresses.

Mark Morrow
8643 Twilight Tear Lane
Cincinnati, Ohio 45249
mmorr7887@aol.com

This 16th day of May, 2016.

/s/ Jason S. Alloy
Jason S. Alloy