

1 **GUTTILLA MURPHY ANDERSON**

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8 Attorneys for the Receiver

9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

10 IN AND FOR MARICOPA COUNTY

11	ARIZONA CORPORATION)	Cause No. CV2016-014142
12	COMMISSION,)	
13)	
14	Plaintiff,)	PETITION NO. 58
15)	
16	v.)	PETITION FOR ORDER APPROVING
17	DENSCO INVESTMENT)	PAYMENT TO SPECIAL COUNSEL
18	CORPORATION, an Arizona)	BERGIN, FRAKES, SMALLEY &
19	corporation,)	OBERHOLTZER, PLLC
20)	(Assigned to the Honorable Teresa
21	Defendant.)	Sanders)
)	
)	
)	
)	

15 Peter S. Davis, as the court appointed Receiver, respectfully petitions the Court as
16 follows:

17 1. On August 18, 2016, this Court entered its *Order Appointing Receiver*, which
18 appointed Peter S. Davis as Receiver of DenSco Investment Corporation (“Receivership
19 Order”).

20 2. On September 19, 2017, the Receiver filed *Petition No. 36 – Petition for Order*
21 *to Approve the Engagement of Bergin, Frakes, Smalley & Oberholtzer, PLLC to Represent*

1 *the Receiver as Special Counsel* seeking approval of the law firm of Bergin, Frakes, Smalley
2 & Oberholtzer, PLLC. to serve as Special Counsel to the Receiver to investigate DenSco's
3 potential claims against financial institutions including JP Morgan Chase Bank, N.A. and
4 U.S. Bank N.A. for their participation in a scheme to defraud DenSco.

5 3. On October 18, 2017, the Court entered its *Order Re: Petition No. 36* which
6 appointed the law firm of Bergin, Frakes, Smalley & Oberholtzer, PLLC as Special Counsel
7 to the Receiver, approved the engagement agreement with the law firm of Bergin, Frakes,
8 Smalley & Oberholtzer, PLLC. and directed the Receiver to file a notice with this Court as to
9 whether the Receiver elected to proceed with compensation of Special Counsel on an hourly
10 basis or on a contingency basis after Bergin, Frakes, Smalley & Oberholtzer, PLLC
11 completed its initial investigation.

12 4. On June 1, 2018, the Receiver filed his *Notice of Election to Proceed with*
13 *Contingency Fee Agreement Re: Order Re: Petition No. 36*. In this notice, the Receiver
14 specified that he intended to proceed with the engagement of Bergin, Frakes, Smalley &
15 Oberholtzer, PLLC under the terms of the contingency fee agreement set forth in the
16 engagement agreement between the Receiver and Bergin, Frakes, Smalley & Oberholtzer,
17 PLLC.

18 5. Pursuant to the engagement agreement between the Receiver and Bergin,
19 Frakes, Smalley & Oberholtzer, PLLC, upon completion of Bergin, Frakes, Smalley &
20 Oberholtzer, PLLC's initial investigation into DenSco's potential claims against financial
21 institutions and the submission of a memorandum to the Receiver setting forth its findings,

1 the Receiver would seek approval of a one-time flat fee payment of \$20,000.00 to Bergin,
2 Frakes, Smalley & Oberholtzer, PLLC. Bergin, Frakes, Smalley & Oberholtzer, PLLC has
3 now completed its investigation and submitted its memorandum to the Receiver.

4 6. Attached as Exhibit "A" to this Petition is an invoice from Bergin, Frakes,
5 Smalley & Oberholtzer, PLLC for its flat fee of \$20,000.00.

6 7. Based on the terms of the engagement agreement between Bergin, Frakes,
7 Smalley & Oberholtzer, PLLC and the Receiver the amount due to Bergin, Frakes, Smalley &
8 Oberholtzer, PLLC is \$20,000.00 and the Receiver recommends that it be approved and paid.

9 WHEREFORE, the Receiver respectfully requests that the Court enter an order
10 authorizing the Receiver to pay from Receivership Assets the amount of \$20,000.00 to
11 Bergin, Frakes, Smalley & Oberholtzer, PLLC for its professional services to the Receiver.

12 Respectfully submitted this 6th day of June, 2018.

13 GUTTILLA MURPHY ANDERSON, P.C.

14 /s/Ryan W. Anderson
15 Ryan W. Anderson
16 Attorneys for the Receiver

17 2359-001(292731)

B | F | S | O

INVOICE

BERGIN, FRAKES, SMALLEY & OBERHOLTZER

4343 E. Camelback Road, Suite 210
Phoenix, AZ 85018
United States
Phone: 602-888-7855

Invoice # 847
Date: 03/12/2018

DenSco Investment

Statement of Account

Outstanding Balance		New Charges		Total Balance
\$0.00	+	\$20,000.00	=	\$20,000.00

Feel free to contact our billing coordinator, Tracy Vick, with any questions at tvick@bfsolaw.com or 602-888-7861.

DenSco Investment Corporation v. Chase Bank

Type	Time Keeper	Date	Description	Quantity	Rate	Total	
Service	KF	09/11/2017	Flat fee for preparation of Memorandum of Claim.	1.00	\$20,000.00	\$20,000.00	
						Subtotal	\$20,000.00
						Total	\$20,000.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due By	Amount Due	Payments Received	Balance Due	
847	04/11/2018	\$20,000.00	\$0.00	\$20,000.00	
				Outstanding Balance	\$20,000.00
				Total Amount Due	\$20,000.00

Exhibit "A"