

STATE OF TEXAS

**Plaintiff,**

**V.**

**RETIREMENT VALUE, LLC,  
RICHARD H. “DICK” GRAY, and  
BRUCE COLLINS,**

**Defendants,**

**and**

**KIESLING, PORTER, KIESLING  
& FREE, P.C.,**

**Relief Defendant.**

**IN THE DISTRICT COURT OF**

**TRAVIS COUNTY, TEXAS**

## 126<sup>TH</sup> JUDICIAL DISTRICT

## INTERVENORS' OBJECTIONS TO FIRST APPLICATION FOR FEES BY THE RECEIVER AND RECEIVER'S COUNSEL

TO THE HONORABLE JUDGE PRESIDING:

Dr. Gary Cain, Barry Edelstein and Qvest III Master Fund, LLC (“Intervenors”), file their Objections to First Application for Fees by the Receiver and Receiver's Counsel, respectfully showing the Court the following:

I.

The Intervenor is an actual investor of RV, whose interests and invested funds are directly affected by this Receivership and by the Receiver's Application for Fees. The Intervenor respectfully file this objection, understanding that many dedicated professionals appear to be working with Receiver as counsel. Left unchecked and without Court guidance

however, the Intervenor reasonably fear that the attorneys' fees will affect the amount of ultimate return the Intervenor and other investors will receive.

## II.

The Intervenor raise several objections to the Receiver's First Application For Attorneys' Fees as follows:

A. The rates charges by the professionals of K&L Gates appear to exceed or trend very close to exceeding the normal and customary rates charged by similarly experienced, or in some cases, more experienced Austin lawyers. This appears especially true given the fact that this case apparently is keeping multiple lawyers and staff busy on virtually a full time basis. With a case of this size, and given the times, the Receiver should be in a position to request and command discounted rates from law firms with the capability to handle a case of this nature. In this case, the Receiver has hired his own law firm and apparently not sought or obtained any rate discount.

B. Over 23 lawyers and paralegals appear to be billing time on the RV file, and there appears to be potentially unclear organization, oversight and planning to achieve an efficient outcome. Without proper oversight and delineation of tasks to achieve efficiencies, the Receiver stands at risk for a long term drain on what amounts to investors' funds.

C. The billing and Application fail to point out avenues or opportunities in the future to lower the fees, including but not limited to fixed fee billing, reductions in hourly rates and/or the use of contingency counsel.

III.

As previously noted, the Intervenor respect the work of the professionals working for the Receiver, yet feel the need to raise objections to the Application as it pertains both to past and future billing related to this case.

WHEREFORE, premises considered, Intervenor pray their Objections be heard and sustained, and that the Court enter appropriate orders.

Respectfully submitted,

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**ATTORNEYS FOR INTERVENORS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record herein by:

- ☐ U.S. Mail, First Class or
- ☐ Certified Mail (return receipt requested)
- ☐ Facsimile
- ☐ Federal Express Delivery
- ☐ Hand Delivery
- ☒ Electronic Mail

on this the 10<sup>th</sup> day of September, 2010, to wit:

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