

CAUSE NO. D-1-GV-10-000454

STATE OF TEXAS

Plaintiff,

v.

RETIREMENT VALUE, LLC,  
RICHARD H. "DICK" GRAY, HILL  
COUNTRY FUNDING, LLC, HILL  
COUNTRY FUNDING, and  
WENDY ROGERS,

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' JOINDER IN OBJECTION TO SECOND APPLICATION FOR  
FEES BY THE RECEIVER AND RECEIVER'S COUNSEL AND MOTION TO  
ALTER FEE APPLICATION PROCEDURES**

Intervenors Grant W. Bejcek and Opal E. Bejcek file this Joinder in the Objection to Second Application for Fees by the Receiver and Receiver's Counsel and Motion to Alter Fee Application Procedures filed by Dr. Gary Cain, Barry Edelstein and Qvest III Master Fund, LLC, and in support thereof would show the Court the following:

**I.**

**JOINDER IN OBJECTION TO FEE APPLICATION**

Intervenors Grant W. Bejcek and Opal E. Bejcek filed their Petition in Intervention on October 25, 2010. No objection has been made with respect to this Petition.

In connection with their application to invest in Retirement Value, the Bejceks delivered money to Kiesling, Porter, Kiesling & Free, P.C., but never became actual investors because their application was never approved and countersigned by Retirement Value. Nonetheless, because their money was being held by Kiesling, Porter, Kiesling & Free, P.C., and because the accounts of Kiesling, Porter, Kiesling & Free, P.C. were seized as part of this action, the Bejceks are directly affected by this Receivership and by the Receiver's Application for Fees.

Despite their status as Intervenor, the Bejceks have not received copies of the Second Application for Fees by the Receiver and Receiver's Counsel, and did not know until a telephone conversation this morning with counsel for Intervenor Dr. Gary Cain, Barry Edelstein and Qvest III Master Fund, LLC, that a deadline for objecting to an application for fees was due today. As a result, the Bejceks have not had an opportunity to review the Second Application for Fees by the Receiver and Receiver's Counsel, nor have they had an opportunity to prepare a written objection to that application in accordance with the Court's procedures for objecting to such fee applications.

The Bejceks are concerned that the attorneys' fees being requested are of a magnitude that will affect the amount they will receive, and their counsel has had an opportunity to review the objections of Dr. Gary Cain, Barry Edelstein and Qvest III Master Fund, LLC to the Second Fee Application. Accordingly, the Bejceks join in the Objection to Second Application for Fees by the Receiver and Receiver's Counsel and Motion to Alter Fee Application Procedures filed by Intervenor Dr. Gary Cain, Barry Edelstein and Qvest III Master Fund, LLC.

II.

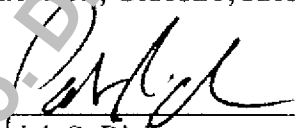
Motion to Alter Fee Application Procedures

The Bejceks would ask the Court to modify the procedures for objecting to the Receiver's fee applications and eliminate the line item objection requirement, so the Court may consider the entirety of the fee in comparison to the Rule 1.05 factors associated with the determination of a reasonable fee.

WHEREFORE, Intervenor Grant W. Bejcek and Opal E. Bejcek pray their Objections be heard and sustained, that the fee application procedures be modified to remove the requirement for a line item objection, and that the Court enter appropriate orders.

Respectfully submitted,

**SHANNON, GRACEY, RATLIFF & MILLER, L.L.P.**



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**ATTORNEY FOR INTERVENORS  
GRANT W. BEJCEK AND OPAL E. BEJCEK**

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 30<sup>th</sup> day of November, 2010 to wit:


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