

Cause No. D-1-GV-10-000454

STATE OF TEXAS,

Plaintiff,

v.

RETIREMENT VALUE, LLC,  
RICHARD H. "DICK" GRAY,  
HILL COUNTRY FUNDING, LLC,  
a Texas Limited Liability Company,  
HILL COUNTRY FUNDING,  
a Nevada Limited Liability Company,  
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

**DEFENDANTS' OBJECTIONS TO FOURTH APPLICATION FOR FEES  
BY THE RECEIVER AND RECEIVER'S COUNSEL**

TO THE HONORABLE JUDGE PRESIDING:

RICHARD H. "DICK" GRAY and WENDY ROGERS, defendants herein, file their Objections to Fourth Application for Fees by the Receiver and Receiver's Counsel, respectfully showing the Court the following:

I.

Defendants Gray and Rogers join in and adopt the objections raised by Intervenor Dr. Gary Cain, Barry Edelstein and Qvest III Master Fund, LLC in their Objections to Third and Fourth Applications for Fees by the Receiver and Receiver's Counsel, including all objections to specific entries in the Receiver's invoices.

## II.

Defendants Gray and Rogers further request that the December 10, 2010 Order Regarding the Second Application for Fees by the Receiver and Receiver's Counsel and the October 26, 2010 Order Regarding the First Application for Fees by the Receiver and Receiver's Counsel be modified to require the Receiver to post its fee applications on the website maintained by the Receiver at <http://www.rvllcreceivership.com>. The Receiver claims that Retirement Value LLC lacks sufficient assets to make its investors whole. Defendants dispute this, of course, but if the Receiver is correct then every dollar diverted to the Receiver or his counsel fees must come from the investors' pockets.


Although a small number of Retirement Value's investors have intervened here, they have a relatively small stake in each fee application. Their stake in the Receiver's fees is limited to the fraction of their total investment in Retirement Value. The Receiver's fees affect the pool of all investors and all investors deserve to be apprised of the fees purportedly being spent on their behalf.

The Receiver established the website above "to facilitate the dissemination of information regarding the status of the case as well as [the Receiver's] efforts to recover assets for the investors' benefit." See <http://www.rvllcreceivership.com> (accessed Dec. 28, 2010) (Exhibit 1 hereto). The website includes a category for "case information," which includes a number of the pleadings and other documents filed in this case. See [http://www.rvllcreceivership.com/Case\\_Info.htm](http://www.rvllcreceivership.com/Case_Info.htm) (accessed Dec. 28, 2010) (Exhibit 2 hereto). It would be a simple matter for the Receiver to include its fee applications among the documents it publicizes to investors.

WHEREFORE, premises considered, defendants pray their Objections be heard and sustained, that the Court grant the further relief requested herein, and that the Court enter appropriate orders.

Respectfully submitted,

**CLARK, THOMAS & WINTERS,**  
**A Professional Corporation**

By: 

CHRISTOPHER B. BRADFORD

State Bar No. 00783700

[cbb@ctw.com](mailto:cbb@ctw.com)

WILLIAM P. JOHNSON

State Bar No. 24002367

[wpi@ctw.com](mailto:wpi@ctw.com)

BARRY K. BISHOP

State Bar No. 02346000

300 West 6<sup>th</sup> Street, Ste. 1500

P. O. Box 1148

Austin, Texas 78767-1148

(512) 472-8800

(512) 474-1129 *fax*

**ATTORNEYS FOR DEFENDANTS**  
**RICHARD H. "DICK" GRAY AND**  
**WENDY ROGERS**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 28<sup>th</sup> day of December, 2010, a true and correct copy of the foregoing was been sent to the following electronically via eFiling for Courts and/or facsimile:

*Attorneys for Plaintiff:*

Jack Hohengarten  
Charles B. McDonald  
Financial Litigation Division  
ATTORNEY GENERAL OF TEXAS  
300 W. 15<sup>th</sup> Street, 6<sup>th</sup> Flr.  
P.O. Box 12548  
Austin TX 78711-2548  
[jack.hohengarten@oag.state.tx.us](mailto:jack.hohengarten@oag.state.tx.us)  
[charles.mcdonald@oag.state.tx.us](mailto:charles.mcdonald@oag.state.tx.us)

*Attorneys for Relief Defendant*

*Kiesling Porter:*

Matthew G. Nielsen  
Spencer C. Barasch  
ANDREWS KURTH, LLP  
1717 Main Street, Ste. 3700  
Dallas TX 75201  
[matthewnielsen@andrewskurth.com](mailto:matthewnielsen@andrewskurth.com)  
[sbarasch@andrewskurth.com](mailto:sbarasch@andrewskurth.com)

*Attorneys for Intervenor*

*Grant W. and Opal E. Bejcek:*

Patrick S. Richter  
SHANNON, GRACEY  
98 San Jacinto Blvd., Ste. 300  
Austin TX 78701-4245  
[prichter@shannongracey.com](mailto:prichter@shannongracey.com)  
Sam Rosen  
Shannon, Gracey  
777 Main Street, Ste. 3800  
Fort Worth TX 76102  
817-356-3735 fax  
[srosen@shannongracey.com](mailto:srosen@shannongracey.com)

*Attorneys for Receiver of*  
*Retirement Value, LLC:*

Michael Napoli  
K&L GATES, LLP  
1717 Main Street, Ste. 2800  
Dallas TX 75201  
[michael.napoli@klgates.com](mailto:michael.napoli@klgates.com)

*Attorney for Intervenor*

*Dr. G. Cam, B. Edelstein and*  
*Oveston Master Fund, LLC:*

Terry Scarborough  
Geoffrey D. Weisbart  
FANCE SCARBOROUGH, LLP  
111 Congress Avenue, Ste. 500  
Austin TX 78701  
[tscarborough@hslawmail.com](mailto:tscarborough@hslawmail.com)  
[gweisbart@hslawmail.com](mailto:gweisbart@hslawmail.com)



Christopher B. Bradford

# **EXHIBIT 1**

Unofficial copy Travis Co. District Clerk Velda L. Price

# Retirement Value LLC, Receivership

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## Disclaimer

Welcome to the Retirement Value LLC, Receivership website. This website was established to facilitate the dissemination of information regarding the status of the case as well as our efforts to recover assets for the investors' benefit.

On the Case Information page you can find copies of the State's Petitions, the First Amended Temporary Restraining Order and Order Appointing Receiver; the Agreed Temporary Injunction and Order Appointing Receiver and other court documents. The website also contains information regarding the Receiver, communications with investors, Frequently Asked Questions. And other links of interest.

## **Recent Events**

By agreement of all parties, the Hearing on the Receiver's Motion to Consolidate Retirement Value's Portfolio has been postponed. A hearing date has not been reset. When such hearing date is re-set, notice will be posted here.

12/21/10      Policy #PL140-111109-DM has matured and the Receiver has filed a claim for benefits with Pacific Life. We will provide periodic updates on the status of the claim.

## **EXHIBIT 2**

Unofficial copy Travis Co. District Clerk Velda L. Price

# Retirement Value LLC, Receivership

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On May 5, 2010, the State of Texas filed suit against Retirement Value, LLC, a Texas limited liability company, Bruce Collins and Richard H. Gray. The 126th Judicial District Court of Travis County, Texas, issued a Temporary Restraining Order and appointed me as Temporary Receiver over Retirement Value's assets. On May 28, 2010, the Court entered, by agreement of the parties, a temporary injunction against Gray and Retirement Value and continued the Receiver's appointment. The State subsequently amended its suit to include Wendy Rogers as a defendant, and to seek a receivership over Hill Country Funding, LLC, a Texas limited liability company, and Hill Country Funding, LLC, a Nevada limited liability company each a Retirement Value affiliate. Also named in the lawsuit as a relief defendant is the law firm of Kiesling, Porter, Kiesling & Free, P.C. Kiesling Porter served as escrow agent in connection with the alleged investment scheme, but no actual wrongdoing has been alleged on their part. The temporary injunction and the receivership will remain in place until the end of the trial of this matter, which is currently scheduled for February 28, 2011.

The lawsuit alleges that the Defendants orchestrated a fraudulent investment scheme in which several hundred individuals invested as much as \$65 million. The State has alleged, among other things, that the defendants: sold unregistered securities; are not registered to offer or sell securities; made material misrepresentations and omissions in connection with the offer or sale of securities; and otherwise violated the Texas State Securities Act and the Texas Deceptive Trade Practices Act. The Petition, for example, states that the defendants made material misrepresentations or omissions regarding the calculation of the insured's life expectancy; the character of Midwest Medical's control persons; Midwest Medical's analysis' accuracy, reliability and historical performance; defendant Gray's resume, qualifications and experience; and the securities' value.

Bruce Collins has agreed to the entry of a permanent injunction which the Court entered on June 17, 2010. He has also entered into a settlement with the Receiver under which Collins transferred approximately \$319,000 in cash and other assets to the Receiver. On June 17, 2010, the Court approved the settlement between Collins and the Receiver.

## Documents

11-1-2010	<a href="#"><u>Agreed Order Continuing the Hearing on the Receiver's Motion to Consolidate the Portfolio</u></a>
9-27-2010	<a href="#"><u>Receiver's Motion to Consolidate</u></a>
6-24-2010	<a href="#"><u>State's First Amended Petition</u></a>
6-24-2010	<a href="#"><u>Exhibits to First Amended Petition</u></a>
6-17-2010	<a href="#"><u>Order Granting Receivers Motion for Approval of Settlement with Collins</u></a>
6-17-2010	<a href="#"><u>Order Granting Severance of Claims Against Bruce Collins</u></a>
6-17-2010	<a href="#"><u>Agreed Permanent Injunction and Final Judgment as to Collins</u></a>
6-2-2010	<a href="#"><u>Second Agreed Order to Extend TRO Against Collins</u></a>
6-2-2010	<a href="#"><u>Order Granting Motion for Temporary Sealing</u></a>
5-28-2010	<a href="#"><u>Agreed Temporary Injunction order against Retirement Value, Gray and Kiesling Porter and Appointment of Receiver</u></a>
5-20-2010	<a href="#"><u>Order Granting Amended Motion to Modify TRO</u></a>



5-12-2010	<u>Agreed Order Extending 1st Amended TRO and Order Appointing Receiver</u>
5-5-2010	<u>Verified Original Petition without exhibits</u>
5-5-2010	<u>Exhibits to Plaintiff's Original Petition</u>
5-5-2010	<u>First Amended Temporary Restraining Order and Order Appointing Receiver- Certified</u>
5-5-2010	<u>Order Granting Plaintiffs Motion for Expedited Discovery</u>