

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
RETIREMENT VALUE, LLC, et al,	§	
	§	
Defendants.	§	126 th JUDICIAL DISTRICT

**THIRTY-EIGHTH APPLICATION FOR FEES
BY THE RECEIVER AND RECEIVER’S COUNSEL**

Eduardo S. Espinosa, court-appointed receiver for Retirement Value, LLC, files his Thirty-Eighth application for fees incurred by the Receiver and his counsel, Akerman, LLP (“Akerman”), Arent Fox, LLP (“Arent Fox”) and Brown Fox (“Brown Fox”) for the months of June 2022 through September 2022 (the “Application Period”).

BACKGROUND

The Agreed TI¹ authorizes the Receiver to “to hire employees, contractors, consultants, accountants, attorneys, legal assistants, or other assistants under terms to be determined by the Receiver, whose services in the sole discretion of the Receiver, are necessary for an efficient and accurate administration of the receivership estate.” Agreed TI at 14, ¶8. In March 2018, the Receiver and Receiver’s counsel joined the firm of Akerman, LLP and transitioned this matter accordingly.

¹ The “Agreed TI” is the Agreed Temporary Injunction Order against Defendants Retirement Value, LLC and Richard H. “Dick” Gray and the Relief Defendant and Order Appointing Receiver, entered by the Court on May 28, 2010.

By its Order Regarding the First Application for Fees by the Receiver and Receiver's Counsel entered on October 26, 2010 ("Fees Order"), the Court modified the basis by which the Receiver and his counsel are paid. Pursuant to the Fees Order, the Receiver shall charge an hourly rate of \$320 per hour, and the Receiver's counsel shall discount its rates by 9.5% from its then current hourly rates in effect as of the time services are rendered, beginning on August 1, 2010. Fees Order at 2. Moreover, the Receiver and his counsel are to submit to the Court and to the parties of record their request for payment of fees. If no party of record files an objection to the request for payment within ten days from the filing of the request for payment, then the Receiver shall pay the amount of the request from funds he holds in the receivership estate. Any objection must state with specificity the particular items of the Receiver's request to which the objection is made. If an objection is made, the Receiver shall not pay the contested portion of the invoice until a hearing has been held on the objection, but the Receiver may pay the portions of the request to which no objection is made. *Id.*

APPLICATION FOR PROFESSIONAL FEES

By this Application, the Receiver seeks approval from the Court to pay \$280,463.28 from the Receivership's assets for fees and expenses incurred by the Receiver and Receiver's counsel from June 2022 through September 2022.

The Receiver has incurred fees of \$30,720 during the 4-month period covered by this Application. He has retained the legal services of Akerman, Arent Fox and Brown Fox. For the periods covered by this Application:(i) Akerman has incurred fees of \$4,736.82 and expenses of \$153.25; (ii) Arent Fox has incurred fees of

\$228,043.50 and expenses of \$228.11; Brown Fox has incurred fees of \$16,581.60. Affidavit of Eduardo S. Espinosa (“Espinosa Affid.”) at ¶12 (attached as Exhibit 1).

The fees charged by the Receiver and his firm (Akerman) represent a 49.4% discount from the usual and customary fees charged. As a general matter, the charge for the services provided by Akerman are determined by multiplying the total number of hours worked by each timekeeper by that timekeeper’s billing rate. *Id.* at ¶6. In this case, the billing rate of each timekeeper was discounted from the firm’s usual and customary rates charged. The Receiver is charging \$320/hour, which represents a 52.6% discount from his usual and customary rate of \$675/hour. Akerman has also discounted all other timekeepers’ rates by 9.5%. Arent Fox has discounted its timekeepers’ rates from 10% to 15%, with the higher rates receiving the greater discounts. Brown Fox has also discounted its timekeepers’ rates by 10%. The aggregate discounts and write-offs associated with this Application exceed \$61,757.80. *Id.* The chart below summarizes the fees charged and the discounts applied.

#38 Invoice Summary	Akerman	Arent Fox	Brown Fox	Total
Fees Requested				
Receiver	\$30,720.00			\$30,720.00
Counsel	\$2,677.91			\$2,677.91
Lincoln Nat’l	\$2,058.91	\$225,080.00	\$14,464.80	\$241,603.71
Del. Life	\$0.00	\$2,963.50	\$2,116.80	\$5,080.30
eDiscovery	\$0.00			\$0.00
Expenses	<u>\$153.25</u>	<u>\$228.11</u>	<u>\$0.00</u>	<u>\$381.36</u>
Total	\$35,610.07	\$228,271.61	\$16,581.60	\$280,463.28

#38 Invoice Summary	Akerman	Arent Fox	Brown Fox	Total
Receiver Incurred	\$64,800.00			\$64,800.00
Receiver Billed	\$30,720.00			\$30,720.00
Receiver adj	(\$34,080.00)			(\$34,080.00)
All other Tkpr Incurred	\$5,234.06	\$253,381.67	\$18,424.00	\$277,039.72
All other Tkpr Billed	\$4,736.82	\$228,043.50	\$16,581.60	\$249,361.92
Discount	(\$497.24)	(\$25,338.17)	(\$1,842.40)	(\$27,677.80)
Write-offs				\$0.00
Total Adj	(\$34,577.24)	(\$25,338.17)	(\$1,842.40)	(\$61,757.80)

The Receiver certifies that the estate has sufficient cash reserves from which to pay this Application after taking into account the estate's receipts and expenditures since the last actuarial analysis of the portfolio in September 2022. *Id.* at ¶ 14.

I. What We Have Accomplished During This Period

During the Application Period, the Receiver has prosecuted the \$12.250 million in death benefits associated with the death benefit denied by Lincoln National and Delaware Life

The first matter (the "Lincoln National matter") arises from the insurer's assertion that the estate's policies (Policies LFG311-031210-HM and LFG248-012610-HM) are stranger originated life insurance (STOLI) policies. Prior to denying the claim, Lincoln National filed suit in New Jersey. The Receiver subsequently filed a more encompassing, competing lawsuit in the Northern District of Texas and sought to have the New Jersey matter stayed or transferred. The Northern District of Texas Court deferred the claims brought in New Jersey to that Court, accepted certain claims based on the existing claims or controversies regarding the carrier STOLI assertion, and denied other claims where there is no claim or controversy.

The second matter (the “Delaware Life matter”) pertains to an insured who changed her name shortly before she died frustrating the estate’s efforts to collect the death benefits on its policies on her life. Because of the questions as to the insured’s identity, Delaware Life filed suit on Policies HCF-SLF495-LS and HCF-SLF652-LS seeking a declaration that the insured had not died. The Receiver answered and counterclaimed for a declaration that the insured had died. Shortly thereafter, the Receiver moved for summary judgment. On September 21, 2022, the Magistrate denied our Motion for Summary Judgment. The case has been set for ton November 15, 2022.

For both of these matters, the Receiver has engaged (i) Jule Rousseau and his team at Arent Fox LLP, as lead counsel; and (ii) Charlene Koonce at Brown Fox as local counsel. Counsel was chosen, among other things, because of their subject matter expertise, reputation, professionalism, and the Receiver’s prior experience with each of them.

Also during the period covered by this Application, the Receiver and his counsel continued devoting substantial attention to: administering the estate’s life settlement portfolio including pursuing denied death benefit claims, administering and transferring the investor-victims’ claims; responding to investors’ inquiries; managing the portfolio; and collecting amounts due the estate pursuant to judgments and settlements; and continuing to assist the investor-victims in understanding the their claims, the portfolio’s status, and, in many instances, the

implications regarding their IRAs. The significant tasks during this time period include, without limitation:

- Investigating the insureds' demises and developing the evidentiary record to establish evidence of death;
- Responding to numerous inquiries and resolving various issues regarding the investors' claims, their IRA's and their distributions;
- Cooperating with regulators and law enforcement;
- Maintaining investor communications, including responding to inquiries from investors, defendants and their respective counsel regarding this matter, the Plan of Distribution, value of the claims and alternative recovery efforts;
- Maintaining the claims roster and recording transfers, assignments, & in-kind IRA distributions;
- Facilitating dissemination of offers to acquire the investor-victim's claims;
- Maintaining claimant data, including processing change of address forms, beneficiary designations, and assignment notices;
- Maintaining and periodically updating the estate's website with new information and current events;
- Preparing quarterly and annual reports updating the claimants regarding the status of the estate's portfolio and cash flow; posting the quarterly reports on the public website and distributing same via email to claimants.
- Attending to the preservation of the estates' assets, including coordination of various accounting matters, funds management, fielding acquisition inquiries, payment of premiums, & collecting death benefits;
- Enforcing the Estate's settlement agreements and judgments in order to maximize the Estate's recoveries;
- Analyzing the effect of recent increases in the cost of insurance on certain of the Estate's policies and determining the appropriate response; and
- Exploring alternative funding sources to reduce the requisite cash reserves and accelerate distributions.

During the Application Period, the Receiver caused Lewis and Ellis, the Estate's actuarial experts, to: (i) update the portfolio's projected premium streams to reflect the latest premiums provided by the estate's servicer; and (ii) rerun the Portfolio's stochastic model. Subject to the same assumptions reflected in Lewis & Ellis' original reports, the updated stochastic model confirms that despite extended longevity estimates the Portfolio is performing as expected,. As of September 30, 2022, there are (i) 27 policies with aggregate death benefits of \$71,000,000 remaining in the portfolio; (ii) mean projected premiums of \$37.6 million; (iii) accounts receivable of \$12,250,000; and (iv) cash on hand of \$7.6 million. The premium reserve requirements at the mean are \$5.1 million, with a standard deviation of \$6.5 million. The Estate must maintain a premium reserve equal to the mean plus two times the standard deviation (\$18.1 million) before declaring another distribution.

The Receiver's investigation of Retirement Value's business and collection of readily available assets and to implement interim measures to protect those assets' value is complete. The Receiver is currently executing the court-approved plan for the portfolio of insurance policies in order to maximize the policies' value and return to investor victims. The Receiver has completed the litigation against the licensees and other defendants. He is now engaged in collecting on: (i) the policies' death benefits as they mature and (ii) the judgments against the licensees, including asserting the estate's claims in their bankruptcy proceedings. During the Application Period the Receiver has collected \$146,000 from the judgment-debtors.

The majority of the Receiver's and his team's investment efforts are directed at responding to inquiries and suggestions from investors. Substantively, their efforts are primarily directed to: (i) administering and deploying the estate's funds to maintain and collect on the estate's life insurance portfolio; (ii) preparing the quarterly and annual reports to the Court and the investors; (iii) evaluating the effect of and responding to increases in the cost of insurance of certain of the Estate's policies; (iv) exploring alternative funding sources in order to reduce the estate's reserve requirements and accelerate distributions; and (v) maintaining the claims schedule, including recording transfers, assignments, inheritance and IRA in-kind distributions. The Receivership continues its collection efforts against its judgments-debtors has also objected to certain attempts to discharge said judgments in bankruptcy.

II. What Work Remains to Be Done

While a substantial portion of the Receiver's work has been completed, work remains to be done. At this point, our work can be divided into three categories: (i) collecting judgments; (ii) collecting the estate's life insurance death benefits, as they mature; and (iii) otherwise fulfilling the plan of distribution.

The estate's claims litigation was largely completed by its contingency fee counsel. Negotiated settlements entered into pursuant to the estate's collection efforts afforded the estate the opportunity to make an interim distribution. The first interim distribution was funded entirely from amounts collected. The remaining claims against licensees have been resolved by judgments in the Receiver's favor totaling \$6.1 million. Many of the judgment debtors entered into

settlement agreements with the Receiver pursuant to which they have agreed to pay the estate over \$1.63 million. To the extent any of the licensees against whom a judgment has been secured file an appeal or otherwise seek to adversely affect the estate's judgments, the Receiver will seek to preserve and enforce the estate's legal rights.

The Plan of Distribution largely resolved the claims against the estate. The Receiver received 44 proofs of claim (38 from investors and 6 from other claimants) disputing scheduled claim amounts or characterization. All disputes pertaining to the Class 2 Investor claims have been resolved. Disputes regarding Class 3 General Creditor claims have largely been resolved. The Tracy Moss litigation ended with an agreed judgment against Retirement Value for \$150,000, and Wells Fargo dropped its \$50,000 claim against the estate. As it is unlikely that there will be funds to pay the Class 3 claims, the Receiver does not contemplate further efforts to resolve the remaining disputes over Class 3 claims at this time.

The Court's adoption of the Initial Plan substantially reduces, if not eliminates, the need for further expense or delay associated with evaluating alternative asset management strategies. The proof of claim process has been concluded, each claimant's proportionate interests in the estate's assets has been established, and the initial and two (2) interim distributions have been remitted. The Receiver has since turned his attention to managing the liquid assets on hand without exposing them to undue risk, executing interim distributions, addressing investor inquiries and ministerial issues to ensure that the estate's records are

updated and the estate is ready to execute the next distribution; and pursuing collection efforts for amounts due the estate.

The denial of death benefits litigation is in its early stages. The Lincoln National matter is proceeding into discovery. We anticipate a traditional litigation process and duration. We are hopeful that that the Delaware Life matter will be resolved on summary judgment.

In order to efficiently disseminate information and update the claimants, the Receiver maintains a website at www.rvllcreceivership.com. Updates such as new maturities, changes to the Receiver's contact information and proposed distributions are promptly posted on the website. Since 2015, the Receiver has been posting quarterly reports reflecting the estate's cash position and changes thereto – e.g., premium payments, collection of death benefits, tax payments. During this Application Period, the Receiver published a quarterly report for the 2nd quarter of 2022. The Receiver has also undertaken disseminating the quarterly reports by way of an e-mail distribution to each claimants' email address of record.

ARGUMENT

The Receiver's administrative costs, including his fee and that of his counsel, are to be paid out of the funds and other assets of the estate. These costs are considered costs of court and have priority over all other claims against the estate. *Jordan v. Burbach*, 330 S.W.2d 249 (Tex. Civ. App. – El Paso 1959, writ ref'd n.r.e.); *also* TEX. CIV. PRAC. & REM. CODE §64.051. The Court should consider the reasonableness of the fees requested by both the Receiver and counsel.

In evaluating the reasonableness of the fees, the Court should consider the following factors: (1) the time and labor involved, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly; (2) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered. *Arthur Andersen & Co. v. Perry Equip. Corp.*, 945 S.W.2d 812, 818 (Tex. 1997). These factors support the award of the requested fees.

Time, labor, skill & complexity. By its nature, a receivership proceeding is unique and complicated. As discussed above, this receivership is particularly complicated due to its size, the assets involved, the poor record keeping of Retirement Value and the sheer number of people involved (1,084 investors, 1,000 licensees, 18 insurance companies and several banks). To properly administer the estate requires a high degree of skill and diligence. Moreover, the Receiver and his counsel have had to devote significant time to this matter. The exact time expended and work performed by the Receiver and his counsel are shown on the invoices attached to the Espinosa Affidavit. In addition, the Receiver's reports of July 28, 2010, April 30, 2011, December 31, 2011, May 31, 2013, May 31, 2014, May 31,

2015, December 31, 2015, June 17, 2016, September 30, 2016, April 19, 2017, June, 2017, December 31, 2018, December 31, 2019, April 2020, and the fee applications previously filed with the Court summarize the work of the Receiver and his counsel.

Preclusion of other employment. Neither Akerman, Arent Fox nor Brown Fox has had to decline any representation solely because of its services in this case.

Customary fees. An attorney's usual and customary fees are presumed to be reasonable. TEX. CIV. PRAC. & REM. CODE § 38.003. The fees charged by Akerman, Arent Fox nor Brown Fox in this case are the usual and customary fees that they charge to and collect from their clients for the services of the attorneys and other professionals working on this matter, except that: (i) the Receiver is charging 52.6% less than his usual and customary rate; (ii) Akerman is charging 9.5% less than its usual and customary rates on all other timekeepers; (ii) Arent Fox is charging 10% - 15% less than its usual and customary rates on all other timekeepers; and (iv) Brown Fox is charging 10% less than its usual and customary rates on all other timekeepers. Espinosa Affid. at ¶7. Further, the court may take judicial notice of customary fees and of the contents of the case file without further evidence. TEX. CIV. PRAC. & REM. CODE § 38.004.

Each of Akerman, Arent Fox and Brown Fox undertakes periodic analyses of the markets in which it operates in order to determine the appropriate fees to charge for their respective professionals based on the fees charged by its competitors and peer firms. The goal of this analysis is to set rates for each professional at the median rate for professionals at peer firms in similar practices

areas and similar experience. Accordingly, the rates charged in this matter are well within the norm for firms of this type in Texas. Espinosa Affid. at ¶9.

Amount involved and results obtained. The amount involved in this matter, measured either by the \$77 million invested by the investors or the over \$35 million of estate assets administered by the Receiver, is very large. During the Receiver's decade on the job, the Receiver has actively managed the estate's affairs and discharged his court-imposed duties. All told, the Receiver has brought nearly \$29.9 million² into the estate over the course of the Receivership Action. He has filed a plan of distribution, distributed approximately \$11.0 million to the claimants and paid \$61 million in premiums. That's \$50 million more than the \$20.5 million in cash that the receivership started with.

Time limitations. Time is of the essence in a receivership. This was particularly true in the initial stages. The efforts undertaken in this case to recover assets, investigate the facts and preserve the portfolio of policies were conducted on an expedited basis.

The nature and length of the professional relationship. This factor cuts no particular way. However, neither the Receiver nor his counsel has any particular relationship with any of the parties involved in this matter. Nor is there any

² These recoveries include (i) \$1.25 million secreted by Retirement Value's principals into Special Acquisitions, Inc.; (ii) \$560,000 and 8 policies of insurance worth about \$1.1 million recovered from James Settlement Services; (iii) \$127,000 in cash and \$195,000 in debt-reduction from a settlement with Bruce Collins; (iv) \$710,000 in a settlement with Kiesling Porter; (v) \$623,000 in assets from a settlement with Dick and Catherine Gray; (vi) \$176,000 in assets and \$7,000 in debt reduction from a settlement with Wendy Rogers; (vii) \$10,117,534 collected from Pacific Life on the PLI140 policy, which was initially disputed by Pacific Life; (viii) \$34,564 in recovered state franchise taxes; (ix) \$2,133,000 in approved settlements with licensees; (x) \$6,086,240 in judgments against licensees; (xi) \$5.5 million in approved settlements with the James Defendants; and (xii) \$1,265,000 in setoffs.

possibility of a future relationship with the estate. By their nature, receiverships are a one-time event. As a result, no discount would normally be appropriate. Nevertheless, this Application reflects a substantial discount off of the Receiver's and counsel's fees that would normally be charged for the work performed during this time period.

Experience, reputation, and ability of the professionals. Akerman's Fraud and Recovery Practice Group provides comprehensive fraud management services, representing insurers, retailers, investors, financial institutions, and others affected by organized fraud. As one of the first U.S. law firms with a national focus on fraud and recovery, we are valued for our multi-jurisdictional experience and deep sector knowledge. We are ardent advocates for our clients and, as a multidisciplinary team, we provide seamless representation throughout the entire fraud and recovery process. By judicial appointment, we routinely represent victims of Ponzi and other investment fraud schemes in bankruptcy cases stemming from fraudulent actors and operations. Our work has resulted in a number of the largest recoveries in U.S. history on behalf of institutional investors, high-net-worth individuals, and other trustees and creditors. Arent Fox is nationally recognized for its work representing policy owners against the insurance carriers, and has a track record of successfully enforcing the owner's rights. The Receiver and Arent Fox have each, independently worked with counsel at Brown Fox, who is widely recognized for her legal skills, procedural prowess and receivership experience.

Whether the fee is fixed or contingent. The fees of the Receiver and his counsel are based on upon their hourly rates with a substantial discount. However, the payment of fees depends upon the approval of the court and the availability of assets in the estate – something which could not be known at the time the engagement was accepted and which remain uncertain.

Based on the size and complexity of the estate, the difficulties of administering it, the efforts expended and the results obtained, the fees requested by the Receiver and his counsel are reasonable and necessary.

ACCORDINGLY, the Receiver requests that this Application be granted in its entirety and that he be authorized to pay the fees requested by him and his counsel from the funds available to the estate.

Respectfully submitted,

By: /s/ Michael D. Napoli
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**Counsel for Eduardo S. Espinosa,
Receiver**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record listed below, through the electronic filing manager if that counsel's e-mail address is on file or via e-mail, if not, on this 24th day of June 2022.

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**COUNSEL FOR THIRD PARTY DEFENDANTS RON
JAMES, DON JAMES, AND JAMES SETTLEMENT
SERVICES**

/s/ Michael D. Napoli
Michael D. Napoli

EXHIBIT 1

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
RETIREMENT VALUE, LLC, et al,	§	
	§	
Defendants.	§	126 th JUDICIAL DISTRICT

AFFIDAVIT OF EDUARDO S. ESPINOSA

BEFORE ME, the undersigned authority, on this day personally appeared Eduardo S. Espinosa, who is personally known to me, and after being duly sworn according to law, upon his/her oath duly deposed and said:

1. My name is Eduardo S. Espinosa. I am over the age of twenty-one (21) years, of sound mind, and fully competent to testify in this cause. I have personal knowledge of the facts stated herein, all of which are true and correct.

2. I am a partner in the law firm of Akerman, LLP (Akerman). I was admitted to practice law in the State of Louisiana in 1996 and in the State of Texas in 1999. Prior to entering private practice, I was an Enforcement Attorney with the United States Securities and Exchange Commission, where I investigated violations of and enforced the antifraud provisions of the federal securities laws. Since entering private practice in 1998, I have been counsel to multiple defendants in similar proceedings. I am familiar with the reasonable and customary fees charged by attorneys in this type of matter.

3. I am making this Affidavit in support of the Thirty-Seventh Application for Fees by the Receiver and Receiver's Counsel (the "*Application*") incurred between June 2022 through September 2022 (the "*Application Period*").

4. Pursuant to the Court's Order of May 5, 2010 and the Agreed Temporary Injunction Order of May 28, 2010 (the "*Agreed TI*"), I have employed professionals necessary "for an efficient and accurate administration of the receivership estate." To this goal, in March of 2018, I retained Akerman to represent me in connection with my duties and responsibilities as Receiver and have utilized a number of its lawyers and paralegals to assist me therewith. I have not acted as my own counsel. In January 2022, I retained Arent Fox, LLC (Arent Fox) to represent the estate in connection with two litigation matters arising out of the denial of certain death benefits. In February 2022, I engaged Brown Fox (Brown Fox) to represent the estate as local counsel in the same matters.

5. Attached to this Affidavit as (i) Exhibits A-1 through A-4, are copies of Akerman's invoices for the Receiver's fees incurred during the Application Period; (ii) Exhibits B-1 through B-4, are copies of Akerman's invoices for the Receiver's Counsel's fees incurred during the Application Period; and (iii) Exhibits C-1 through C-3, are copies of Akerman's invoices in connection with the Lincoln National litigation during the Application Period (collectively, the "*Akerman Invoices*"). The Akerman Invoices detail the services performed, during the corresponding months, by: (a) me, as Receiver; and (b) Akerman as Receiver's counsel. At the end of each Invoice is a Professional Summary that lists the professional staff that billed time

to this matter during the relevant period, the number of hours billed, and their respective rates.

6. Attached to this Affidavit as (i) Exhibits D-1 through D-4 are copies of Arent Fox's invoices in connection with the Lincoln National litigation during the Application Period; and (ii) Exhibit E-1 is a copy of Arent Fox's invoices in connection with the Delaware Life litigation during the Application Period (collectively, the "*Arent Fox Invoices*"). The Arent Fox Invoices detail the services performed, during the corresponding months, by Arent Fox as the estate's counsel. At the end of each Invoice is a Professional Summary that lists the professional staff that billed time to this matter during the relevant period, the number of hours billed, and their respective rates.

7. Attached to this Affidavit as (i) Exhibits F-1 through F-4 are copies of Brown Fox's invoices in connection with the Lincoln National litigation and the Delaware Life litigation during the Application Period (collectively, the "*Brown Fox Invoices*"). The Brown Fox Invoices detail the services performed, during the corresponding months, by Brown Fox as the estate's counsel.

8. The Akerman Invoices, Arent Fox Invoices and Brown Fox Invoices are collectively referred to herein as the "*Invoices*"). The charge for the services provided are generally determined by multiplying the total number of hours worked by each timekeeper by that timekeeper's billing rate, respectively. The fees charged by the Receiver and his firm (Akerman) represent a 49.4% discount from the usual and customary fees charged. In this case, the billing rate of each timekeeper was

discounted from the firm's usual and customary rates charged. In and customary rates charged. The Receiver is charging \$320/hour, which represents a 52.6% discount from his usual and customary rate of \$675/hour. Akerman has also discounted all other timekeepers' rates by 9.5%. Arent Fox has discounted its timekeepers' rates from 10% to 15%, with the higher rates receiving the greater discounts. Brown Fox has also discounted its timekeepers' rates by 10%. The aggregate discounts and write-offs associated with this Application exceed \$61,757.80. *Id.* The chart below summarizes the fees charged and the discounts applied.

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Receiver adj	(\$34,080.00)			(\$34,080.00)
All other Tkpr Incurred	\$5,234.06	\$253,381.67	\$18,424.00	\$277,039.72
All other Tkpr Billed	\$4,736.82	\$228,043.50	\$16,581.60	\$249,361.92
Discount	(\$497.24)	(\$25,338.17)	(\$1,842.40)	(\$27,677.80)
Write-offs				\$0.00
Total Adj	(\$34,577.24)	(\$25,338.17)	(\$1,842.40)	(\$61,757.80)

9. I have personal experience working with every Akerman timekeeper billing time to this matter. I also have personal experience with the matter

responsible partners at each of Arent Fox and Brown Fox. They are each of high quality and they have skills and expertise that are invaluable to assist me in performing my duties and responsibilities in this matter.

10. The hourly rates set forth in the Invoices are set at a level designed to compensate the firm fairly for the work of its staff and to cover fixed and routine overhead expenses. Such rates are normal and customary in this market for legal professionals with the same level of experience and expertise at comparable legal firms in their respective geographic markets. Each firm undertakes periodic analyses of the markets in which it operates in order to determine the appropriate fees to charge for its professionals based on the fees charged by their competitors and peer firms. The goal of this analysis is to set rates for each professional at the median rate for professionals at peer firms in similar practices areas and similar experience. Accordingly, the rates charged by Akerman in this matter are well within the norm for firms of its type in Texas; the rates charged by Arent Fox in this matter are well within the norm for firms of its type; and the rates charged by Brown Fox in this matter are well within the norm for firms of its type in Texas.

11. The hourly rates charged are reasonable rates for this case, given: (1) the time and labor involved, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly; (2) the likelihood that the acceptance of the particular employment will preclude other employment by the respective professionals; (3) the fee customarily charged in the locality for similar services; (4) the amount involved and the results obtained; (5) the time limitations

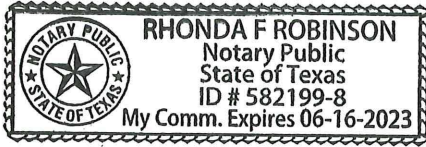
imposed by the client or the circumstances; (6) the nature and length of the professional relationship with the client; and (7) the experience, reputation, and ability of the professionals performing the services.

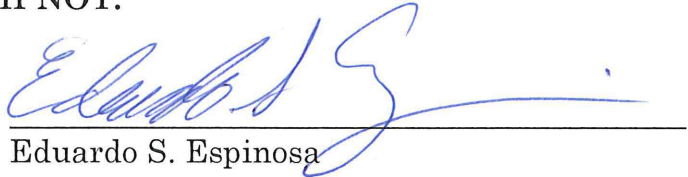
12. The amount billed for my services during the Application Period is \$30,720.00. The amount billed by Akerman as my counsel during the Application Period is \$4,736.82. The amount billed by ArentFox for professional services during the Application Period is \$228,143.50. The amount billed by Brown Fox for professional services during the Application Period is \$16,581.60. These amounts were calculated by taking the time billed for each task performed in connection with this case multiplied by the discounted hourly rate for the professional or staff member who performed the task. No amount was billed for eDiscovery services during the Application Period. The amount billed for reimbursable expenses during the Application Period is \$381.36. Based on my experience and knowledge of this matter, the fees charged by myself and my team for work during the Application Period are reasonable.

13. I have reviewed the Invoices for services rendered during the Application Period. Based on my experience and knowledge of this matter, the work performed by my staff during that period was reasonable and necessary to properly allow me to fulfill my duties and responsibilities in this case.

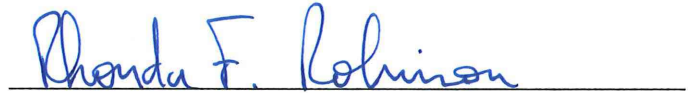
14. The estate maintains ample cash reserves from which to pay this Application.

FURTHER AFFIANT SAYETH NOT.




Eduardo S. Espinosa

SUBSCRIBED AND SWORN TO BEFORE ME this 14th day of October 2022.


Notary Public
My Commission Expires: 06-16-2023