

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-60082-CIV-DIMITROULEAS/SNOW

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

FREDERIC ELM f/k/a Frederic  
Elmaleh, *et al.*,

Defendants,

and

AMANDA ELM f/k/a Amanda  
Elmaleh,

Relief Defendant.

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**AMENDED<sup>1</sup> REPORT AND RECOMMENDATION**

THIS CAUSE is before the Court on the Receiver's Third Interim Application for Allowance and Payment of Fees and Expenses Incurred by the Receiver and Retained Counsel (ECF No. 146), which was referred to United States Magistrate Judge, Lurana S. Snow, for Report and Recommendation. The Defendants did not respond to the motion and it is ripe for consideration.

This was an action filed by the Securities and Exchange Commission (SEC) for temporary and permanent injunction against Defendant Frederic Elm and the corporate Defendants. On January 6, 2015, the Court appointed Grisel Alonso, Esq. to serve as receiver for the corporate Defendants. The Receivership Order provides, in pertinent part:

14. The Receiver, and any counsel whom the Receiver may select, are entitled to reasonable compensation from the assets now held by or in the possession or control of or may be received by ETIA and the Elm Tree funds; said amount or amounts of compensation shall be

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<sup>1</sup> Amended solely to correct a typographical error in the conclusion.

commensurate with their duties and obligations under the circumstances, subject to approval of the Court. . . .

(ECF No. 13 at 4-5)

The Receiver now seeks an interim award for the time period of July 1 - December 31, 2015 of \$157,786.13 for the services of herself and her staff attorneys, consisting of fees for professional services in the amount of \$90,569.00 for 357.2 hours of work, and expenses in the amount of \$542.48. The Receiver also requests \$63,757.50 in attorneys' fees for 219.5 hours of work by her retained counsel, the law firm of Broad and Cassel, together with expenses incurred by counsel in the amount of \$2917.15. In support of her Application, the Receiver attached detailed billing records and invoices. (ECF No. 146-1 - 146-5).

This Court has found that the billing rates of the Receiver and her staff at Michael Moecker and Associates, Inc. (MMA), as well as the timekeepers at Broad & Cassel, are reasonable (ECF No. 113, 117). The undersigned has reviewed the records submitted by the Receiver and finds that the hours expended by them, as well as the claimed expenses, likewise are reasonable and should be approved.

### **CONCLUSION**

This Court having considered carefully the pleadings, arguments of counsel, and the applicable case law, it is hereby

RECOMMENDED that the Receiver's Third Interim Application for Allowance and Payment of Fees and Expenses Incurred by the Receiver and Retained Counsel (ECF No. 146) be GRANTED, and that the Receiver be authorized to pay herself and MMA the total amount of \$91,111.48 (\$90,569.00 in fees + \$542.48 in expenses) and to pay Broad and Cassell the total amount of \$66,674.65 (\$63,757.50 in fees + \$2917.15 in expenses).

The parties will have 14 days from the date of being served with a copy of this Report and Recommendation within which to file written objections, if any, with The Honorable William P. Dimitrouleas, United States District Judge. Failure to file objections timely shall bar the parties

from attacking on appeal factual findings contained herein. LoConte v. Dugger, 847 F.2d 745 (11th Cir. 1988), cert. denied, 488 U.S. 958 (1988); RTC v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993).

DONE AND SUBMITTED at Fort Lauderdale, Florida, this 25th day of April, 2016.

  
LURANA S. SNOW  
UNITED STATES MAGISTRATE JUDGE

Copies to:  
All Counsel of Record