

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.

_____ /

REPORT AND RECOMMENDATION

THIS CAUSE is before the Court on the Receiver's Eighth Interim Application for Allowance and Payment of Fees and Expenses Incurred by the Receiver and Retained Counsel (ECF No. 204), which was referred to United States Magistrate Judge Lurana S. Snow for Report and Recommendation. The Defendants did not respond to the motion, and the SEC has no objection to the amounts claimed.

This was an action filed by the Securities and Exchange Commission (SEC) for a temporary and permanent injunction against Defendant Frederic Elm and the corporate Defendants. On January 16, 2015, the Court appointed Grisel Alonso, Esq. to serve as receiver for the corporate Defendants. (ECF No. 13) 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 which may be received by ETIA and the Elm Tree funds; said amount or amounts of compensation shall be 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 April 1, 2018, through September 30, 2018, in the amount of \$46,729.75 for the services of herself and her staff for 256.3 hours of work and \$1,450.34 in expenses (for a total of \$48,180.09). The Receiver also requests \$42,038.50 in attorneys' and paralegal fees for 169.6 hours of work by her retained counsel, the law firm of Nelson Mullins Broad and Cassel, and \$514.51 in expenses of the firm (for a total of \$42,553.01). In support of her Application, the Receiver attached detailed billing records and invoices. (ECF Nos. 204-1 to 204-4).

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 LLP, are reasonable (ECF Nos. 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 Eighth Interim Application for Allowance and Payment of Fees and Expenses Incurred by the Receiver and Retained Counsel (ECF No. 204) be GRANTED, and that the Receiver be authorized to pay herself and MMA the total amount of \$48,180.09 and to pay Nelson Mullins Broad and Cassel the amount of \$42,553.01.

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 a de novo determination by the District Judge of an issue covered in the Report and shall bar the parties from attacking on appeal unobjected-to factual and legal conclusions contained therein, except upon grounds of plain error if necessary in the interest of justice. See 28 U.S.C. § 636(b)(1);

Thomas v. Arn, 474 U.S. 140, 149 (1985); Henley v. Johnson, 885 F.2d 790, 794 (11th Cir. 1989);
11th Cir. R. 3-1.

DONE AND SUBMITTED at Fort Lauderdale, Florida, this 17th day of April, 2019.


LURANA S. SNOW
UNITED STATES MAGISTRATE JUDGE

Copies to:

All Counsel of Record