

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 15-60082-CIV-DIMITROULEAS/HUNT

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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REPORT AND RECOMMENDATION

THIS CAUSE is before the Court on the Receiver's Tenth Interim Application for Allowance and Payment of Fees and Expenses Incurred by the Receiver and Retained Counsel (ECF No. 245), which was referred to the undersigned United States Magistrate Judge 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 September 1, 2019 through February 28, 2022, in the amount of \$37,185.63 in the aggregate (“Total Award”). The Total Award is comprised of: (a) \$8,277.13 in fees and costs for the Receiver and other professionals at Michael Moecker and Associates, Inc.; (b) \$20,310.52 in fees and costs for the Receiver at Grisel Alonso Associates; and (c) \$8,597.98 in legal fees and costs for Nelson Mullins Broad and Cassel, Receiver’s primary counsel.¹ The Receiver claims 85.6 hours of work on this Receivership action during this period, split between Michael Moecker and Associates and Grisel Alonso Associates, while Nelson Mullins Broad and Cassel claims 26 hours of work.

In support of her Application, the Receiver attached detailed billing records and invoices. (ECF Nos. 245-1 to 245-4). This Court has found that the billing rates of the Receiver and her staff, as well as the timekeepers at Nelson Mullins Broad and Cassel, are reasonable (ECF Nos. 113, 117). The undersigned has reviewed the records submitted by the Receiver and finds that the hours expended, as well as the claimed expenses, likewise are reasonable and should be approved.

CONCLUSION

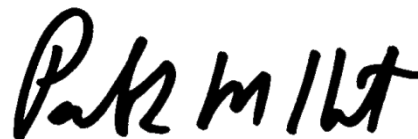
This Court having considered carefully the pleadings, arguments of counsel, and the applicable case law, it is hereby RECOMMENDED that the Receiver's Tenth Interim Application for Allowance and Payment of Fees and Expenses Incurred by the Receiver

¹ On or about February 2020, the Receiver left Michael Moecker and Associates to open her own firm, Grisel Alonso Associates.

and Retained Counsel (ECF No. 245) be GRANTED, and that the Receiver be authorized to pay \$8,277.13 in fees and costs for the Receiver and other professionals at Michael Moecker and Associates, Inc.; \$20,310.52 in fees and costs for the Receiver at Grisel Alonso Associates; and \$8,597.98 in legal fees and costs for Nelson Mullins Broad and Cassel.

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 8th day of July, 2022.



PATRICK M. HUNT
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
The Honorable William P. Dimitrouleas
All counsel of record