

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
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UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

JOHN E. BRINKER, JR.,
GARY J. BENTZ,
CASTLEROCK CONSULTING, LLC,
GUARDIAN FIRST LIMITED, INC.
(A NEVADA CORPORATION),
GUARDIAN FIRST LIMITED, INC.
(A GRENADA CORPORATION),
WELLINGTON BANK AND TRUST, LTD.,
WELLINGTON CAPITAL HOLDINGS,
LTD., INC.,
WELLINGTON CAPITAL HOLDINGS, LTD.,
WELLINGTON INTERNATIONAL
INVESTMENTS, INC.,
WELLINGTON FIRST INTERNATIONAL
INVESTMENTS, INC., AND ALL
SUBSEQUENTLY NUMBERED
WELLINGTON INTERNATIONAL
INVESTMENTS, INC. ENTITIES,

Defendants,

and

ALPHA ADVANTAGE II, INC.,
ELEVEN-EIGHTY-FIVE, LP AND
STEADFAST MINISTRIES, INC.

Relief Defendants.

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

) CIVIL ACTION

) CASE NO. IP01-0259-C-H/G

RECEIVER'S APPLICATION TO APPROVE SETTLEMENT WITH NON-PARTY
MS. JENNIFER L. MYERS

James A. Knauer, the Examiner/ Receiver herein, by counsel, for his Application
to Settle Claim Against Ms. Jennifer L. Myers ("Myers") states as follows:

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1. On February 27, 2001, James A. Knauer was appointed Examiner herein.
2. On March 28, 2001, James A. Knauer was appointed Receiver over all assets and interests of Relief Defendant Eleven Eight-Five, LP ("1185"). In the Receiver's efforts to recover property for the estate, the Receiver obtained information indicating that on or about November 9, 2000, 1185 sold a residence located at 3344 Woodford Ave., Cincinnati, Ohio (the "Woodford Residence"), to Myers.
3. After further investigation, it was determined by the Receiver that while Myers purchased the Woodford Residence with a conventional mortgage, 1185 retained a second mortgage on the Woodford Residence. Approximately one month after Myers purchased the Woodford Residence, 1185 released this second mortgage in its entirety.
4. On or about June 22, 2001 Myers and her counsel advised the Receiver's counsel that Myers intended to close on a sale of the Woodford Residence, and that certain mortgage proceeds would be payable to Myers upon closing. Soon thereafter, the Receiver consented to Myers proceeding with the closing, which closed on June 27, 2001. Myers then agreed to keep the proceeds in her counsel's trust account until this matter was resolved.
5. After closing costs, net proceeds of Myers' sale of the Woodford Residence totaled \$15,039.19. Myers contends that she is entitled to the proceeds, while the Receiver maintains that the proceeds are property of

the 1185 receivership estate.

6. Subject to this Court's approval, the Receiver and Myers have agreed to fully settle these issues in the amount of \$11,789.19 ("Settlement Amount") to be paid to the Receiver.
7. The Receiver has conferred with his counsel, and upon further review of the records and information held by the Receiver and the information received from Myers, the Receiver is satisfied that it is in the best interest of the estate to accept the Settlement Amount.
8. Pursuant to Local Rule, the administration of receivership estates should be conducted "as nearly as may be in accordance with the practice in the administration of estates in bankruptcy[.]" S.D.Ind. L.R. 66.1(e). When considering whether to approve a settlement under Bankruptcy Rule 9019, a bankruptcy court must determine whether the proposed settlement is in the best interests of the estate." In re Energy Co-Op, Inc., 886 F.2d 921, 927 (7th Cir. 1989). The Third Circuit has recognized that "to minimize litigation and expedite the administration of a bankruptcy estate, compromises are favored[.]" Myers v. Martin, 91 F.3d 389, 393 (3rd Cir. 1996).

REQUEST FOR RELIEF

Your Receiver respectfully requests that the Court approve this Application, and that the Court provide all other necessary relief.

Respectfully submitted,

KROGER, GARDIS & REGAS, LLP

By: James A. Knauer
James A. Knauer, Receiver

By: Brett R. Fleitz
Brett R. Fleitz
Attorney for Receiver

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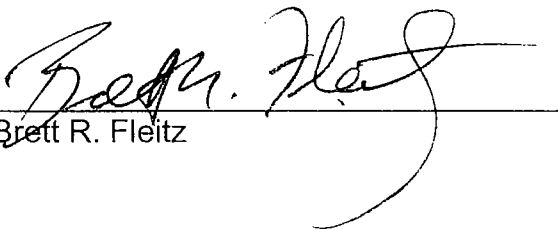
CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing has been served upon the following parties by placing a copy of the same in the United States Mail, first class postage pre-paid, on this 30th day of July, 2001:

Thomas J. Eme
Scott Hlavacek
United States Securities and Exchange Commission
500 West Madison Street
Suite 1400
Chicago, Illinois 60661-2511

John E. Brinker, Jr.
9378 Mason-Montgomery Road #102
Mason, OH 45440

Gary J. Bentz
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