



involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the political “undesirability” of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974).

In light of these considerations, the Receiver’s and Examiner’s requested fees should be reduced. Many of the *Johnson* factors suggest that the Receiver’s and Examiner’s fees are reasonable. These include the substantial time and labor involved with unraveling such a complex scheme; the novelty and difficulty of many of the legal questions to be addressed; the skill requisite to perform the services in question; and the experience, reputation, and ability of the attorneys and other professionals involved. However, it is increasingly clear that the eventual size of the receivership estate will be smaller than initially hoped or expected. Accordingly, in light of the “amount involved and the results obtained,” a fee reduction is appropriate at this time.<sup>2</sup> Thus, the Court will hold back a percentage of the Receiver’s and Examiner’s fees for the time being. The Court adopts the holdbacks jointly proposed by the Receiver, the Examiner, and the S.E.C. in a recent court filing [978], which are outlined below.

## II. THE COURT APPROVES A PORTION OF THE FEE APPLICATIONS

---

<sup>2</sup>“In light of the voluminous nature of fee applications, ‘courts have recognized that it is unrealistic to expect a trial judge to evaluate and rule on every entry in an application. These courts have endorsed percentage cuts as a practical means of trimming fat from a fee application.’” *S.E.C. v. Byers*, 590 F. Supp. 2d 637, 648 (S.D.N.Y. 2008) (quoting *N.Y. State Ass’n for Retarded Children, Inc. v. Carey*, 711 F.2d 1136, 1146 (2d Cir. 1983)).

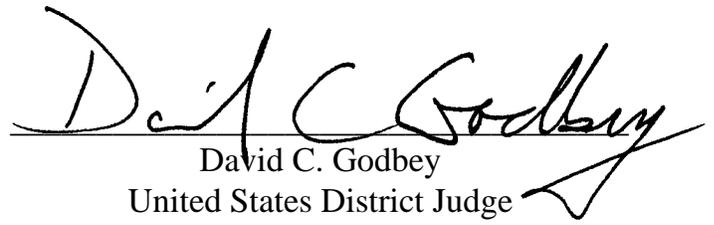
The Court grants in part the Receiver's motion for approval of third interim fee application [820]. The amount authorized for immediate payment is \$7,202,265.96, which represents 65% of the fees and expenses incurred from June 1 to August 31, 2009. The Receiver may apply for the remaining 35% of the fees and expenses incurred from June 1 to August 31, 2009 at a later date, and the Court reserves any ruling on objections to those amounts until a later date.

The Court grants in part the Receiver's motion for approval of fourth interim fee application [914]. The amount authorized for immediate payment is \$1,590,694.10, which represents 65% of the fees and expenses incurred during September 2009. The Receiver may apply for the remaining 35% at a later date, and the Court reserves any ruling on objections to those amounts until a later date.

The Court authorizes the Receiver to make payment to FITS, FTI, and EY in the amount of \$1,600,196.36, which represents 80% of the fees and expenses incurred by these firms for February through May 31, 2009. The Receiver may apply for the remaining 20% at a later date, and the Court reserves any ruling on objections to those amounts until a later date.

The Court grants in part the Examiner's motion for approval of second interim fee application [849]. The amount authorized for immediate payment is \$203,369.78, which represents 85% of the fees and expenses incurred from July 1 to September 30, 2009. The Examiner may apply for the remaining 15% at a later date, and the Court reserves any ruling on objections to those amounts until a later date.

Signed February 3, 2010

  
David C. Godbey  
United States District Judge