

CAUSE NO. D-1-GN-18-001285

THE TEXAS DEPARTMENT OF INSURANCE, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
ACCESS INSURANCE COMPANY, <i>Defendant.</i>	§	261 ST JUDICIAL DISTRICT

APPLICATION FOR APPROVAL OF FEES AND EXPENSES

TO THE HONORABLE JUDGE OF SAID COURT:

CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Access Insurance Company (the “SDR” and “AIC” respectively), files its *Application for Approval of Fees and Expenses* (the “Application”).

I. BACKGROUND

1.1. On March 13, 2018, the Court entered an *Agreed Order Appointing Liquidator, Permanent Injunction, and Notice of Automatic Stay* appointing the Texas Commissioner of Insurance as Liquidator of AIC. Effective March 13, 2018, the Texas Commissioner of Insurance, as Liquidator, appointed CANTILO & BENNETT, L.L.P. as Special Deputy Receiver of AIC.

II. JURISDICTION

2.1. This Court has jurisdiction over the subject matter of this Application and of the parties herein pursuant to TEX. INS. CODE § 443.005.

III. STATUTORY AUTHORITY

3.1 The SDR is authorized to file this Application pursuant to TEX. INS. CODE § 443.015, which provides for the approval of the SDR’s expenses and compensation by the Court. The subject matter of this Application has been referred to the Special Master.

IV. BASIS FOR APPLICATION

4.1 TEX. INS. CODE § 443.015(c)(1) requires the Receiver, to submit an application for the approval of the terms of compensation of a contractor when the Receiver reasonably expects that the total amount of compensation to be paid over the course of the proceeding will exceed Two Hundred Fifty Thousand Dollars (\$250,000), or such another amount established by the Court. In addition, TEX. INS. CODE § 443.015(d) permits the Receiver, at his discretion, to submit an application to approve any compensation, anticipated expenses, or incurred expenses not described by Subsection (c)(1).

4.2 The SDR files this Application to request approval of proposed fees and expenses. At this time, the SDR anticipates that the compensation paid to any contractors may exceed \$250,000 for the duration of this proceeding. The rates for compensation for all contractors are shown on Exhibit A, which is attached hereto and incorporated by reference. The SDR requests the Court to approve such rates pursuant to TEX. INS. CODE § 443.015(c)(1) and (d), effective as of March 13, 2018, the effective date CANTILO & BENNETT, L.L.P., was designated as SDR. These rates have been approved by the Receiver in accordance with TEX. INS. CODE § 443.154(a).

4.3 The SDR requests that the Court approve the SDR's Application for Approval of Fees and Expenses for the individuals and entities identified on the attached Exhibit A.

4.4 TEX. INS. CODE § 443.015(g) provides that on a quarterly basis, or as otherwise provided by this Court, the Receiver shall submit to the Court a summary of expenses incurred during the period. The SDR requests the Court to confirm quarterly reporting periods that coincide with the State of Texas fiscal year. The SDR further requests that such reports be filed by the 15th day of the month following the end of the quarterly reporting period.

V. NOTICE

5.1 The SDR has served this Application to all known parties in interest, including all affected guaranty associations, and all individuals and entities identified by the SDR in the Certificate of Service by e-mail and, as noted, by mail or overnight delivery to certain government agencies.

VI. OFFER OF PROOF AND VERIFICATION

6.1 This Application is verified by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) by Susan E. Salch, Partner in CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Access Insurance Company.

VII. NOTICE OF ELECTRONIC SERVICE REQUIREMENT

7.1 All pleadings filed in response to this Application or in regard to this estate shall be served by e-mail on the undersigned counsel and all parties shown in the attached Certificate of Service.

PRAYER

WHEREFORE, PREMISES CONSIDERED, CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Access Insurance Company, prays that this Court grant this Application and grant the SDR such other and further relief to which it may justly entitled.

Respectfully submitted,

FULLER LAW GROUP

By: /s/Christopher Fuller

Christopher Fuller

Texas Bar No. 07515500

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**Attorney for CANTILO & BENNETT, LLP,
Special Deputy Receiver of Access Insurance Co.**

CERTIFICATE OF SERVICE

I certify that on March 30, 2018 the foregoing Motion served pursuant to the Court's order requiring electronic service, the Texas Rules of Civil Procedure and TEX. INS. CODE CHAPTER 443.007(d) on the following by electronic mail, except as specifically noted:

Via Email: specialmasterclerk@tdi.texas.gov
Special Master's Clerk
Rehabilitation & Liquidation Oversight
TEXAS DEPARTMENT OF INSURANCE
PO Box 149104
Austin, Texas 78714-9104

Via e-Service: James.Kennedy@tdi.texas.gov
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PO Box 149104
Austin, Texas 78714-9104

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Marvin Kelly
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9120 Burnet Road
Austin, Texas 78758

/s/Christopher Fuller _____
Christopher Fuller

APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the Order of Reference to Master entered by the District Court in this cause, the SDR's *Application for Approval of Fees and Expenses* is hereby set for written submission before the Special Master, Tom Collins, on April 16, 2018.

The Special Master has asked that the following rules be provided you:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by email by such date on:
 - (a) The Special Master's Docket Clerk, at specialmasterclerk@tdi.texas.gov;
 - (b) The undersigned counsel, Christopher Fuller at cfuller@fullerlaw.org; and
 - (c) All interested parties, including those listed on the SDR's Certificate of Service.
3. The objecting party shall coordinate with the SDR's counsel and the Docket Clerk [(512)463-6450] to obtain an oral hearing setting for argument on the Application and Objection, and complete and attach an "Objecting Party's Notice of Oral Hearing" to the objection.
4. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
5. **Please note that if an objection is not filed as described in the Notice of Submission, the Master may consider the Application without a hearing.**
6. **Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.**
7. Any Acknowledgment of Notice and Waiver to be filed by the Guaranty Association or other interested party should be filed at least three (3) calendar days before the submission or hearing date.

/s/Christopher Fuller
Christopher Fuller

APPLICATION FOR APPROVAL OF FEES AND EXPENSES
EXHIBIT A - FEE SCHEDULE

CANTILO & BENNETT, L.L.P.

Special Deputy Receiver

<u>Position</u>	<u>Hourly Rate</u>
Primary Responsible Person/SDR Administration	\$200.00
SDR Administration	\$200.00
SDR Administration	\$200.00
SDR Administration	\$200.00
SDR Administration	\$200.00
SDR Administration	\$175.00
SDR Administration	\$150.00
SDR Administration	\$150.00
SDR Administration	\$150.00
SDR Administration	\$150.00
Senior Receivership Specialist	\$125.00
Receivership Specialist	\$120.00
Receivership Specialist	\$120.00
Law Clerk	\$110.00
Administrative/Clerical	\$ 30.00

FULLER LAW GROUP

Legal/Litigation Services Subcontractor

Attorney/SDR Counsel	\$250.00
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INQUEST RESOURCES

Legal Support Services Subcontractor

Information Technology/Data Processing Subcontractor

Paralegal	\$ 75.00
Receivership Specialist I	\$ 75.00
Receivership Specialist II	\$ 45.00
Administrative/Clerical	\$ 30.00

PETROSEWICZ & Co., INC.

Accounting Services Subcontractor

CPA	\$180.00
CPA	\$180.00
Staff Accountant	\$105.00
Clerical Staff	\$ 30.00

EMKAY ASSOCIATES, INC.

Claims Services

Claims Manager and Consultant	\$ 95.00
Claims Management and Consulting	\$ 85.00
Claims Management and Consulting, Site Management	\$ 85.00
Records Inventory and Management	\$ 35.00
Clerical	\$ 30.00

ABACI, INC.

Information Technology/Data Processing Subcontractor

Project Manager/Business Analyst/Application Designer	\$ 95.00
Technical Analyst/Application Designer/Conversion Specialist	\$ 90.00

THARP & ASSOCIATES

Reinsurance

Reinsurance Consultant	\$225.00
Reinsurance Consultant	\$225.00
Corporate Controller/Accountant	\$185.00
IT/Database Administrator	\$185.00

GORBY, PETERS & ASSOCIATES, LLC

Local Counsel (Georgia)

Partner	\$185.00
Partner	\$170.00
Associate	\$160.00
Paralegal	\$100.00