

Motions

3:09-cv-00106-GCM U.S. Commodity Futures Trading Commission v. Barki, LLC et al

U.S. District Court

Western District of North Carolina

Notice of Electronic Filing

The following transaction was entered by Grier, Joseph on 1/26/2010 at 1:18 PM EST and filed on 1/26/2010

Case Name: U.S. Commodity Futures Trading Commission v. Barki, LLC et al

Case Number: 3:09-cv-00106-GCM

Filer: Joseph W. Grier, III

Document Number: 142

Docket Text:

MOTION of Receiver for Compensation to Edward P. Bowers, Accountant for Receiver by Joseph W. Grier, III. Responses due by 2/12/2010. (Attachments: # (1) Appendix Notice of Hearing, # (2) Appendix Certificate of Service)(Grier, Joseph)

3:09-cv-00106-GCM Notice has been electronically mailed to:

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The following document(s) are associated with this transaction:

CMECF.widgit.ProcessingWindowDestroy() ONG>Document description:Main Document

Original filename:n/a

Electronic document Stamp:

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Document description:Appendix Notice of Hearing

Original filename:n/a

Electronic document Stamp:

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Document description:Appendix Certificate of Service

Original filename:n/a

Electronic document Stamp:

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CIVIL DOCKET FOR CASE: # 3:09-CV-00106

U.S. COMMODITY FUTURES TRADING
COMMISISON,

PLAINTIFF,

VS.

BARKI, LLC,
BRUCE C. KRAMER,

DEFENDANTS,

VS.

RELIEF DEFENDANTS
RHONDA A. KRAMER,
FOREST GLEN FARM, LLC.

**THIRD
MOTION OF RECEIVER FOR
COMPENSATION TO EDWARD P.
BOWERS and MIDDLESWARTH,
BOWERS & COMPANY,
ACCOUNTANTS FOR THE
RECEIVER**

The motion of Joseph W. Grier, III, Receiver for Barki, LLC and Bruce C. Kramer Defendants and Relief Defendants, Rhonda A. Kramer and Forest Glen Farm, LLC, (hereafter "Defendants"), to authorize compensation and reimbursement of expenses from November 9, 2009 through January 21, 2010, to Edward P. Bowers and Middleswarth, Bowers & Company, as accountants for the Receiver, respectfully represents as follows:

1. This court appointed Joseph W. Grier, III as Receiver by Order entered on March 24, 2009, (the "Receivership Order").

2. Pursuant to paragraph 29(i) of the Receivership Order, the Receiver is authorized to "choose, engage and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of his duties and responsibilities."

3. The Receiver has retained Edward P. Bowers and Middleswarth, Bowers & Company (hereafter "Bowers"), whose address is 219-A Wilmot Drive, Gastonia NC 28054, as accountants for the Receiver.

4. Paragraph 33 of the Receivership Order provides in part that:

The Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver, are entitled to reasonable compensation for the

performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the assets now held by or in the possession or control of, or which may be received by the Defendants or Relief Defendants. The Receiver shall file with the Court and serve on the parties, periodic requests for the payment of such reasonable compensation; with the first such request filed no more than sixty (60) days after the date of this Order.

5. Bowers has worked on BB&T account analysis; reviewed 2007 entries between Bank of America and FOREX trading accounts; searched for individual accounts on investors; input into Quickbooks data files, bank statements and wire transfers; reviewed other accountant's amended return for 2006-2008 re: investor; work on adjustments using IRS method.

6. Attached hereto as Exhibit A is a statement itemizing the fees and expenses incurred in connection with the Accountant's work for the period of November 9, 2009 through January 21, 2010. The undersigned contends that Bowers has spent the following time in performing the services referred to herein as accountants for the Receiver, and it is informed and believes that its services rendered herein as accountants for the Receiver are reasonably worth the sum as set forth below and that it should be allowed and paid said sum as fees and as a cost of this estate:

Professional	Hours	Per Hour	Amount
EPB Edward P. Bowers	00.50	185.	\$ 92.50
LCL Laurie C. LeGrand	43.45	160.	\$ 6,952.00
MTB Michael T. Bowers	15.90	100.	\$ <u>1,590.00</u>
Total Fees:			\$ 8,634.50
Expenses: \$0.00			
Total Fees & Expenses:			\$ 8,634.50

WHEREFORE, the undersigned requests that the court approve compensation of \$8,634.50 to it as accountants for the Receiver and authorize the payment of said sum from the funds of the Receivership, when such funds become available.

Dated this 26th day of January, 2010.

/s/ Joseph W. Grier, III
Joseph W. Grier, III (NC St. Bar No. 7764)
Grier Furr & Crisp, PA
101 N. Tryon St., Ste. 1240
Charlotte, NC 28246

For Accountants:
Edward P. Bowers and
Middleswarth, Bowers & Company



EXHIBIT A
USER TIME SUMMARY

	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
EPB Edward P. Bowers	Partner	.50	185.00	92.50
LCL Laurie C. LeGrand	Associate	43.45	160.00	6,952.00
MTB Michael T. Bowers	Accountant	15.90	100.00	1,590.00
PMA Pamela Lutz	Bookkeeper	.00	85.00	<u>00.00</u>
		Total Fees		<u>8,634.50</u>
Expenses:				<u>00.00</u>
		Total Expenses		<u>00.00</u>
		Total Fees and Expenses		<u>8,634.50</u>

EXHIBIT B

Grier/Barki

INVOICE NO.: 0010249-IN

DATE: 01/25/10

CLIENT CODE: 0090035

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PROFESSIONAL SERVICES RENDERED:		HOURS	AMOUNT
1/09/09	Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Review BB&T account and identify source of withdrawals, deposits and checks	6.00	960.00
1/10/09	Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Continued work on BB&T account analysis	6.00	960.00
1/11/09	Edward P. Bowers CASE ADMINISTRATION AND BUSINESS OPERATIONS; Review status with Laurie. Discuss with staff next steps in accounting for Barki activity. Email to J Grier re: documents needed	.50	92.50
1/11/09	Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Continued review of BB&T account for sources of withdrawals and deposits	6.00	960.00
1/11/09	Michael T. Bowers CASE ADMINISTRATION AND BUSINESS OPERATIONS; Input BB&T account activity into Quickbook data files for 2007-2009	2.50	250.00
1/12/09	Michael T. Bowers CASE ADMINISTRATION AND BUSINESS OPERATIONS; Continue input of BB&T account activity into Quickbooks data files	8.00	800.00
1/17/09	Michael T. Bowers CASE ADMINISTRATION AND BUSINESS OPERATIONS; Continued input of BB&T account information into Quickbooks data files	4.00	400.00
1/24/09	Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Review 2007 entries between Bank of America and FOREX trading accounts. Look for individual accounts on investors.	2.25	360.00
2/15/09	Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Input into Quickbooks data files the bank statements and wire transfers re: additional records received	3.50	560.00
2/15/09	Michael T. Bowers CASE ADMINISTRATION AND BUSINESS OPERATIONS; Pickup records at Grier's office. Travel	1.00	100.00
2/16/09	Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Continue input of additional bank statement	5.35	856.00

EXHIBIT B

Grier/Barki

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OR PROFESSIONAL SERVICES RENDERED:	HOURS	AMOUNT
information		
2/18/09 Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Continue keying bank statement information into Quickbook data files	3.90	624.00
1/04/10 Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Continue keying bank statement information into Quickbook data files	5.70	912.00
1/20/10 Laurie C. LeGrand CASE ADMINISTRATION AND BUSINESS OPERATIONS; Review other accountant's amended return for 2006, 2007 and 2008 re:Puckett. Work on adjustments using IRS method. Recalculated basis and refund.	4.75	760.00
1/21/10 Michael T. Bowers CASE ADMINISTRATION AND BUSINESS OPERATIONS; Pickup bank statements at J Grier's office	.40	40.00
	TOTAL FEES:	8634.50
	AMOUNT DUE:	8634.50