

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:09-CV-387-RJC-DCK**

**U.S. COMMODITY FUTURES TRADING)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
CAPITAL STREET FINANCIAL LLC, and)
SEAN F. MESCALL,)
)
Defendants, and)
)
GERALD T. MESCALL, and)
GAINCAPITAL, INC.,)
)
Relief Defendants.)
_____)**

ORDER

THIS MATTER IS BEFORE THE COURT on the “Second Motion for Compensation To Grier Furr & Crisp, P.A., Attorneys For Temporary Receiver” (Document No. 30) filed on January 26, 2010. The motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b), and immediate review is appropriate. Having fully considered the record, including the motion and itemized list of services, the undersigned finds as follows:

This Court appointed Joseph W. Grier, III, as Receiver for the assets of CapitalStreet Financial, LLC, Sean Mescall, Gerald Mescall, and Gaincapital, Inc. on September 16, 2009. (Document No. 14). The Receiver is authorized to “[c]hoose, 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.” (Document No. 14, ¶ 29(i)). Grier Furr & Crisp, PA has rendered valuable services to the Receiver during this civil

proceeding. The reasonable value of the services, as set forth in the itemized list attached to the motion, is \$6,428.50. (Document No. 30, Ex. A). Grier Furr & Crisp, PA, has also incurred expenses in the amount of \$215.95. The Receiver served a “Notice of Motion for Compensation for Grier, Furr & Crisp, PA., Attorneys For Temporary Receiver” (“Notice”) upon the parties as required by law. (Document No. 30-1). The Notice required that opposition to the motion be filed with the Court, with a copy sent to the Receiver, on or before February 26, 2010.

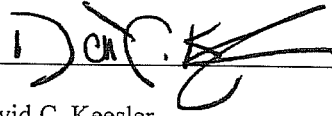
On February 24, 2010, Mr. M. Abad filed a timely response letter (Document No. 32). Mr. Abad’s letter states his opposition “to the firm of Grier, Furr & Crisp Being paid first. . .” but goes on to say “Its not that they should not be paid for their work in this recovery process. It’s about how (We) as the injured party is not being considered nor informed with what’s going on at all.” (Document No. 32). In addition, on March 4, 2010, Mr. Charm Yuen Chee filed a letter (Document No. 34) with the Court in support of Mr. Abad’s letter, and essentially expressing his own opposition to the law firm being paid prior to the injured parties.

The undersigned observes that Mr. Abad’s timely response does not expressly oppose the Court’s approval of the pending motion, but instead primarily complains of a lack of communication from Mr. Grier and his firm. Mr. Chee’s letter is clearer in its opposition to the method of payment to Grier Furr & Crisp, PA, but was not filed in a timely manner.

The parties have not requested, and the Court will decline to *sua sponte* schedule, a hearing on this matter; however, Mr. Abad, Mr. Chee, and other interested parties, are encouraged to file timely opposition to future motions if they deem that to be an appropriate action.

IT IS, THEREFORE, ORDERED that the “Second Motion for Compensation To Grier Furr & Crisp, P.A., Attorneys For Temporary Receiver” (Document No. 30) is **GRANTED**.

Signed: March 9, 2010

A handwritten signature in black ink, appearing to read 'D.C. Keesler', written over a horizontal line.

David C. Keesler
United States Magistrate Judge



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

CAPITALSTREET FINANCIAL, LLC,
And Sean F. Mescall,

Defendants, and

Gerald T. Mescall, and
Gaincapital, Inc.,

Relief Defendants.

CASE NO. 3:09-cv-00387 (RJC-DCK)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the *Order Granting Application for Compensation to Grier Furr & Crisp, PA*, were served by CM/ECF system, electronic mail or U.S. Mail as indicated below, upon the following parties:

Investors by email

August A. Imholz, III
Kassra Goudarzi
Michael Solinsky
U.S. Commodity Futures Trading Commission
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This the 10th day of March, 2010.

/s/ Joseph W. Grier, III
Joseph W. Grier, III (NC St. Bar No. 7764)
Grier Furr & Crisp, PA
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