

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**U.S. COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

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

**CAPITALSTREET FINANCIAL, LLC,
And Sean F. Mescall,**

Defendants, and

**Gerald T. Mescall, and
Gaincapital, Inc.,**

Relief Defendants.

**THIRD MOTION FOR COMPENSATION TO GRIER FURR & CRISP, P.A.,
ATTORNEYS FOR TEMPORARY RECEIVER**

The motion of Joseph W. Grier, III, Temporary Receiver for CapitalStreet Financial, LLC and Sean F. Mescall, Defendants and Relief Defendant Gerald T. Mescall and Gaincapital, Inc.,(hereafter "Defendants"), to authorize compensation and reimbursement of expenses from January 19, 2010 through March 15, 2010, to Grier, Furr & Crisp, P.A., as attorneys for the Receiver, respectfully represents as follows:

1. This court appointed Joseph W. Grier, III as Temporary Receiver by Order entered on September 16, 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 his law firm, Grier, Furr & Crisp, P.A., as general counsel.
4. Paragraph 34 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. Contemporaneously with the filing of this application for compensation, the Receiver has filed his *Receiver's Third Report*.

6. The Receiver's Third Report and the pleadings in this case describe generally the services provided by the undersigned.

7. Attached hereto as **Exhibit A** is a statement itemizing the fees and expenses incurred by Grier, Furr & Crisp, PA, in connection with its representation of the Receiver for the period of November 11, 2009 to January 14, 2010. The undersigned contends that the firm has spent the following time in performing the services referred to herein as attorney for the Receiver, and it is informed and believes that its services rendered herein as attorney 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	Rate	Total
Joseph W. Grier, III (JOE)	03.20	\$395.00	\$ 1,264.00
Anna S. Gorman (ASG)	08.40	\$275.00	\$ 2,310.00
Kay R. Buffaloe (KRB)	04.50	\$135.00	\$ <u>607.50</u>
Fees:			\$ <u>4,389.78</u>

Disbursements: \$208.28

Total Fees & Disbursements: \$ 4,389.78

8. Attached hereto as **Exhibit B** is a list of prior Motions for Compensation to Grier Furr & Crisp, PA.

9. A brief biography of each attorney in the firm of Grier Furr & Crisp, PA, who provided services on this statement, is attached hereto as **Exhibit C** and incorporated herein by reference.

WHEREFORE, the undersigned requests that the court approve compensation of **\$4,389.78** and reimbursement of expenses of **\$208.28** to it as attorney for the Receiver and authorize the payment of said sums from the funds of the Receivership, when such funds become available.

Dated this 31st day of March, 2010.

/s/ Joseph W. Grier, III
Joseph W. Grier, III

State Bar No. 7764
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CapitalStreet Financial, LLC Receivership

Mar 16, 2010

ATTN:

Matter: Receiver for CapitalStreet Financial, LLC & Sean F. Mescall

File #: 09-5015 / 8850

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jan-19-10	Telephone call to/from BB&T, Denver, NC setting up appointment for JOE & person from Iron Horse to open lockbox.	0.10	13.50	KRB
Jan-21-10	Pick up Rolex watch from bank lock box.	0.30	118.50	JOE
	Meet Tom McGinnis of Iron Horse at BB&T in Denver to turn over contents of safe deposit box. Travel Charlotte to Denver and return.	2.00	790.00	JOE
	Confirm meeting between JOE and Tom McInnis of Iron Horse Auction regarding transfer of personal property for liquidation. Correspondence regarding appraisal needed of coin collection.	0.20	55.00	ASG
	Travel to & from Denver, NC, BB&T with JOE, to witness turnover of items in safe deposit box to T.McGinnis w/Iron Horse Auction Company; counting cash money back in office to deposit into CapitalStreet Receivership bank account.	2.10	283.50	KRB
Jan-22-10	Locate and forward information requested to Tom McGinnis of Iron Horse Auction.	0.40	110.00	ASG
Jan-25-10	Review receiver's report.	0.40	158.00	JOE

Jan-26-10	Update Receiver's Second Report and have filed and served.	0.20	55.00	ASG
	Preparation of Second Motion for Compensation to GF&C, Attorneys for Receiver, Exhibits A-C; preparation of Notice of Hearing & COS; electronic filing of Motion, Exhibits, Notice, Receiver's Second Report & COS with the District Court; mail out copies of all documents to service list; email service of documents to attorneys on service list; email all documents by bcc to all investors.	2.00	270.00	KRB
Jan-27-10	Correspondence and several calls with CapitalStreet investors; forward information requested to three.	1.10	302.50	ASG
Feb-01-10	Telephone conference with Bill Sparks regarding condition of Ferrari and repairs needed to sell, discuss with JOE, follow up call with B. Sparks.	0.20	55.00	ASG
Feb-08-10	Telephone call from Leland Little regarding appraisal of coins. Receive call Brad Morris regarding administrative claim.	0.40	110.00	ASG
Feb-11-10	Receive call from an investor regarding update on case. Receive coins and appraisal from Leland Little. Separate same for liquidation.	1.50	412.50	ASG
Feb-17-10	Telephone call to Mr. August A. Imholtz III -- left message -- returning his call re overseas funds in Cypress.	0.10	39.50	JOE
Feb-18-10	Telephone call to Mr. August A. Imholtz III -- spoke -- discovery that Sean Mescall got check from bank in Cypress and changes to pleadings here.	0.20	79.00	JOE
	Review file for documents per request of JOE.	0.20	55.00	ASG
Feb-23-10	Calls to IRS to confirm whether CapitalStreet has ever filed tax returns. Facsimile to IRS - letter and Order of Receivership to prove authority to obtain information requested. Receive call from investor regarding status of case. Fill out IRS Form 56 re fiduciary of LLC, draft letter to IRS regarding information needed.	1.40	385.00	ASG
Feb-26-10	Telephone call from Mr. August A. Imholtz III	0.20	79.00	JOE

-- spoke -- update to contempt motion, fee objection filed by customer, and possible obligation to IRS.

Mar-01-10	Receive coins and appraisals, package with instructions to Iron Horse Auction to liquidate. Telephone call with Will Lilly regarding same.	0.60	165.00	ASG
Mar-08-10	Review Amended Joint Motion regarding S. Mescall failure to comply with Court Order, Memorandum supporting same and proposed Order. Telephone conference with August Imholtz regarding same including amendment to Declaration of JOE supporting same. Receive call from CapitalStreet investor with request for mailed copies of prior Receiver's Reports, forward same.	1.50	412.50	ASG
Mar-09-10	Brief review of revised Declaration and Memorandum in Support of Joint Motion for Order to Show Cause and provide input to August Imholtz. Forward executed Declaration by JOE to Mr. Imholtz. Receive call from Car Broker regarding progress in marketing and selling vehicles of the Receivership Estate.	0.40	110.00	ASG
Mar-10-10	Writing check for fees & expenses ordered by the court on 3/10/2010; preparation of COS on Order; filing COS with the District Court; service of Order by email to attorneys with bcc's to all investors; mail out to investors that requested mail instead of email service.	0.30	40.50	KRB
Mar-11-10	Receive and review results of Iron Horse Auction. Correspondence regarding logistics of collection and transfer of proceeds to Receivership Account.	0.30	82.50	ASG
	Totals	16.10	\$4,181.50	

FEE SUMMARY:

Lawyer	Hours	Effective Rate	Amount
Joseph W. Grier, III	3.20	\$395.00	\$1,264.00
Anna S. Gorman	8.40	\$275.00	\$2,310.00

Kay R. Buffalo 4.50 \$135.00 \$607.50

DISBURSEMENTS

		Disbursements	Receipts
Jan-14-10	Web Page - Update CapitalStreet	100.00	
Jan-26-10	Postage	3.12	
Jan-27-10	postage expense	34.25	
Jan-31-10	Photocopy Charge	36.00	
	Computer Assisted Research Pacer Service	0.64	
	Computer Assisted Research Pacer Service	0.80	
	Computer Assisted Research Pacer Service	0.48	
	Computer Assisted Research Pacer Service	0.24	
Feb-16-10	USPS/insured mail/Capital Street 09-5015	29.67	
Mar-09-10	Postage	3.08	
Totals		\$208.28	\$0.00
Total Fees & Disbursements			\$4,389.78
Previous Balance			\$6,644.45
Previous Payments			\$6,644.45
Balance Due			\$4,389.78



Prior Fee Applications of Grier Furr & Crisp, PA

Case No. 3:09-cv-00387

Date of Application	Applied For: Compensation	Applied For: Expenses	Approved: Compensation	Approved: Expenses	Date of Order
Nov. 11, 2009	\$ 25,374.00	\$ 169.83	\$ 25,374.00	\$ 169.83	01/11/10
Jan. 26, 2010	\$ 6,428.50	\$ 215.95	\$ 6,428.50	\$ 215.95	03/10/10

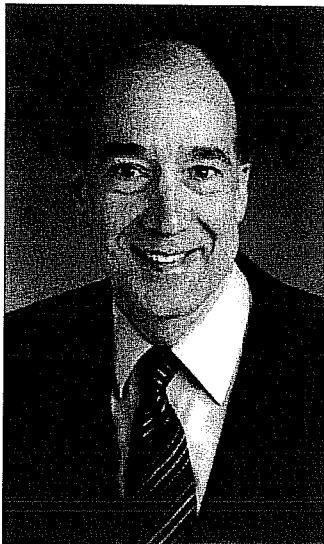


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Joseph W. Grier, III J. Cameron Furr, Jr C. Michael Crisp A. Cotten Wright
Alan M. Presel Christian P. Cherry Michael L. Martinez



Joseph W. Grier III

Born in Charlotte, North Carolina, 1951; Admitted to bar, 1977, North Carolina and U.S. District Court for the Western District of North Carolina; U.S. Court of Appeals, Fourth Circuit (1979); U.S. District Court for the Middle District of North Carolina (1988).

Education

University of North Carolina (B.A., 1973; J.D., 1977). Member, Order of the Grail.

Memberships

Mecklenburg County Bar Association (Member, Executive Committee, 1983- 1986), North Carolina and American Bar Associations (Member, Bankruptcy Law Section); North Carolina State Bar; The American Law Institute. Board Certified Specialist in Bankruptcy Law; Member of Bankruptcy Trustee's Panel, 1979- June, 1984)

Reported Cases

In Re: Derivium Capital, LLC, 380 B.R. 429 (Banker. D.S.C. 2006); Wayne Sigmon, Trustee in Bankruptcy for Shelby Yarn Co. vs. Recovery Equity Investors, L.P., et al., 306 B.R. 523 (WDNC 2004); Bowers v. Atlanta Motor Speedway (In re: Southeast Hotel Properties), 99 F.3d 151 (4th Cir. 1996); Cooper v. Ashley Communications, Inc. (In re Morris Communications NC, Inc.), 914 F.2d 458 (4th Cir. 1990); Raritan River Steel Co. v. Cherry, Bekaert & Holland, 79 N.C. 200, 367 S.E.2d 609 (1988), later appeal, 101 N.C. App. 1, 298 S.E.2d 889 (1990), rev'd and remanded, 329 N.C. 646, 407 S.E.2d 178 (1991).

Community Activities

Elder, Myers Park Presbyterian Church; President's Advisory Circle, Queens University; Mecklenburg County Executive Council, Boy Scouts of America. Concentration Bankruptcy, Debtor/Creditor and Business Workouts;

Concentration

Bankruptcy, Debtor/Creditor and Business Workouts; Included in the **Best Lawyers in America** (2008) under the specialty of Bankruptcy and Creditor-Debtor Rights Law. Named to North Carolina Legal Elite (Bankruptcy) by Business North Carolina, January 2004

Specialization

Board Certified Specialist in Business Bankruptcy Law.

Direct Dial (704) 332-0201

E-mail jgrier@grierlaw.com

Assistant Kay Buffaloe kbuffaloe@grierlaw.com

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Anna S. Gorman

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Joseph W. Grier, III J. Cameron Furr, Jr C. Michael Crisp A. Cotten Wright

Alan M. Presel Christian P. Cherry

Corporate and Business Law Estate Planning and Probate Bankruptcy and Workouts Commercial Litigation

Commercial Real Estate



Anna S. Gorman

Born in Chapel Hill, North Carolina, 1967; Admitted to Bar, 1994, North Carolina and U.S. District Court for the Western District of North Carolina; U.S. District Court for the Middle and Eastern Districts of North Carolina (1998).

Education

University of North Carolina, Chapel Hill (B.S., 1989), Campbell University School of Law (J.D., 1994).

Memberships

Mecklenburg County Bar Association, North Carolina Bar Association, North Carolina State Bar, American Bankruptcy Institute.

Reported Cases

Educational Credit Management Corp. v. Waterhouse, 333 B.R. 102 (WDNC 2005); Educational Credit Management Corp. v. Gouge, 320 B.R. 582 (WDNC 2005); In re: Pritzel, 287 B.R. 152 (EDNC 2002); G.E. Capital Mortg. Services, Inc. v. Neely, 135 N.C. App. 187, 519 S.E.2d 553 (1999).

Community Activities

Children's Sunday School volunteer and teacher, Sharon Presbyterian Church.

Concentration

Bankruptcy, Debtor/Creditor and Business Workouts.

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