

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|------------------------------|---|---------------------------------|
| NETSPHERE, INC., | § | |
| MANILA INDUSTRIES, INC., AND | § | |
| MUNISH KRISHAN | § | |
| | § | |
| PLAINTIFFS, | § | |
| | § | |
| V. | § | CIVIL ACTION NO. 3:09-CV-0988-F |
| | § | |
| JEFFREY BARON AND | § | |
| ONDOVA LIMITED COMPANY, | § | |
| | § | |
| DEFENDANTS. | § | |

FEE APPLICATION FOR RECEIVER AND RECEIVERSHIP PROFESSIONALS

Based on this Court’s Scheduling Order of April 5, 2013 [Docket No. 1220] Peter S. Vogel, Receiver over Jeffrey Baron and the Receivership Parties (the “Receiver”), files this Fee Application for the reimbursement of fees and expenses incurred by the Receiver and the Receiver’s Professionals as detailed in this Fee Application and previous filings before this Court.

I. RECEIVERSHIP PROFESSIONALS

Based on the recommendation of the Honorable Stacey Jernigan, judge in the Ondova Bankruptcy (*In re Ondova Ltd. Co.*, No. 09-34784), on November 24, 2010 Mr. Daniel J. Sherman, Trustee in the Ondova Bankruptcy, filed an Emergency Motion of Trustee for Appointment of a Receiver Over Jeffrey Baron. On November 24, 2010 this Court issued the Order Appointing Receiver (the “Receivership Order”) [Docket No. 124] which included authority for the Receiver to “...choose, engage, and employ attorneys, accountants, appraisers, and other Independent contractors and technical specialists (collectively, “Professionals”) ... Receiver deems advisable or necessary...” Receivership Order, p. 8. As a result of the

Receivership Order, from November 24, 2010 until today the Receiver has dedicated time almost daily to the Receivership estate, which work has been extremely complex and involves a unique set of circumstances created by Mr. Baron's vexatious behavior in this Court, and many other Courts. As the Court is well-aware, the Receiver has hired many Professionals in the ensuing litigation and for the management of the Receivership estate as listed in chronological order:

| Professionals | Purpose | Beginning Date | Ending Date |
|-------------------------------|--|-----------------------|--------------------|
| Gardere Wynne Sewell LLP | Counsel for the Receiver | November 2010 | July 2012 |
| 13 law firms outside of Texas | Served as local counsel for the filing of 28 USC §754 miscellaneous actions to reach Receivership assets | December 2010 | Present |
| Thomas Jackson | Counsel for Receivership parties Novo Point, LLC and Quantec, LLC | December 2010 | March 2011 |
| Joshua Cox | Counsel for Receivership party Quantec, LLC | December 2010 | Present |
| James Eckels | Counsel for Receivership party Novo Point, LLC | December 2010 | Present |
| Jeffrey Harbin | Manager of Receivership parties Novo Point, LLC and Quantec, LLC | December 2010 | February 2011 |
| Gary Lyon | Counsel for the Receiver | December 2010 | Present |
| Grant Thornton LLP | CPAs for Receivership | December 2010 | Present |
| Martin Thomas | Counsel for Jeffery Baron in the Ondova Bankruptcy | December 2010 | September 2012 |
| Damon Nelson | Manager of Receivership parties Novo Point, LLC and Quantec, LLC | February 2011 | Present |
| Dykema Gossett PLLC | Counsel for the Receiver | July 2012 | Present |
| Matt Morris | Expert Witness for Confirmation Hearing in Ondova Bankruptcy | October 2012 | Present |

The Receiver has contracts with the Receivership Professionals to pay their fees and expenses subject to the approval of the Court. Over the course of the Receivership, since November 24,

2010, the Receiver paid the Receivership Professional fees and expenses pursuant to fee applications and order of this Court, as stated in the chart that follows below. Also the Court did not approve the payment of all fees and expenses requested by the Receiver including reserving portions of certain fees and expenses until the conclusion of the Receivership for Counsel Gardere and Dykema, and the Receiver. Both Gardere and Dykema are filing separate pleadings in support of their fees and expenses. The chart that follows identifies fees and expenses, payments, and outstanding balances of Receivership Professionals to date:

| Receivership Professional | Fee Applications Made to the Court | Amount of Monies Paid Pursuant to Court Order | Amount of Monies Outstanding |
|---------------------------------------|---|--|-------------------------------------|
| Gardere Wynne Sewell LLP | \$2,010,862.22 | \$1,479,571.05 | \$531,290.27 |
| 13 law firms outside of Texas | \$19,559.41 | \$19,559.41 | \$0.00 |
| Thomas Jackson | \$69,007.50 | \$69,007.50 | \$0.00 |
| Joshua Cox (See Exhibit A) | \$61,968.75 | \$53,235.60 | \$8,733.15 |
| James Eckels (See Exhibit B) | \$64,787.50 | \$61,637.50 | \$3,150 |
| Jeffrey Harbin | \$13,913.62 | \$13,913.62 | \$0.00 |
| Gary Lyon | \$16,462.50 | \$16,462.50 | \$0.00 |
| Grant Thornton LLP (See Exhibit C) | \$121,390.53 | \$109,301.53 | \$12,089.00 |
| Martin Thomas | \$95,285.52 | \$95,285.52 | \$0.00 |
| Damon Nelson (See Exhibit D) | \$306,262.92 | \$287,962.92 | \$18,300 |
| Dykema Gossett PLLC | \$1,550,776.00 | \$398,893.91 (Held in Trust \$737,276.73) | \$354,777.69 |
| Matt Morris (See Exhibit E) | \$54,572.50 | \$0.00 | \$54,572.50 |
| TOTALS | \$4,384,848.97 | \$3,342,107.79 | \$982,912.61 |

II. RECEIVERSHIP FEES AND EXPENSES

Separate and apart from the Receivership Professionals, the Receiver submitted applications for fees and expenses from September 1 through October 31, 2012 and December 1-

28, 2012 as detailed in the invoices attached as Exhibit F. [Doc. #1122] Also not previously filed with the Court are invoices for the Receiver for January, February, and March 2013 which are attached as Exhibit G. For the convenience of the Court all invoices filed for the Receiver from November, 2010 through December 31, 2012 are attached as Exhibit H. The following chart is a summary of the fees and expenses of the Receiver, amounts paid, and outstanding monies owed:

| Receiver | Fee Applications Made to the Court | Amount of Monies Paid Pursuant to Court Order | Amount of Monies Outstanding |
|-----------------|---|--|-------------------------------------|
| Peter S. Vogel | \$1,250,680.00 | \$708,926.00 | \$527,576.00 |

III. RECEIVERSHIP'S RECOMMENDATION

On December 18, 2012 the Fifth Circuit issued its Opinion (the "Opinion") directing this Court to Wind-Down the Receivership:

In light of our ruling that the receivership was improper, equity may well require the fees to be discounted meaningfully from what would have been reasonable under a proper receivership. Fees already paid were calculated on the basis that the receivership was proper. Therefore, the amount of all fees and expenses must be reconsidered by the district court. Any other payments made from the receivership fund may also be reconsidered as appropriate.

We also conclude that everything subject to the receivership other than cash currently in the receivership, which Baron asserts in a November 26, 2012 motion amounts to \$1.6 million, should be expeditiously released to Baron under a schedule to be determined by the district court for winding up the receivership. The new determination by the district court of reasonable fees and expenses to be paid to the receiver, should the amount be set at more than has already been paid, may be paid from the \$1.6 million.

Opinion, Pages 27-28.

The Receiver recommends that the Receiver and all Receivership Professionals retain the monies already paid under the Receivership, and that the unpaid monies owed to the Receiver and Receivership Professionals be paid to each on a pro-rata basis from the monies in the

Receivership estate. Depending on the funds available, this pro-rata distribution could result in a meaningful and significant discount to the Receiver and Receivership Professionals. As of January 8, 2013, the Receiver reported in his inventory accounts of an aggregate value of \$2,952,953.90. Some of those accounts, while denominated IRA accounts, may in fact not be exempt from creditors. Until there is a determination as to the exempt nature of those accounts and aggregate amount of cash held in non-exempt accounts, the amount of the funds is unclear at this time.

If there are enough monies in the Receivership estate to pay the Receiver and the Receivership Professionals all monies due them, then the excess may be paid to Mr. Baron or his creditors as this Court or the Bankruptcy Court may determine.

Respectfully submitted,

By: /s/ Peter S. Vogel
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RECEIVER, PETER S. VOGEL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on April 17, 2013.

By: /s/ Peter S. Vogel
Peter S. Vogel