

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 09-23507-GOLD/MCALILEY

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Kirkland Young, LLC, a limited liability
company, Attorney Aid, LLC, a limited
liability company, David Botton, April
Botton Krawiecki and Samy Botton,

Defendants.

**RECEIVER'S FOURTH REPORT AND THIRD INTERIM
AGREED APPLICATION FOR ALLOWANCE OF FEES AND EXPENSES**

Mark F. Raymond, Court-appointed Receiver ("Receiver") for Defendants Kirkland Young, LLC, Attorney Aid, LLC and ABK Consultants, Inc. (collectively, the "Receivership Entities"), by and through undersigned counsel, hereby submits his Fourth Report to the Court along with his Third Interim Application for Allowance of Fees and Expenses for the Receiver, his counsel, Broad and Cassel and forensic accountants Sharpton, Brunson & Company, P.A. ("Sharpton Brunson") for the period of October 1, 2010 through June 30, 2011. The undersigned is authorized to state that the Federal Trade Commission agrees to the entry of an order granting this application for fees and expenses.

This report also summarizes the activities undertaken by the Receiver since the filing of the Third Report of Receiver on October 27, 2010 [DE 187].

BROAD and CASSEL

One Biscayne Tower, 21st Floor 2 South Biscayne Blvd. Miami, Florida 33131-1811 305.373.9400

RECEIVERSHIP ACTIVITIES

A. Summary of Receivership Activities since October 1, 2010.

Since the filing of his Third Report in October 2010, the Receiver and his professionals have successfully accomplished the following:

- Distributed approximately \$1,454,032.64 to Kirkland Young customers;
- Implemented a claims procedure and distribution process to return Kirkland funds to customers and creditors;
- Responded to *hundreds* of inquiries from Kirkland customers and creditors and their lawyers regarding proof of claim issues;
- Responded to and provided documents and other detailed information requested by Kirkland customers and their lawyers regarding their dealings with Kirkland Young;
- Resolved claims brought by the Florida and Ohio Offices of the Attorney General without Court intervention;
- Reviewed and reconciled more than 700 Proofs of Claim submitted by customers and creditors;
- Worked closely with the forensic accountants to reconcile claim forms and prepare and file federal and state tax returns and other documentation.
- Cooperated with various requests from the Internal Revenue Service for information about Kirkland Young and the Receivershi;
- Streamlined Kirkland Young's operations by winding down its operations and placing Kirkland's books and records and computer equipment in a secure storage facility; and
- Continued the Receiver's practice of rendering legal and administrative services for many of the above duties and tasks without charge. All tasks were billed at substantially reduced rates, as discussed further below.

B. Receivership Finances

A copy of the unaudited balance sheet and statement of receipts, disbursements and changes in cash balances as of June 30, 2011, for Kirkland Young is attached as Exhibits 1 and 2. As reflected in Exhibit 1, Kirkland Young has \$571,742 in net assets which includes \$1,184,059 in cash and accounts receivable; and \$612,316 in accounts payable and escrow deposits. As of June 30, 2011, the Receivership's combined operating account cash balance was \$692,512 which includes outstanding checks and pending customer escrow refunds of \$243,718 and \$188,729, respectively. The balance of Receivership funds, \$497,774, consists of: (1) pre-receivership monies deposited by Kirkland Young's customers into escrow/trust accounts in the name of the previous modification companies and escrow holders; (2) cash balances transferred from pre-receivership escrow/trust accounts in excess of the amounts accounted for in the pre-receivership books and records of Kirkland Young; and (3) Court-ordered settlement proceeds paid by Defendants Sammy Botton and Rumberger Kirk and Caldwell P.A.¹

C. Claims Administration and Distributions

On April 6, 2011, this Court entered a Stipulated Final Order for Permanent Injunction and Settlement of Claims [DE 208] ("Final Order"). Pursuant to paragraph VI.E.1 of the Final Order, the Receiver was obligated to return all escrow funds in the possession of the Receivership to consumers who provided those funds in connection with their purchase of loan modification services through Defendants Kirkland Young, LLC and Attorney Aid, LLC.

¹ On October 14, 2010, Individual Defendant David Botton's attorneys' law firm Rumberger Kirk and Caldwell P.A. transferred \$37,000 to the Receiver pursuant to the Court's October 12, 2010 Order Releasing Funds from the Defendants' Counsels' Trust Accounts for Payment of Fees [DE 184].

To carry out this mandate, the Receiver's counsel and his forensic accountants reviewed each Proof of Claim received, along with supporting documentation provided by customers that had active escrow accounts with Kirkland Young, as well as Kirkland documents in the Receiver's possession, to identify those "Active Customers" who were entitled to receive a distribution of their escrow funds. The Receiver identified 631 Active Customers that were entitled to receive a distribution pursuant to the Court's Final Order. To date, the Receiver has distributed a total of \$1,454,032.64 to Active Customers. This amount represents the entire available balance of the Active Customers' escrow accounts minus a 1.5% administrative fee that was withheld by the Receivership, with the consent of the FTC, to cover the receiverships costs associated with administering this distribution process.

The Receiver notes that there remain 96 Active Customers that the Receiver has been unable to locate, despite diligent efforts, for purposes of returning their escrow funds. The Receiver has made numerous attempts since inception of the Receivership to locate these customers by utilizing various public record search techniques. In accordance with Section VI.E.2 of the Court's Final Order, the Receiver shall distribute these funds consistent with the distribution process to be proposed by the Receiver and the FTC, and approved by this Court.

The Receiver is also working to resolve several outstanding claims asserted against the Receivership, including those of its former landlord and the storage facility that maintained Defendant David Botton's Mastercraft boat. Shortly, the Receiver will make recommendations to the Court regarding the allowance or disallowance of these claims, unless these matters can be settled by the parties.

D. Significant Assets Recovered.

The Receiver and his attorneys have pursued the recovery of assets from the Defendants in this case. Specifically, in accordance with Section VIII of the Court's Final Order, the Receiver has recovered the following assets:

- David Botton's 2003 BMW M3. The Receiver has obtained duplicate title and possession of this vehicle. He is currently working with professionals to sell this asset.
- David Botton's Mastercraft Boat CSX. The Receiver has obtained duplicate title for this vessel. He is working with the Rickenbacker Marina to resolve its purported maritime lien relating to David Botton's failure to pay storage fees since October 2010.
- David Botton's Condominium located at 7129 S. Marina Pacifica, Long Beach, CA. 90803. David Botton has surrendered title to the Receiver. The property is currently in foreclosure. The Receiver has been in communication with the lender to determine the most efficient manner for liquidating this asset.
- April Krawiecki's Condominium located at 1155 North La Cienega Blvd. #807 W. Hollywood, California 90069. April Krawiecki has surrendered title to the Receiver. The property is currently in foreclosure. The Receiver has been in communication with the lender to determine the most efficient manner for liquidating this asset.

E. Kirkland Receivership Document Repository

As indicated in the Third Report of the Receiver, the closing of Kirkland's headquarters in Miami required the establishment of a new office location. Accordingly, the Receiver moved Kirkland Young's operations to the Receiver's law firm, Broad and Cassel, along with the books, records, and other remaining Receivership assets, including the Kirkland Young computer system. Until recently, this location served as a document repository which was used extensively by the Receiver and his staff, as well as the Receiver's forensic accountants in matters related to the receivership.

In February 2011, following the completion and closing out of the remaining pending mortgage modifications, the Receiver moved more than 200 banker boxes of Kirkland Young related documents and other items, including Kirkland Young's computer system to a secure off-site storage facility in Miami, Florida.

F. Communications Related Activities

The primary vehicle for maintaining communications with Kirkland customers and creditors, in addition to other interested parties, has been the Kirkland website (www.kirklandreceiver.com). This website is updated frequently, and contains links to legal filings and documents and other relevant material. In addition to the website, the Receiver continues to receive inquiries, in the form of telephone calls, letters and emails from customers, lawyers and others inquiring about a variety of matters, including the status of their distributions and general information about the receivership. These inquiries are received daily and whenever possible have been handled by the Receiver's staff and counsel on an expedited basis.

SUMMARY OF PROFESSIONAL SERVICES RENDERED

The professional services rendered by the Receiver, Broad and Cassel, and Sharpton Brunson, and the necessary and reasonable out-of-pocket costs associated with those services, are set forth and described in detail on Exhibits 3 and 4. The attached records convey information for the time period of October 1, 2010 through June 30, 2011, and include: (a) the number of hours worked by each attorney and staff member on a particular day; (b) the manner and type of work performed by each attorney and staff member; and (c) the discounted billing rate for each person rendering services in this

matter. The attached records have been prepared based upon the contemporaneous daily time records maintained by the professionals rendering the services.

The Receiver views his role as primarily providing a public service to customers. The Receiver and his counsel have already discounted their hourly rates considerably in this matter. It warrants noting that the Receiver and his counsel attend to the Receivership's affairs, including operating the Receivership, winding down the affairs of Kirkland Young, responding to frequent inquiries from customers, their counsel and others, resolving personnel issues for former Kirkland Young staff and employees, and overseeing and interacting with the forensic accountants, on a daily basis. The Receiver and his counsel perform and will continue to perform routine work such as answering emails and calls from victims and creditors and much of the drafting of the instant report, without charging the Estate for the time spent.

Receiver's counsel and his forensic accountants have applied only for reimbursement for those actual and necessary out-of-pocket expenses, such as subpoena charges, photocopy charges, fax charges, delivery charges, and various expenses in connection with this matter. All such expense items would typically be billed by a law firm and accounting firm to their clients. All in-house costs have been substantially discounted if not written off entirely.

**SUMMARY OF INVOICES FOR SERVICES
PROVIDED TO THE RECEIVERSHIP²**

(NEXT PAGE)

² The detailed invoices supporting all services by the Receiver and his counsel are attached as Exhibits hereto. Those invoices have been redacted in certain places to avoid disclosure of attorney-client and work-product privileged materials, customer names and other information deemed confidential as to third-parties for litigation purposes.

Summary for Broad and Cassel**October 2010**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of October 2010:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	7.90	\$2,686.00
David B. Rosemberg	50.40	\$12,096.00
David LaValle	6.70	\$1,507.50
<u>Paralegal</u>		
Gisela Fasco	5.90	\$973.50
Omar Pelea	48.40	\$6,050.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$23,313.00
Total Expenses of Receiver and Receiver's Counsel:		\$725.65

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$24,038.65

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Summary for Broad and Cassel**November 2010**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of November 2010:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	4.60	\$1,564.00
David B. Rosemberg	24.40	\$5,856.00
<u>Paralegal</u>		
Gisela Fasco	30.80	\$5,082.00
Omar Pelea	31.60	\$3,950.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$16,452.00
Total Expenses of Receiver and Receiver's Counsel:		\$66.02

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$16,518.02

Summary for Broad and Cassel**December 2010**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of December 2010:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	3.50	\$1,190.00
David B. Rosemberg	15.70	\$3,768.00
<u>Paralegal</u>		
Gisela Fasco	18.10	\$2,986.50
Omar Pelea	13.80	\$1,725.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$9,669.50
Total Expenses of Receiver and Receiver's Counsel:		\$17.49

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$9,686.99

Summary for Broad and Cassel**January 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of January 2011:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	1.40	\$476.00
David B. Rosemberg	17.00	\$4,080.00
<u>Paralegal</u>		
Gisela Fasco	3.30	\$577.50
Omar Pelea	14.70	\$2,205.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$7,338.50
Total Expenses of Receiver and Receiver's Counsel:		\$17.56

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$7,356.06

Summary for Broad and Cassel**February 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of February 2011:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	2.00	\$680.00
David B. Rosemberg	13.90	\$3,336.00
<u>Paralegal</u>		
Gisela Fasco	5.20	\$910.00
Omar Pelea	68.80	\$10,320.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$15,246.00
Total Expenses of Receiver and Receiver's Counsel:		\$173.35

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$15,419.35

Summary for Broad and Cassel**March 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of March 2011:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	1.60	\$544.00
David B. Rosemberg	22.80	\$5,472.00
<u>Paralegal</u>		
Gisela Fasco	0.80	\$140.00
Omar Pelea	53.60	\$8,040.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$14,196.00
Total Expenses of Receiver and Receiver's Counsel:		\$8,036.88

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$22,232.88

Summary for Broad and Cassel**April 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of April 2011:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	2.10	\$714.00
David B. Rosemberg	39.70	\$9,528.00
<u>Paralegal</u>		
Gisela Fasco	0.50	\$87.50
Omar Pelea	22.70	\$3,405.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$13,734.50
Total Expenses of Receiver and Receiver's Counsel:		\$395.77

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$14,130.27

Summary for Broad and Cassel**May 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of May 2011:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	2.00	\$680.00
David B. Rosemberg	30.60	\$7,344.00
<u>Paralegal</u>		
Gisela Fasco	1.60	\$280.00
Patricia Anzalone	0.50	\$87.50
Omar Pelea	61.70	\$9,255.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$17,646.50
Total Expenses of Receiver and Receiver's Counsel:		\$956.24

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$18,602.74

Summary for Broad and Cassel**June 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver and the Receiver's counsel, Broad and Cassel, who presently handles the receivership day-to-day matters under the Receiver's supervision for the month of June 2011:

<u>Attorney</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Mark F. Raymond, Receiver	5.90	\$2,006.00
David B. Rosemberg	51.00	\$12,240.00
<u>Law Clerk</u>		
Nicholas Zemil	0.30	\$39.00
<u>Paralegal</u>		
Gisela Fasco	1.20	\$210.00
Patricia Anzalone	17.70	\$3,097.50
Omar Pelea	108.20	\$16,230.00
Subtotal Fees of Receiver, Receiver's Counsel and Paralegals:		\$33,822.50
Total Expenses of Receiver and Receiver's Counsel:		\$387.17

**Total Fees and Expenses
for Receiver, Receiver's
Counsel and Paralegals:**

\$34,209.67

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Summary for Sharpton, Brunson & Company, P.A.**October 2010**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of October, 2010:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	110.0	\$22,000.00
R. Wesley Agee	8.0	\$1,600.00
Christle Heller	4.0	\$240.00
Subtotal Fees:		\$23,840.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants:**

\$23,840.00

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Summary for Sharpton, Brunson & Company, P.A.**November 2010**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of November, 2010:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	8.0	\$1,600.00
Subtotal Fees:		\$1,600.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants:**

\$1,600.00

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Summary for Sharpton, Brunson & Company, P.A.**December 2010**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of December, 2010:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	12.0	\$2,400.00
Subtotal Fees:		\$2,400.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants: \$2,400.00**

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Summary for Sharpton, Brunson & Company, P.A.**January 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of January, 2011:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	96.0	\$19,200.00
Subtotal Fees:		\$19,200.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants:**

\$19,200.00

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Summary for Sharpton, Brunson & Company, P.A.**March 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of March, 2011:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	47.0	\$9,400.00
Subtotal Fees:		\$9,400.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants: \$9,400.00**

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Summary for Sharpton, Brunson & Company, P.A.**April 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of April, 2011:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	18.0	\$3,600.00
Subtotal Fees:		\$3,600.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants: \$3,600.00**

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Summary for Sharpton, Brunson & Company, P.A.**May 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of May, 2011:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	70.0	\$14,000.00
Subtotal Fees:		\$14,000.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants: \$14,000.00**

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Summary for Sharpton, Brunson & Company, P.A.**June 2011**

The following is an aggregate tabular summary of fees and expenses for the Receiver's forensic accountant, Sharpton, Brunson & Company, P.A., for the month of May, 2011:

<u>Accountants</u>	<u>Number of Hours</u>	<u>Bill Amount</u>
Leisha Austin	12.0	\$2,400.00
Subtotal Fees:		\$2,400.00
Total Expenses:		

**Total Fees and Expenses for
Receiver's Forensic Accountants: \$2,400.00**

EVALUATION OF SERVICES RENDERED AND EXPENSES INCURRED

The foregoing sets forth the extent of the professional services rendered by the Receiver and his professionals (the “Applicants”) in connection with their request for compensation. The attached Exhibits 3 and 4 details the nature of the professional services rendered and the costs incurred. These recitals, however, constitute only a summary of the time spent and it must be recognized that a mere reading of the time summaries cannot completely reflect the full range of services rendered by the applicants, the complexity of the issues, and the pressures of time and performance which have been placed upon the Applicants in connection with this case.

No understanding exists among the Receiver, his counsel, his forensic accountants or any other person or entity for a sharing of the compensation to be awarded herein except between the Receiver and Broad and Cassel.

APPLICABLE ANALYSIS

In determining fees, a Court must (1) determine the nature and extent of the services rendered; (2) determine the value of the those services; and (3) consider the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974); *see Grant v. George Schumann Tire and Battery Co.*, 908 F.2d 874, 877-878 (11th Cir. 1990)(bankruptcy fee award case addressing the issue of attorney’s fees generally before considering specific requirements in the bankruptcy context). The twelve factors set forth in *Johnson*, which involved an award of attorneys’ fees under the federal civil rights statutes, as incorporated by the Eleventh Circuit in *Grant*, a bankruptcy case, are as follows: (1) the time and labor required; (2) the novelty and difficulty of the questions presented; (3) the skill required to perform the legal services

properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee for similar work in the community; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or by the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.

A. Time, Nature and Extent of Service, Results Obtained and Related Factors

The forgoing summary description, together with the time records attached hereto detail the time, nature and extent of the professional services rendered by the Applicants during the approximate six-month period covered by this Application. The Applicants believe that the time spent is justified by the nature, complexity and the pressures of the work, as well as the results that have been achieved thus far.

B. Novelty/Difficulty of the Question Presented

This case required a high level of skill due to the nature of the financial transactions involved, the shoddy records kept by the Defendants, and the opposition encountered by the Applicants.

C. The Skill Requisite To Perform the Service Properly

In order to perform the services and obtain the results required, substantial legal skill and experience in the areas of commercial law, litigation and negotiations were required of the Receiver and his counsel. The Receiver is sensitive to the financial considerations arising in receiverships such as this and is making every effort to control costs.

D. Preclusion of Other Employment by the Attorneys Due to the Acceptance of the Case

Although the Receiver and his professionals were not explicitly precluded as a result of this case from accepting other matters, matters in this case were treated by them in an expeditious and professional manner.

E. The Customary Fee

The hourly rates of the Applicants set forth on the attached exhibits reflect a rate that is generally lower than (in the case of the Receiver) or equal (for the other professionals) to the hourly rates billed by Applicants to clients in other commercial cases.

Discounts already given:

- In addition, as promised by the Receiver in his original application to the FTC (attached to the FTC's recommendation of a receiver to this Court), the Receiver has already discounted his rates and those of his counsel.
- Further, as described above, as a public service, the Receiver and his counsel routinely do not charge the Receivership for numerous tasks and, as a practice, round their time down to the nearest hour.

F. Whether the Fee is Fixed or Contingent

The compensation of the Applicants in this matter is subject to the approval of this Court. The above factors should be taken into consideration by the Court and the compensation should reflect the assumption of the risk of non-payment and delay in payment.

G. Time Limitation Imposed by the Client or Other Circumstances

This case has imposed serious time limitations on the Applicants due to the necessity of rapid resolutions of many issues. Indeed, the preliminary stages of this case required almost *all* of the available time of the Receiver and his professionals.

H. The Experience, Reputation and Ability of the Attorneys

The Receiver and his counsel enjoy a fine reputation and have substantial ability in the fields of receiverships, litigation and commercial law. The Receiver is acutely aware of the financial considerations arising in receiverships such as this.

I. The “Undesirability” of the Case

This case is not undesirable, and the Applicants have been privileged to appear before the Court in this proceeding and to represent the interests of customers and creditors who were victimized by Kirkland Young’s activities.

J. Nature and Length of Professional Relationship with the Client

The Applicants have had no relationship with the Receivership Entities or any other entities or principals prior to this case.

K. Awards in Similar Cases

The amounts requested by the Applicants are reasonable in terms of awards in cases of similar magnitude and complexity. The compensation requested by the Applicants comport with the mandate of applicable law, which directs that services be evaluated in light of comparable services performed in other cases in the community. The hourly rates requested by the Applicants are either lower than or equal to the ordinary and usual hourly rates billed by the Applicants to their ordinary commercial

clients, notwithstanding the risks of non-payment and delayed payment associated with this case.

L. Source of Payment for Amounts Sought Hereunder

The Receiver requests that the amounts for which payment is authorized hereunder be paid from funds presently held, or soon to be received, by the Receiver.

WHEREFORE, the Applicants respectfully request that this Court enter an order, a proposed version of which is attached as Exhibit 5 for the Court's convenience, for authorization of compensation and reimbursement for the period October 1, 2010 through June 30, 2011 to the following:

	<u>Receiver</u>	<u>Counsel</u>	<u>Expenses</u>	<u>Total By Month</u>
<u>Broad and Cassel</u>				
October 2010	\$2,686.00	\$20,627.00	\$725.65	\$24,038.65
November 2010	\$1,564.00	\$14,888.00	\$66.02	\$16,518.02
December 2010	\$1,190.00	\$8,479.50	\$17.49	\$9,686.99
January 2011	\$476.00	\$6,862.50	\$17.56	\$7,356.06
February 2011	\$680.00	\$14,566.00	\$173.35	\$15,419.35
March 2011	\$544.00	\$13,652.00	\$8,036.88	\$22,232.88
April 2011	\$714.00	\$13,020.50	\$395.77	\$14,130.27
May 2011	\$680.00	\$16,966.50	\$956.24	\$18,602.74
June 2011	\$2,006.00	\$31,816.50	\$387.17	<u>\$34,209.67</u>
Total:				\$162,194.63
<u>Sharpton, Brunson & Company</u>				
October 2010		\$23,840.00		\$23,840.00
November 2010		\$1,600.00		\$1,600.00
December 2010		\$2,400.00		\$2,400.00
January 2011		\$19,200.00		\$19,200.00
March 2011		\$9,400.00		\$9,400.00
April 2011		\$3,600.00		\$3,600.00
May 2011		\$14,000.00		\$14,000.00
June 2011		\$2,400.00		<u>\$2,400.00</u>
Total:				\$76,440.00

CASE NO.: 09-23507-GOLD/MCALILEY

Respectfully submitted,

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By: /s/ David B. Rosemberg
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 27, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who are not authorized to receive electronically Notices of Electronic Filing.

/s/ David B. Rosemberg
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**PRELIMINARY STATEMENT OF RECEIVERSHIP
RECEIPTS AND DISBURSEMENTS AND CHANGES IN CASH BALANCES
INCEPTION THROUGH JUNE 30, 2011**

RECEIPTS

Funds transferred		
Bank of America (Kirkland Young Operating)	\$	121,733
Citibank (Attorney Aid, LLC. Operating)		267,717
Citibank (ABK Consulting, Inc. Operating)		29,808
Citibank (Michael Botton, Esq. IOLTA)		1,805,935
Citibank (RMG Law, PLLC. IOLTA)		338,334
Citibank (Brian Rokaw, P.A. IOLTA)		35,516
Total funds transferred		2,599,043
Customer escrow deposits		43,868
Backend fees collected from customers		8,927
Other receipts		584,291
Total Receipts through May 31, 2011		3,236,128

DISBURSEMENTS

Customer withdrawals		
Qualifying payments		113,729
Returned funds		1,206,976
Customer withdrawals		1,320,705
Operating expenses		
Receivership loan processors		121,626
Office rent		66,360
Computer software and maintenance		16,059
Office supplies and expense		5,007
Business licenses, taxes & permits		2,314
Telephone		18,749
Postage and delivery		416
Claims administration		11,289
Total operating expenses		241,820
Receivership expenses		483,317
Total Disbursements through June 30, 2011		2,045,842
Excess of Cash Receipts Over Cash Disbursements		1,190,286
Beginning Cash Balance - November 20, 2009		-
Ending Cash Balance - June 30, 2011	\$	1,190,286

CASH BALANCES ARE REPRESENTED BY:

Sabadell United Bank - Operating	\$	574,795
Sabadell United Bank - Attorney Aid LLC.		117,717
Sabadell United Bank - Broad & Cassel Trust Account		322,748
Sabadell United Bank - Michael Botton Esq.		82,490
Sabadell United Bank - RMG Law PLLC.		86,855
Sabadell United Bank - Brian Rokaw, P.A.		5,681
	\$	1,190,286

**KIRKLAND YOUNG AND RECEIVERSHIP
COMBINING BALANCE SHEET
UNAUDITED
JUNE 30, 2011**

	OPERATING	B&C TRUST	CUSTOMER ESCROW	COMBINED TOTALS
ASSETS				
Current Assets				
Cash	\$ 448,839	\$ 322,748	175,025	\$ 946,613
Accounts receivable	221,698	15,748		237,446
Due from escrow funds				-
Total current assets	<u>670,537</u>	<u>338,496</u>	<u>175,025</u>	<u>1,184,059</u>
Non Current Assets				
Furniture, fixtures and equipment				
Total non current assets	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Assets	<u>\$ 670,537</u>	<u>\$ 338,496</u>	<u>\$ 175,025</u>	<u>\$ 1,184,059</u>
LIABILITIES AND NET ASSETS				
Current Liabilities				
Accounting fees	\$ 76,440			\$ 76,440
Legal fees	172,121			172,121
Total accounts payable and accrued expenses	<u>248,561</u>	<u>-</u>	<u>-</u>	<u>248,561</u>
Due to operating fund				-
Escrow deposits	188,729		175,025	363,755
Total Liabilities	<u>\$ 437,291</u>	<u>\$ -</u>	<u>\$ 175,025</u>	<u>\$ 612,316</u>
Net Assets				
Beginning net assets	\$ -	\$ -	\$ -	\$ -
Increase in net assets	233,247	338,496	-	571,742
Total Net Assets	<u>233,247</u>	<u>338,496</u>	<u>-</u>	<u>571,742</u>
Total Liabilities and Net Assets	<u>\$ 670,537</u>	<u>\$ 338,496</u>	<u>\$ 175,025</u>	<u>\$ 1,184,059</u>