

1 AIKEN SCHENK HAWKINS & RICCIARDI P.C.
2 2390 East Camelback Road, Suite 400
3 Phoenix, Arizona 85016
4 Telephone: (602) 248-8203
5 Facsimile: (602) 248-8840
6 E-Mail: docket@ashrlaw.com
7 E-Mail: awr@ashrlaw.com

8 Alfred W. Ricciardi - 009547
9 Attorneys for NBM Corporation, *et al.*

10 SUPERIOR COURT OF THE STATE OF ARIZONA

11 COUNTY OF MARICOPA

12 Lynne H. Anthony Revocable Trust dated 11/30/2001, Lynne H. Anthony as Trustee;
13 Robert Sonnenschein, as an individual;
14 Gerald R. Hale, as an individual; C. Scott
15 Anthony, as an individual; Janie B. Hale,
16 individually and as Trustee of rani B. Hale
17 Revocable Trust dated 11/14/1994' Carolyn
18 Sue McMillon, as an individual; Larry
19 McMillon, as an individual; James Stanley
20 Powers, as an individual; and Patricia Ann
21 Powers Trust, Patricia Ann Powers as
22 Trustee,

23 Plaintiffs,

24 v.

25 Palo Verde Capital, L.L.C., an Arizona
26 limited liability company; PVPE, L.L.C., an
27 Arizona limited liability company; Palo
28 Verde Fund L.P. a Delaware limited
partnership; Palo Verde Private Equity Fund
L.P., a Delaware limited partnership' and
Anthony R. Stacy, a married man,

Defendants.

No. CV2013-012420

**AMENDED OBJECTION OF THE PVF
INVESTORS TO RECEIVER'S REQUEST
FOR PAYMENT OF COMPENSATION
AND LEGAL FEES AND EXPENSES
INCURRED IN JUNE 2017**

(Assigned to Hon. Arthur Anderson)

1 N.B.M. Corporation, SC Partners, LLC Defined Benefit Plan and Robert Eckholt,
2 (collectively the "PVF Investors"), who are all investors in Palo Verde Fund L. P. ("PVF"),
3 object to the receiver's a) request for fees and expenses and b) request to pay his attorney's
4 fees for the period dated June 2017. (**Exhibit A** was the correspondence and documents to
5 which this objection relates.¹)
6

7
8 For work supposedly done in June 2017, the receiver requests the startling sum of
9 \$32,178.35 and his attorneys request fees of \$3499.40 yet there is no evidence that any of
10 the claimed services provided any benefit, much less any material benefit, to the
11 receivership estates. Compounding this problem, the receiver has not filed his quarterly
12 report. Perhaps if the quarterly report had been timely filed, interested parties could
13 correlate the substantial claimed June work with some benefit or potential benefit to the
14 receivership estates. The requested payments are, therefore, premature. The attorneys' fees
15 requested seem to correlate in some way to the work done by the receiver. Without
16 understanding the receiver's work, it is impossible to see the value of the accompanying
17 legal work. Seeking compensation in excess of \$35,000 for services as to which no
18 quarterly report has been submitted is inappropriate. At a minimum, the request should be
19 denied without prejudice until the parties have had an opportunity to review and comment
20 on the quarterly report.
21
22
23
24

25
26
27 ¹ An Objection was first filed on September 7, 2017, and is amended in its entirety to correct grammatical and stylistic
28 errors. **Exhibit A** was attached to that Objection, and is incorporated herein by reference, and will not be duplicated
for this Objection.

1 In a similar vein, the quarterly report should shed some light on what this
2 extraordinary work has done (or possibly not done) to benefit the receivership estates.
3 Therefore, the PVF Investors reserve their right to submit additional objections after
4 reviewing the receiver's report covering his activity in June, 2017.
5

6 Even without the quarterly report, it seems clear the fees claimed for June 2017 are
7 unreasonable and excessive. Mr. Keith M. Kenney spent over 166 hours doing something
8 yet the billing statements give very little clue what Mr. Kenney actually did. Apparently the
9 entire month of June was spent on tasks like beginning the "evaluation of Michael Liccar's
10 file of Palo Verde funds accounting." (See entry dated June 1, 2017). For nearly every single
11 work day thereafter, Mr. Kenney spends close to (or over) 8 hours each day evaluating and
12 reconciling financial data with no explanation as to the scope of the task or what results or
13 benefits his work might provide to the receivership estates. For instance on June 19 and June
14 20, Mr. Kenney's entries read simply, "Evaluated Palo Verde Funds 2011 through 2013
15 monthly investment portfolio and statement of financial condition." This "evaluation"
16 continues full time, at no less than 7.6 hours per day, through the end of the month. What all
17 of this "review" accomplished is anybody's guess. Charging over \$30,000 for apparently
18 pointless, ill-defined and unspecific work is excessive and unreasonable.
19
20
21
22

23 It is now clear that what this receiver has done and is doing is reconstructing, over
24 and over, audited financial records for no purpose or reason. The receiver owes the
25 stakeholders an explanation how this month's work is different than the hours and hours and
26
27

1 hours of work already done recreating and reconstructing audited financial records. How
2 does the work done in June differ from the work done in the previous four years of this
3 case? The receiver has been paid nearly \$1 million and is still “evaluating” records? Why
4 those particular records and why now? Why did he choose to evaluate certain records and
5 how is that evaluation and reconciliation different than all of the previous reviews? What
6 was reviewed, what was the purpose for the review? How did this evaluation benefit the
7 estates by \$35,000? Why was it a good use of the stakeholder \$35,000 to do this work and
8 how does it relate to the work done in the previous four years? This receiver has billed and
9 billed and billed these estates, but has not filed a tax return, and still needs an additional 166
10 hours for evaluation. Why?

14 The receiver's claim fees are particularly unreasonable in light of the receiver's
15 inability to complete certain basic tasks. For over a year, the PVF Investors have asked the
16 receiver about his proposed treatment of the classes of investors. In May 2017, the receiver
17 promised that he should have his work completed by the end of May (**Exhibit B**²). The
18 report the receiver promised, include, among other things, a proposed resolution of the
19 allocation issues (**Exhibit C**³). That draft plan still has not been prepared or delivered
20 despite repeated requests (**Exhibit D**⁴).

25 ² **Exhibit B** was attached to the Objection first filed on September 7, 2017, and is incorporated herein by reference, and
will not be duplicated for this Objection.

26 ³ **Exhibit C** was attached to the Objection first filed on September 7, 2017, and is incorporated herein by reference, and
will not be duplicated for this Objection

27 ⁴ **Exhibit D** was attached to the Objection first filed on September 7, 2017, and is incorporated herein by reference, and
will not be duplicated for this Objection

1 The PVF Investors' concerns about the fees and costs incurred by the receiver are not
2 novel or unique. Since the inception of this case, the PVF Investors have questioned the
3 amount and allocation of the receiver's fees and expenses. Over two months ago, the PVF
4 Investors requested a complete accounting of the fees and costs incurred to date by the
5 receiver in part so that they could prepare objections to the receiver's compensation requests
6 (Exhibit D). The PVF Investors' requests for an accounting has been ignored.
7
8

9 The PVF Investors restate and reiterate the objections previously filed. They object to
10 the receiver's request for compensation because, after more than 4 years of this receivership,
11 it is apparent that the receivership does not benefit the investors in the PVF Funds, but only
12 benefits the receiver and his professionals.
13

14 DATED this 12TH day of September, 2017.

15 AIKEN SCHENK HAWKINS & RICCIARDI P.C.
16
17

18 By /s/ Alfred W. Ricciardi
19 Alfred W. Ricciardi
20 2390 East Camelback Road, Suite 400
21 Phoenix, Arizona 85016
22 Attorneys for NBM Corporation, *et al.*
23
24
25
26
27

1 The foregoing e-mailed on this 12TH day of
2 September, 2017 with:

3 Ryan Anderson, Esq.
4 Patrick M. Murphy, Esq.
5 Guittila Murphy Anderson
6 5415 East High Street, Suite 200
7 Phoenix, AZ 85054
8 Attorney for Peter Davis
9 randerson@gamlaw.com
10 pmurphy@gamlaw.com

11 **BASKIN RICHARDS, PLC**

12 Alan Baskin, Esq.
13 2901 N. Central Ave #1150
14 Phoenix, AZ 85012
15 alan@baskinrichards.com

16 *and*

17 **ALBRIGHT, RUSHER & HARDCASTLE**

18 Kenneth F. Albright, Esq.
19 15 West 6th Street, Suite 2600
20 Tulsa, Oklahoma 74119
21 kfalbright@arhlaw.com
22 Attorneys for Plaintiffs

23 **SACKS TIERNEY P .A.**

24 Matthew F. Winter , Esq.
25 4250 North Drinkwater Boulevard, Fourth Floor
26 Scottsdale, Arizona 85251
27 matthew.winter@sackstierney.com
28 Attorneys for Defendants PVPE, L.L.C.,
Palo Verde Fund, L.P. and Palo Verde
Private Equity Fund, L.P.

1 **Jeffrey S. Leonard, Esq.**
2 SACKS TIERNEY P. A.
3 4250 N. Drinkwater Blvd., Fourth Floor
4 Scottsdale, AZ 85251
5 Jeffrey.Leonard@SacksTierney.com
6 Attorneys for Anthony Stacy

7 Robert H. McKirgan
8 Jon Weiss

9 **LEWIS ROCA ROTHGERBER LLP**
10 201 East Washington Street, Suite 1200
11 Phoenix, AZ 85004-2595
12 rmckirgan@lrrlaw.com
13 jweiss@lrrlaw.com

14 Attorneys for Michael J. Galloway, Cathy Galloway, Galloway Asset Management L.L.C.
15 and Galloway Family Trust UAD Dec. 5, 2003
16 Interested Creditor

17 Jeffrey D. Gardner
18 **JENNINGS, STROUSS & SALMON, P.L.C.**
19 A Professional Limited Liability Company
20 One East Washington Street, Suite 1900
21 Phoenix, Arizona 85004-2554
22 Jgardner@jsslaw.com

23 Jack Edwards
24 **AJAMIE, LLP**
25 Pennzoil Place - South Tower
26 711 Louisiana, Suite 2150
27 Houston, Texas 77002
28 jedwards@ajamie.com
Attorneys for Craig H. Jackson Trust Under
Trust Agreement Dated June 6, 1997

1 Copy of the foregoing mailed this 12TH day
2 of September, 2017 with:

3 Palo Verde Fund, L.P.
4 c/o Business Filing Incorporated
5 108 West 13th Street
6 Wilmington, Delaware 19801
7 Defendant *Pro Per*

8 Palo Verde Equity Fund, L.P.
9 c/o Easycorps, LLC
10 341 Raven Circle
11 Wyoming, Delaware 19934
12 Defendant *Pro Per*

13 All Investors/Partners in Palo Verde Fund LP
14 and Palo Verde Private Equity Fund, L.P.:

15 Lynn Anthony
16 11248 S. 75th East Avenue
17 Bixby, OK 74008

18 Scott Anthony
19 5513 106th Place
20 Tulsa, OK 74137

21 Mike Austin
22 6852 Colonnade Drive
23 Plano, TX 75024

24 Kevin Barnes
25 11721 S. 66th East Avenue
26 Bixby, OK 74008

27 Michael Beck
28 225 Citrus Ridge Drive
Davenport, FL 33837

1 D'Lesia Chambers
2 P. O. Box 639
3 Boliar, MO 65613

4 Ashley Dalton
5 4141 E. 42nd Place
6 Tulsa, OK 74135

7 Bryan Dalton
8 7312 E. 87th Street
9 Tulsa, OK 74133

10 Mike Farley
11 P. O. Box 340
12 Sand Springs, OK 74063

13 Martin Garber
14 P. O. Box 2323
15 Bartlesville, OK 74005

16 Barbara Gilmore
17 5810 S. Indianapolis Ave.
18 Tulsa, OK 74135

19 Gerald and Janie Hale
20 3101 E. 86th Street
21 Tulsa, OK 74137

22 Keith and Susan Hall
23 8220 S. 68th East Avenue
24 Tulsa, OK 74133

25 Ronnie and Kim Herron
26 P. O. Box 303
27 Jenks, OK 74037

28 James and Karla Westerman
687 Oak Tree Court
Simi Valley, CA 93065

1 Patricia Leonard
2 15912 San Nicholas
3 Edmond, OK 73013
4
5 Shane Martin
6 17623 N. 58th Place
7 Scottsdale, AZ 85254
8
9 Larry and Sue McMillon
10 23225 S. Dogwood Ct
11 Claremore, OK. 74019-0309
12
13 Tim O'Toole
14 727 N. Byers
15 Mangum, OK 73554
16
17 Deirdre Peters
18 13331 Cameron Reach Drive
19 Tomball, TX 77377
20
21 Stan and Pat Powers
22 5422 East 88th Street
23 Tulsa, OK 74137
24
25 Cal and Pam Purdin
26 15991 N. 115th Way
27 Scottsdale, AZ 85255
28
29 Randy Riall
30 131 S. Elm Street
31 Weatherford, TX 76086
32
33 Todd and Jean Shildt
34 601 E. Union Street
35 Broken Arrow, OK 74011
36
37 Lloyd and Jolyn Smith
38 18739 East 42nd Street
39 Tulsa, OK 74134

1 Rob Sonnenschein
2 1733 South Florence Avenue
3 Tulsa, OK 74104-6105

4
5 /s/ Joanne Granville

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **AIKEN SCHENK HAWKINS & RICCIARDI P.C.**
2 **2390 East Camelback Road, Suite 400**
3 **Phoenix, Arizona 85016**
4 **Telephone: (602) 248-8203**
5 **Facsimile: (602) 248-8840**
6 **E-Mail: docket@ashrlaw.com**
7 **E-Mail: awr@ashrlaw.com**
8 **E-Mail: akk@ashrlaw.com**
9 **Alfred W. Ricciardi - 009547**
10 **Austin K. Kurtz - 032876**
11 **Attorneys for N.B.M. Corporation, et al.**

9 **SUPERIOR COURT OF THE STATE OF ARIZONA**

10 **COUNTY OF MARICOPA**

11
12 Lynne H. Anthony Revocable Trust dated
13 11/30/2001, Lynne H. Anthony as Trustee;
14 Robert Sonnenschein, as an individual;
15 Gerald R. Hale, as an individual; C. Scott
16 Anthony, as an individual; Janie B. Hale,
17 individually and as Trustee of rani B. Hale
18 Revocable Trust dated 111411994' Carolyn
19 Sue McMillon, as an individual; Larry
20 McMillon, as an individual; James Stanley
21 Powers, as an individual; and Patricia Ann
22 Powers Trust, Patricia Ann Powers as
23 Trustee,

20 **Plaintiffs,**

21 **v.**

23 Palo Verde Capital, L.L.C., an Arizona
24 limited liability company; PVPE, L.L.C., an
25 Arizona limited liability company; Palo
26 Verde Fund L.P. a Delaware limited
27 partnership; Palo Verde Private Equity Fund
28 L.P., a Delaware limited partnership' and
Anthony R. Stacy, a married man,

28 **Defendants.**

No. CV2013-012420

NOTICE OF APPEARANCE

(Assigned to Hon. Arthur Anderson)

1 NOTICE IS HEREBY GIVEN that Austin K. Kurtz of the law firm of Aiken Schenk
2 Hawkins & Ricciardi P.C. will join Alfred W. Ricciardi as attorneys of record, and enters
3 his appearance as co-counsel for N.B.M. Corporation, SC Partners, LLC – Defined Benefit
4 Plan, and Robert Eckholt (“PVF Investors”),, in the above-entitled action.
5

6 DATED this 12th day of September, 2017.

7
8 AIKEN SCHENK HAWKINS & RICCIARDI P.C.

9
10 By /s/ Alfred W. Ricciardi

11 Alfred W. Ricciardi

12 Austin K. Kurtz

13 2390 East Camelback Road, Suite 400

14 Phoenix, Arizona 85016

Attorneys for N.B.M. Corporation, *et al.*

15 The foregoing e-mailed on this 12th day of
16 September, 2017 with:

17 Ryan Anderson, Esq.

18 Patrick M. Murphy, Esq.

19 Guittila Murphy Anderson

20 5415 East High Street, Suite 200

Phoenix, AZ 85054

(480) 304-8300

21 Attorney for Peter Davis

randerson@gamlaw.com

pmurphy@gamlaw.com

22
23
24 **BASKIN RICHARDS, PLC**

25 Alan Baskin, Esq.

26 2901 N. Central Ave #1150

Phoenix, AZ 85012

27 alan@baskinrichards.com

1 *and*

2 **ALBRIGHT, RUSHER & HARDCASTLE**

3 Kenneth F. Albright, Esq.
4 15 West 6th Street, Suite 2600
5 Tulsa, Oklahoma 74119
6 kfalbright@arhlaw.com
Attorneys for Plaintiffs

7 **SACKS TIERNEY P .A.**

8 Matthew F. Winter , Esq.
9 4250 North Drinkwater Boulevard, Fourth Floor
10 Scottsdale, Arizona 85251
11 matthew.winter@sackstierney.com
Attorneys for Defendants PVPE, L.L.C.,
12 Palo Verde Fund, L.P. and Palo Verde
Private Equity Fund, L.P.

13 **Jeffrey S. Leonard, Esq.**

14 SACKS TIERNEY P .A.
15 4250 N. Drinkwater Blvd., Fourth Floor
16 Scottsdale, AZ 85251
Jeffrey.Leonard@SacksTierney.com
Attorneys for Anthony Stacy

17 Robert H. McKirgan
18 Jon Weiss

19 **LEWIS ROCA ROTHGERBER LLP**

20 201 East Washington Street, Suite 1200
21 Phoenix, AZ 85004-2595
rmckirgan@lrrlaw.com
jweiss@lrrlaw.com

22 Attorneys for Michael J. Galloway, Cathy Galloway, Galloway Asset Management L.L.C.
23 and Galloway Family Trust UAD Dec. 5, 2003
24 Interested Creditor

25

26

27

28

1 Jeffrey D. Gardner
2 **JENNINGS, STROUSS & SALMON, P.L.C.**
3 A Professional Limited Liability Company
4 One East Washington Street, Suite 1900
5 Phoenix, Arizona 85004-2554
6 Jgardner@jsslaw.com

7 Jack Edwards
8 **AJAMIE, LLP**
9 Pennzoil Place - South Tower
10 711 Louisiana, Suite 2150
11 Houston, Texas 77002
12 jedwards@ajamie.com
13 Attorneys for Craig H. Jackson Trust Under
14 Trust Agreement Dated June 6, 1997

15 Copy of the foregoing mailed this 12th day
16 of September, 2017 with:

17 Palo Verde Fund, L.P.
18 c/o Business Filing Incorporated
19 108 West 13th Street
20 Wilmington, Delaware 19801
21 Defendant *Pro Per*

22 Palo Verde Equity Fund, L.P.
23 c/o Easycorps, LLC
24 341 Raven Circle
25 Wyoming, Delaware 19934
26 Defendant *Pro Per*

27 All Investors/Partners in Palo Verde Fund LP
28 and Palo Verde Private Equity Fund, L.P.:

Lynn Anthony
11248 S. 75th East Avenue
Bixby, OK 74008

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Scott Anthony
5513 106th Place
Tulsa, OK 74137

Mike Austin
6852 Colonnade Drive
Plano, TX 75024

Kevin Barnes
11721 S. 66th East Avenue
Bixby, OK 74008

Michael Beck
225 Citrus Ridge Drive
Davenport, FL 33837

D'Lesia Chambers
P. O. Box 639
Boliar, MO 65613

Ashley Dalton
4141 E. 42nd Place
Tulsa, OK 74135

Bryan Dalton
7312 E. 87th Street
Tulsa, OK 74133

Mike Farley
P. O. Box 340
Sand Springs, OK 74063

Martin Garber
P. O. Box 2323
Bartlesville, OK 74005

1 Barbara Gilmore
2 5810 S. Indianapolis Ave.
3 Tulsa, OK 74135
4 Gerald and Janie Hale
5 3101 E. 86th Street
6 Tulsa, OK 74137
7 Keith and Susan Hall
8 8220 S. 68th East Avenue
9 Tulsa, OK 74133
10 Ronnie and Kim Herron
11 P. O. Box 303
12 Jenks, OK 74037
13 James and Karla Westerman
14 687 Oak Tree Court
15 Simi Valley, CA 93065
16 Patricia Leonard
17 15912 San Nicholas
18 Edmond, OK 73013
19 Shane Martin
20 17623 N. 58th Place
21 Scottsdale, AZ 85254
22 Larry and Sue McMillon
23 23225 S. Dogwood Ct
24 Claremore, OK. 74019-0309
25 Tim O'Toole
26 727 N. Byers
27 Mangum, OK 73554
28 Deirdre Peters
13331 Cameron Reach Drive
Tomball, TX 77377.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Stan and Pat Powers
5422 East 88th Street
Tulsa, OK 74137

Cal and Pam Purdin
15991 N. 115th Way
Scottsdale, AZ 85255

Randy Riall
131 S. Elm Street
Weatherford, TX 76086

Todd and Jean Schildt
601 E. Union Street
Broken Arrow, OK 74011

Lloyd and Jolyn Smith
18739 East 42nd Street
Tulsa, OK 74134

Rob Sonnenschein
1733 South Florence Avenue
Tulsa, OK 74104-6105

/s/ Joanne Granville
