

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**

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,

22 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,

Defendants.

No. CV2013-012420

**REPLY TO 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. Daniel Kiley)

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 submit this reply in support of their objection to the receiver's a) request for fees and
4 expenses and b) request to pay his attorney's fees for the period dated June 2017.
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6 The receiver's response to the PVF Investors' objection is thin and non-substantive.
7 It argues: 1) the PVF Investors' stake is small and some of the time was spent addressing
8 their complaints, and 2) the descriptions are adequate on their face. The receiver reveals
9 much by belittling the PVF Investors' stake. The reasonableness of the receiver's work and
10 fees requested for that work does not turn, at all, on the PVF Investors' stake. Whether the
11 PVF Investors are 1% or 91% of the creditors is irrelevant to the question of the
12 reasonableness of the receiver's fees. The PVF Investors have a meaningful stake which,
13 apparently, is unappreciated, undervalued and dismissed out of hand by the receiver. The
14 PVF Investors' objections are meritorious regardless of the size of their interest.
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18 The receiver claims that the fees incurred were necessary to prepare his report. That
19 report has not been filed. The unfiled draft report strongly suggests that a good portion of
20 the fees sought were spent on pointless or inappropriate tasks. The receiver wants to be paid
21 for work done on projects he hasn't shared with the Court and which creditors have not had
22 an opportunity to address. The receiver's fees request is premature until the Court and all
23 creditors have seen and tested his report to which the fees related.
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1 The PVF Investors also object to paying the receiver because the fees are
2 unsubstantiated and billed in large, ill-defined blocks. Block billing is widely discouraged.
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4 *In re Guardianship of Sleeth*, 226 Ariz. 171, 244(Ariz. Ct. App. 2010)(“[W]e turn to Ferris'
5 billing practices, and specifically his habitual recording of only half-hour or one-hour
6 increments and his practice of grouping tasks together in a block so that time spent on each
7 task cannot be reviewed for its reasonableness. The federal courts have disapproved this
8 type of ‘block-billing’ and reduced fee requests accordingly”). The receiver’s billing
9 statements fail to properly describe what he was working on, why he was working on it and
10 how long each task took. The receiver’s request lacks specificity and fails to give any
11 documentation to substantiate the claimed work.
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14 The descriptions of the receiver’s work is unhelpful. For instance, from 6/26/2017
15 through 6/30/17, receiver billed 36.5 hours in five days on roughly the same description of
16 work. In addition to the lack of detail found in the invoices, the receiver seems to be billing
17 for duplicative work. Much of the work done in the invoices appears to be recreating
18 product that was already produced. For instance, “[r]econstructed the Palo Verde Fund
19 monthly financials, partners capital accounts, and side pockets from Liccar’s files.” The
20 receiver was simply recreating documents that were already verified as correct by an audit.
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23 Thus, on the basis that the work done was duplicative and the invoices are
24 nondescript and block billed, PVF Investors object to the a) request for fees and expenses
25 and b) request to pay his attorney's fees for the period dated June 2017, and request the
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1 Court deny the requests, or in the alternative, stay payment until the report has been
2 finalized and all parties have had the opportunity to review the work.

3
4 DATED this 9th day of October, 2017.

5 AIKEN SCHENK HAWKINS & RICCIARDI P.C.

6 By /s/ Austin K. Kurtz

7 Alfred W. Ricciardi

8 Austin K. Kurtz

9 2390 East Camelback Road, Suite 400

10 Phoenix, Arizona 85016

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

12 The foregoing e-mailed on this 9th day of
13 October, 2017 with:

14 Ryan Anderson, Esq.

15 Patrick M. Murphy, Esq.

16 **GUTTILLA MURPHY ANDERSON**

17 5415 East High Street, Suite 200

18 Phoenix, AZ 85054

19 Attorney for Peter Davis

20 randerson@gamlaw.com

21 pmurphy@gamlaw.com

22 Alan Baskin, Esq.

23 **BASKIN RICHARDS, PLC**

24 2901 N. Central Ave #1150

25 Phoenix, AZ 85012

26 alan@baskinrichards.com

27 *and*

28 **ALBRIGHT, RUSHER & HARDCASTLE**

Kenneth F. Albright, Esq.

15 West 6th Street, Suite 2600

Tulsa, Oklahoma 74119

kfalbright@arhlaw.com

Attorneys for Plaintiffs

Matthew F. Winter , Esq.

SACKS TIERNEY P .A.

4250 North Drinkwater Boulevard, 4th Fl.

Scottsdale, Arizona 85251

matthew.winter@sackstierney.com

Attorneys for Defendants PVPE, L.L.C.,

Palo Verde Fund, L.P. and Palo Verde

Private Equity Fund, L.P.

Jeffrey S. Leonard, Esq.

SACKS TIERNEY P .A.

4250 N. Drinkwater Blvd., Fourth Floor

Scottsdale, AZ 85251

Jeffrey.Leonard@SacksTierney.com

Attorneys for Anthony Stacy

1 Robert H. McKirgan
Jon Weiss
2 **LEWIS ROCA ROTHGERBER LLP**
3 201 East Washington Street, Suite 1200
Phoenix, AZ 85004-2595
4 rmckirgan@lrllaw.com
jweiss@lrllaw.com
5 Attorneys for Michael J. Galloway, Cathy
6 Galloway, Galloway Asset Management L.L.C.
and Galloway Family Trust UAD Dec. 5, 2003-
7 Interested Creditor

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

14 Copy of the foregoing mailed this 9th day of
15 October, 2017 with:

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

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

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

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

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

Scott Anthony
5513 106th Place
Tulsa, OK 74137

24 Mike Austin
6852 Colonnade Drive
25 Plano, TX 75024
26

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

1 Michael Beck
2 225 Citrus Ridge Drive
3 Davenport, FL 33837

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

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

10 Barbara Gilmore
11 5810 S. Indianapolis Ave.
12 Tulsa, OK 74135

13 Keith and Susan Hall
14 8220 S. 68th East Avenue
15 Tulsa, OK 74133

16 James and Karla Westerman
17 687 Oak Tree Court
18 Simi Valley, CA 93065

19 Shane Martin
20 17623 N. 58th Place
21 Scottsdale, AZ 85254

22 Tim O'Toole
23 727 N. Byers
24 Mangum, OK 73554

25 Randy Riall
26 131 S. Elm Street
27 Weatherford, TX 76086

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

29 /s/ Joanne Granville

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

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

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

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

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

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

Larry and Sue McMillon
23225 S. Dogwood Ct
Claremore, OK. 74019-0309

+
Deirdre Peters
13331 Cameron Reach Drive
Tomball, TX 77377

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

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