

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-vs-

Case No. 2:09-cv-229-FtM-29SPC

FOUNDING PARTNERS CAPITAL
MANAGEMENT CO., WILLIAM L. GUNLICKS
and PAMELA L. GUNLICKS,

Defendants,

FOUNDING PARTNERS STABLE-VALUE
FUND, LP, FOUNDING PARTNERS STABLE-
VALUE FUND II, LP, FOUNDING PARTNERS
GLOBAL FUND, LTD., and FOUNDING
PARTNERS HYBRID-VALUE FUND, LP,

Relief Defendants.

ORDER

This matter comes before the Court on the Defense Counsel Carlton Fields. P.A.'s Motion for Leave to Withdraw as Counsel for William L. and Pamela Gunlicks (Doc. #266) filed on January 3, 2011.

A motion to permissively withdraw is a matter in the discretion of the court. Obermaier v. Driscoll, 2000 WL 33175446 *1 (M.D. Fla. Dec. 13, 2000). The Local Rules state that "no attorney, having made a general appearance under subsection (a) shall thereafter abandon the case or proceeding in which the appearance was made, or withdraw as counsel for any party therein, except by written leave of Court obtained after giving ten (10) days notice to the party or client affected

thereby, and to opposing counsel.” M.D. Fla. Local Rule 2.03(b). In considering the Motion to withdraw, the court weighs the reasons why withdrawal is sought; the prejudice withdrawal may cause the litigants; the delay in the resolution of the case which would result in withdrawal; and the effect of withdrawal on the efficient administration of justice. Obermaier, 2000 WL 33175446 at *1.

Pursuant to M.D. Fla Local Rule 2.03(b), the Counsel gave notice to the Gunlicks who represent that they oppose the withdrawal. As grounds for the withdrawal, Counsel states that circumstances have arisen that prevent them from continuing to represent the Gunlicks and that permit them to withdraw in accordance with Rule 4-1.16(b) of the Florida Rules of Professional Conduct. The Rule reads in pertinent part:

(b) When Withdrawal Is Allowed. Except as stated in subdivision (c), a lawyer may withdraw from representing a client if:

- (1) withdrawal can be accomplished without material adverse effect on the interests of the client;
- (2) the client insists upon taking action that the lawyer considers repugnant, imprudent, or with which the lawyer has a fundamental disagreement;
- (3) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
- (4) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
- (5) other good cause for withdrawal exists.

Fla. R. Prof. R. 4-1.16(b) (emphasis in original). A lawyer’s statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient.

Fla. R. Prof. R. 4-1.16(b) (comment).

On December 22, 2010, the District Court continued the stay in this case (Doc. # 264) up to and including February 22, 2011. As such, the withdrawal will not cause any undue delay in the

proceedings. Further, the Gunlicks are represented by counsel in the State of Illinois and therefore, they are not left without legal counsel but will be asked to find alternate local counsel. After reviewing the Motion and relevant rules of professional conduct, the Court finds good cause to grant the Motion for Withdrawal.

Accordingly, it is now

ORDERED:

The Defense Counsel Carlton Fields.P.A.'s Motion for Leave to Withdraw as Counsel for William L. and Pamela Gunlicks (Doc. #266) is **GRANTED**.

(1) The Defendants William L. and Pamela Gunlicks have up to and including **February 22, 2011**, to obtain counsel in this matter or inform the Court that they are proceeding *pro se*.

(2) The Law Firm of Carlton Fields, P.A. 100 S.E. 2nd Street, Suite 4000, Miami, Florida 33131 is hereby relieved of all further responsibility in this action.

(3) The Clerk of the Court shall terminate the law firm of Carlton Fields, P.A. from the Court's electronic communications and the service list in this case.

(4) All future communications, motions, correspondence or filings in this case shall be forwarded by the Clerk of the Court and/or opposing Counsel to William and Pamela Gunlicks, 341 Sheridan Road, Winnetka, Illinois 60093.

DONE AND ORDERED at Fort Myers, Florida, this 5th day of January, 2011.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record