

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CASE NO.: 2:09-CV-229-FTM-29SPC

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

FOUNDING PARTNERS CAPITAL MANAGEMENT,
and WILLIAM L. GUNLICKS,

Defendants,

SUN CAPITAL, INC.,
SUN CAPITAL HEALTHCARE, INC.,
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.

RECEIVER'S MOTION TO EMPLOY ACCOUNTANTS AND CONSULTANTS

Receiver Daniel S. Newman, not individually, but solely in his capacity as receiver (the "Receiver") for Founding Partners Capital Management, Co. ("Founding Partners") and relief 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 ("Founding Partner Relief Defendants"), by his attorneys, Broad and Cassel, hereby files his Motion to Employ Accountants and Consultants, and alleges as follows:

1. This action was initiated by the Securities & Exchange Commission on April 20, 2009. That same day, the Court entered its Order Appointing Receiver which

BROAD and CASSEL

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named Leyza F. Blanco, Esq. as Receiver for the Founding Partners and Founding Partners Relief Defendants. On May 13, 2009, the Court removed Leyza F. Blanco, Esq. as Receiver.

2. On May 20, 2009, this Court appointed Daniel S. Newman, Esq. as Replacement Receiver. Pursuant to the Receivership Order, the Receiver is obligated to take immediate possession of all property, assets and estates of every kind of Founding Partners and each of the Founding Partners Relief Defendants, whatsoever and wheresoever located . . . and to administer such assets as is required in order to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court. The Order also requires that the Receiver investigate the manner and the affairs of Founding Partners with the Founding Partners Relief Defendants.

3. In order to assist the Receiver in his efforts, the Receivership Order, at Paragraph 2(d), allows the Receiver to appoint one or more special agents, employ legal counsel, actuaries, accountants, clerks, consultants and assistants as the Receiver deems necessary and to fix and pay their reasonable compensation and reasonable expenses.

4. Accordingly, the Receiver seeks to appoint and retain the accounting firm of Berkowitz, Dick, Pollack & Brant (the "Firm") to provide the Receiver with accounting and consulting advice and assistance in this matter.

5. Several qualified accounting firms provided the Receiver with proposals outlining their experience in health care, business valuation, auditing, forensic accounting as well as their rate structure and staffing plans. After reviewing the submissions and conducting interviews of candidate firms, the Receiver believes that the Firm is the best choice for this assignment.

6. In consideration for the Firm assisting the Receiver, the Receiver shall pay the Firm fees based on the time expended by accountants and other professionals of the Firm. Directors of the Firm will bill at \$310 to \$300 per hour. Associates will bill at \$250 to \$150 per hour. Paraprofessionals of the Firm will bill at \$95.00 per hour.

WHEREFORE, the Receiver respectfully requests that this Court enter the attached proposed order appointing the accounting firm of Berkowitz, Dick, Pollack & Brant as accountants and consultants for the Receiver and for such other and further relief as the Court deems just and proper.

Dated: June 4, 2009.

BROAD AND CASSEL
Attorneys for Receiver
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By: s/Rhett Traband
Rhett Traband, P.A.
Florida Bar No. 0028894

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2009, 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/Rhett Traband
Rhett Traband, P.A.

SERVICE LIST

<p>Christopher Ian Anderson, Esq. U.S. Securities and Exchange Commission 801 Brickell Avenue Suite 1800 Miami, FL 33131 305-982-6317 305-536-4154 (fax) andersonci@sec.gov <i>Counsel for U.S. Securities and Exchange Commission</i> <i>Service via CM/ECF</i></p> <p>Paul A. Calli, Esq. Walter J. Tache, Esq. Marissel Descalzo, Esq. Carlton Fields, P.A. 4000 International Place 100 SE 2nd Street Miami, FL 33131 305-358-5000 305-579-9749 (fax) pcalli@carltonfields.com wtache@carltonfields.com mdescalzo@carltonfields.com <i>Counsel for Defendant William L. Gunlicks</i> <i>Service via CM/ECF</i></p> <p>Jonathan Galler, Esq. Proskauer Rose, LLP Suite 340 W. 2255 Glades Road Boca Raton, FL 33431 561-995-4733 561-241-7145 (fax) jgaller@proskauer.com <i>Counsel for Relief Defendants</i> <i>Sun Capital, Inc. and Sun Capital Healthcare, Inc.</i> <i>Service via CM/ECF</i></p>	<p>Sarah S. Gold, Esq. Vincent Paparo, Esq. Proskauer Rose, LLP 1585 Broadway New York, NY 10035 212-969-3000 212-969-2900 (fax) sgold@proskauer.com vpaparo@proskauer.com <i>Counsel for Relief Defendants</i> <i>Sun Capital, Inc. and Sun Capital Healthcare, Inc.</i> <i>Service via CM/ECF</i></p>
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