

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**  
Plaintiff,

v.

**CHRISTOPHER A. FAULKNER, et al.,**  
Defendants,

and

**TAMRA M. FREEDMAN and  
JETMIR AHMEDI,**  
Relief Defendants.

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Case No.: 3:16-cv-01735-D

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**RECEIVER’S UNOPPOSED MOTION FOR LEAVE TO ENGAGE LITIGATION  
COUNSEL ON A CONTINGENT FEE BASIS**

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Thomas L. Taylor III (“Receiver”), Court-appointed temporary receiver in the above-entitled action (“Enforcement Action”), respectfully moves this Court for leave to engage the law firm of Castillo Snyder, PC (“Castillo Snyder”) as litigation counsel in the “Ancillary Proceeding”<sup>1</sup> commenced against Rothstein Kass & Co., PLLC and Brian Matlock<sup>2</sup> on a contingent fee basis. The Receiver also seeks leave to engage litigation counsel in any Ancillary Proceedings subsequently authorized by this Court upon the same -- or more favorable -- economic terms as those embodied in the proposed Castillo Snyder engagement.

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<sup>1</sup> As defined in ECF No. 418 at ¶32.

<sup>2</sup> *Taylor v. Rothstein Kass & Co., PLLC, et al.*, Case No. 19-cv-01594-D (N.D. Tex. 2019) (the “Rothstein Action”).

## I. Background

Pursuant to the Order Appointing Receiver<sup>3</sup>, the Receiver is authorized to “engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities [t]hereunder, including, but not limited to, ... attorneys,” subject to the Quarterly Fee Application provisions of that Order. ECF No. 418 at ¶7(F). “The Receiver may engage Retained Personnel without obtaining an order of the court authorizing such engagement.” *Id.* at ¶57. However, “compensation [of Retained Personnel] shall require the prior approval of the court.” *Id.* at ¶58. Although the Receiver is authorized to engage attorneys, out of an abundance of caution he seeks the explicit prior approval of this Court to engage litigation counsel on a contingent fee basis in the Rothstein Action and in any subsequently approved Ancillary Proceeding. Engagement of counsel on a contingent fee basis will enable the Receiver to pursue meritorious claims on behalf of the Receivership Estate which otherwise would not be economically feasible based upon existing resources.

The Order Appointing Receiver states that certain “Ancillary Proceedings” “are stayed until further order of the court.” *Id.* at ¶32. The Receiver is “authorized, empowered, and directed to investigate, prosecute, defend, intervene in, or otherwise participate in, compromise, and/or adjust actions in any state, federal, or foreign court or proceeding of any kind as may in his discretion, and in consultation with SEC counsel, be advisable or proper to recover and/or conserve Receivership Assets,” subject to obtaining leave of court. *Id.* at ¶42.

On March 13, 2019 this court “granted leave [to the Receiver] to file ancillary litigation as to Rothstein Kass & Co., PLLC and certain of its auditing personnel.” ECF No. 410. The Receiver initiated the Rothstein Action on July 1, 2019. The Receiver anticipates that he may seek leave of

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<sup>3</sup> ECF No. 108, as amended by ECF No. 142, as amended by ECF No. 320, as amended by ECF No. 418.

the Court to file Ancillary Proceedings against additional parties with respect to conduct related to the fraudulent scheme underlying the Securities and Exchange Commission's allegations in the Enforcement Action.

## **II. Relief Requested**

### *A. The Rothstein Action*

The Receiver seeks leave to engage Castillo Snyder as litigation counsel in the Rothstein Action.<sup>4</sup> A form of engagement agreement, subject to the Court's approval, is attached hereto as **Exhibit A**. As detailed therein, the Receivership Estate would be responsible for all ongoing expenses incurred during the Rothstein Action, such as expenses for depositions, travel, experts, etc., subject to reimbursement prior to the calculation of any contingency fee. The Receivership Estate would pay to Castillo Snyder a 30% contingency fee of any recovery in the Rothstein Action, net of expenses paid by the Receiver during the pendency of the litigation which would be reimbursed to the Receivership Estate.

### *B. Future Ancillary Proceedings*

The Receiver also requests leave to engage litigation counsel in any subsequently authorized Ancillary Proceedings upon a contingent fee basis not exceeding 30% of any recovery in such proceedings, net of expenses paid by (and reimbursed to) the Receiver during the pendency of such proceedings.

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<sup>4</sup> Castillo Snyder is well qualified to pursue the claims in question. The firm has represented, and currently represents, the Official Stanford Investors Committee in extensive litigation arising from the equity receivership established in *SEC v. Stanford Int'l Bank, Ltd., et al.*, Case No. 09-cv-00298-N (N.D. Tex. 2009). These cases involve, *inter alia*, claims of professional negligence allegedly contributing to losses arising from the Stanford Ponzi scheme.

Dated: July 12, 2019

Respectfully submitted,

THE TAYLOR LAW OFFICES, PC

Thomas L. Taylor III  
Texas Bar: 19733700  
*taylor@ltaylorlaw.com*

245 West 18th Street  
Houston, Texas 77008  
Tel: 713.626.5300  
Fax: 713.402.6154

COURT-APPOINTED RECEIVER

GOFORTH LAW, PLLC

By:           /s/ Andrew Goforth          

Andrew M. Goforth  
Texas Bar: 24076405  
*andrew@goforth.law*

7614 Fairdale Lane  
Houston, Texas 77063  
Tel: (713) 464-2263  
Fax: (713) 583-1762

COUNSEL FOR RECEIVER

**CERTIFICATE OF CONFERENCE**

I certify that I have conferred with counsel for Plaintiff Securities and Exchange Commission and Defendant Parker Hallam, who are unopposed to the relief sought herein.

          /s/ Andrew Goforth            
Andrew M. Goforth

**CERTIFICATE OF SERVICE**

I certify that on July 12, 2019 I filed the foregoing document through the Court's CM/ECF filing system, which satisfies service requirements under FED. R. CIV. P. 5(b)(2)(E).

          /s/ Andrew Goforth            
Andrew M. Goforth

## FEE AGREEMENT

July 12, 2019

**Parties.** Thomas L. Taylor III (“Receiver”), solely in his capacity as temporary receiver appointed by orders entered in the civil action styled *Securities and Exchange Commission v. Christopher A. Faulkner, Breitling Energy Corporation, Jeremy S. Wagers, Judson F. (“Rick”) Hoover, Parker R. Hallam, Joseph Simo, Dustin Michael Miller Rodriguez, Beth C. Handkins, Gilbert Steedley, Breitling Oil & Gas Corporation, Crude Energy, LLC, Patriot Energy, Inc., Defendants (the “Breitling Receivership Entities”), and Tamra M. Freedman and Jetmir Ahmedi, Relief Defendants*; No. 3:16-cv-01735-D; in the United States District Court for the Northern District of Texas, Dallas Division (“Client”) and Castillo Snyder, P.C. (“Attorneys”).

**Matters subject to this Agreement.** This agreement pertains to Claims brought by the Receiver against any one or more of the following: Rothstein Kass & Co., PLLC and Brian Matlock (the “Rothstein Defendants”), as well as any other parties, to include law firms, that previously represented or provided services to the Breitling Receivership Entities and against whom the Receiver and the Attorneys mutually agree there may exist potentially viable Claims (collectively, the “Potential Defendants”).

**Engagement.** Through this Revised Fee Agreement (the “Agreement”), Client engages Attorneys to represent Client regarding its Claims against the Rothstein Defendants in the lawsuit styled *Taylor v. Rothstein Kass & Co., PLLC, et al.*, Case No. 19-cv-01594-D (N.D. Tex. 2019) (the “Rothstein Action”), as well as to investigate and pursue Claims against additional Potential Defendants as identified and agreed by the Receiver and Attorneys. Any additional Claims or lawsuits brought or filed by the Attorneys in representation of the Receiver shall be subject to the terms of this Agreement.

**Purpose of Representation.** Client employs Attorneys to negotiate, sue for, and collect or settle all sums arising out of the Breitling Receivership Estate’s Claims against the Rothstein Defendants relating to the Rothstein Defendants’ services to various Breitling Receivership Entities as outlined in the Rothstein Action, as well as to investigate and, upon mutual agreement with the Receiver, pursue and litigate any Claims against any other Potential Defendants (collectively the “Claims”). The scope of Attorneys’ representation shall include the defense of any counterclaims or affirmative defenses asserted by the Rothstein Defendants (or any Potential Defendant) against Client in the Rothstein Action or any other lawsuit filed or prosecuted against other Potential Defendants pursuant to this Agreement. This Agreement is binding upon Client’s successors, heirs and assigns.

**Effective Date.** This Agreement is effective as of June 30, 2019.

**EXHIBIT A**

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### **Terms of Representation.**

**1. Contingency Fee.** Subject to Court approval, Client agrees to pay Attorneys an amount equal to thirty percent (30%) of the “Net Recovery” collected through settlement or judgment from the Rothstein Defendants and/or any Potential Defendants (the “Fee”). The “Net Recovery” shall be defined as the Recovery (as defined below) in connection with the Rothstein Action (or any action or Claims pursued by the Attorneys on behalf of the Client against any Potential Defendants), after deducting allowable expenses and disbursements, as described below. If Attorneys do not obtain a Net Recovery, then Attorneys will not be entitled to and Client will not be obligated to pay any Fee.

**2. Recovery.** The “Recovery” includes anything of value directly or indirectly received by the Breitling Receivership Estate as a result of the pursuit of the Claims against the Rothstein Defendants or any Potential Defendants, including but not limited to the proceeds of any settlement or other disposition or a direct monetary payment or award.

### **3. Expenses.**

(a) Client authorizes Attorneys to incur and pay out-of-pocket costs and expenses that are reasonably necessary for Attorneys to effectively represent Client and pursue the Claims described herein. Such expenses typically include, but are not necessarily limited to, filing fees, postage, deposition transcripts, copies, long-distance telephone, telefax charges, experts’ fees, document storage and handling expense, and travel expense. Attorneys will not add surcharges or other fees to third-party charges. Certain expenses that are incurred internally, such as copies, long-distance telephone, and telefax charges, shall be posted and reimbursed at Attorneys’ standard rates for such expenses.

(b) Attorneys shall advance all costs and expenses incurred in pursuing the Claims as contemplated in this Agreement, subject to reimbursement by the Client on a periodic basis, and subject to Court approval, by the Breitling Receivership Estate. For larger expenses, including expert witness fees and deposition costs, the Client will pay those expenses directly, subject to Court approval, as opposed to Attorneys advancing the expenses. In addition to the Fee that might be earned pursuant to paragraph 1 of this Agreement, and whether or not there is a Net Recovery in respect of the Claims contemplated by this Agreement, the actual and necessary out-of-pocket costs and expenses incurred by Attorneys to pursue the Claims (“Disbursements”) will be reimbursed by Client out of the Breitling Receivership Estate. Such Disbursements will include but are not necessarily limited to travel expenses, filing fees, postage, long-distance telephone, telefax charges, copies, process-server fees, transcripts, and expert witness fees. Client’s reimbursement of such Disbursements will be subject to approval by the Court upon application by Attorneys on the same schedule and under the same standards applicable to other professionals whose fees and disbursements are subject to approval by the Court. To the extent

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that any Disbursements are not reimbursed by Client, then subject to Court approval, Attorneys shall recover such unreimbursed Disbursements from the proceeds of any Recovery resulting from prosecuting the Claims. Attorneys will endeavor to minimize all costs and expenses.

(c) If there is a Recovery, Attorneys shall first be reimbursed for any expenses advanced by Attorneys that have not been reimbursed previously by the Breitling Receivership Estate. The Breitling Receivership Estate shall then be reimbursed for any expenses incurred and reimbursed to Attorneys pursuant to this Agreement. The amount of the Recovery remaining after the Attorneys and the Breitling Receivership Estate have been reimbursed, as set forth in this paragraph, is the “Net Recovery”.

**4. Limitation of Fees Paid.** Client and Attorneys agree and acknowledge that the total fee payable by the Client, for all Claims prosecuted pursuant to this Agreement, shall not exceed 30% of the Net Recovery from all such Claims.

**5. Fees and Expenses to be Paid by Client.** Attorneys agree and acknowledge that the Breitling Receivership Estate bears sole responsibility for the payment of any fees and expenses required by the terms of this Agreement, and that any such payments may also be subject to Court approval.

**6. Settlement.** Attorneys agree to notify Client of any offer of settlement received by Attorneys, and Client agrees to notify Attorneys of any offer of settlement received by Client.

**7. Termination of Agreement.** Client reserves the right to terminate Attorneys’ representation at any time. In the event that Client terminates one or more of Attorneys with no just cause, the terminated Attorneys shall be entitled to be compensated based upon the value of the legal services rendered through the date of termination, subject to Court approval. The Attorneys’ compensation is to be paid at the time Client settles the Claims, successfully collects on a judgment, or otherwise receives something of value in respect of the Claims. Attorneys reserves the right to withdraw from the continued representation of Client if it reasonably appears to Attorneys that the continued pursuit of the Claims would not likely result in a sustainable claim and/or a collectible judgment, if the damages recoverable would not likely justify the time and expense of pursuing the Claims, or if Client engages in conduct that renders it unreasonably difficult for Attorneys to represent Client effectively.

**8. Conflicts.**

Attorneys have previously represented an investor with Claims that have been reduced to a judgment against the Breitling Receivership Estate. By its acknowledgment of this Agreement, the Receiver expressly waives any conflict that may have arisen from Attorneys’ prior representation of the investor client.

Attorneys agree not to accept any engagement known by Attorneys to be in direct conflict

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with Client's interests in the matters covered by this Agreement. If, in the course of representing multiple clients, Attorneys discover and determine that a conflict of interest exists, then Attorneys will notify Client of such conflict, and may withdraw from representing Client to the extent that such a withdrawal would be permitted or required by applicable provisions of the Texas Disciplinary Rules of Professional Conduct.

Client agrees that the Texas Disciplinary Rules of Professional Conduct (the "Texas Rules") shall control to the exclusion of any other "ethics codes" and to the extent that any ethical rules govern or control Attorneys' rights and obligations among its attorneys. Client agrees that Attorneys' obligations shall be governed by the Texas Rules even if a later dispute is centered in another state, or in federal court in Texas or another state.

Consequently, under the Texas Rules, Attorneys shall be disqualified from representing any other client in any matter that is directly adverse to Client if: (a) that matter is substantially related to this representation; (b) there is a reasonable probability that Attorneys would in that matter knowingly use to Client's disadvantage confidential information acquired by Attorneys by reason of the representation; (c) Attorneys' representation of that other client would adversely limit Attorneys' responsibilities to Client in this representation; or (d) Attorneys' own interests or responsibilities to a third person would adversely limit our responsibilities to Client.

**9. Governing Law.** The laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Agreement. This Agreement contains the entire agreement between Client and Attorneys regarding the matters described herein, and the fees, charges, and expenses to be paid relative hereto, and supersedes all prior oral or written agreements in respect thereof. This Agreement may only be amended in writing, signed by Client and Attorneys and/or their respective legal representatives, successors and assigns. This Agreement may be executed in multiple original counterparts, each of which shall be deemed an original, and together shall constitute the same Agreement.

**10. No Guarantees; Cooperation.** Client acknowledges that Attorneys have not made representations as to the likely outcome of the litigation contemplated in this Agreement. Any opinions expressed by Attorneys concerning any aspect of the outcome of the representation or the impact of this matter on Client's interests is, of course, based upon the professional judgment of Attorneys. Those opinions, however informed, are not guarantees. Client shall fully cooperate with Attorneys in prosecuting the Claims and shall make files, records, and data available to Attorneys on a reasonable basis, and Client shall make himself and his professionals available on a reasonable basis as necessary to facilitate the representation contemplated by this Agreement.

**11. Notice to Client.** As required by the State Bar Act, Attorneys hereby advise Client that the State Bar of Texas investigates and prosecutes professional misconduct committed by Texas



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attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar Office of General Counsel will provide you with information about how to file a complaint. For more information, please call (800) 932-1900. This is a toll-free phone call.

**CASTILLO SNYDER, PC**

By:

\_\_\_\_\_  
EDWARD C. SNYDER

**AGREED AND APPROVED BY CLIENT:**

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By: Thomas L. Taylor III  
Court Appointed Receiver for the  
Breitling Receivership Estate

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**  
Plaintiff,

v.

Case No.: 3:16-cv-01735-D

**CHRISTOPHER A. FAULKNER,  
BREITLING ENERGY  
CORPORATION, JEREMY S.  
WAGERS, JUDSON F. (“RICK”)  
HOOVER, PARKER R. HALLAM,  
JOSEPH SIMO, DUSTIN MICHAEL  
MILLER RODRIGUEZ, BETH C.  
HANDKINS, GILBERT STEEDLEY,  
BREITLING OIL & GAS  
CORPORATION, CRUDE ENERGY,  
LLC, PATRIOT ENERGY, INC.,**  
Defendants,

and

**TAMRA M. FREEDMAN and  
JETMIR AHMEDI,**  
Relief Defendants.

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**ORDER GRANTING RECEIVER’S UNOPPOSED MOTION FOR LEAVE TO  
ENGAGE LITIGATION COUNSEL ON A CONTINGENT FEE BASIS**

Before the Court is Court-appointed temporary receiver Thomas L. Taylor III’s (“Receiver”) July 12, 2019 Motion to Engage Litigation Counsel on a Contingent Fee Basis (“Motion”) and all opposition, responses or objections thereto, if any. Having determined that the Motion is fully supported by the written submissions, the Motion is hereby **GRANTED**. It is therefore

**ORDERED** that the Receiver is granted leave to engage Castillo Snyder, PC (“Castillo Snyder”) as litigation counsel in the Ancillary Proceeding<sup>1</sup> *Taylor v. Rothstein Kass & Co., PLLC, et al.*, Case No. 19-cv-01594-D (N.D. Tex. 2019) (the “Rothstein Action”) upon the terms in the form of engagement agreement attached to the Motion as Exhibit A. It is further

**ORDERED** that the Receiver is granted leave to engage litigation counsel in any Ancillary Proceedings which the Court subsequently authorizes the Receiver to commence upon a contingent fee basis not exceeding 30% of any recovery in such proceedings, net of expenses paid by (and reimbursed to) the Receiver during the pendency of such proceedings.

Signed on \_\_\_\_\_, 2019.

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SIDNEY A. FITZWATER  
SENIOR JUDGE

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<sup>1</sup> As defined in ECF No. 418 at ¶32.