

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

SECURITIES EXCHANGE COMMISSION )

Plaintiff, )

vs. )

DAVID TANNER, et al., )

Defendants, )

and )

MARGARET F. SPENCER, et al., )

Relief Defendants. )

Civil Action No.: 05-4057-SAC

**FOURTH APPLICATION FOR APPROVAL OF PAYMENT OF RECEIVER  
PENDENTE LITE'S PROFESSIONAL FEES AND EXPENSES**

COMES NOW the Receiver *Pendente Lite*, Larry E. Cook, by and through his undersigned counsel, and for his Fourth Application for Approval of Payment of Receiver *Pendente Lite's* Professional Fees and Expenses, respectfully states as follows:

1. The United States Securities and Exchange Commission (the "Commission") initiated this securities fraud enforcement action on May 4, 2005. At the request of the Commission and, based upon a preliminary showing of securities fraud, the Court established an asset freeze and appointed Larry E. Cook as Receiver.

2. Since his appointment, the Receiver has investigated the assets, liabilities and business operations of the defendants and relief defendants. The Receiver has recovered approximately \$5,044,688 in investor funds. The Receiver has also identified and obtained orders directing the return of an additional \$7.9 million in investor funds in US and European banks. The Receiver has pending motions for turnover of

approximately \$1.5 million in investor funds transferred to foreign banks and used to purchase real property in the United States.

3. The Receiver has deposed numerous witnesses and has subpoenaed thousands of pages of bank records and other documents related to Capital Enhancement Club and investor transactions. The Receiver and his counsel are reviewing these documents to identify additional transfers of investor funds and assess the cost effectiveness of recovering these transfers.

4. The Receiver has established a receivership website. The website provides status updates, copies of pleadings filed with the Court, and most importantly, the means for the defrauded investors to file a claim with the Receiver.

5. The Receiver continues to work to identify the defrauded investors. The Receiver has obtained a list of potential investors and his staff is working to upload the contact information for the potential investors. Once that is completed, the Receiver will contact the known investors to request they access the receivership website to file a claim for their lost investment.

6. The Receiver and his counsel, in conjunction with the Commission, continue to coordinate efforts to recover funds transferred to foreign banks and obtain account records and transaction information at the foreign banks to assist the Receiver in identifying the defrauded investors and recover funds for their benefit.

7. The Receiver has engaged counsel to assist in his efforts. The Receiver's work during the first three months of this receivership suggests the total defrauded investors may exceed several thousand in number and involve in excess of \$10 million in claims. The Receiver submits that he and his counsel will devote significant time and

expense in sorting through the numerous transfers before being prepared to propose an equitable distribution to the defrauded investors.

8. Pursuant to the Order Appointing Receiver, the Receiver is directed to file, on at least a quarterly basis, an application for approval of the disbursements for professional fees and expenses to himself and others.

9. Between October 1, 2005 and November 27, 2005, the Receiver has incurred expenses in the amount of \$747.62 and fees in the amount of \$58,580 for a total amount of \$59,327.62<sup>1</sup>. Attached hereto as **Exhibit A** are true and correct copies of the invoices for services and expenses for Larry E. Cook, Receiver.

10. The Order Appointing Receiver also authorized the Receiver to employ such attorneys as are necessary and proper for the collection, preservation, maintenance and operation of the Receivership Assets and Receivership Records.

11. The Receiver has employed the law firm of Lathrop & Gage, L.C. to assist him in the collection, preservation, maintenance and operation of the Receivership Assets and Receivership Records.

12. Between October 1, 2005 and November 27, 2005, the Receiver has incurred expenses in the amount of \$6,446.44 and fees in the amount of \$69,958 for a total of \$76,403.83<sup>2</sup> from Lathrop & Gage, L.C. Attached hereto as **Exhibit B** are true and correct copies of the invoices for services and expenses for Lathrop & Gage, L.C.

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<sup>1</sup> The Receiver's company, CVA Solutions, Inc. is a small company with a staff of only the Receiver and his wife Mary C. Cook. The Receiver and his counsel have subpoenaed thousands of pages of documents which need to be entered into a database to provide efficient access to the information produced. The Receiver has utilized Mary Cook to input much of this data at an hourly rate of \$60. The Commission and the Receiver's counsel have reviewed these charges and believe Mary Cook's hourly rate is more cost effective than the same work could be done by a paralegal with an hourly rate ranging from \$105 to \$125.

<sup>2</sup> As noted on Exhibit B, the total includes a credit of \$0.61.

13. The Receiver has also employed the law firm of Jones Vargas to assist him in the collection, preservation, maintenance and operation of the Receivership Assets and Receivership Records.

14. Between October 1, 2005 and October 31, 2005, the Receiver has incurred expenses in the amount of \$1,687.04 and fees in the amount of \$3,480 for a total of \$5,167.04 from Jones Vargas. Attached hereto as **Exhibit C** are true and correct copies of the invoices for services and expenses for Jones Vargas.

15. The professional fees and expenses previously approved in this case are as follows:

Receiver:	\$166,233.41
Lathrop & Gage, L.C.:	\$153,979.21
Jones Vargas:	\$25,198.57
Sorainen Law Offices:	€1,547.59

16. This Application has been reviewed by counsel for the Commission who concurs in the relief sought in this Application.

WHEREFORE, the Receiver respectfully requests the Court enter its Order:

(i) Authorizing the Receiver to pay Larry E. Cook the sum of \$59,327.67 for his fees and expenses through November 27, 2005;

(ii) Authorizing the Receiver to pay Lathrop & Gage, L.C. the sum of \$76,403.83 for its fees and expense through November 27, 2005;

(iii) Authorizing the Receiver to pay Jones Vargas the sum of \$5,167.04 for its fees and expense through October 30, 2005; and

(iv) For such other and further relief as the Court deems just and appropriate.





**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of December, 2005, I electronically filed the foregoing, with the Clerk of the Court for the District of Kansas, Topeka Division, by using the CM/ECF system which will send a notice of electronic filing to the following CM/ECF participants:

Timothy P. Davis, SEC;

Christopher M. Joseph and Stephen M. Joseph, Counsel for Spencer Defendants;

Roger N. Walter, Co-Counsel for Relief Defendant Vectra Resources, LLC; and

Christopher Bebel, Co-Counsel for Relief Defendant Vectra Resources, LLC; and

/s/ Brian M. Holland  
An attorney for Larry E, Cook, Receiver