

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND**

IN RE: CUMBERLAND

CA. NO. 89-11051

INVESTMENT CORPORATION

**PETITIONER'S MOTION TO ASSIST AND HELP THE COURT
CONCERNING THE FIRST AND FINAL APPLICATION FOR FEES
AND EXPENSES OF EDWARDS ANGELL PALMER & DODGE LLP**

Now comes Harold F. Chorney, pro se, a petitioner with property interests and an interested party in the above captioned matter and requests the court review material presented concerning the First and Final Application for Fees and Expenses of Edwards Angell Palmer & Dodge LLP.

Respectfully Submitted



Harold F. Chorney
16 Spring Drive
Johnston, R.I. 02903
401 934-0536

E-387

CERTIFICATION

I hereby certify that on this 27th day of March 2008, I sent a copy of the above by first class mail to the following:

Edward J. Bertozzi, Jr.
Edwards Angell Palmer & Dodge LLP
2800 Financial Plaza
Providence, R.I. 02903

Jason D. Monzack
Kirshenbaum & Kirshenbaum
888 Reservoir Avenue
Cranston, R.I. 02910

Leonard DePasquale, AUST
Office of the U.S. Trustee
10 Dorrance Street
Providence, R.I. 02903


HAROLD F. CHORNEY

E-388

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND**

IN RE: CUMBERLAND

CA. NO. 89-11051

INVESTMENT CORPORATION

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO ASSIST AND HELP THE COURT
CONCERNING THE FIRST AND FINAL APPLICATION FOR FEES
AND EXPENSES OF EDWARDS ANGELL PALMER & DODGE LLP

Now comes Harold F. Chorney, pro se, a petitioner with property interests and an interested party in the above captioned matter and requests the court review material presented concerning the First and Final Application for Fees and Expenses of Edwards Angell Palmer & Dodge LLP.

Petitioner states for cause that it is about time that a full and proper accounting of the estate be given to all parties in this case. Petitioner presents to the court Exhibits to aid the court to obtain a proper accounting of estate assets. For reasons unknown, some of the billings in these exhibits, according to service listings, are and/or have been in the possession of the following court officers: Mr. Bertozzi, Mr. Cullen, Mr. Monzack, Mr. Boyajian, Mr. McGowan, Mr. Weingarten, and the U.S. Trustee's office in Boston, yet none of these court officers have come forth with these billings.

I. EXHIBITS PRESENTED:

A. EXHIBIT 1, COURT ORDER, DATED DECEMBER 12, 1990

A court order, was signed by Arthur N. Votolato, on December 12, 1990 Docket entry 224, dated 12/13/1990 states, "Order Granting [206-1] Amended Motion re [196-1 Motion to authorize borrowing pursuant to Section 364(c)(1) and for nunc pro tunc authorization by John F. Cullen. Signed On 12/12/90 SEE ORDER FOR DETAILS..." (See Petitioner's Exhibit 1.) Mr. Bertozzi was a signatory to this court ORDER, dated December 12, 1990 (Exhibit 1), and at times was the attorney for both the Trustee and the Examiner.

1. According to Paragraph E. on page 2 of Exhibit 1.,

"Eastland previously advanced \$75,000 to the Trustee which was used by the Trustee to pay for a portion of the Trustee's Expenses."

2. According to paragraph 2. On page 4 of Exhibit 1.,

"The Trustee is hereby authorized to borrow up to \$400,000 from Eastland in accordance with the terms and provisions hereof and in accordance with the terms and provisions of the Post-Petition Financing Agreement."

No accounting of loans made by Eastland to Trustee have been disclosed to Petitioner or to the creditors of the estate of C.I.C.

3. According to paragraph 10. On page 8 of Exhibit 1.,

"The Trustee and Eastland shall establish an escrow account at Eastland into which all advances made by Eastland to the Trustee, and all proceeds from the sale of Post-Petition Collateral, shall be deposited (the "Escrow

Account"). The Trustee shall cause such funds to be distributed in the order and manner as follows: 1) \$70,000 to the Examiner and \$14,000 to his Counsel to pay previously approved administrative claims; 2) \$75,000 plus interest to Eastland to be applied to that portion of the Post-Petition Debt previously advanced to the Trustee; 3) the Trustee's subsequent fees and expenses, and other administrative expenses subject to further order of this court; 4) to Eastland to be applied against the Post-Petition Debt initially to (a) accrued and accruing interest (at a rate set forth in the Post-Petition Financing Agreement, fluctuating as set for the therein), (b) then to all fees and expenses provided for in the Financing Agreement, and (c) then to the unpaid principal balance of the Post-Petition Debt; 5) the remaining proceeding will be held in the Escrow Account subject to further order of this Court."

No accounting of the Post-Petition distribution of funds to the Examiner or to Mr. Bertozzi has been made. The lack of accounting can only beg the question as to whether Mr. Bertozzi or others have received any remuneration from this fund for their services.

B. Exhibit 2, FIRST AND FINAL APPLICATION FOR FEES AND EXPENSES OF EDWARDS ANGEL PALMER DODGE LLP

1. Said application of EAPD requests fees and expenses for the period of August 23, 1990 through August 29, 1991.

2. Said application of EAPD states in paragraph 8, page 2:

"EAPD is not seeking payment for \$35,921.36 in fees for services rendered to the Trustee during the period August 30, 1991 through December 22, 1993 because, due to a glitch in transferring data to a new computer, EADP cannot recover the data as to individual time entries for that period, although the computer does show the data to the aggregate amount of fees for said period."

No mention of any remuneration to EAPD from the funds authorized to be advanced by Eastland to the Trustee.

C. Exhibit 3, EDWARDS & ANGEL BILLINGS TO TRUSTEE AND EXAMINER FROM AUGUST 31, 1991 THROUGH NOVEMBER 29, 1993

1. This group of billings by EAPD to the Examiner and Trustee was to the best of Petitioner's knowledge given to the Examiner, Michael Weingarten; Chapter 11 Trustee, John F. Cullen; Petitioner, Harold F. Chorney; John Boyajian, attorney for C.I.C. Matthew McGowan, attorney for the Creditors Committee and the clerk of bankruptcy court.

Despite all the parties who received copies of the Bertozzi billings, no one except Petitioner has come forward with knowledge of or producing this set of billings.

D. EXHIBIT 4, OCTOBER 26, 2007, FINAL APPLICATION OF FORMER CHAPTER 11 TRUSTEE, JOHN F. CULLEN FOR ALLOWANCE OF COMPENSATION & REENBURSEMENTS.

1. This October 26, 2007 Billing references the Court Order referred to in Exhibit 1., listed above. Paragraph 3. of the October 26, 2007 billing application states:

“Pursuant to the post Petition Financing Agreement between the Trustee and Eastland Bank and this Court's Order Authorizing Borrowing Pursuant to §§326 and 330 of the Code, Trustee requests herein a final allowance for services rendered as Chapter 11 Trustee.”

Despite the fact that Petitioner is a party to the Court Order, dated December 12, 1990, Petitioner has not been able to obtain an accounting of the funds borrowed or used by the Chapter 11, Trustee. Petitioner

has no idea as to what compensation and reimbursement of expenses has already been paid to the Chapter 11, Trustee, John F. Cullen; the Examiner, Michael Weingarten; their attorney, Edward Bertozzi and others from the money borrowed or from Eastland Bank and possibly other sources.

E. EXHIBIT 5, AFFIDAVIT OF JOHN F. CULLEN, DATED 9/26/91, BILLING FROM 9/28/90 TO 9/25/91 FOR \$50,643.50.

1. According to the Certificate of Service, dated 9/26/91, Kathleen T. Ong, Esquire, signed on behalf of Cullen & Resnick, the service to Jonathan F. Oster, attorney for Petitioner; Edward J. Bertozzi, EDWARDS & ANGEL, attorney for the Chapter 11, Trustee, John F. Cullen; and the United States Trustee, 472 O'Neill Federal Office Building, 10 Causeway Street, Boston, Massachusetts 02222.

Despite the fact that Mr. Bertozzi and Edwards and Angel and the U.S. Attorney received the 9/26/91 billing, only Petitioner has come forward with this billing, despite being gagged by the court. See In Re: Cumberland Investment Corporation ON APPEAL FROM A JUDGMENT OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF RHODE ISLAND, DATED NOVEMBER 1, 2007, PAGES E-247 to E-255.

II. DISCUSSION

Petitioner compared (Exhibit 4 above), the Cullen Billing dated October 26, 2007, with the billings of his attorney, Edward Bertozzi, both the August 1990 to August 1991 , (Exhibit 2 above) and the August 1991 to November 29, 1993, (Exhibit 3 above).

A comparison of the billings show inconsistencies between the Cullen and

Bertozzi billings on both the billings produced by Mr. Bertozzi in Exhibit 2, as well as the billing allegedly lost by Mr. Bertozzi in Exhibit 3.

Listed below are some examples of these inconsistencies:

1. The Cullen billing, dated 6/17/91, shows a conference between Cullen and Bertozzi while the Bertozzi billing for the same date shows the meeting between Bertozzi and Weingarten.
2. The Cullen billing, date 7/11/91, shows a meeting between Cullen and Bertozzi while the Bertozzi billing for the same date shows the meeting between Bertozzi and Baverstam.
3. The Cullen billing, dated 7/19/91, shows a conference between Cullen and Bertozzi while the Bertozzi billing for the same date shows the conference between Bertozzi and Baverstam.
4. The Cullen billing, dated 7/23/91, shows a conference between Cullen and Bertozzi while the Bertozzi billing for the same date shows no conference but a letter sent to Cullen by Bertozzi.
5. The Cullen billing, dated 7/24/91, shows a conference between Cullen and Bertozzi while the Bertozzi billing for the same date shows no conference between Cullen and Bertozzi.
6. The Cullen billing, dated 7/30/91, shows a meeting between Cullen and Bertozzi while the Bertozzi billing for the same date shows the meeting to be between Bertozzi and Weingarten.
7. The Cullen billing, dated 8/1/91, shows a meeting between Cullen and Bertozzi while the Bertozzi billing of the same date shows the meeting between Bertozzi and Weingarten. Although Mr. Resnick was there, there is no indication that Mr. Cullen was present according to the Bertozzi billing.
8. The Cullen billing, dated 8/2/91, shows a conference between Cullen and Bertozzi while the Bertozzi billing of the same date shows the conference was between Mr. Bertozzi and Ms. Serreze, then attorney for Eastland Bank.

9. The Cullen billing, dated 8/5/91, shows Cullen researching issues with Bertozzi while the Bertozzi billing of the same date shows Mr. Bertozzi researching the issues, with no Cullen present.
10. The Cullen billing, dated 8/6/91, shows Cullen in a conference with Bertozzi and Silverstein while the Bertozzi billing of the same date shows Mr. Bertozzi in a conference with Mr. Silverstein without Mr. Cullen being present.
11. The Cullen billing, dated 8/15/91, shows Cullen in a conference with Bertozzi and McGown while the Bertozzi billing of the same date shows Mr. Bertozzi in a conference with Mr. Weingarten and Mr. Resnick.
12. The Cullen billing, dated 8/22/91, shows Cullen and Bertozzi in a conference while the Bertozzi billing of the same date shows Bertozzi in a conference with a coin claimant.
13. The Cullen billing, dated 8/26/91, shows Cullen in a conference with Bertozzi while the Bertozzi billing of the same date shows Bertozzi in a conference with Baverstam.
14. The "lost Bertozzi billing", dated 9/3/91, shows Bertozzi in a conference with Cullen while the Cullen billing of the same date shows no conference between Bertozzi and Cullen.
15. The "lost Bertozzi billing", dated 9/5/91, shows Bertozzi in a conference with Cullen and Weingarten while the Cullen billing of the same date shows no conference between Bertozzi and Cullen.
16. The "lost Bertozzi billing", dated 9/30/91, shows Bertozzi in a conference with Cullen while the Cullen billing of the same date shows no conference between Bertozzi and Cullen.
17. The "lost Bertozzi billing", dated 11/12/91, shows Bertozzi in a conference with Cullen while the Cullen billing of the same date shows no conference between Bertozzi and Cullen.

18. The "lost Bertozzi billing", dated 12/6/91, shows Bertozzi in a conference with Cullen while the Cullen billing of the same date shows no conference between Bertozzi and Cullen.

19. The "lost Bertozzi billing", dated 2/13/92, shows Bertozzi in a conference with Cullen while the Cullen billing of the same date shows no conference between Bertozzi and Cullen.

20. The "lost Bertozzi billing", dated 2/10/92, shows Kumins served a motion to examine Chorney while the Cullen billing of the same date shows Cullen preparing a motion for rule 2004 Exam with Bertozzi.

III. ARGUMENT:

There are numerous inconsistencies in the billings of Mr. Bertozzi and Mr. Cullen as evidenced above. There are missing billings and what appears to be fabricated billings presented to the court for approval some fourteen (14) years after the services of these "professionals" have been performed.

Disclosure from the missing Bertozzi billings indicate that Mr. Bertozzi met with Mr. Posner, AUSA on numerous occasions. The allegations of Petitioner that Mr. Posner was a party to the civil bankruptcy and was involved in Mr. Bertozzi in drawing up court orders is bolstered by the 2/13/92 billing, "conference with Posner on Chorney orders" and the 9/17/92 billing, "conference with Posner; review indictment..."

In addition to the problems raised above, there are others. To date no billings from Mr. Boyajian, attorney for Cumberland Investment Corporation, or from Mr. McGowan, attorney for the Creditors' Committee

have been submitted.

There appears to be no accounting of the funds and assets used to fund the Court Order, dated December 12, 1990.

There is no listing of the assets seized by the Chapter 11 Trustee on August 17, 1990 and August 23, 1990. It has recently come to light that all the videos concerning these assets have not been made available to Petitioner. Assets of the estate are missing and creditors have been prevented from receiving their due.

WHEREFORE, in light of the above, Petitioner requests an accounting of amount(s) paid to EAPD in accordance with paragraph 10 of Court Order, dated December 12, 1990 for services rendered to either Cambridge Meridian Group or to Trustee, John F. Cullen or firm of Cullen & Resnick.

In addition, Petitioner seeks that the Court require attorney for the Chapter 11 Trustee, Edwards, Angell, Palmer & Dodge LLP (EAPD) provide Petitioner with a stipulation that EAPD is responsible for their actions during all time periods during the Cumberland Investment Corporation case despite the lack of billing for the time period of August 30, 1991, through December 22, 1993.

Furthermore, Petitioner requests the Court issue a "comfort order" that any claim need not be pursued in the bankruptcy proceeding and states for

cause that the Petitioner has alerted the Court to the existence of claims,
that the gag order of November 3, 2007 be removed and any other remedy
the court meets just and fair.

Respectfully Submitted



Harold F. Chorney
16 Spring Drive
Johnston, R.I. 02903
401 934-0536

CERTIFICATION

I hereby certify that on this 27th day of March 2008, I sent a copy of the above by first class mail to the following:

Edward J. Bertozzi, Jr.
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2800 Financial Plaza
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HAROLD F. CHORNEY

OFFICE OF THE CLERK
UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

The Federal Center
380 Westminster Mall, 6th Floor
Providence, Rhode Island 02903

Susan M. Thurston
Clerk of Court

Telephone: 401 626-3100
Facsimile: 401 626-3150

March 27, 2008

RE: Cumberland Investment Corporation Bk. 89-11051

Dear Mr. Chorney,

Please be advised: The enclosed document is being returned to you in accordance with this Court's November 3, 2004 Order (Doc. No. 900) Granting Motion to Strike and Imposing Additional Sanction, as the matter is moot.

In addition, copies of the appellant's response to show cause motion are being returned as this matter is before the First Circuit Court of Appeals.

Sincerely,

Deputy Clerk

Enclosures: Petitioner's Motion for a 60 Day continuance
Copies (2) of Appellant's response to show cause motion

E-400