

12-3237-200?

January 9, 2013

TO: Fellow SB Capital Investors
FROM: J. Robert Gilroy
SUBJECT: SB Capital Communications

For those of you who have signed up as members of SB Capital Investor's Committee, I thank you.

If you would like to become a member of the SB Capital Investors Committee, please send a request to me via email and I will forward an application form to you.

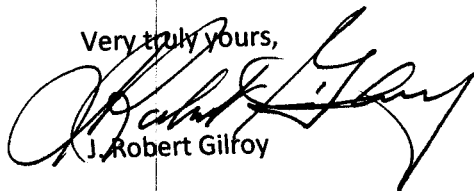
If you have not made up your mind whether or not you want to join the Committee -- or you have elected not to become a member of the Committee, that's okay with me. I fully understand.

If you would like to receive copies of Investor Committee email communiques ("SB Capital Newsletters" as I refer to them), I would be happy to send them to you even if you are not a Committee Member. However, in order to do so I will need your email address. Would you please send an email to me at bjgilroy@firstwestcapital.com and confirm that you have received this letter. When you do so, I will have your email address and will add it to my Newsletter email address file. In that way you will be able to receive all future Newsletters from me, even if you are not a Committee Member.

As this fiasco proceeds, I am certain that there will be little tidbits of information (such as those in the enclosed Newsletter) that you will find interesting and hopefully helpful to you in deciding how best to cope with your losses arising out of the SEC's Temporary Restraining Order and the Receivership actions which followed.

Meanwhile, Best Wishes for the New Year.

Very truly yours,



J. Robert Gilroy

cc: Mr. Thomas Seaman
Judicial Receiver
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tom@thomasseaman.com

Mr. Mark Feathers – markfeathers@sbcglobal.net

Mr. John Brian Bulgozdy
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Hon. Edward J. Davila
San Jose Courthouse
Courtroom 4, 5th Floor
280 South 1st Street
San Jose, CA 95113

SB CAPITAL NEWSLETTER

The Receiver has recently filed his "First Fee Applications" covering the period from June 26, 2012, through and including September 30, 2012 – the first 97 days of this fiasco. Those Fee Applications cover the fees of Receiver and of the law firm of Allen, Matkins (the Receiver's legal counsel in this matter). If you have not already done so, you might want to browse through those filings. FYI -- the attorney's Fee Application package consists of 88 pages and the Receiver's is 153 pages long!

The Motion filed by the Receiver wherein he asks the Court to approve those Fees is scheduled to be heard by the Court on February 22, 2013 – the same date as the Court will hear Mark Feathers' motions and the SEC's opposition to Mark's motions.

Here is a brief recap of the Receiver's Fee Applications:

1. The Fees which the Receiver and his attorneys incurred for that 97-day period (June 26, 2012 through and including September 30, 2012) are as follows:

The Receiver (who charges \$375 per hour for his time) and his staff (who charge an average of approximately \$196 per hour) have accumulated a total bill of \$241,927.

Allen, Matkins, the Receiver's attorneys, charges (for the period from July 10, 2012 when the Receiver retained the Allen, Matkins law firm, through September 30, 2012), total \$135,864.40.

You might be interested to know that Allen, Matkins' attorneys' fees averaged \$454 per hour with four of their attorneys charging more than \$575 per hour! When you review Exhibit A of the Attorneys' Fee Application, you will note that a portion of the attorneys' time was devoted to:

- a. drafting sections of the Receiver's initial report;
- b. provided documents and information of the Receiver's accounting and his internal Status Reports to the Court;
- c. assisting the Receiver in preparing a letter that was sent to all investors on July 12, 2012;
- d. assisted the Receiver in updating the Receiver's website;
- e. worked on Receiver's Report related issues and finalized the same;
- f. worked on Receiver's Report;
- g. reviewed and evaluated issues related to Receiver's Report and revised draft of same;

- h. review and revise the Receiver's investor letter and FAQ's for Receivership website;
 - i. review and revise the Receiver's Investor letter and FAQ's for Receivership website; etc.
- all of which could explain why the Receiver's Report is on Allen, Matkins letterhead.

To summarize, the Receiver is billing a total of \$377,791.40 for the Receivership costs for the period from June 26, 2012, through September 30, 2012 – or an average of \$3,894.76 for each of those 97 days (counting Saturdays, Sundays and Holidays). Now just remember that the Receivership costs will be paid one way or another from the liquidation of Receivership Assets – the primary sources of capital of which arise from Fund loan payments, and from liquidating the assets in the SBC Investors Prime Fund, the SBC Portfolio Fund and the SBC Senior Commercial Loan Fund; or to put it more directly – **THE RECEIVERSHIP COSTS WILL BE PAID USING YOUR CAPITAL AND MINE!**

Now, let's see where this leads us. There are approximately 145 days between October 1, 2012, and February 22, 2013. Assuming the cost of the Receivership entities continue at the same rate for that 145-day period, by February 22, 2013 (when the Court will hear the Receiver's Motion to approve Receivership Cost for the period ending September 30, 2012), there will be additional Receivership Costs incurred in the approximate amount of \$564,739 – or to put it another way, the Receivership will have cost us (the Investors) approximately \$942,930 – and – **as of February 22, 2013, the start of the Feathers trial will still be at least four months --or maybe as long as 12 months in the future!**

2. Who is representing whom? On several occasions I have been asked by investors, "Who represents us (the Investors) in this gigantic mess?" I have responded with my own questions. Let's see, who could it be? Could it be the SEC? I don't think so. The SEC is holding our Funds hostage (Funds which they have erroneously referred to as "Defendants"¹) while the Receiver and his attorneys continue to drain our capital. Ah, then perhaps it is the Receiver and his attorneys who are representing us? No. Not that I can see. They are instruments of the Court and the SEC. As such, they bill and collect for services rendered in performance of those duties; i.e., in representing the SEC and the Court – **but clearly not representing us, the Investors.** In fact, it would seem that the Receiver's and his attorneys' interests are opposite of ours i.e. **it is to their financial benefit that this fiasco goes on ad nauseam!** Ah, then, perhaps it's the FBI? No. The FBI appears merely to be merely seeking information

¹ "Funds," which are inanimate objects (i.e., holders of Investors Capital) did not and could not commit frauds, sell securities, violate sections of the Exchange Act or act as a "person" that controlled SB Capital or in any way were guilty of "illegal conduct." In my opinion, the only reason the SEC named our Funds as "Defendants" is solely and only because it would allow the SEC (through the TRO) to tie up our Funds – so that the SEC would have the capital in Our Funds readily available to pay the costs of the Receivership. There is no other logical explanation!

about Mark Feathers and SB Capital – presumptively on a search initiated by the SEC in their endeavor to prove that Mr. Feathers is guilty of the claims asserted by the SEC in its complaint. Certainly that's not going to help us recover our funds. That leaves us with Mark Feathers. If you were in his shoes, you would probably do what he is attempting to do, that is to regain control of his company and other personal assets and to prove his innocence. I can understand his pursuit of those objectives. Unfortunately, that does not help us get our capital back. In fact, the continuing delays in recovering our investments (including those delays occasioned by Mr. Feathers' attempt to clear his name and regain control of SB Capital) are costing us dearly. Furthermore, it is highly likely that the Feathers/SEC battle will go on for a number of months, maybe even years after February 22, 2013!

If you believe, as I do, that the whole SEC/Receivership matter is totally out of control and therefore that the SB Capital Funds should be liquidated as quickly as possible (as I proposed back in October, 2012) – **and that the proceeds from that liquidation should be immediately thereafter be returned to the investors**, you should so advise the SEC, the SBA, the Court, and the Receiver. Their email and regular mail addresses are as follows:

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Irvine, CA 92614
tom@thomasseaman.com

Mr. Eric James Adams
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Mr. John Brian Bulgozdy
SEC San Jose Courthouse
5670 Wilshire Boulevard, #1100
Los Angeles, CA 90036-3648
bulgozdy@sec.gov

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Courtroom 4, 5th Floor
280 South 1st Street
San Jose, CA 95113

Meanwhile, I have been approached by some outside investors who indicated that they are planning to join forces with an SBA approved licensee and acquire from the Receivership all of the Receivership assets, including, but not limited to, the Fund assets and their controlling documents, the SBA licenses, the accounting software systems, the existing REOs, the accounts receivable, etc. In the event that on February 22, 2013, the Court, acting on its own motion, does not cause the Receiver to immediately liquidate the SB Capital Fund Assets, it is my understanding they will proceed with their acquisition efforts. If they are successful with their acquisition plans reportedly they will proceed to make pro rata distributions of the cash in the Funds to the Investors in those Funds. Concurrently they intend to transfer the SBA licenses and other assets to another SBA licensee and arrange for the sale of the loans

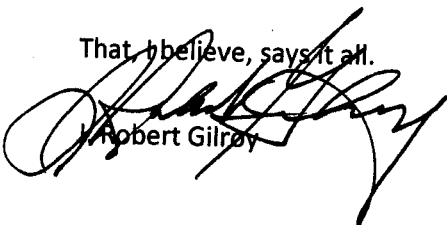
in the Funds to that licensee. They would then be in a position to make a second distribution of the proceeds from the sale of loans to the Investors in the Funds which owned those loans.

Should this occur, the SEC, the Court and the Receiver will be left with the net proceeds of that sale, at which time the SEC will be in a position to follow one of two courses of action, either proceed with litigation against SB Capital, Feathers, et al., or settle with Mr. Feathers – either of which course of action could then proceed without further adverse monetary effects on us, the investors.

In conclusion, I recently received a copy of a letter sent to the Receiver by Mr. Dan Barron, one of the investors who is also an attorney. I thought that his comments were so clearly “on point” that I contacted him and asked if I could quote him in my Investor Newsletter. He graciously consented. Here are some excerpts from Mr. Barron’s letter:

1. “I have painstakingly reviewed your (the Receiver’s) exhibits that purportedly support your first interim fee application, as well as those of your attorneys.” “Although it is understandable that you would initially have excessive expenses in learning what the Small Business Capital entities are about, can you actually justify incurring such a high dollar amount for a three-month period?”
2. “I have received Mr. Gilroy’s communications, as well as those of Mr. Feathers and his Motions to the Court. As an investor in Investors Prime Fund, I am disturbed by his (Gilroy’s) revelation that Fund had diminished in value by nearly 58%.” “Certainly the submission of your Interim Fee Application corroborates his (Gilroy’s) desire to have you liquidate the SBC Assets and distribute the proceeds as quickly as possible. I join him in this wish.”
3. “It occurs to me that your company (the Receiver’s company’s) interests are in opposition to the investors’ interests, as you generate fees that are to be paid from the investors’ invested assets, which are now frozen. How is this not a conflict of interest?”
4. “I feel powerless to protect my investment and your letter and Application for Interim Fees have not assuaged this feeling. Long live the Securities and Exchange Commission for its avid protection of the public!”

That, I believe, says it all.



Robert Gilroy

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