

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

MARIE MURPHY, Special Deputy
Commissioner of Commerce and Insurance
for the State of Tennessee,

Petitioner,

v.

SMART DATA SOLUTIONS, LLC
a Tennessee limited liability company,
AMERICAN TRADE ASSOCIATION,
INC, an Indiana nonprofit corporation with
its principal place of business in Tennessee,
AMERICAN TRADE ASSOCIATION,
LLC, an Arkansas limited liability company,
SERVE AMERICA ASSURANCE,
a corporation with an unknown location,
BART S. POSEY SR., ANGIE POSEY
OBED W. KIRKPATRICK, RICHARD
H. BACHMAN, WILLIAM M. WORTHY
and COLIN YOEUELL

Respondents.

RECEIVED

NOV - 1 2011

Day of Chancery Court
No. 10-507-III

CLERM & MASTER
DAVIDSON CO. CHANCERY CT.
D.C.&M.

2011 NOV - 7 PM 3:51

FILED

**ORDER APPROVING FEES OF SPECIAL DEPUTY RECEIVER,
SPECIAL COUNSEL, AND THIRD PARTY CONTRACTORS**

On October 25, 2011, during a specially set hearing, the Court considered the motion of the statutory Liquidator, the Special Deputy Commissioner of Commerce and Insurance, for approval of fees of the Special Deputy Liquidator, special counsel, and third party contractors for services provided from January 1, 2011 through June 30, 2011, pursuant to Tenn. Code Ann. § 56-9-310(a)(4). As part of the motion, the affidavits of Special Deputy Commissioner Marie Murphy, Elizabeth Martin (General Counsel of the Tennessee Department of Commerce and Insurance ("Department")), Mark Jaquish (Director of Receiverships for the Department), John Williams (Director of Internal Audit

for the Department), and Paul Eggers (Special Deputy Liquidator) were submitted to the Court, setting forth in detail the procedures and the process that is followed by the Special Deputy Commissioner and her staff in reviewing the detailed fee invoices and in exercising her discretion in determining the fee payments. The Liquidator also filed with the Court the certifications that describe the rate, the hours worked, the amount charged, and the person(s) performing the work.


On October 19, 2011, Fletcher Long, Esq. and John Herbison, Esq. filed a notice of appearance on behalf of Smart Data Solutions, LLC ("SDS"), Bart S. Posey, Sr., and Angie Posey, and then on October 20, 2011, filed opposition on behalf of these respondents to the Liquidator's motion. The Liquidator filed a reply on October 24, 2011, which in part contested the legal authority for anyone other than the Liquidator to represent at this stage of the Liquidation the entities of Smart Data Solutions, LLC ("SDS"), American Trade Association, Inc., American Trade Association, LLC (collectively referred to as "ATA"), and Serve America Assurance ("SAA").

At the October 25, 2011 hearing, the parties waived argument and relied upon their filings. The Court finds that, at this stage of the Liquidation, the entities of SDS, ATA, and SAA are under the exclusive authority of the Liquidator and cannot be represented by any other person. Thus, Mr. Herbison and Mr. Long will be reflected on the pleadings as only representing respondents, Bart S. Posey, Sr. and Angie Posey. Additionally, Mr. Long and Mr. Herbison have clarified that they are currently representing respondents, Bart S. Posey, Sr. and Angie Posey, in the underlying receivership matter. The Court instructs them to file notices of appearance if their representation is expanded to cover any of the sub-matters in this Liquidation.

Further, the Court adopts and incorporates herein the reasoning and template set forth in the Court's November 15, 2010 Memorandum and Order. In that Order, the Court set forth the law that applies to this case, and the Court has used the law set forth in that Order and has applied it to the Court's review of the Liquidator's motion and the affidavits and attachments filed in support of the motion. The Court finds that the Liquidator's filing is in order and provides more than adequate support for the Court to approve the Liquidator's fee motion.

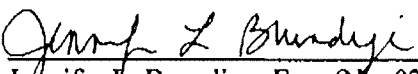
It is therefore ORDERED that the Liquidator's motion for approval of fees of the Special Deputy Liquidator, special counsel, and third party contractors (filed on October 6, 2011) is granted.

It is further ORDERED that the representation of Mr. Long and Mr. Herbison is limited to, and shall be reflected on the pleadings as to, individual respondents, Bart S. Posey, Sr. and Angie Posey, in the underlying receivership matter only.



ELLEN HOBBS LYLE
CHANCELLOR

Approved for Entry:



Jennifer L. Brundige, Esq. (No. 020673)
LUNA LAW GROUP, PLLC
333 Union Street, Suite 300
Nashville, TN 37201
(615) 254-9146

*Special Counsel for Special Deputy
Commissioner Marie Murphy in her
Capacity as Statutory Liquidator and
for Special Deputy Liquidator Paul
Eggers*

CERTIFICATE OF SERVICE

I hereby certify this 1st day of November, 2011, that a true and exact copy of the foregoing has been served by U.S. mail, postage pre-paid, and/or via email as indicated, to the parties and interested entities listed on the attached service list.

Attorneys For Petitioner

Sarah A. Hiestand
Senior Counsel
Financial Division
Office of the Attorney General
P.O. Box 20207
Nashville, Tennessee 37202-0207

Lyndsay F. Sanders
Senior Counsel
Law Enforcement & Special Prosecutions Division
Office of the Attorney General
P.O. Box 20207
Nashville, Tennessee 37202-0207

Robert M. Garfinkle
Garfinkle, McLemore & Young, PLLC
2000 Richard Jones Road, Suite 250
Nashville, Tennessee 37215

Attorneys for Respondents Obed W. Kirkpatrick, Sr. and Linda Kirkpatrick

David L. Raybin
Hollins, Raybin & Weissman, P.C.
Suite 2200, Fifth Third Center
424 Church Street
Nashville, Tennessee 37219 615-256-6666 ext 220; Fax: 615-254-4254

Respondent Serve America Assurance, Ltd.:

Serve America Assurance, Ltd. Company
117 Winding Oak Way
Blythewood, South Carolina 29016

Serve America Assurance, Ltd.
c/o Beema Pakistan Company, Ltd.
M. Shahnawaz Agha, Chairman
412-427 Muhammadi House
I.I. Chundrigar Road, P.O. Box 5626
Karachi-74000, Pakistan

Email: shahnawazagha@yahoo.com

Individual Respondents:

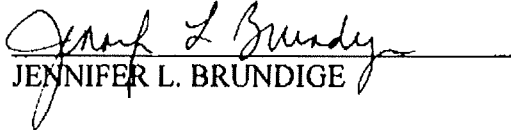
Mr. William M. Worthy II
P.O. Box 462
Isle of Palms, SC 29451

Bart Posey
3448 Forest Park Drive
Springfield, TN 37172

Richard H. Bachman
1600 Magpie Cove
Austin, Texas 78746

Collin Youell
1551 North Flagler Drive, #1116
West Palm Beach, FL 33401
(Unknown, not able to deliver to this address)

Fletcher W. Long
John E. Herbison
Long & Herbison, PLLC
1310 Madison Street
Clarksville, TN 37040
(Attorneys for Individual Respondents, Bart S. Posey, Sr. and Angie Posey)


JENNIFER L. BRUNDIGE