

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**SECURITIES AND EXCHANGE
COMMISSION**

Plaintiff

v.

**DONALD ANTHONY WALKER YOUNG,
ET AL.**

Defendants

**OAK GROVE PARTNERS, L.P.,
NEELY YOUNG, AND W.B. DIXON
STROUD JR.,**

Relief Defendants

Civil Action No.: 2:09-cv-01634-JP

**RECEIVER LOUIS C. BECHTLE’S MOTION TO REOPEN CLAIMS PROCESS FOR
ONE ADDITIONAL PAYMENT**

The Receiver, Louis C. Bechtle, hereby moves this Court for an order approving a limited reopening of the claims process in order to address the payment of a creditor claim of \$50,000 in final resolution of the claims of Welsh & Recker, P.C. (“Welsh & Recker”) against the assets of the Receivership. The grounds in support of this motion are set forth in the accompanying memorandum.

Respectfully submitted,

/s/ Kevin Dooley Kent

Patricia M. Hamill, Esquire (I.D. No. 48416)
Kevin Dooley Kent, Esquire (I.D. No. 85962)
Andrew S. Gallinaro, Esquire (I.D. No. 201326)
Conrad O’Brien PC
1500 Market Street, Centre Square
West Tower, Suite 3900
Philadelphia, PA 19102
Counsel for Louis C. Bechtle, Receiver

Dated: September 16, 2013

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE	:	
COMMISSION	:	
	:	
Plaintiff	:	
	:	Civil Action No.: 2:09-cv-01634-JP
v.	:	
	:	
DONALD ANTHONY WALKER YOUNG,	:	
ET AL.	:	
	:	
Defendants	:	
	:	
OAK GROVE PARTNERS, L.P.,	:	
NEELY YOUNG, AND W.B. DIXON	:	
STROUD JR.,	:	
	:	
Relief Defendants	:	
	:	

**BRIEF IN SUPPORT OF RECEIVER LOUIS C. BECHTLE’S MOTION TO REOPEN
CLAIMS PROCESS FOR ONE ADDITIONAL PAYMENT**

Louis C. Bechtle, Receiver for the Assets and Records of Acorn II, LP, Acorn Capital Management, LLC., Donald Anthony Walker Young, and Neely A. Young (“the Receiver”) hereby moves this Court for an order approving a limited reopening of the claims process and to approve one payment of \$50,000 in final resolution of the claims of Welsh & Recker, P.C. (“Welsh & Recker”) against the assets of the Receivership.

Background

Welsh & Recker, P.C. (“Welsh & Recker”) served as counsel for Donald Anthony Walker Young, Acorn Capital Management, LLC and Acorn II, LP in the above-captioned matter. On May 2, 2013 Welsh & Recker filed a Renewed Petition for Payment of Legal Fees and Expenses seeking payment for costs incurred and services rendered from April 21, 2009 through September 30, 2011 in the amount of \$96,079.01 (“Renewed Petition”). The Receiver

filed a response to the Renewed Petition, which neither supported nor opposed the petition. A number of interested parties, including the Securities and Exchange Commission (“SEC”), the United States in its capacity as a creditor for unpaid taxes, and a group of investor victims identified as Investor Nos. 14,15,16,17, and 69 filed objections to the Renewed Petition (“the Objecting Parties”). During a September 10, 2013 hearing held by the Court on the Renewed Petition, Welsh & Recker agreed to withdraw the Renewed Petition and submit a reduced request for fees and costs in the amount of \$50,000 in the form of a creditor claim to the Receiver (the “Compromise Claim”). Welsh & Recker has further agreed that payment of the Compromise Claim will fully and finally resolve its claims against the Receivership Estate. The Objecting Parties have all confirmed that they do not oppose the Compromise Claim. Moreover, the United States has agreed that the reopening of the Claims Process for the singular purpose of paying the Compromise Claim will not violate the Receiver’s settlement with the United States regarding certain tax claims and the priority of the United States *vis a vis* other creditors of the Estate, and that the Receiver will incur no liability to the United States by paying the Compromise Claim. The parties’ agreement with respect to the withdrawal of the Renewed Petition and the lack of objection to the proposed Compromise Claim is more fully set forth in the Stipulated Order attached hereto as Exhibit A.

The Court Should Reopen the Claims Procedure and Approve Payment of the Compromise Claim in Order to Resolve Welsh & Recker’s Renewed Petition

On May 14, 2010 the Court approved the Receiver’s proposed Claims Resolution Procedure that required all claims to be submitted to the Receiver on or before July 16, 2010 (“the Claims Period:”). In accordance with the approved procedure, the Receiver provided notice of the Claims Bar Date and Claims Resolution Procedure to all known Investor Creditors and Trade Creditors, and also published notice to unknown creditors in multiple forms of media

in order to provide such creditors the opportunity to present claims. The vast majority of claims presented to the Receiver were determined through the claims procedure and ultimately approved by the Court without dispute, with only a small number of claims resolved through motion practice and this Court's Order dated March 18, 2011. Welsh & Recker did not submit a claim for fees and costs to the Receiver within the Claims Period.

Accordingly, in order to pay the Compromise Claim as part of the Claims Resolution Process, as has been suggested by Welsh & Recker and the SEC, the Receiver requests authority from the Court to reopen the Claims Period for the sole purpose of addressing the claim of Welsh & Recker.¹ This request is limited, and no other creditors will be permitted to submit claims to the Receiver as part of this proposed resolution.

Payment of the Compromise Claim will have a negligible impact on the recovery paid to the Investor Victims in this case. To illustrate this point, the Receiver has calculated the impact the payment would have had on the most recent distribution, and has further calculated the impact on hypothetical future distributions of \$1 million, \$1.3 million and \$1.5 million. In each case, the deduction of \$50,000 from the proceeds available to pay distributions to investors results in only a 0.13% reduction in the contemplated distribution. The Receiver believes that resolving the dispute among the parties regarding Welsh & Recker's claims for fees is in the best interests of the Receivership Estate.

In order to afford a full and fair opportunity to the Investor Creditors that have not filed or otherwise made their position known with respect to the Renewed Petition, the Receiver will supply notice to all Investor Creditors of the proposed Compromise Claim in the form attached hereto as Exhibit B within one business day of the filing of this motion. The Receiver

¹ If the Court permits the limited re-opening of the Claims Period for this purpose, the Receiver will deem the Compromise Claim submitted by virtue of Welsh & Recker's resubmission to the Receiver of Exhibit A to its withdrawn petition, and the execution of the Stipulated Order attached hereto

respectfully requests that the Court permit a seventeen (17) day period for any interested Investors to file responses to the Compromise Plan.

Conclusion

For all the foregoing reasons, this Court should approve the proposed resolution of the Renewed Petition of Welsh & Recker for Payment of Legal Fees and Expenses by entering the attached Stipulated Order, and further by entering an Order reopening of the Claims Resolution Process and approving the payment of \$50,000 to Welsh & Recker in full satisfaction of its claims against the Receivership Estate.

Respectfully submitted,

Date: September 16, 2013

/s/ Kevin Dooley Kent _____
Patricia M. Hamill, Esquire (I.D. No. 48416)
Kevin Dooley Kent, Esquire (I.D. No. 85962)
Andrew S. Gallinaro, Esquire (I.D. No. 201326)
Conrad O'Brien PC
1500 Market Street, Centre Square
West Tower, Suite 3900
Philadelphia, PA 19102

Counsel for Louis C. Bechtle, Receiver

CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the foregoing Motion to Reopen Claims Process for One Additional Payment was filed and served on all counsel of record via the Court's Electronic Filing System, with additional copies served via electronic mail on the following:

Catherine E. Pappas, Esquire
Securities & Exchange Commission
Mellon Independence Center
701 Market Street, Suite 2000
Philadelphia, PA 19106

Robert E. Welsh, Jr., Esquire
Catherine M. Recker, Esquire
Welsh & Recker, P.C.
2000 Market Street, Suite 2903
Philadelphia, PA 19103

Gregory P. Miller, Esquire
Drinker Biddle & Reath LLP
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103

William J. Winning, Esquire
Cozen and O'Connor
1900 Market Street
The Atrium, 4th Floor
Philadelphia, PA 19103

Mark Cedrone, Esquire
Nicholas V. Pinto, Esquire
Cedrone & Pinto
123 S. Broad Street, Suite 810
Philadelphia, PA 19109

Stephen G. Stroup, Esquire
Drinker Biddle & Reath LLP
One Logan Square, 18th & Cherry Sts.
Philadelphia, PA 19103

Ari D. Kunofsky
U.S. Department of Justice Tax Division
P.O. Box 227
Ben Franklin Station
Washington, DC 20044

DATED: September 16, 2013

s/ Kevin Dooley Kent
Kevin Dooley Kent

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
Plaintiff,	:	
v.	:	
DONALD ANTHONY WALKER YOUNG,	:	Civil Action No.: 2:09-cv-01634-JP
ET AL. ,	:	
Defendants,	:	
OAK GROVE PARTNERS, L.P., et al.	:	
Relief Defendants.	:	
	:	
	:	

**STIPULATED ORDER RESOLVING CLAIM OF WELSH & RECKER, P.C. FOR
PAYMENT OF LEGAL FEES AND EXPENSES**

WHEREAS Welsh & Recker, P.C. (“Welsh & Recker”) served as counsel for Donald Anthony Walker Young, Acorn Capital Management, LLC and Acorn II, LP, and initially, some of the Relief Defendants, in the above-captioned matter;

WHEREAS on June 25, 2009, Louis Bechtle (“Receiver”) was appointed to serve as receiver for the assets and records of defendants Donald Anthony Walker Young, Acorn II, LP, Acorn Capital Management, LLC, including any and all entities owned or controlled by them (collectively, “the Acorn Entities”) and relief defendant Neely Young;

WHEREAS on November 20, 2009, Welsh & Recker filed a Petition for Payment of Legal Fees and Expenses, which was later withdrawn without prejudice to Welsh & Recker’s right to re-file its Petition at a later date;

WHEREAS on May 14, 2010 the Court entered an Order approving the Receiver's proposed Claims Resolution Process, which established a Claims Bar Date requiring all Investor Creditors and Trade Creditors to submit claims to the Receiver on or before July 16, 2010;

WHEREAS on May 2, 2013 Welsh & Recker filed a Renewed Petition for Payment of Legal Fees and Expenses seeking payment for costs incurred and services rendered from April 21, 2009 through September 30, 2011 in the amount of \$96,079.01 ("Renewed Petition") and a Reply in Further Support of the Renewed Petition on June 24, 2013;

WHEREAS the Receiver filed a Response to the Renewed Petition on June 3, 2013;

WHEREAS the Securities and Exchange Commission ("SEC") filed a Response in Opposition to the Renewed Petition on June 3, 2013 and a Surreply on July 1, 2013;

WHEREAS the United States in its capacity as a creditor for unpaid taxes filed a Response in Opposition to the Renewed Petition on June 5, 2013;

WHEREAS certain investor creditors of the Receivership estate (identified as Investor Nos. 14,15,16,17, and 69) filed a collective Response in Opposition to the Renewed Petition on June 5, 2012;

WHEREAS the SEC, United States and Investor Nos. 14, 15,16,17 and 69 are collectively referred to as "the Objecting Parties;"

WHEREAS Welsh & Recker, the Receiver, the SEC and the United States appeared for and participated in a hearing before the Court on the Renewed Petition on September 10, 2013 (the "Hearing");

WHEREAS, during the Hearing, Welsh & Recker's agreed to withdraw the Renewed Petition and submit a reduced request for fees and costs in the amount of \$50,000 in the form of a creditor claim to the Receiver (the "Compromise Claim"), payment of which will fully and

finally resolve all of its claims against the Receivership Estate; and the SEC and the United States have agreed that they will not oppose such payment;

WHEREAS, on September 10, 2013, after the Hearing, Counsel for Investor Nos. 14, 15,16,17 and 69 informed counsel for the SEC that his clients do not oppose the Compromise Claim.

WHEREAS the Receiver does not object to the Compromise Claim agreed to by Welsh & Recker and the Objecting Parties;

WHEREAS the Receiver has moved to reopen the Claims Resolution Procedure to address the Compromise Claim of Welsh & Recker in connection with the Renewed Petition, which motion provides a period of fourteen (14) days for any interested parties / creditors to object to the proposed claim, and the Receiver will serve notice to all Investor Creditors by regular mail within one business day of the filing of that motion;

Upon the consent of the undersigned parties, it is hereby:

ORDERED that the Renewed Petition is WITHDRAWN without prejudice to Welsh & Recker's ability to refile its position in the event the Court does not approve the Compromise Claim and the objections thereto are denied as moot;

ORDERED that in the event the Compromise Claim is approved, the Receiver may distribute up to \$50,000 to Welsh & Recker free and clear of any tax liens of the United States arising from any income taxes of the Acorn Entities and relief Defendant Neely Young;

ORDERED that no further modifications of the Order of Plan Distribution shall be allowed; and it is

ORDERED that nothing in this order shall discharge or release the Acorn Entities and relief defendant Neely Young from any tax liabilities or any other obligations they may have

under the Internal Revenue Code nor shall this order relieve the Acorn Entities of any remaining liabilities owed to Welsh & Recker.

Agreed:

By: /s/ Kevin Dooley Kent

Patricia M. Hamill, Esquire
Kevin Dooley Kent Esquire
Conrad O'Brien PC
1500 Market St, Centre Square
West Tower, Suite 3900
Philadelphia, PA 19102
Tel: (215) 864-9600
Fax: (215) 864-9620
Counsel for Louis C. Bechtle, Receiver

By /s/ Ari D. Kunofsky

Ari D. Kunofsky
Trial Attorney, Tax Division
United States Department of Justice
P.O. Box 227, Ben Franklin Station
Washington, DC 20044
Tel: (202) 353-9187
Fax: (202) 514-6866

Counsel for the United States

By: /s/ Catherine M. Recker

Catherine M. Recker, Esquire
Welsh & Recker, P.C.
2000 Market Street, Suite 2903
Philadelphia, PA 19103
(215) 972-6403

Not opposed by:

By: /s/ Catherine E. Pappas

Catherine E. Pappas, Esquire
Attorneys for Plaintiff SECURITIES AND EXCHANGE COMMISSION
Philadelphia Regional Office
701 Market Street, Suite 2000
Philadelphia, PA 19106
Telephone: (215) 597-3100
Facsimile: (215) 597-2740

By: /s/ Stephen B. Harris

Stephen B. Harris, Esquire
Harris and Harris
1760 Bristol Road
P.O. Box 160
Warrington, PA 18976
(215) 343-9000
Counsel for Investor Nos. 14,15,16,17, and 69

APPROVED BY THE COURT:

Date: _____

, J.

EXHIBIT B

NOTICE OF MOTION TO MODIFY PLAN OF DISTRIBUTION

Donald Anthony Walker Young, Acorn II, L.P. and Acorn Capital Management, LLC
by its Receiver, Louis C. Bechtle

P.O. Box. 59227

Philadelphia, PA 19103

215-523-8307 – mail@acornreceiver.com

RE: Securities and Exchange Commission v. Young, et al.
United States District Court for the Eastern District of Pennsylvania,
Civil Action No. 09-1634

SEPTEMBER 16, 2013

IMPORTANT NOTICE

Dear Creditor:

This is an important notification from the federally-appointed Receiver in the above-referenced matter. On September 16, 2013 the Receiver filed a Motion to Reopen Claims Procedure in order to resolve claims for fees by Donald Anthony Walker Young's attorneys, Welsh & Recker PC – a copy of which is attached to this Notice. If approved, the Receiver's Motion may materially impact your rights.

Pursuant to a proposed resolution agreed to by the SEC, the United States, and Welsh & Recker, the Receiver would pay \$50,000 to satisfy Welsh & Recker's claims against the Receivership Estate. The reasons for the proposed modification to the plan of distribution are set forth in the attached Motion.

If you have an objection to the Receiver's Motion, you must file a response with the Court. Pursuant to Rule 7.1 of the Eastern District of Pennsylvania Local Rules of Civil Procedure, **responses to this Motion are due within seventeen (17) days of the date of this Notice.** Responses must be filed with Court and should not be submitted to the Receiver. In addition to this notice, a copy of the Receiver's Motion to Reopen Claims Procedure has been posted on the Receiver's website at www.acornreceiver.com.

CONRAD O'BRIEN, PC

Patricia M. Hamill, Esq.
Kevin Dooley Kent, Esq.
Counsel for the Receiver