

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

COMMODITY FUTURES TRADING COMMISSION	:	CIVIL ACTION
	:	
v.	:	
	:	
PAUL M. EUSTACE, et al.	:	NO. 05-2973

MEMORANDUM AND ORDER RE: CANADIAN TRUSTEE

Baylson, J.

November 21, 2008

Before the Court is the Application of Canadian Bankruptcy Trustee for Paul Eustace and Counsel for the Trustee for Approval of Budgets (Doc. No. 641), and the Objection by Receiver C. Clark Hodgson to the Application (Doc. No. 646) filed October 7, 2008.

By way of brief background, Paul M. Eustace (“Eustace”), a Defendant in this case against whom a consent judgment has been entered, filed an assignment for the general benefit of the creditors in Canada under Canadian bankruptcy laws. The Receiver in this case holds in excess 99.9% of all claims that have been inserted in Eustace’s bankruptcy claims. The court in Canada appointed, as a trustee in the Canadian bankruptcy proceedings, an entity referred to as the Fuller Landau Group, Inc. (“FLG”), and FLG employed an attorney. The Receiver and another individual serve as inspectors in the bankruptcy action.

As compensation for their services to date in connection with Eustace’s bankruptcy case, FLG and its attorney have received approximately CAD \$232,100 as fees from various Canadian settlements and recoveries, apparently awarded by the Canadian court. The Receiver asserts that neither the Trustee nor its counsel have added any significant benefit to the Receivership estate, monetarily assisted the Receiver in his investigation of Eustace, or provided any significant

benefit to the Eustace bankruptcy estate.

In support of the Application of the Canadian Trustee for Approval of Budgets, the Trustee seeks for itself and its attorney additional sums for services that it asserts have already been rendered and some additional allowance for fees to be incurred.

Eustace has been indicted by the United States Attorney in this Court and he is still a fugitive. Extradition proceedings from Canada are unlikely for various reasons. After numerous depositions of Eustace, there is no evidence that he has any assets remaining. Whether Eustace will ever voluntarily appear in this district is unknown. If he does appear, and if he either pleads guilty or is found guilty, the sentencing judge must, under federal law, impose upon him an order of restitution for the vast amounts of money which he still owes to his investors.

Notwithstanding the large amounts recovered in this case as a result of the efforts of the Receiver and the Receiver Ad Litem, Eustace owes the investors at least an additional \$75,000,000.

In the many papers filed by the Canadian Trustee seeking approval of these funds in this Court, there is no showing that Eustace has any money or that any continued efforts by the Canadian Trustee or its counsel will result in benefitting the Receivership Estate. Although this Court had no participation in the awarding of any fees to FLG or its counsel, it does not appear from the record that their work has resulted in any benefit to the Receivership Estate. I have no say or opinion as to whether the Canadian Court, if it is in control of funds, should make any award of fees to FLG or its counsel, but I see no reason to do so in this case.

An appropriate Order follows.

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ORDER

AND NOW, this 21st day of November, 2008, for the reasons stated in the foregoing Memorandum, it is hereby ORDERED that the Application of Canadian Bankruptcy Trustee for Paul Eustace and Counsel for the trustee for Approval of Budgets (Doc. No. 641) is DENIED.

BY THE COURT:

s/Michael M. Baylson

Michael M. Baylson, U.S.D.J.