

1 RANDOLPH L. HOWARD (Nev. SBN 006688)
 2 KOLESAR & LEATHAM, CHTD.
 3320 West Sahara Ave., Suite 380
 2 Las Vegas, NV 89102
 Telephone: (702) 362-7800
 3 Facsimile: (702) 362-9472

4 GARY OWEN CARIS (CA SBN 088918)
 E-mail: gcaris@mckennalong.com
 5 LESLEY ANNE HAWES (CA SBN 117101)
 E-mail: lhawes@mckennalong.com
 6 MCKENNA LONG & ALDRIDGE LLP
 300 South Grand Avenue, 14th Floor
 7 Los Angeles, CA 90071-3124
 Telephone: (213) 688-1000
 8 Facsimile: (213) 243-6330

9 Attorneys for Permanent Receiver
ROBB EVANS & ASSOCIATES LLC

10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF NEVADA**

13 FEDERAL TRADE COMMISSION,

CASE NO. 2:11-cv-00283-JCM-GWF

14 Plaintiff,

15 v.

16 IVY CAPITAL, INC., etc., et al.,

17 Defendants, and

18 CHERRYTREE HOLDINGS, LLC,
 19 etc., et al.

20 Relief Defendants.

21 ORDER

22 On October 27, 2011, at 10:30 a.m., the court held a status hearing regarding the issue of
 23 legal expenses and attorneys' fees pursuant to the court's order entered August 12, 2011 (doc. #
 24 229). Gary Owen Caris of McKenna Long & Aldridge LLP appeared on behalf of the permanent
 25 receiver Robb Evans & Associates LLC ("receiver"); Daniel O. Hanks and Shamika L. Gainey
 26 appeared on behalf of plaintiff Federal Trade Commission, and Emily Cope Burton appeared
 27 telephonically on behalf of plaintiff Federal Trade Commission; David R. Koch of Koch & Scow
 28

1 LLC appeared on behalf of Benjamin E. Hoskins, Leanne Hoskins, Oxford Financial, LLC and
2 Dream Financial; Joseph S. Kistler of Hutchison & Steffen appeared on behalf of defendants
3 Fortune Learning, LLC, The Shipper, LLC, James G. Hanchett and Steven J. Sonnenberg; Chad
4 R. Fears appeared on behalf of Ivy Capital, Inc., Kyle Kirschbaum, and several other persons and
5 entities referred to as the Ivy Capital defendants; Ann C. Schneider appeared on behalf of
6 defendants Christopher M. Zelig, Zyzac Commerce Solutions, Inc., and Curva LLC; and other
7 appearances, if any, were as noted in the record. The court, having read and considered the legal
8 expense budgets submitted by various defense counsel to the receiver as set forth in the
9 Receiver's Comments Regarding Legal Expense Budgets (doc. # 200), the Receiver's
10 Recommendations Regarding Legal Expense Budgets in Response to Court's Order entered
11 August 12, 2011 (doc. # 231), the revised legal expense budgets filed in response to the court's
12 August 12, 2011 order by various defendants (doc. ## 234, 235 and 236), and all of the other
13 pleadings filed with respect to legal expense budgets by the plaintiff and defendants, having heard
14 and considered the arguments and contentions of counsel, and good cause being shown therefor,
15 it is

16 ORDERED that the legal expense budgets and, where applicable, the revised budgets
17 submitted to the receiver and the court by defense counsel, are tentatively approved, subject to a
18 reasonableness review and changed circumstances; and it is further

19 ORDERED that the receiver's recommendations as set forth in doc. # 231 are approved in
20 their entirety, as follows:

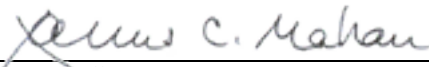
21 1. The defendants' counsel shall each submit monthly invoices to the receiver
22 showing actual fees and costs incurred for the preceding calendar month. Copies of the invoices
23 shall be served on counsel for plaintiff and other defendants in order to enable them to review and
24 comment. The receiver shall approve and authorize the payment of invoices provided they are
25 within the budgeted limit tentatively approved herein and otherwise appear generally reasonable.
26 If there is a dispute over the allowance of any portion of the fees and expenses as to any invoice,
27 the receiver and/or defense counsel may bring the matter to the attention of the court for
28

1 resolution. The invoices presented to the receiver and parties may be redacted as appropriate to
2 preserve the attorney-client privilege.

3 2. For all defendants, approved invoices shall first be paid from income of the
4 individual defendants earned after February 22, 2011 other than from telemarketing or other
5 prohibited activities, in compliance with the court's preliminary injunction order. To the extent
6 such assets are unavailable, the balance of approved fees and costs shall be paid from frozen
7 assets of the individual defendants or relief defendants. Receivership defendants' funds shall not
8 be used to fund any of the approved legal fees and expenses.

9 3. The receiver may adopt reasonable procedures to implement the terms of this
10 order.

11 Dated: November 2, 2011.



JAMES C. MAHAN
United States District Judge

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, 14th Floor, Los Angeles, CA 90071.

On October 31, 2011, I served the **ORDER** upon the parties and/or counsel listed and by the methods indicated on the attached Service List.

I declare upon the penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on October 31, 2011 at Los Angeles, California.

/s/ Pamela A. Coates
Pamela A. Coates

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

The following CM/ECF participants were served by electronic means on October 31, 2011:

- Steven R. Bartell stevebartell@cox.net, sb@tntcdlaw.com
- Emily C. Burton eburton@ftc.gov
- Gary Owen Caris gcaris@mckennalong.com, lhawes@mckennalong.com,
pcoates@mckennalong.com
- Robert D. Crockett bob.crockett@lw.com, donna.brittenham@lw.com,
djallon.dinwiddie@lw.com
- James I. Edwards ecf@beckleylaw.com
- Chad R. Fears cfears@swlaw.com, docket_las@swlaw.com,
mjimenez@swlaw.com
- Shameka L. Gainey sgainey@ftc.gov
- Tracy Green tgreen@greenassoc.com
- Daniel O. Hanks dhanks@ftc.gov
- Lesley Anne Hawes lhawes@mckennalong, pcoates@mckennalong.com
- Randolph L. Howard rhoward@klnevada.com, ckishi@klnevada.com,
usdistrict@klnevada.com
- Mark A. Hutchison mhutchison@hutchlegal.com
- Joseph S. Kistler jkistler@hutchlegal.com, bpereira@hutchlegal.com
- David R. Koch dkoch@kochscow.com
- Blair Parker bparker@parkeredwardslaw.com,
jedwards@parkeredwardslaw.com, alp@parkeredwardslaw.com
- Casey G. Perkins cgperkins@swlaw.com, ccharlet@swlaw.com,
docket_la@swlaw.com
- Ann C. Schneider aschneider@greenassoc.com
- Robert G. Schoshinski rschoshinski@ftc.gov
- Dotan Weinman dweinman@ftc.gov

1 Diane L. Welch dwelch@hutchlegal.com
2 Blaine T. Welsh blaine.welsh@usdoj.gov, sue.knight@usdoj.gov,
3 Eunice.jones@usdoj.gov, doriayn.olivarra@usdoj.gov,
4 mary.booker@usdoj.gov
5 Jeffrey Willis jwillis@swlaw.com
6 Steven L. Zelig slz@brentwoodls.com

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28