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16 UNITED STATES BANKRUPTCY COURT
17 DISTRICT OF ARIZONA

18 In re:
19 MATHON FUND, L.L.C., et al,
20
21 Debtors.

22 Chapter 11 Proceedings
23 Case No: 05-27993 PHX GBN
24 (Jointly Administered with Case Nos.
25 05-27994 PHX-SSC and
26 05-27995 PHX- JMM)

27 THIS FILING APPLIES TO:

- 28 ALL DEBTORS
 SPECIFIED DEBTORS

**FIRST APPLICATION OF JAMES C.
SELL, CONSERVATOR FOR PAYMENT
OF FEES AND REIMBURSEMENT OF
EXPENSES**

19 James C. Sell, the Court appointed Conservator in the above referenced matter, through
20 counsel of record undersigned, hereby submits his First Application for Payment of
21 Compensation and for Reimbursement of Expenses for the period May 1, 2005 through March
22 31, 2006, as more fully set forth in Exhibit "A" attached hereto in the amount of \$660,311.10. In
23 support of the Fee Application, Jaburg & Wilk, P.C. submits the following Memorandum of
24 Points and Authorities

25 DATED this 9th day of June, 2006.

JABURG & WILK, P.C.

/s/ 006510

Lawrence E. Wilk
Jonathan P. Ibsen
Special Counsel for Debtor

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I. **Procedural Background**

3 1. On or about April 1, 2005, the Arizona Corporation Commission caused to be
4 filed, in the Superior Court in and for the State of Arizona, a Verified Complaint in the above-
5 captioned matter against numerous individual defendants and entities, seeking the appointment of
6 a Receiver over the named Defendants.

7 2. On April 5, 2005, this Court issued its Order appointing James C. Sell Receiver for
8 the approximately 30 entities named in the Receivership complaint.

9 3. Subsequently, after notice and hearing, the Court on April 14, 2005 issued its
10 Order approving the Stipulation Regarding Order Appointing Conservator, in which the title of
11 James C. Sell was changed from Receiver to Conservator (hereinafter, the “Conservatorship
12 Order”). The rights and obligations of the Conservator remained identical to those of the
13 Receiver.

14 4. On July 6, 2005, the Court entered an Amended Order approving Joint Motion for
15 Operating Order which allowed the payment of professional fees in the amount of 80% of the
16 monthly billings and 100% of the monthly expenses.

17 5. Pursuant to an Order entered in the State Court proceeding on October 25, 2005,
18 that Court authorized the filing of bankruptcy for three Conservatorship Entities, Mathon Fund I,
19 LLC, Mathon Fund, LLC and W.S.F. – World Sports Fans, LLC.

20 6. On January 12, 2006, this Court entered an Order allowing for the Joint
21 Administration of the three bankruptcy estates referenced in paragraph 4, hereof. This Motion is
22 filed in the Mathon Fund LLC jointly administered case in accordance with the Court’s prior Joint
23 Administration Order.

24 7. On February 17, 2006 the United States Bankruptcy Court entered an Order
25 Establishing Procedures for Interim Compensation and Reimbursement of Professionals which
26 authorized the payment of professional fees in the amount of 80% of the monthly billings and
27 100% of the expenses.

28

1 II. Fee Application

2 1. By Operating Order dated July 6, 2005 of the State Court and the Bankruptcy
3 Court Order Established Procedures for Interim Compensation and Reimbursement of
4 Professionals filed on February 17, 2006, the Courts authorized the payment of 80% of the
5 monthly billings for fees incurred and reimbursement of 100% of expenses.

6 2. In compliance with both the State Court and Bankruptcy Court Operating Orders,
7 monthly statements were provided to the required parties, and partial payments made.

8 3. The First Application of James C. Sell, Conservator, covers the period from May
9 1, 2005 through March 31, 2006 (the "Application Period"). Applicants First Application for
10 payment of fees and reimbursement of expenses requests the approval of fees and expenses in the
11 amount of \$660,311.10. Pursuant to the Operating Order, James C. Sell has received payment of
12 \$542,428.35 during the Application Period. The payment represents reimbursement of 100% of
13 the expenses, \$70,897.35 and 80% of the fees billed in the amount of \$471,531.00, leaving a 20%
14 unpaid balance of \$117,882.75.

15 III. Payment of Pre-Bankruptcy Work

16 11 U.S.C. § 543 (c)(2) provides as follows:

17 (c) The Court, after notice and hearing, shall –

18 (2) Provide for the payment of reasonable compensation for
19 services rendered and costs and expenses incurred by such
custodian

20 After a hearing on the issue of retaining the Receiver in place, the Court excused compliance in
21 accordance with 11 U.S.C. § 543(d) and James C. Sell continues to manage the ongoing business
22 of the Debtor Entities.

23 Pursuant to 11 U.S.C. § 543(c) and the fact that James C. Sell remains in place, the pre-
24 petition lawyers, and the Receiver are entitled to "reasonable compensation for services rendered
25 and costs and expenses incurred by such custodian." 11 U.S.C. § 543 (c)(2).

26 Wherefore, the Conservator respectfully requests that this Court issue an Order
27 authorizing the payment of fees and reimbursement of expenses as more fully set forth in Exhibit
28 "A" from available funds of the Conservatorship Estate.

1 DATED this 9th day of June, 2006.

2 **JABURG & WILK, P.C.**

3 /s/ 006510

4 _____
5 Lawrence E. Wilk
6 Jonathan P. Ibsen
7 *Special Counsel for Debtor*

8 COPY of the foregoing mailed
9 this 9th day of June, 2006.

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13 Keith L. Beauchamp, Esq. Bret A. Maidman, Esq. 14 LEWIS & ROCA, LLP 40 N. Central Avenue, Suite 1900 15 Phoenix, AZ 85004-4429 16 <i>Attorney for Duane Slade and Guy Williams</i>	Merwin D. Grant, Esq. GRANT & VAUGHN, PC 6225 N. 24 th Street, Suite 125 Phoenix, Arizona 85016 <i>Attorney for Dr. Glauser, Larry Pew & Rich Stewart</i>
17 Taylor Ashworth Alan A. Meda STINSON, MORRISON & HECKER, LLP 18 1850 N. Central Avenue, Suite 2100 Phoenix, Arizona 85004-4584 19 <i>Attorneys for the Official Creditor's Committee</i>	Don C. Fletcher THE CAVANAGH LAW FIRM PA 1850 N. Central Avenue Suite 2400 Phoenix, Arizona 85004-0001
20 James C. Sell 2222 E. Camelback Road, #110 21 Phoenix, Arizona 85016 22 <i>Court Appointed Receiver</i>	

23 /s/Janet Forster

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