

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT  
INGHAM COUNTY

R. KEVIN CLINTON, COMMISSIONER  
OF THE OFFICE OF FINANCIAL AND  
INSURANCE REGULATION,

Petitioner,

v

AMERICAN FELLOWSHIP MUTUAL  
INSURANCE COMPANY,

Respondent.

Case No. 12-1173-CR

HON. WILLIAM E. COLLETTE

[IN LIQUIDATION]

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Christopher L. Kerr (P57131)  
Assistant Attorney General  
Attorney for Petitioner  
Corporate Oversight Division  
P. O. Box 30755  
Lansing, MI 48909  
(517) 373-1160

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**EX PARTE PETITION FOR APPROVAL OF JANICE SYLVERTOOTH'S  
COMPENSATION AS MANAGEMENT CONSULTANT**

R. Kevin Clinton, Director of the Michigan Department of Insurance and  
Financial Services,<sup>1</sup> as Liquidator of American Fellowship Mutual Insurance  
Company (the "Liquidator"), by and through his attorneys, Bill Schuette, Attorney  
General, and Christopher L. Kerr, Assistant Attorney General, petitions this Court

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<sup>1</sup> Pursuant to Executive Order No. 2013-1 effective March 18, 2013, the Michigan  
Office of Financial and Insurance Regulation ("OFIR") was renamed the Michigan  
Department of Insurance and Financial Services ("DIFS") and all the authority,  
powers, duties, functions, and responsibilities of the former Commissioner of OFIR  
were transferred to the newly-created position of the Director of DIFS.

pursuant to MCL 500.8121(1)(b) to approve the compensation to be paid to Janice Sylvertooth in connection with her employment as an independent contractor consultant providing management assistance and related services in the ongoing liquidation of American Fellowship Mutual Insurance Company (“American Fellowship”). In support of this Ex Parte Petition, the Liquidator states as follows:

1. On June 12, 2013, this Court entered an Order placing American Fellowship into Liquidation, appointing the Commissioner/Director as Liquidator, and appointing James Gerber as Special Deputy Liquidator of American Fellowship.

2. MCL 500.8121(1)(b) authorizes the Liquidator “[t]o employ employees and agents, legal counsel, actuaries, accountants, appraisers, consultants, and such other personnel as he or she considers necessary to assist in the liquidation.”

3. MCL 500.8121(1)(c) further authorizes the Liquidator to fix, with the Court’s approval, the reasonable compensation of any employees and agents, legal counsel, actuaries, accountants, court’s appraisers, and consultants that he employs.

4. Under the Liquidation Order and MCL 500.8121(1)(a), the Special Deputy Liquidator possesses all the powers of the Liquidator granted under Chapter 81 of the Insurance Code, subject to the supervision and direction of the Liquidator and this Court. (Liquidation Order, p 12, ¶ 20.)

5. The Liquidator and Special Deputy Liquidator have decided to employ Janice Sylvertooth as an independent contractor consultant to provide management assistance and related services in the ongoing liquidation of American Fellowship.

6. Ms. Sylvertooth is well-qualified to provide this assistance, as she possesses over 30 years of experience in human resource management and over 10 years of compliance and regulatory experience in the insurance industry. In addition, Ms. Sylvertooth has previously worked with and assisted Mr. Gerber in connection with several other insurance company receiverships, including The Wellness Plan, Ultimed HMO of Michigan, Inc., National Foot Care Program, Inc., and American Community Mutual Insurance Company. (See Exhibit A, Retainer Agreement.)

7. The Liquidator and Special Deputy Liquidator have fixed Ms. Sylvertooth's compensation pursuant to the terms contained in the Retainer Agreement attached as Exhibit A, and request the Court to approve this compensation pursuant to MCL 500.8121(1)(c).

8. Specifically, American Fellowship will pay Ms. Sylvertooth at the rate of \$38.00 per billed hour for up to 32 hours each week. (Exhibit A.) Her expenses for travel, lodging, and meals necessitated by American Fellowship business will be reimbursed separately as invoiced. (*Id.*) Either party may terminate the Agreement at any time upon providing 30-day advance written notice. (*Id.*) In the event of termination, American Fellowship will pay Ms. Sylvertooth for any accrued but unpaid billable hours and expenses incurred through the end of the 30-day notice period. (*Id.*)

9. Pursuant to MCL 500.8121(1)(d) and Paragraph 22 of the Liquidation Order, and upon the Court's approval, the compensation of Ms. Sylvertooth shall be

paid as it becomes due from the available funds and assets of American Fellowship. Although it is not expected to occur, in the event that American Fellowship does not possess sufficient cash or liquid assets to pay this compensation, the Liquidator may advance (but is not required to advance) the necessary amounts out of DIFS funds, which shall be repaid out of the first available money of American Fellowship.

10. The Liquidator and Special Deputy Liquidator have hired Ms. Sylvertooth as a management consultant based on her expertise, work quality, and prior, positive working relationship with Mr. Gerber.

11. The Liquidator and Special Deputy Liquidator have determined that Ms. Sylvertooth's employment, together with the compensation to be paid to her in exchange for her services, are necessary and appropriate for the effective and efficient administration of this liquidation proceeding and will assist in providing the maximum protection to creditors, policyholders, and the public.

12. Because Ms. Sylvertooth's assistance was required shortly after the date the Liquidation Order was entered, the Special Deputy Liquidator instructed her to begin working and she has performed compensable services that have not been paid to date. Thus, the Liquidator and Special Deputy Liquidator request the Court to retroactively approve the payment of any compensation earned by Ms. Sylvertooth prior to the date that this Petition is granted.

13. Providing personalized notice of this Ex Parte Petition and any resulting Order to all parties that may have an interest in this matter is impossible at this time because the liquidation claims submission process remains ongoing and

all such parties have not been identified. In any event, attempting to identify and personally notify every possible interested party would be time-intensive and costly to American Fellowship's Liquidation Estate. For these reasons, the Liquidator requests this Court to authorize and ratify service of this Ex Parte Petition and any resulting Order by posting electronic copies on the DIFS website, [www.michigan.gov/difs](http://www.michigan.gov/difs), under the section "Who We Regulate" and the subsection "American Fellowship Mutual." Service in this manner is reasonably calculated to give interested parties actual notice of these proceedings and is otherwise reasonable under the circumstances.

WHEREFORE, for the reasons stated above, the Liquidator respectfully requests this Court to approve the compensation to be paid to Janice Sylvertooth, as fixed by the Liquidator in the attached Retainer Agreement, in connection with her employment as an independent contractor management consultant. Because time was of the essence, the Liquidator further requests the Court to retroactively approve the payment of any compensation earned by Ms. Sylvertooth prior to the date that this Petition is granted. Finally, the Liquidator requests the Court to authorize and ratify service of this Ex Parte Petition and any resulting Order by posting electronic copies on the "American Fellowship Mutual" section of the DIFS website.

Respectfully submitted,

Bill Schuette  
Attorney General

A handwritten signature in black ink, appearing to read "Chris Kerr", written over the printed name below.

Christopher L. Kerr (P57131)  
Assistant Attorneys General  
Attorneys for Petitioner  
Corporate Oversight Division  
P. O. Box 30755  
Lansing, MI 48909  
(517) 373-1160

Dated: September 6, 2013

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June 5, 2013

James E. Gerber  
Special Deputy Rehabilitator  
American Fellowship Mutual Insurance Co.  
25925 Telegraph Road, Ste. 200  
Southfield, MI 48033

Dear Mr. Gerber,

Thank you for the opportunity to present this proposed letter of agreement to provide consulting services as directed by American Fellowship Mutual Ins. Co. I am prepared to provide management, human resource and other services that may require my assistance.

I have attached a copy of my resume outlining over thirty years (30) of experience in human resource management and over ten (10) years compliance and regulatory experience with the Department of Insurance and Financial Services. In addition, I have over nine years rehabilitation and liquidation experience with the Wellness Plan, Ultimed HMO of Michigan, National Foot Care, and American Community Mutual Insurance Company. The services provided may include but are not limited to:

- Interim Management Services
- Human Resource Management
- Facilities Management
- Mailroom/Facilities

For the above services, American Fellowship Mutual Ins. Co. will pay Sylvertooth \$38.00 per billed hour up to 32.0 hours each week. Expenses for travel, lodging, and meals necessitated by American Fellowship Mutual for business will be reimbursed separately as invoiced. Billable hours will be invoiced on a weekly basis and expenses will be invoiced monthly. Both billable hours and expenses will be net due and payable within ten (10) days of receipt.

Either party will have the option to terminate this agreement upon a thirty (30) day advance written notice. In the event of termination, American Fellowship Mutual shall be liable to compensate Sylvertooth for any accrued but unpaid billable hours and expenses incurred through the end of the 30-day notice of termination period. Upon termination, I will return any information related to services provided to American Fellowship.

All matters will be kept confidential unless such matters are public record. This agreement shall be amended only by mutual written consent of both parties.

It is acknowledged and accepted that this document constitutes the entire agreement between American Fellowship and Sylvertooth related to this engagement.

If this proposal is acceptable to you, please approve this document by signing below and return it to me.

Janice Sylvertooth  
P.O. Box 15084  
Detroit, MI 48215  
313.300.4582

Janice Sylvertooth  
Signature  
June 5, 2013  
Date

Accepted and Agree to by American Fellowship

Signature: Jan B. Koster

Title: Deputy Liquidator

Date: June 13, 2013