

IN THE CIRCUIT COURT FOR MORGAN COUNTY
NINTH JUDICIAL DISTRICT
THE STATE OF TENNESSEE

MARCIA GOLDBERG, Individually and on Behalf of All Others Similarly Situated,)	Case No. 2015-CV-33
)	
Plaintiff,)	<u>CLASS ACTION</u>
)	
vs.)	Judge Pemberton
)	
DELOY MILLER, et al.,)	
)	
Defendants.)	
)	
<hr/> KENNETH GAYNOR, Individually and on Behalf of All Others Similarly Situated,)	Case No. 2015-CV-34
)	
Plaintiff,)	<u>CLASS ACTION</u>
)	
vs.)	Judge Pemberton
)	
DELOY MILLER, et al,)	
)	
Defendants.)	
)	

AFFIDAVIT OF MICHAEL S. ETKIN FILED ON BEHALF OF
LOWENSTEIN SANDLER LLP IN SUPPORT OF APPLICATION FOR
AWARD OF ATTORNEYS' FEES AND EXPENSES

STATE OF NEW JERSEY)

) ss:

COUNTY OF ESSEX)

Michael S. Etkin, being duly sworn, deposes and says:

1. I am a member of the firm of Lowenstein Sandler, LLP (“LS” or the “Firm”). I am submitting this affidavit in support of the application for an award of attorneys’ fees and expenses/charges (“expenses”) in connection with services rendered in the above-entitled action.

2. This Firm is bankruptcy counsel of record for plaintiffs and represented the plaintiffs and the putative class in connection with the Chapter 11 proceeding of Miller Energy Resources, Inc. commenced on October 1, 2015 in the United States Bankruptcy Court for the District of Alaska (Case No. 15-00236).

3. The information in this affidavit regarding the Firm’s time and expenses is taken from time and expense reports and supporting documentation prepared and/or maintained by the Firm in the ordinary course of business. I am the partner who oversaw and/or conducted the day-to-day activities in the litigation and I reviewed these reports (and backup documentation where necessary or appropriate) in connection with the preparation of this affidavit. The purpose of this review was to confirm both the accuracy of the entries as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. Based on this review, I believe that the time reflected in the Firm’s lodestar calculation and the expenses for which payment is sought herein are reasonable and were necessary for the effective and efficient prosecution and resolution of the litigation.

4. The number of hours spent on the litigation by my Firm is 251.5. A breakdown of the lodestar is provided in Exhibit A. The lodestar amount for attorney/paralegal time based on the Firm’s current rates is \$228,245. The hourly rates

shown in Exhibit A are consistent with hourly rates submitted by the Firm in other securities class action litigation where we served as bankruptcy counsel. The Firm's rates are set based on periodic analysis of rates charged by firms performing comparable work both in the context of Chapter 11 cases and securities litigation. For personnel who are no longer employed by the Firm, the "current rate" used for the lodestar calculation is based upon the rate for that person in his or her final year of employment with the Firm.

5. My Firm does not seek an award of expenses and charges in connection with the prosecution of the litigation since those expenses were charged to and paid by lead counsel and will be set forth in lead counsel's fee application.

6. The expenses pertaining to this case and which were reimbursed by lead counsel are reflected in the books and records of this Firm. These books and records are prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the expenses.

7. The identification and background of my Firm and its partners is attached hereto as Exhibit B.

I state under penalty of perjury under the laws of the State of New Jersey that the foregoing is true and correct. Executed this 3rd day of May, 2023 at Roseland, New Jersey.



MICHAEL S. ETKIN

STATE OF NEW JERSEY)

) ss:

COUNTY OF ESSEX)

SUBSCRIBED AND SWORN TO (or affirmed) before me on this 3rd day of May, 2023, by Michael S. Etkin, proved to me on the basis of satisfactory evidence to be the person who appeared before me.



NICOLE BERKOWITZ
A Notary Public of New Jersey
My Commission Expires October 31, 2023

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2023, a true and exact copy of the foregoing document has been served via email or First Class Mail to all parties on the attached Service List.


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EXHIBIT A

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LOWENSTEIN SANDLER LLP

IN RE: KENNETH GAYNOR/MILLER ENERGY RESOURCES, INC. – CH. 11

STATEMENT OF TOTAL TIME

November 18, 2015 – March 24, 2022

Name	Legend	Time (hours)	Billing Rate	Total
Etkin, Michael S.	P	118.30	\$1,365.00/hr.	\$161,479.50
Teele, S. Jason	P	48.40	\$695.00/hr.	\$33,638.00
De Leo, Anthony	A	78.10	\$395.00/hr.	\$30,849.50
Claussen, Diane	PL	6.70	\$340.00/hr.	\$2,278.00
TOTAL		251.50		<u>\$228,245.00</u>

Legend

P = PARTNER
C = COUNSEL
OC = OF COUNSEL
A = ASSOCIATE
PL = PARALEGAL
AD = ADMIN. STAFF

EXHIBIT B

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BANKRUPTCY & RESTRUCTURING DEPARTMENT

Lowenstein's bankruptcy lawyers are in demand by business leaders, credit managers, financial advisors, institutional investors and restructuring professionals seeking a resourceful, aggressive, well-connected law firm. We understand how to reach a negotiated resolution yet have a strong track record at trial. We represent debtors, creditors' committees, individual and institutional stakeholders, and trustees in Chapter 11 proceedings throughout the United States.

A reorganization may be the most practical and promising strategy for a troubled company. We advise on prepackaged and prenegotiated plans, which implement quick restructurings that might otherwise take years to complete. We also counsel debtors, creditors, and financial institutions in nonjudicial debt restructurings or workouts involving public and privately held companies.

In some instances, a business is not in distress but wishes to retire debt at a discount, restructure operations, or recapitalize. As a bankruptcy law firm, our attorneys work with companies seeking creative techniques to achieve specific business goals to deal with these issues.

A company's fiscal difficulty affects various other parties, such as those who have provided loans, supplied goods and services, or invested capital. We represent official and unofficial creditors' committees and equity committees in diverse Chapter 11 and other insolvency matters. We collaborate with commercial and investment banks, savings institutions, mutual funds, pension funds, and other financial firms in their management of troubled credit, or claims against companies in distress. Our attorneys also advise clients who are interested in buying assets from Chapter 11 debtors. We structure and secure bankruptcy court approval of debtor-in-possession financing, represent lenders in exploring and establishing these and other financing opportunities and represent asset purchasers.

When appropriate, we consult with the firm's corporate and tax groups to structure transactions that minimize future complications and liability, and to avoid the domino effect that one bad deal can have on a company's overall well-being. We also advise on the significant bankruptcy aspects of various transactions, including commercial finance transactions, as well as on mergers, acquisitions, and divestitures of solvent, insolvent, and other highly leveraged companies. Our bankruptcy attorneys are involved in large and complex commercial, industrial, and residential real estate insolvencies, and they assist companies in emerging from bankruptcy with controlled environmental liabilities.

We also prosecute and defend all types of litigation related to bankruptcy proceedings. We are noted for representing the interests of shareholders, investors, and consumers in class action and other litigation against corporate defendants that are in bankruptcy.

Whether defrauded institutional investors, individual investors, state, local, and union employee pension and benefit funds, investment managers, or consumers in some of the largest and most significant Chapter 11 cases, we understand the nuances and pitfalls facing such claimants in a bankruptcy context. Such representation helps protect a class of creditors that generally receives little or no recovery in Chapter 11 reorganizations or liquidations throughout the country including the most active jurisdictions.

**Michael S. Etkin**

Partner, Bankruptcy & Restructuring Department, Business Litigation

E-mail: metkin@lowenstein.com**T:** 973.597.2312

A senior bankruptcy practitioner and seasoned commercial litigator, Mickey has extensive experience in complex business reorganizations, investor litigation in a bankruptcy context, and high-stakes Chapter 11 issues. Mickey is consistently recognized by *Chambers USA* as a "a strong lawyer," "brilliant," "outstanding," "very plugged in," and "instrumental in providing tactical advice," noting his skill in "anticipating all the key issues that are likely to arise." Clients commend his "technical knowledge, attention to detail, and honest and straightforward legal advice."

A key member of the firm's successful bankruptcy and complex business litigation practices, Mickey represents debtors, trustees, creditors, and investors in many noteworthy bankruptcies and bankruptcy-related litigation. He currently represents institutional investors in many significant complex Chapter 11 and Chapter 15 proceedings, such as Pacific Gas & Electric, Celsius Network, Allied Systems, Mallinckrodt, SandRidge Energy, American Addiction Centers, Aegean Marine Petroleum, Windstream, Odebrecht, and McDermott International, among others. He represents important consumer interests in bankruptcy cases involving issues of privacy, product liability, and lending practices.

In addition, Mickey represents major energy companies in connection with bankruptcy proceedings involving their customers and counterparties. He has been invited to speak before financial institutions, bar association groups, and credit associations on issues relating to the energy industry, including the rights of counterparties to derivatives and other energy-related contracts in a bankruptcy context. He chairs the Bankruptcy and Creditors' Rights Group of the International Energy Credit Association.

Mickey also routinely speaks at programs on the rights of securities fraud claimants and class action plaintiffs in a Chapter 11 context, and on the interplay between bankruptcy law and product liability litigation.