

# Receivership Management, Inc.

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783 Old Hickory Blvd., Suite 255 Brentwood, TN 37027 (615) 370-0051 Fax (615) 373-4336

November 20, 2012

Ms. Eva Lemeh, Chapter 7 Trustee  
Sommet Group LLC  
4300 Kings Lane  
Nashville, TN 37218

Isabel Colon, Acting Regional Director  
Employee Benefits Security Administration  
U.S. Department of Labor  
61 Forsyth Street SW  
Suite 7B54 - SNAFC  
Atlanta, GA 30303

Robert M. Lewis  
Counsel  
U.S. Department of Labor  
Office of the Solicitor, Atlanta Regional Office  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, Room 7T10  
Atlanta, GA 30303

**RE: Sommet Group LLC 401(K) Plan  
Successor Trustee's Ninth Report and Fee Notice**

Dear Ms. Lemeh, Ms. Colon and Mr. Lewis:

Pursuant to the Appointment and Engagement Documents entered by Samuel K. Crocker, Chapter 7 Trustee dated October 20, 2010, the Successor Trustee and Named Plan Administrator of the Sommet Group LLC 401(K) Plan (the "Plan") submits this Ninth Report and Fee Notice for fees and expenses for the period October 1, 2012 - October 31, 2012.

## **ACTIVITY REPORT**

On October 12, 2011 a Voluntary Compliance Program application was submitted to the Internal Revenue Service advising as to seven (7) failures and the proposed methods of correction. Since that time, an IRS agent was appointed and she has responded with additional questions regarding the proposed corrections. ERISA counsel hired by the Successor Trustee has responded to all the questions and suggested

corrections on August 17, 2012. The Successor Trustee requested since all the testing information had been provided through 2009 and that since 2010 was an incomplete year, there was no need for additional testing. The IRS did not agree, and letters have been sent to the remaining employees to provide the necessary information to perform the testing. Five of eight employers have responded to that request and the data they provided is being supplied to Acuff and Associates to complete the testing. Counsel has responded to the IRS to advise of that process, and once the testing is complete, the response to the VCP request to the IRS can be completed, and the plan can proceed to termination. Since further testing is in process, though we are proceeding as rapidly as possible, it is not expected that termination can be done before the end of the year at this point. A completed 2011 Form 5500 for the Plan was filed by the extension deadline in October, 2012.

### ACCOUNTINGS REGARDING THE 401(k) PLAN

The Successor Trustee reported an earlier procedure which anticipated monthly deductions in the exact amounts authorized and not objected to. John Hancock reported that its systems were not able to comply with this request. Therefore a modification was instituted to accommodate the Hancock systems. A set 3% of plan assets will be deducted monthly and paid quarterly to the Successor Trustee. The Successor Trustee will then accumulate these fees in an account for Plan expenses. Approved expenses will then be paid from this account as funds become available. The review and approval procedure as outlined remains as follows: The Successor Trustee will provide written notice (the "Fee Notice") of such compensation, fees or expenses, by filing the Fee Notice with the Chapter 7 Bankruptcy Trustee, and by serving a copy to the U.S. Department of Labor, Employee Benefits Security Administration, Atlanta Regional Office, Atlanta, Georgia. If, within fifteen (15) days after filing of a Fee Notice with the Chapter 7 Trustee, no objection to the Fee Notice or payment by the Plan of the compensation, fees or expenses described therein is filed with the Successor Trustee, such compensation, fees or expenses shall be deemed reasonable expenses of the Plan and shall be paid by the Plan without further action or approval.

Attached hereto as **Exhibit 1** is a schedule of the hourly rates for the Successor Trustee and the hourly rates of any staff of Receivership Management, Inc. that might be used to carry out the terms of the Appointment.

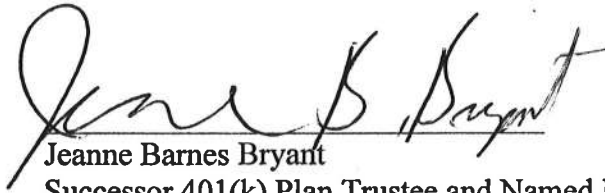
Attached hereto as **Collective Exhibit 2** are expense summaries for the period October 1, 2012 - October 31, 2012. Total expenses, as listed on Exhibit 2 include \$900.00 in Successor Trustee fees, \$25.00 in legal expenses, \$1,557.50 in contract labor expenses, and \$366.75 in other expenses (which include identified charges for other fees, postage, copies, telephone, travel, etc.).

In the absence of any objection, reimbursement of \$900.00 in Successor Trustee fees, \$25.00 in legal expenses, \$1,557.50 in contract labor expenses, and \$366.75 for other expenses will be paid from the Plan in accordance with the Appointment. The exact amounts and the parties to be paid are listed below:

- |    |                              |            |
|----|------------------------------|------------|
| 1. | Jeanne Barnes Bryant         | \$900.00   |
| 2. | Berry & Tudor                | \$25.00    |
| 3. | Receivership Management Inc. | \$1,924.25 |
|    | \$1,557.50/Contract labor    |            |
|    | \$366.75/Other expenses      |            |

If no objection is filed with the Successor Trustee within fifteen (15) days after the filing of the Fee Notice with Ms. LeMeh, the Successor Trustee will proceed to authorize payments due counsel and any other parties listed.

Sincerely,



Jeanne Barnes Bryant  
Successor 401(k) Plan Trustee and Named Plan  
Administrator  
Sommet Group LLC 401(K) Plan  
783 Old Hickory Blvd., Ste 255  
Brentwood, TN 37027  
Telephone: 615-370-0051  
Fax: 615-373-4336

## Receivership Management, Inc.

783 Old Hickory Blvd., Suite 255 Brentwood, TN 37027 (615) 370-0051 Fax (615) 373-4336

Effective July 1, 2008

### Fee Schedule for Receivership Management, Inc:

Jeane Barnes Bryant	\$150 per hour
Rob Moore	\$130 per hour
Billy Spaulding	\$110 per hour
Sarah Forton	\$45 per hour
Information Tech Consultant	\$65 per hour

Overhead charges are allocated pro-rata based upon the number of hours billed to a receivership. Currently overhead is billed at \$11.00 per hour. Overhead includes expenses of a general nature which cannot be charged to a specific receivership. Examples include depreciation on equipment, insurance, etc.

Rent is allocated to a receivership based on a physical presence (ie. Files, records, and other documentation) at the RMI location and the time spent on that receivership. It is by its nature an estimate and is normally set at the beginning of each quarter and remains constant during that quarter. The allocation is reviewed each month and if there is a material change in either the physical presence occupied or time spent on the receivership, the rent allocation is adjusted to reflect current conditions.

Office Expenses which can be specifically identified to a receivership (eg. telephone, postage, copies etc.) are charged to the receivership as incurred.

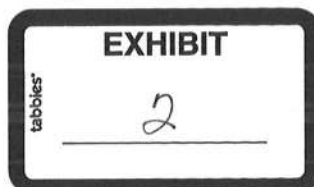
Travel: Per Diem-\$39.00 for meals and incidentals (first and last day of travel 75% of per diem amount allowed). Per Diem paid only if overnight travel is required. Transportation: By private car: 50 cents per mile; By common carrier: Actual ticket cost at coach. Lodging: Actual amount charged.



**SUMMARY TIME SHEET-SUCCESSOR TRUSTEE**  
SERVICES PROVIDED FOR SOMMET GROUP 401K PLAN  
FOR THE PERIOD 10/01/12 THROUGH 10/31/12

Jeanne Barnes Bryant

OCT 2012 FEES	<u>900.00</u>
<b>TOTAL FEES</b>	<b><u><u>\$900.00</u></u></b>



Receivership Management, Inc.  
P. O. Box 2307  
Brentwood, TN 37024

Invoice for Professional Services

**SOMMET GROUP LLC 401K PLAN**

**October 2012**

Date	Service Description	Hours	Rate	Total
10/1/2012	JEANNE BARNES BRYANT E-MAILS RE QUESTIONS ON TESTING, DISCUSSION WITH ROB MOORE RE SAME	0.2	\$150.00	\$30.00
10/4/2012	JEANNE BARNES BRYANT QUESTIONS RE 5500 FILINGS	0.3	\$150.00	\$45.00
10/8/2012	JEANNE BARNES BRYANT QUESTIONS RE 5500 FILING, WORK RE SAME	0.2	\$150.00	\$30.00
10/9/2012	JEANNE BARNES BRYANT QUESTION RE 5500 FILING	0.1	\$150.00	\$15.00
10/10/2012	JEANNE BARNES BRYANT CALL RE REQUESTS ON AUDIT	0.1	\$150.00	\$15.00
10/11/2012	JEANNE BARNES BRYANT WORK RE 5500 ISSUES, DISCUSSION RE AUDIT	0.4	\$150.00	\$60.00
10/12/2012	JEANNE BARNES BRYANT QUESTIONS RE 5500, E-MAIL RE MEMO ON SAME	0.4	\$150.00	\$60.00
10/15/2012	JEANNE BARNES BRYANT E-MAIL TO AND FROM ROB MOORE RE AUDIT MEMO, DISCUSSION RE SAME, E-MAIL TO DOL RE AUDIT, REVIEW AND SIGN 5500 FILING	1	\$150.00	\$150.00
10/16/2012	JEANNE BARNES BRYANT DISCUSSION WITH GROUP RE TESTING, CURRENT STATUS	0.2	\$150.00	\$30.00
10/17/2012	JEANNE BARNES BRYANT E-MAIL RE SEPTEMBER REPORT FROM SARAH FORTON	0.1	\$150.00	\$15.00
10/18/2012	JEANNE BARNES BRYANT DRAFT RE REPORT, E-MAILS RE TESTING ISSUE, DISCUSSION WITH ROB MOORE RE TESTING, E-MAIL RE REPORT	1	\$150.00	\$150.00
10/22/2012	JEANNE BARNES BRYANT CALLS AND EMAIL RE TESTING QUESTIONS, DISCUSSION WITH ROB MOORE RE SAME	0.2	\$150.00	\$30.00
10/23/2012	JEANNE BARNES BRYANT CALL FROM HCH RE TESTING QUESTION, DISCUSSION WITH ROB MOORE RE SAME	0.2	\$150.00	\$30.00
10/24/2012	JEANNE BARNES BRYANT REVIEW AND SIGN REPORT	0.2	\$150.00	\$30.00
10/25/2012	JEANNE BARNES BRYANT E-MAIL RE ADDITIONAL INFORMATION FOR TESTING	0.2	\$150.00	\$30.00

**Monday, November 19, 2012**

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**SOMMET GROUP LLC 401K PLAN****October 2012**

10/26/2012	Jeanne Barnes Bryant	QUESTION FROM BILLY SPAULDING RE TESTING	0.1	\$150.00	\$15.00
10/29/2012	Jeanne Barnes Bryant	CALLS RE STATUS	0.2	\$150.00	\$30.00
10/30/2012	Jeanne Barnes Bryant	E-MAIL FROM ROB MOORE RE REMAINDER OF UNCLAIMED FUNDS BEING TRANSFERRED, QUESTIONS RE SAME	0.4	\$150.00	\$60.00
10/31/2012	Jeanne Barnes Bryant	CALLS RE STATUS, E-MAIL QUESTIONS	0.5	\$150.00	\$75.00
<b>Total</b>					<b>\$900.00</b>

**SUMMARY TIME SHEET-LEGAL**

SERVICES PROVIDED FOR SOMMET GROUP 401K PLAN  
FOR THE PERIOD 10/01/12 THROUGH 10/31/12

Berry & Tudor PC

OCT 2012 FEES	INV 18412	<u>25.00</u>
<b>TOTAL FEES</b>		<b><u><u>\$25.00</u></u></b>



**BERRY & TUDOR, P.C.**

*A Professional Corporation*

5123 Virginia Way  
Suite B-23  
Brentwood, Tennessee 37027-7598

Telephone: (615) 726-1000

FEIN: 62-1525112

Fax: (615) 370-0077

Ms. Jeanne Barnes Bryant  
c/o Receivership Management, Inc.  
783 Old Hickory Blvd., Suite 255  
Brentwood, TN 37027

November 1, 2012

Client #: 814

RE: Sommet Group

Invoice #: 18412

DATE	DESCRIPTION	HOURS	AMOUNT
Oct-03-12	Telephone conference with R. Moore re: December 11 <sup>th</sup> trial date for Mr. Whitfield's criminal trial.	0.10	25.00 BET
<b>TOTAL FEES:</b>		0.10	\$25.00

DISBURSEMENTS

<b>TOTAL DISBURSEMENTS:</b>	\$0.00
<b>TOTAL FEES &amp; DISBURSEMENTS:</b>	\$25.00
Previous Balance	\$2,031.20
Previous Payments	\$0.00

*Posted  
8/1  
11-6-12*

<b>PLEASE PAY:</b>	<b>\$2,056.20</b>
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**PAYMENT DUE WITHIN 30 DAYS OF STATEMENT. THANK YOU.  
PLEASE MAKE CHECKS PAYABLE TO BERRY & TUDOR, P.C.**

cc: Rob Moore via email

**SUMMARY TIME SHEET-CONTRACT LABOR**  
SERVICES PROVIDED FOR SOMMET GROUP 401K PLAN  
FOR THE PERIOD 10/01/12 THROUGH 10/31/12

Receivership Management, Inc.

OCT 2012 FEES	<u>1,557.50</u>	1,557.50
RMI EXPENSES	<u>366.75</u>	<u>366.75</u>
<b>TOTAL FEES</b>		<b><u><u>\$1,924.25</u></u></b>

Receivership Management, Inc.  
P. O. Box 2307  
Brentwood, TN 37024

Invoice for Professional Services

**SOMMET GROUP LLC 401K PLAN**

**October 2012**

Date	Service Provider	Description	Hours	Rate	Total
10/3/2012	Robert E. Moore, Jr.	CALL FROM J.SANDS RE: PAYROLL DATA, UPDATE ON POSSIBLE SUBPOENA TO TESTIFY .2	0.2	\$130.00	\$26.00
10/4/2012	Billy B. Spaulding	RECONCILE BANK ACCT	0.2	\$110.00	\$22.00
10/5/2012	Robert E. Moore, Jr.	RESEARCH CONTACT INFORMATION ON WALLICK KEMP AND KIRKLAND, FORWARD SAME TO J.SANDS..3	0.3	\$130.00	\$39.00
10/9/2012	Robert E. Moore, Jr.	RESEARCH AUDIT PACKAGE .6	0.6	\$130.00	\$78.00
10/10/2012	Billy B. Spaulding	WORK ON TY 2011 F5500 COMPLETION. LOGIN TO JOHN HANCOCK WEBSITE AND BEGIN INSPECTION OF INFORMATION TO DOWNLOAD.	1	\$110.00	\$110.00
10/11/2012	Billy B. Spaulding	INSPECT TY 2010 RETURNS AND SUPPORTING DOCUMENTATION. ANALYSIS OF 2010 SCHEDULE H AND SOURCE OF ACCOUNTING ENTRIES.	3	\$110.00	\$330.00
10/12/2012	Billy B. Spaulding	LOG IN TO JH DATABASE AND BEGIN DOWNLOADING REPORTS AND SCHEDULES TO BE USED TO PREPARE TY 2011 F5500. SET SOM401K UP IN EFAST2 AND BEGIN ENTERING DATA. IDENTIFY SCHEDULE D TRANSACTIONS AND DISCUSS ENTRY OF INFORMATION TO EFAST2 SCHEDULE. SET UP STMT OF A	5	\$110.00	\$550.00
10/12/2012	Sarah D. Forton	WORK ON FORM 5500	1.5	\$45.00	\$67.50
10/15/2012	Robert E. Moore, Jr.	DRAFT 2011 NO AUDIT MEMO 1.0; PARTICIPANT CALL .10	1.1	\$130.00	\$143.00
10/15/2012	Sarah D. Forton	FILE FORM 5500	0.5	\$45.00	\$22.50
10/16/2012	Billy B. Spaulding	DISCUSSION ON PLAN TESTING STATUS.	0.2	\$110.00	\$22.00

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RMI EXPENSE RECOVERABLE SOMMET 401 K

10/1/12 Through 10/31/12

Category Description	10/1/12- 10/31/12	OVERALL TOTAL
5300 EXPENSES		
RMI OH EXPENSE	-247.50	-247.50
RENT	-95.90	-95.90
COPIES	-7.30	-7.30
POSTAGE	-11.65	-11.65
TELEPHONE LONG DISTANCE	-4.40	-4.40
TOTAL 5300 EXPENSES	<u>-366.75</u>	<u>-366.75</u>
OVERALL TOTAL	<u>-366.75</u>	<u>-366.75</u>