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IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

ACTING SECRETARY OF COMMERCE)
FERMIN M. ATALIG, in his official capacity)
as the CNMI DIRECTOR OF BANKING)
pursuant to 4 CMC § 6105(a),

Civil Action No. 02-0268B

Petitioner,

vs.

BANK OF SAIPAN,

Respondent.

**ORDER ON FENNEL'S MOTION TO
AMEND THE JUDGMENT
TERMINATING THE RECEIVERSHIP**

Former Temporary Receiver Randall Fennell ask this Court to amend the August 11, 2006 Order Terminating the Receivership (the "Order") and to hold the receivership open for the limited purpose of hearing Fennell's indemnification claim at the conclusion of the civil case.¹ Fennell further requests that the Court delete from the Order a reference to Fennell's proposed liquidation plan.

Footnote 7 of the Order reads, "The previous receiver was prepared to liquidate the bank for a 15% return on investments." This statistic emerged as an allegation against Fennell during the August 1, 2006 hearing preceding the Order.² Having considered the merits of allowing the statistic to remain in the Order, and having determined that its inclusion is not necessary to the Order, the Court hereby strikes Footnote 7 from the Order.

¹ See *Bank of Saipan v. Fennell*, No. 4-449, filed against Fennell by the directors of the Bank of Saipan.

² The Court reminds litigants of the importance of contemporaneously placing on the record any objection to an allegation made during a hearing.

1. The Order reflects the Court's decision that the termination of the receivership was in the
2. best interest of the parties and the public. Fennell's renewed indemnification claim, submitted the
3. day of the hearing preceding the Order, did not convince the Court to delay termination of the
4. receivership for the limited business of dispersing fees to creditors. Having terminated the
5. receivership, the Court disposed of the claim of another creditor, Richard Pierce, by allowing the
6. receiver or the Bank of Saipan to pay the debt within five days of the closure of the receivership.
7. See Order on Richard W. Pierce's Opposition to Termination of Receivership until Determination
8. on Fees, filed August 11, 2006. That order establishes the liability of the Bank, as successor to the
9. receivership, for business-related debts incurred during the receivership.³ The Court is willing to
10. entertain Fennell's Indemnification Claim when and if he prevails on the litigation in the civil
11. case.
12.

13. Signed this 29th day of August, 2006.

14. By: /S/
15. Juan T. Lizama, Associate Judge
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26. ³ As a general rule, expenses and costs of receivership are charged to the entity administered. *Donovan v.*
27. *Robbins*, 588 F. Supp. 1268 (N.D. Ill. 1984). However, the court appointing the receiver has discretion over who will
28. pay costs of the receiver. *Id.*, see also *S.E.C. v. Elliott*, 953 F.2d 1560 (11th Cir. 1992).