

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

June 18, 2010

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on June 3, 2010, makes reference to County Communication No. 09-14, from Michael J. Molina, Chair of your Committee, regarding litigation matters submitted by the Department of the Corporation Counsel.

By correspondence dated April 22, 2010, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL GOODSILL ANDERSON QUINN & STIFEL, A LIMITED LIABILITY LAW PARTNERSHIP LLP, IN MATTERS RELATING TO AUCTION RATE SECURITIES". The purpose of the proposed resolution is to authorize \$252,350 in additional compensation for Goodsill Anderson Quinn & Stifel, a Limited Liability Law Partnership LLP ("Goodsill"), as special counsel in matters relating to auction rate securities, for a total compensation of \$287,350.

Your Committee notes that the Council authorized initial compensation of this matter by Resolution No. 09-118 in an amount of \$35,000.

Your Committee received an update on the status of the matter from the Corporation Counsel and Special Counsel Joachim Cox. The Corporation Counsel reminded your Committee that when your Committee considered Resolution No. 09-118, a decision had not been made whether it would be appropriate to initiate legal proceedings against Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"). The initial compensation of \$35,000 was for the purpose of employing Goodsill, a law firm with the requisite expertise on auction rate securities investments, to advise the County on the efficacy of initiating legal proceedings and to file a complaint, if deemed warranted after investigation.

Mr. Cox informed your Committee that Goodsill conducted an investigation into the County's communications with Merrill Lynch that resulted in the County's investment of \$32 million in auction rate securities. He reported that based on the egregious misrepresentations made by Merrill Lynch about the safety and liquidity of

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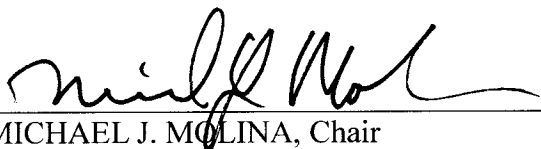
auction rate securities as short-term investments, Goodsill, on behalf of the County, filed a Complaint in Federal court and a Statement of Claim with the Financial Industry Regulatory Authority (FINRA), against Merrill Lynch. Both the Complaint and the Statement of Claim were filed on February 12, 2010.

Mr. Cox reported that the parties are in the process of choosing three arbitrators to preside over the arbitration proceedings in the FINRA matter. He further reported that the process of arbitration and discovery will take approximately 9 to 12 months. The additional compensation is necessary to allow Special Counsel to continue with work on the lawsuit and the arbitration proceeding.

Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted 7-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Mateo, and members Baisa, Kaho`ohalahala, Nishiki, Pontanilla, and Victorino voted "aye". Committee members Johnson and Medeiros were excused.

Your Committee of the Whole RECOMMENDS that Resolution No. \_\_\_\_\_, attached hereto, entitled "AUTHORIZING ADDITIONAL COMPENSATION FOR SPECIAL COUNSEL GOODSILL ANDERSON QUINN & STIFEL, A LIMITED LIABILITY LAW PARTNERSHIP LLP, IN MATTERS RELATING TO AUCTION RATE SECURITIES" be ADOPTED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
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MICHAEL J. MOLINA, Chair

# Resolution

No. \_\_\_\_\_

AUTHORIZING ADDITIONAL COMPENSATION FOR  
SPECIAL COUNSEL GOODSILL ANDERSON QUINN & STIFEL,  
A LIMITED LIABILITY LAW PARTNERSHIP LLP,  
IN MATTERS RELATING TO AUCTION RATE SECURITIES

WHEREAS, the Council alone is authorized to retain or employ special counsel upon a resolution passed by two-thirds vote; and

WHEREAS, by Resolution No. 09-118, the Council authorized the employment of special counsel GOODSILL ANDERSON QUINN & STIFEL A LIMITED LIABILITY LAW PARTNERSHIP LLP ("special counsel") to represent the County of Maui in matters relating to auction rate securities, for a total compensation not exceeding \$35,000.00; and

WHEREAS, Resolution No. 09-118 provided that David J. Reber, Esq., Joachim P. Cox, Esq., and Claire E. Goldberg, Esq., of GOODSILL ANDERSON QUINN & STIFEL, shall provide the majority of the legal services in this matter; and

WHEREAS, on February 12, 2010, the County of Maui, by its special counsel, filed a Complaint against Merrill Lynch Pierce Fenner & Smith Incorporated ("Merrill Lynch") with the United States District Court for the District of Hawaii, and a Statement of Claim against Merrill Lynch with the Financial Industry Regulatory Authority; and

WHEREAS, the Financial Industry Regulatory Authority is anticipated to conduct an arbitration of County of Maui's claims against Merrill Lynch; and

**Resolution No. \_\_\_\_\_**

WHEREAS, the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$252,350.00, for a total compensation not exceeding \$287,350.00; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council hereby approves and authorizes an increase in compensation for the employment of special counsel by \$252,350.00 for a total compensation not exceeding \$287,350.00; and


2. That Robert K. Fricke, Esq., and Abigail M. Holden, Esq., both of GOODSILL ANDERSON QUINN & STIFEL, shall also provide legal services in this matter; and

3. That the hourly rate for Robert K. Fricke, Esq., shall not exceed \$275; and

4. That the hourly rate for Abigail M. Holden, Esq., shall not exceed \$155; and

5. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, the Director of Finance, and GOODSILL ANDERSON QUINN & STIFEL A LIMITED LIABILITY LAW PARTNERSHIP LLP.

APPROVED AS TO FORM  
AND LEGALITY:

  
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TRACI FUJITA VILLAROSA  
First Deputy Corporation Counsel  
County of Maui