M-151

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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ADMINISTRATIVE ORDER

Re: Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases

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Pursuant to the Bankruptcy Reform Act of 1994, the Executive Office for the United States Trustees has promulgated guidelines (the "UST Guidelines") to be applied by all United States Trustee personnel unless the United States Trustee determines that circumstances warrant different treatment. These UST Guidelines are patterned in large measure after the existing guidelines promulgated pursuant to the order of Chief Judge Lifland dated June 24, 1991 (the "Original Guidelines"). The UST Guidelines state that they are not intended to affect local rules and they leave for determination by local rule or otherwise a variety of procedural matters including the fixing of appropriate ceilings on certain types of reimbursements. These Amended Guidelines are consistent with and supplemental to the requirements contained in those guidelines.

A. Effective Date and Applicability of Amended Guidelines

The following Amended Guidelines apply to all applications for compensation and reimbursement of expenses under sections 330 and 331 of the Bankruptcy Code filed on or after May 1, 1995 in all cases commenced on or after October 22, 1994. Cases filed earlier than October 22, 1994 and fee applications filed earlier than May 1, 1995, the effective dates of the UST Guidelines, will continue to be governed by the Original Guidelines. Unless the court otherwise orders, all applications for compensation and reimbursement covered by the UST Guidelines must be prepared in accordance with these Amended Guidelines as well.

B. Certification

1. Each application for fees and disbursements must contain a certification by the professional designated by the applicant with the responsibility in the particular case for compliance with these Amended Guidelines (the "Certifying Professional), that (a) the Certifying Professional has read the application; (b) to the best of the Certifying Professional's knowledge, information and belief formed after reasonable inquiry, the fees and disbursements sought fall within these Amended Guidelines and the UST Guidelines, except as specifically noted in the certification and described in the fee application; (c)

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except to the extent that fees or disbursements are prohibited by these Amended Guidelines or the UST Guidelines, the fees and disbursements sought are billed at rates and in accordance with practices customarily employed by the applicant and generally accepted by the applicant's clients; and (d) in providing a reimbursable service, the applicant does not make a profit on that service, whether the service is performed by the applicant in-house or through a third party.

2. Each application for fees and disbursements must contain a certification by the Certifying Professional that the trustee, and, in chapter 11 cases, the chair of each official committee and the debtor have all been provided not later than 20 days after the end of each month with a statement of fees and disbursements accrued during such month. The statement must contain a list of professionals and paraprofessionals providing services, their respective billing rates, the aggregate hours spent by each professional and paraprofessional, a general description of services rendered, a reasonably detailed breakdown of the disbursements incurred and an explanation of billing practices.

3. Each application for fees and disbursements must contain a certification by the Certifying Professional that the trustee, and, in a chapter 11 case, the chair of each official committee and the debtor have all been provided with a copy of the relevant fee application at least 10 days before the date set by the court or any applicable rules for filing fee applications.

C. Confidentiality Requests

If there is a need to omit any information or description of services as privileged or confidential, the applicant may make such a request of the court; provided, however, that if such a request is granted, the court may request that it be furnished with a set of unredacted time records for in camera inspection .

D. Fee Enhancement

1. Any request for an enhancement of fees over the fee which would be derived from the applicable hourly rates multiplied by the hours expended or from the court order authorizing retention must be specifically identified in the application, including as to amount, and the justification for the requested enhancement must be set forth in detail.

2. Any request for such an enhancement of fees must be set forth in the summary sheet required by the UST Guidelines.

E. Voluntary Reduction of Fees or Disbursements

If an applicant is not requesting all of the fees or disbursements to which it might be entitled based on the applicable hourly rates multiplied by the hours expended or based on the court order authorizing retention, the voluntary reduction must be identified in the application,

including as to amount. If the voluntary reduction pertains to services which continue to appear in the detailed description of services rendered or to disbursements which continue to be listed, the entries for which no compensation or reimbursement is sought must be identified.

F. Provisions Regarding Disbursements

1. No Enhanced Charges for Disbursements. Except to the extent that disbursements are prohibited by these Amended Guidelines or the UST Guidelines, the disbursements sought must be billed at rates and in accordance with practices customarily employed by the applicant and generally accepted by the applicant's clients.

2. Photocopies. Photocopies shall be reimbursable at the lesser of $.20 per page or cost.

3. Facsimile Transmission. A charge for out-going facsimile transmission to long distance telephone numbers is reimbursable at the lower of (a) toll charges or (b) if such amount is not readily determinable, $1.25 per page for domestic and $2.50 per page for international transmissions. Charges for in-coming facsimiles are not reimburseable.

4. Cellular Telephone. Cellular telephone charges shall be reimbursable if reasonably incurred and if the calls cannot be timely made from a conventional telephone. Routine use of cellular telephones is not acceptable.

5. Overtime Expense. No overtime expense for non-professional and paraprofessional staff shall be reimbursable unless fully explained and justified. Any such justification must indicate, at a minimum, that (i) services after normal closing hours are absolutely necessary for the case and (ii) the charges are for overtime expenses paid. The reasonable expenses of a professional required to work on the case after 8:00 p.m. are reimbursable provided that, if the professional dines before 8:00 p.m., the expense is reimbursable only if the professional returns to the office to work for at least one and one-half hours. In any event, the expense for an individual's meal may not exceed $20.00.

6. Daytime Meals. Daytime meals are not reimbursable unless the individual is participating, during the meal, in a necessary meeting respecting the case.

The foregoing Guidelines have been approved by the Board of Judges on April 19, 1995 and shall be subject to annual review as to adjustments to disbursement reimbursement amounts set forth hereinabove in Provision F.

At: New York, New York
April 19, 1995

Hon. Burton R. Lifland
Chief Bankruptcy Judge