

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
Eastern Division

FILED

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U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

IN RE:

IN PROCEEDINGS IN CHAPTER 11

LTV STEEL COMPANY, INC.,  
*et al.*,

CASE NO. 00-43866

Debtors.

JUDGE RANDOLPH BAXTER

**MEMORANDUM OF OPINION AND ORDER**

The matter before the Court is the objection of Debtor LTV Steel Company, Inc. to the administrative expense claim filed by John G. McMillan ("Claimant" or "McMillan"). The Claimant has timely responded. The Court acquires core matter jurisdiction over the instant matter pursuant to 28 U.S.C. §§ 157(a) and (b), 28 U.S.C. § 1334, and General Order Number 84 of this District. Following a duly-noticed hearing, the following findings and conclusions are rendered:

The following stipulations were submitted by the Debtor LTV Steel Company, Inc. and Claimant John G. McMillan (the "Claimant" and, together with LTV Steel, the "Parties"). The Parties agree as follows:

A. The 1999 Settlement Agreement, which is attached hereto as Exhibit A and incorporated herein by reference (the "1999 Settlement Agreement"), is a true and accurate copy of an August 1, 1999 agreement between the United Steelworkers of America (the "USWA") and LTV Steel. The 1999 Settlement Agreement (a) does not contain all of the voluminous appendices thereto, (b) includes only Appendix B thereto and (c) is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

B. The April 16, 2001 correspondence attached hereto as Exhibit B and incorporated herein by reference (the "April 2001 WARN Notice") is a true and accurate copy of correspondence (without voluminous attachments thereto) sent by the Debtors on or about April 16, 2001, pursuant to the Worker Adjustment and Retraining Notification Act ("WARN"), regarding the Debtors' Cleveland West facility. The April 2001 WARN Notice is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

C. The November 20, 2001 correspondence attached hereto as Exhibit C and

incorporated herein by reference (the "November 2001 WARN Notice") is a true and accurate copy of correspondence sent by the Debtors on or about November 20, 2001, pursuant to WARN, for the Debtors' Cleveland Works facility. The November 2001 WARN Notice is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

D. The May 23, 2001 correspondence attached hereto as Exhibit D and incorporated herein by reference (the "May 2001 Correspondence") is a true and accurate copy of correspondence sent by the Debtors to the Claimant on or about May 23, 2001. The May 2001 Correspondence is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

E. The March 29, 2002 correspondence, attached hereto as Exhibit E and incorporated herein by reference (the "March 2002 PBGC Correspondence") is a true and accurate copy of correspondence received by the Debtors from the Pension Benefit Guaranty Corporation (the "PBGC") on or about March 29, 2002. The March 2002 PBGC Correspondence is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

F. The Agreement for Termination of Pension Plan, Appointment of Trustee, and Establishment of Plan Termination Date (the "2002 PBGC Termination Agreement") attached hereto as Exhibit F and incorporated herein by reference is a true and accurate copy of a March 31, 2002 agreement between the PBGC and Debtor The LTV Corporation ("LTV Corp."). The 2002 PBGC Termination Agreement is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

G. The Request for Allowance of Administrative Expenses and Proof of Claim for Administrative Expenses on Behalf of United Steelworkers of America, AFL-CIO-CLC (D.I. 4153) (Claim No. 989) attached hereto as Exhibit G and incorporated herein by reference is a true and accurate copy of an administrative expense claim filed by the USWA on or about June 27, 2002.

H. The October 28, 2003 Objection of Debtors LTV Steel Company, Inc., The LTV Corporation and Their Various Affiliates to Request for Allowance of Administrative Expenses and Proofs of Claim on Behalf of United Steelworkers of America, AFL-CIO-CLC (D.I. 6758) attached hereto as Exhibit H and incorporated herein by reference is a true and accurate copy of an objection filed by the Debtors to certain claims asserted by the USWA.

I. The December 3, 2001 Declaration of John D. Turner In Support of Various Motions of Debtors and Debtors In Possession (D.I. 2024) attached hereto as Exhibit I and incorporated herein by reference is a true and accurate copy of a declaration made by John D. Turner and attached as Exhibit 4 to the USWA Claims Objection.

J. The December 3, 2001 Declaration of Thomas L. Garrett, Jr. In Support of Various Motions of Debtors and Debtors In Possession (D.I. 2025) attached hereto as Exhibit J and incorporated herein by reference is a true and accurate copy of a

declaration made by Thomas L. Garrett and attached as Exhibit 3 to the USWA Claims Objection.

K. The Proof of Claim attached hereto as Exhibit K and incorporated herein by reference ("Claim No. 2670") is a true and accurate copy of the proof of claim filed by the Claimant on December 3, 2002 (with social security number redacted).

L. The October 20, 2002 Declaration of John D. Turner In Support of Debtor-Defendant's Motion for Summary Judgment (the "October 2002 Turner Declaration") attached hereto as Exhibit L and incorporated herein by reference is a true and accurate copy of a declaration

(a) made by John D. Turner, (b) filed by the Debtors on October 20, 2002 in the United States

District Court for the Northern District of Ohio (the "District Court"), in Case No. 1:02 CV 00626, captioned Super, et al. v. LTV Steel Company, Inc. (the "Super Litigation") and (c) attached as Exhibit 5 to the USWA Claims Objection.

M. The October 21, 2002 Debtor-Defendant LTV Steel Company, Inc.'s Motion for Summary Judgment and for Judgment on the Pleadings as to Plaintiff's WARN Act Claim attached hereto as Exhibit M and incorporated herein by reference is a true and accurate copy of a pleading filed by the Debtors in the District Court in the Super Litigation.

N. The Memorandum of Opinion and Order Re: Granting Defendant's Motion for Summary Judgment and for Judgment on the Pleadings attached hereto as Exhibit N and incorporated herein by reference is a true and accurate copy of District Court Chief Judge Paul Matia's February 7, 2003 order granting the Super Defendants' Motion for Summary Judgment.

O. The Declaration of Claimant John McMillan In Support of Claim for Relief Against The LTV Corporation and Copperweld Corporation attached hereto as Exhibit O and incorporated here by reference is a true and accurate copy of a declaration filed by the Claimant in support of Claim No. 2670.

P. The Settlement and Release Agreement (the "2003 PBGC Claims Agreement") attached hereto as Exhibit P and incorporated herein by reference is a true and accurate copy of a November 18, 2003 agreement between the PBGC and certain of the Debtors. The 2003 PBGC Claims Agreement is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

Q. The Stipulation and Order Resolving Claims of the United Steelworkers of America, AFL-CIO-CLC Against The LTV Corporation, LTV Steel Company, Inc. and Its Subsidiaries (D.I. 7134) attached hereto as Exhibit Q and incorporated herein by reference is a true and accurate copy of a stipulation and order entered by the Court on December 16, 2003 resolving certain claims against the Debtors.

R. The March 24, 2004 correspondence attached hereto as Exhibit R and incorporated herein by reference is a true and accurate copy of an agreement between the Claimant and Reorganized Debtor Copperweld Corporation resolving, among other things, Claim No. 2670.

S. The Order Pursuant to Rule 8001(c)(2) of the Federal Rules of Bankruptcy Procedure Dismissing With Prejudice the Appeal of the Bankruptcy Court Order Sustaining the Second Omnibus Objection of Debtors Other Than LTV Steel to Claims Asserted by Appellant John G. McMillan attached hereto as Exhibit S and incorporated herein by reference is a true and accurate copy of District Court Chief Judge Paul Matia's order dismissing the Claimant's appeal (the "Appeal") of an order sustaining the Debtors' objection to Claim No. 2670.

T. The July 28, 2004 Declaration of Claimant John G. McMillan attached hereto as Exhibit T and incorporated herein by reference is a true and accurate copy of the declaration filed by the Claimant in support of the Administrative Claim.

U. The Appellant John G. McMillan's Motion for Leave to Voluntarily Dismiss Appeal Pursuant to Rule 8001(c)(2) of the Federal Rules of Bankruptcy Procedure attached hereto as Exhibit U and incorporated herein by reference is a true and accurate copy of the Claimant's motion to dismiss the Appeal.

V. The records attached hereto as Exhibit V and incorporated by reference herein (the "McMillan Work History") is a true and accurate copy of certain of the Debtors' records of the Claimant's work history (with social security number redacted). The McMillan Work History is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

W. The Agreement Between LTV Steel and the United Steelworkers of America (Production and Maintenance Employees), which is attached hereto as Exhibit W and incorporated by reference herein (the "USWA Basic Labor Agreement") is a true and accurate copy of an August 1, 1999 agreement between the USWA and LTV Steel. The USWA Basic Labor Agreement: (a) does not contain all of the voluminous appendices; (b) includes only (i) Appendix Section XVI regarding Severance Allowance, (ii) page 36 regarding Adjustments of Complaints and Grievances and (iii) page 183 containing a table of incentive calculation rates and hourly additives for incentive jobs; and (c) is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

X. The Agreement (the "December 2001 Agreement") attached hereto as Exhibit X and incorporated herein by reference is a true and accurate copy of a December 20, 2001 agreement between the USWA and LTV Steel. The December 2001 Agreement is a record of regularly conducted business activity pursuant to Fed. R. Evid. 803(6).

Y. The United Steelworkers of America Explanation of Shutdown Benefits and Other Payments (LTV Steel Company Cleveland #2 Finishing), dated January 27, 1999, attached hereto as Exhibit Y and incorporated herein by reference is a true and accurate copy of a summary of certain employee benefits.

Z. The document entitled "LTV Steel-USWA Pension Plan for the Period 01/01/98 to 12/31/98" attached hereto as Exhibit Z and incorporated herein by reference is a true and accurate copy of the Claimant's 1998 year end Defined Contribution Plan account statement.

AA. The November 13, 2001 memorandum from LTV Steel Company, Inc.,

Industrial Relations Department to Incumbent Employees of the West Side Iron Worker Shop attached hereto as Exhibit AA and incorporated herein by reference is a true and accurate copy of a memorandum received by the Claimant on or about November 16, 2001.

BB. The Statement of Employee Earnings and Deductions attached hereto as Exhibit BB and incorporated herein by reference is a true and accurate copy of the Claimant's pay statement for the period ending March 24, 2001 (with Social Security number redacted).

CC. The Statement of Employee Earnings and Deductions attached hereto as Exhibit CC and incorporated herein by reference is a true and accurate copy of the Claimant's pay statement for the period ending June 16, 2001 (with Social Security number redacted).

DD. In July 2001, the USWA and LTV Steel agreed to the terms of a proposed Modified Labor Agreement (the "MLA").

EE. The MLA was ratified by the USWA's membership.

FF. While the Court approved the MLA on July 30, 2001, the language for certain appendices was completed between that time and September 2001, when the final MLA was filed under seal with the Court (as explained in the Declaration of John D. Turner, Exhibit I, footnote 1).

(Stipulations filed on February 1, 2005).

As reflected by the foregoing stipulations, on December 3, 2002, the Claimant filed claim number 2670 primarily as a general unsecured nonpriority claim in the amount of \$37,293.81 against LTV Steel, LTV Corp., and Copperweld. On July 10, 2003, the Debtors objected to the general unsecured claim in its Second Omnibus Objection on the basis that it was improperly asserted against LTV Corp. and Copperweld and should have been asserted against LTV Steel only. On December 19, 2003, the Court sustained the objection.

Claimant filed a notice of appeal, but subsequently entered into a settlement with Copperweld by which the general unsecured claim was allowed against Copperweld and satisfied in full. The Claimant received: (a) an allowed general unsecured claim in the amount of \$312,643.81 and (b) an allowed unsecured priority claim in the amount of \$4,650.00. The Claimant received payment on account of the allowed general unsecured claim according to the

terms of the Copperweld plan.

The Claimant also filed a motion to file an administrative expense claim against LTV because he made the mistake of not labeling a portion of the previously filed General unsecured claim properly as an administrative expense claim. The motion was granted on September 1, 2004. The motion identified three distinct components of the Administrative Claim. The first component was a Defined Contribution Plan Component (DCP). The second component was comprised of \$7,800 in severance benefits to which the Claimant was allegedly entitled at the time of his postpetition benefits from employment. The third component was a WARN Act component which is comprised of \$1,000 in backpay which the Claimant claims he was entitled to under the Worker Adjustment Retraining and Notification Act (WARN).

LTV objects to the administrative expense claim filed by McMillan contending that, by virtue of a Copperweld Settlement Agreement, claimant (a) already has an allowed claim on account of the alleged losses to his Defined Contribution Plan (DCP) account, (b) already received payment on account of the General unsecured claim according to the terms of the Copperweld plan and (c) acknowledged that such payment represented full satisfaction of any and all claims related to the General unsecured claim. LTV contends that, notwithstanding that the Claimant retained the right in the Copperweld Settlement Agreement to bring claims against LTV, the DCP component of the Administrative Claim is entirely duplicative of a portion of the General unsecured claim that the Claimant acknowledges has been fully satisfied against another Debtor's estate. Furthermore, LTV argues that it has fully satisfied its obligations with respect to the Claimant's underlying DCP account. In support of this prong of the objection, LTV argues that its obligations with respect to the underlying DCP account were terminated pursuant to

certain terms included in a 1999 agreement with the United Steel Workers of America AFL-CIO-CLC (the "USWA").

LTV further argues that the Pension Benefit Guaranty Corporation ("PBGC") assumed all of its pension plan obligations in 2002 and the PBGC settled and released all of the Claimant's pension claims in 2003. Lastly, LTV contends that, notwithstanding, the Claimant retained the right in the Copperweld Settlement Agreement to bring claims against LTV, the DCP component of the Administrative Claim is entirely duplicative of a portion of the General unsecured claim that the Claimant acknowledges has been fully satisfied against another Debtor's estate.

Claimant refutes LTV's objection. First, claimant states that his settlement which was reached with Copperweld has not been fully satisfied, contrary to LTV's contentions. Secondly, Claimant argues that the Copperweld Settlement did not preclude recovery against LTV since there has not been full satisfaction. Next, Claimant argues that LTV cannot maintain that the DCP account was rolled over to a PBGC plan and point to PBGC for satisfaction of benefits. Fourth, claimant argues that there was improper notice of the settlement of claims of USWA, AFL-CIO against LTV. Claimant argues that the affected parties were not provided sufficient notice before a Stipulation and Order was entered on the settlement. Lastly, Claimant argues that Claimant, based on his work history with the Debtors, had a "reasonable expectation of continued employment within the meaning of the WARN Act and that he was entitled to more than 10 days notice of the Cleveland Works plant closing". He contends that he was entitled to a renewed WARN Act notice after receiving his August 2001 layoff and memorandum on November 13, 2001.

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The dispositive issue before this Court is whether McMillan has met his burden of proving his entitlement to an allowance of an administrative expense claim under 11 U.S.C. § 503(b).

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## **I. Objection to Claims**

Under section 502 of the Bankruptcy Code, a claim for which a proof of claim is filed is deemed allowed, unless properly objected to. 11 U.S.C. § 502(a) and (b). The proof of claim is considered prima facie evidence of the validity and amount of the claim. Bankruptcy Rule 3001(f). The Court, after notice and a hearing, shall determine the amount of the claim. 11 U.S.C. § 502(b). At the hearing, the objector bears the initial burden of presenting evidence sufficient to overcome the presumption of validity given to the proof of claim. If, however, evidence rebutting the claim is brought forth, then the claimant must produce additional evidence to "prove the validity of the claim by a preponderance of the evidence." In other words, once sufficient evidence is presented to overcome that presumption, the burden shifts to the claimant to prove the validity and amount of the claim by a preponderance of the evidence. *In re Wilson*, 136 B.R. 719, 722 (Bankr. S.D. Ohio 1991)(upon the submission of competent evidence by the objecting party, the claimant must prove, by a preponderance of the evidence, his right to the claim. 8 Collier on Bankruptcy, Para. 3001.05, at 3001-25 (L.King 15th ed. 1989; Collier on Bankruptcy, P 502.02[2][f].) The allowance or disallowance of a claim in bankruptcy is a matter of federal law left to the bankruptcy court's exercise of its equitable powers. *In re Johnson*, 960 F.2d 396, 404 (4th Cir. 1992); see 11 U.S.C. § 502; *In re Nelson*, 206 B.R. 869, 876 (Bankr. N.D. Ohio 1997).

Section 503 of the Bankruptcy Code addresses the requirements for the allowance of administrative expenses and provides, in pertinent part:

(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including--

(1)(A) the actual, necessary cost and expenses of preserving the estate, including wages, salaries, or commissions for services rendered *after* the commencement of the case; ...

11 U.S.C. § 503(b)(1)(A). The purpose of this provision of the Bankruptcy Code is to facilitate the rehabilitation of insolvent businesses by encouraging third parties to provide those businesses with necessary goods and services. The test for § 503(b) administrative expense claims has been enunciated as follows:

In order to qualify a claim for payment as an administrative expense a claimant must prove that the debt (1) arose from a transaction with the debtor-in-possession as opposed to the preceding entity (or alternatively, that the claimant gave consideration to the DIP); and (2) directly and substantially benefitted the estate.

*See In re United Trucking Serv., Inc.*, 851 F.2d 159 (6th. Cir. 1987); *Employee Transfer Corp. v. Grigsby (In re White Motor Corp.)*, 831 F.2d 106 (6th. Cir. 1987); *In re Highland Group, Inc.*, 136 B.R. 475, 479-480 (Bankr. N.D. Ohio 1992). The determination of when administrative expenses are to be paid is within the discretion of the bankruptcy court. *In re Verco Indus.*, 9 B.C.D. 161, 20 B.R. 664 (B.A.P. 9th Cir. 1982); *In re Highland Group, Inc.*, 136 B.R. at 480.

An expense is administrative in nature only if it arises out of a transaction between the creditor and the debtor's trustee or debtor in possession, and only to the extent that the consideration supporting the claimant's right to payment was both supplied to and beneficial to the debtor's operation of the business. *In re Highland Group, Inc.* 136 B.R. at 480 *citing In re*

*Matter of Jartran, Inc.*, 732 F.2d 584, 586 (7th Cir. 1984).

The allowable expenses receiving administrative priority under § 503(b)(1) are for services rendered to the debtor postpetition. Expenses typically allowed administrative expense priority under this section include compensation and reimbursement of expenses awarded to court-appointed officers of the estate; expenses other than professional compensation incurred by a creditor filing an involuntary petition; expenses incurred by a creditor who recovers property which is beneficial to the estate; expenses of a creditor who has acted in connection with a criminal prosecution related to the case; expenses of various types of creditors who have made a substantial contribution to a reorganization or municipal debt adjustment case, or by a superseded custodian. See, H.R.Rep. No. 595, 95th Cong., 1st Sess. 355 (1977), 1978 U.S.Code Cong. & Admin.News 5787.

#### **A. DCP COMPONENT**

LTV argues that the DCP Component, otherwise known as the LTV Steel-USWA pension plan, was released by the USWA in 2003. The record supports this argument. By agreement made with the USWA in 1999, LTV Steel's obligations under the DCP terminated. The Agreement provided in pertinent part that USWA agreed that LTV Steel's obligation to make contributions to the DCP would end on August 1, 1999. *See* 1999 Settlement Agreement Joint Exhibit A-5, ¶ 5. Further, under the DCP Termination Agreement, the parties agreed that the DCP Accounts would be transferred to the Defined Contributions Plan (DB Plan) and McMillan retained the right to receive a lump sum payment from this plan upon retirement. McMillan acknowledges he received the lump sum payment of \$10,000 in a signed declaration.

See December 1, 2002 McMillan Declaration, Joint Exhibit K-3, ¶ 5.

The Pension Benefit Guaranty Corporation assumed the administration of the remainder of the DB Plan on March 31, 2002. The Sixth Circuit established in a prior decision that any recourse McMillan may have on his DB Plan claim must be prosecuted against the PBGC. See *United Steelworkers of Am. v. United Eng'g, Inc.*, 52 F.3d 1386, 1392 (6th Cir. 1995).

Moreover, the DCP Component was settled by the terms of the Copperweld Debtors' Plan of Reorganization. The record reflects that McMillan entered into a settlement agreement with Copperweld which allowed a general unsecured claim against Copperweld. See Joint Exhibit R-2, ¶¶ 1, 3.

Payment of the general unsecured claim was provided for in Section III.F.3 of the Copperweld plan of reorganization. Such plan afforded McMillan with a *pro rata* distribution on his general unsecured claim in the amount of \$312,643.81. It is well-settled that a *pro rata* distribution of assets, according to a plan of reorganization, constitutes satisfaction of a party's unsecured claim against a debtor's estate. See *Hitner v. Diamond State Steel Co.*, 176 F. 384 (C.C. Del. 1910)(to effect a *pro rata* distribution of assets... a creditor has received his full *pro rata* share of the general assets). On these bases, McMillan's claim must be overruled.

## **B. SEVERANCE and WARN ACT COMPONENTS**

LTV objects to the Severance Component of the Claimant's claim on the basis that it was released as a result of a Stipulation and Order resolving the Claims of the United Steel Workers of America. It is undisputed that the USWA was the exclusive collective bargaining agent of LTV Steel employees, including Claimant. Claimant was not entitled to distribution because,

according to the stipulation, only those employees who were actively employed on November 20, 2001 would receive a distribution. *See* LTV Steel-USWA Basic Labor Agreement, Joint Exhibit W-17 (the “Basic Labor Agreement”); § XVI.H; *see also* USWA Benefits Summary, Joint Exhibit Y-16 (“Essentially, if you are eligible to retire immediately following the permanent closing and do not elect to remain in layoff status, no severance allowance will be paid to you as a result of the authorized offsets”). LTV’s books and records reflect that Claimant’s last day was August 25, 2001. Claimant acknowledges that he was actively employed on recall status until August 25, 2001. *See* Claimant’s Response at p. 9.

Likewise, the WARN Component of Claimant’s claim will be disallowed because the WARN Component was released pursuant to the Stipulation and Order with the USWA. Claimant was duly noticed through the USWA, which Claimant acknowledges was the collective bargaining agent for the union workers of LTV. *See* October 6, 2003 Declaration, Joint Exhibit O-1, ¶ 1. The authority of unions to make binding contractual commitments regarding terms and conditions of employment is well established. A union is the exclusive collective bargaining representative for all of the employees in the unit, and therefore the union, in entering into a collective bargaining agreement, may agree to terms and conditions of employment that are contractually binding on all of the employees. *See Vaca v. Sipes*, 386 U.S. 171, 177, 87 S.Ct. 903, 909, 17 L.Ed.2d 842 (1967); *Cohen v. Temple Univ.*, 299 Pa.Super. 124, 445 A.2d 179, 185 (1982). The United States Supreme Court has recognized, most notably in *Abood v. Detroit Board of Education*, 431 U.S. 209, 97 S.Ct. 1782, 52 L.Ed.2d 261 (1977), that a union’s authority as exclusive bargaining agent necessarily entails some restrictions on constitutional rights that individual employees would otherwise enjoy.

## II. COLLATERAL ESTOPPEL

LTV also contends that the DCP Component of the administrative claim is entirely duplicative of a portion of the general unsecured claim which has been fully satisfied and dismissed with prejudice. Collateral estoppel comprises the following four elements:

(1) A final judgment on the merits in the previous case after a full and fair opportunity to litigate the issue; (2) The issue must have been actually and directly litigated in the prior suit and must have been necessary to the final judgment; (3) The issue in the present suit must have been identical to the issue involved in the prior suit; and (4) The party against whom estoppel is sought was a party or in privity with a party to the prior action.

*Caver v. City of Trenton*, 420 F.3d 243 (3d Cir. 2005); *Prokos v. City of Athens* 118 Fed. Appx. 921 (6th Cir. 2004). The record reflects that DCP Component of the administrative claim is indeed duplicative of a portion of the general unsecured claim which has been fully satisfied and dismissed with prejudice. *See* Joint Exhibit S; District Court Order dated October 28, 2004. McMillan provides no persuasive counter evidence to refute the objection on collateral estoppel grounds. Thusly, the McMillan claim based on the DCP component is without merit.

Under § 503(b) of the Bankruptcy Code, McMillan, as the claimant seeking allowance of an administrative expense, ultimately bears the burden of proving that he provided a direct and substantial benefit to the debtor's estate. *See e.g. In re White Motor Corp, supra.; Wolf Creek Collieries Co. v. GEX Ky., Inc.*, 127 B.R. 374, 379 (N.D. Ohio 1991)(administrative claimant "must prove that the debt...directly and substantially benefitted the estate"). McMillan has failed to sustain that burden. LTV has provided exhibits to support its objection to McMillan's administrative expense claim under § 502 of the Code.

**Conclusion**

Accordingly, McMillan's motion for administrative expense treatment is hereby denied. LTV's objection to the administrative expense claim filed by John G. McMillan is hereby sustained. Each party is to bear its respective costs.

**IT IS SO ORDERED.**

Dated, this 6<sup>th</sup> day of  
January, 2006

A handwritten signature in black ink, appearing to read "Randolph Baxter", written over a horizontal line.

**RANDOLPH BAXTER  
CHIEF JUDGE  
UNITED STATES BANKRUPTCY COURT**

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IN RE:

IN PROCEEDINGS IN CHAPTER 11

LTV STEEL COMPANY, INC.,  
*et al.*,

CASE NO. 00-43866

Debtors.

JUDGE RANDOLPH BAXTER

JUDGMENT

At Cleveland, in said District, on this 6<sup>th</sup> day of January, 2006.

An Order having been rendered by the Court in this matter,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that claimant John G. McMillan's motion for an administrative expense claim is hereby denied. Debtor LTV Steel Company's objection to the administrative expense claim is hereby sustained. Each party is to bear its respective costs.

IT IS SO ORDERED.

  
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RANDOLPH BAXTER  
CHIEF JUDGE  
UNITED STATES BANKRUPTCY COURT