

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

In re:) Case No. 00-10145
)
THE V COMPANIES,) Chapter 7
)
Debtor.) Judge Pat E. Morgenstern-Clarren
)
) **MEMORANDUM OF OPINION**
) **AND ORDER**

This case is before the Court on Hahn Loeser & Parks's supplement to its fourth and final application for allowance of compensation and expense reimbursement for services performed as counsel for the Official Committee of Unsecured Creditors (the "Supplemental Application"). (Docket 571). The Supplemental Application requests fees of \$11,581.00 for services rendered from June 19, 2002 through April 3, 2003 and reimbursement of \$225.91 in expenses. The services relate primarily (but not exclusively) to time expended to prepare the firm's fourth fee application and the supplement.

JURISDICTION

The Court has jurisdiction over this matter under 28 U.S.C. § 1334 and General Order No. 84 entered by the United States District Court for the Northern District of Ohio. This is a core proceeding under 28 U.S.C. § 157(b)(2)(O).

DISCUSSION

Bankruptcy Code § 330 provides for an award to professionals of "reasonable compensation for actual, necessary services" and for "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1)(A) and (B). Applications for compensation are reviewed under Bankruptcy Code § 330, the bankruptcy rules related to professional compensation, the legal principles set forth in *In re Boddy*, 950 F. 2d 334 (6th Cir. 1991), and the Guidelines for

Compensation and Expense Reimbursement for Professionals set forth in General Order No. 93-1 of the Bankruptcy Judges of the Northern District of Ohio (Guidelines). “The attorney seeking compensation ‘bears the burden of establishing the facts necessary to an award of fees and costs under Sections 330 and 331.’” *In re Bolton-Emerson, Inc.*, 200 B.R. 725, 729 (D.Ct. D. Mass. 1996). The Court has the power and the duty to review fee applications notwithstanding the absence of objection by any party in interest. *See* 11 U.S.C. § 330(a)(2). Additionally, expense requests are reviewed with a “strict eye” as to reasonableness. *Bowling v. Pfizer*, 132 F.3d 1147, 1152 (6th Cir. 1998).

The Guidelines, which have been in effect for about ten years, require fee applications to follow a general format. Reasonable fees may be requested for time spent preparing fee applications. *See* Guidelines ¶ 4. Professionals are given notice when a Chapter 11 case is filed¹ that such time is to be kept to a minimum:

All professionals are to review their billing records monthly on an informal basis to insure that appropriate billing categories are set up at the earliest possible time, to provide feedback to each individual billing time as to whether the time is being recorded accurately and completely in the first instance, and to monitor the amount of time devoted to each matter. If the retained professional is a firm, the firm is to designate one individual who is responsible for this review. If this procedure is followed, the Court’s expectation is that the amount of professional time spent on preparing fee applications will be minimal.

(Standing Order, Docket 6 at ¶ 3).

After review of the Supplemental Application, the Court finds that the firm’s request for fees is excessive. The firm requests compensation for 67.30 hours of time at rates ranging from \$65.00 to \$495.00 an hour, with most of the time (55 hours of paralegal time) falling in the

¹ This case began as a Chapter 11 and was converted to a Chapter 7.

\$145.00/\$155.00 category. Almost all of this time relates to preparation of the firm's fourth fee application and the supplement. As noted above, counsel were instructed early on to employ office procedures to reduce the amount of time spent on fee applications. When time is recorded completely and accurately when the legal service is rendered, it should be a straightforward matter to prepare the fee application. This is particularly so in applications other than the initial one, where some time is spent setting out the basic information about the case and the applicant's role in the case.

Despite the alert to minimize time spent on fee applications, the Supplemental Application includes numerous entries for conferences regarding the fee application (see, for example, the entries for 1/9/03 (third entry); and 1/21/03 (second entry). There are also numerous entries for services described only as: "Attention to . . . Application (see, for example, the entries for 10/21/02; 10/22/02; and 1/3/03); and "Revise . . . Application" (see, for example, the entries for 12/27/02; 1/02/03 (first entry); and 1/9/03 (second entry), which descriptions are too vague to permit meaningful review, a point that was made early in the case to all counsel. Additionally, the Supplemental Application includes entries that are excessive in time for the activity performed (see entries of 10/9/02 and 10/10/02 for 2 hours to prepare a chart of fees and expenses requested, allowed, and paid in this case. This information should have been readily available from the earlier fee applications and orders that state the amount of fees requested and the amounts allowed.). Finally, some entries do not indicate that the services performed benefitted the estate (see entries of 6/24/02 and 6/28/02 regarding "inaccuracies in prior filings").

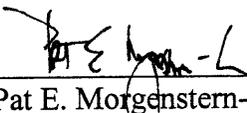
The extent of these activities is not reasonable under the circumstances, particularly since it amounts to the equivalent of one billing professional spending eight or nine days (billing 7 straight hours a day) on the fourth fee application and supplement. By this point in the case,

given the amount of time previously awarded to prepare earlier fee applications, and in light of the Court's preliminary instruction, preparing the fourth fee application should have been relatively uncomplicated. (See, for example, time of \$5,155.00 related to preparing the third fee application which time was included in the original fourth fee application; Docket 534). The Court also notes that the amount of additional compensation requested here is almost twice the amount requested by the firm to prepare its third fee application, and that the firm now asks for more than \$11,000.00 to compensate it for preparing and prosecuting a fee application that resulted in the firm being awarded \$20,598.00 in fees. (Docket 563).

Based on the above, the Court finds that the reasonable compensation for the services identified (including the few that do not relate directly to the fourth fee application and supplement) is as follows: 15 hours at the firm's blended hourly rate of \$172.08, for a total of \$2,581.20. Fees in that amount are awarded together with the requested \$225.91 in expenses, with the balance of the supplemental fee request denied. Given the conversion of this case to Chapter 7, the Court reserves ruling on the request to authorize payment of those fees pending a determination as to the solvency of the Chapter 7 estate.

IT IS SO ORDERED.

Date: 4 Jun 2003



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Served on: Julie Zurn, Esq. (court box)
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By: Joyce R. Gordon, Secretary

Date: 6/4/03