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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

In re:) Case No. 03-25461
)
DEACONESS HOSPITAL, LLC, *et al.*,) Chapter 11
) (jointly administered)
Debtors.)
) Judge Pat E. Morgenstern-Clarren
)
) **MEMORANDUM OF OPINION**

Hahn Loeser & Parks LLP applies for compensation as debtors' counsel for the period from November 7, 2003 through April 30, 2004. (Docket 469, 480, 599). The firm requests \$467,980.10 in fees and \$29,205.78 in expenses. The United States trustee and creditor GE HFS Holdings, Inc. object to the amounts requested. (Docket 512, 516). The objections are sustained in part and denied in part, as discussed below.

JURISDICTION

Jurisdiction exists 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

A professional who provides services in a bankruptcy case may be awarded "reasonable compensation for actual, necessary services" and "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

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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 applicant has the burden of proving it is entitled to compensation in the amount requested. *In re Bolton-Emerson, Inc.*, 200 B.R. 725, 729 (D.Ct. D. Mass. 1996). Expense requests are reviewed with a “strict eye” as to reasonableness. *Bowling v. Pfizer*, 132 F.3d 1147, 1152 (6th Cir. 1998).

DISCUSSION

These are the objections and responses:¹

1. Hahn Loeser & Parks (the firm) asks for \$34,448.00 in fees for 179.80 hours in services performed in the nine days before the chapter 11 filing. The United States trustee objects to this as excessive, objecting in particular to any individual billing more than 10 hours a day in the two days before the filing. The firm responds that it faced a deadline and used discretion in staffing the work. It also states that in this category, as well as several others, it has already reduced its fees. The court accepts the representation that the firm had a deadline to meet; however, the court also believes that only in rare circumstances should a client be billed for more than 10 hours a day of any individual’s work, particularly when the billing rates range from \$360.00 to \$145.00 an hour. To bill 10 hours, an individual normally must be at work for quite a bit longer than that, because usually a person does more than one thing in a day, ranging from working on other legal matters to administrative matters to personal matters (such as eating, making phone calls, or addressing other personal demands) to “down time” waiting for someone else to perform a task before one can start in again. In reaching this conclusion, the court is

¹ The United States trustee, GE, and the firm organized their written positions in different fashions. The court has combined some of the objections and responses in order to address the issues efficiently. Regardless of whether a particular argument is specifically noted, the court considered all arguments made at the hearing and in the filings.

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drawing on years in private practice, years on the bench reviewing fee applications, and the knowledge of what it takes for an individual to concentrate and provide more than 10 billed hours of effective, specialized intellectual services in a day. As the firm has not established that it falls within any rare circumstances, the objection is upheld and the fees are reduced by \$3,745.00.²

2. The United States trustee asks that \$774.80 be deducted for time spent performing routine office tasks, including filing hard copies of documents, downloading material from the electronic filing system, and maintaining an office calendar, contrary to the guidelines. GE raises a similar objection to numerous other entries totaling \$12,838.00, including those relating to organizing files and mailings.

The firm responds that the internal filing time is compensable because it adds organizational value. The court finds that time devoted to filing is, in fact, a routine office task that is not compensable. As the court has said before, a person who takes something out of a file ought to be able to put it back in the right place in a matter of seconds, and in any event it does not take someone billing at \$90.00 to \$160.00 an hour to do so. The same is true with respect to organizing a mailing or organizing a client's files. The objections to filing, organizing, and mailing time charges are sustained in part and the fees are reduced by \$4,379.50.³ The objection

² This same standard will apply to other professionals seeking compensation in this case.

³ These entries under General Administration are disallowed: 11/24/03 CMB 2.8; 11/25/03 CMB 1.6; 12/11/03 EDT 1.2; 12/12/03 EJR 1.00; 12/12/03 EDT 1.4; 1/9/04 CMB 1.7; 1/21/04 EJR .3; 1/22/04 CMB 3.4; 1/26/04 CMB .4; 1/29/04 EJR .5; 2/2/04 EJR .2; 3/11/04 CMB 1.3; 4/8/04 EJR .2; 4/18/04 CMB 5.00; 4/19/04 CMB 1.5; 4/19/04 EJR 1.5; 4/20/04 CMB 1.8; 4/20/04 EJR 1.2; 4/21/04 CMB .6. The application indicates two different billing rates without providing an explanation as to the effective date of the rate increase. This calculation assumes that the billing rate increase took effect on January 1, 2004. GE's objection to other entries is overruled because the other entries are compensable.

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to downloading material from the electronic filing system is, however, overruled. At least while the ECF system is in its relative infancy, this is a job that requires some skill and falls outside the category of a routine office task. The court believes that as the process becomes more familiar, individuals will be able to file and retrieve electronic documents very quickly and ultimately this will revert to a routine office task that is not compensable. In the court's opinion, that moment has not yet arrived.

3. The firm billed for docket clerk and paralegal time at rates ranging from \$165.00 an hour to \$65.00 an hour. The United States trustee argues that these hourly rates are excessive for this kind of work and asks that the \$13,067.80 request be reduced by \$3,148.00. For the time being, the court will accept the billing rate used by the firm because the United States trustee has not presented any evidence to show the rates are excessive.

4. The United States trustee objects to the request to award \$8,727.00 related to obtaining retention of other professionals and reviewing their fee applications. Specifically, he contends that the fee request relating to MelCap Partners and Klinc & Associates is excessive and should be reduced by \$3,231.00. The firm responds that its time included negotiating terms with other professionals and addressing disputed applications. Leaving aside the time spent in negotiations, the amount of time devoted just to preparing these routine applications is excessive. The objection is sustained and the time is reduced by \$3,231.00.

5. The United States trustee and GE object that the firm provided insufficient expense documentation and also that, even if documented, these expenses are not reimbursable under the guidelines: parking, certain meals totaling \$110.21, taxis, and overtime. The firm provided documentation following the hearing that resolved most of the objection relating to

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documentation. The firm acknowledges that it cannot locate receipts for \$42.35 of meals and that expense is disallowed. The firm contends that the parking was necessary to facilitate meetings that would otherwise have been in a different location to which the professionals would have had to travel. The court does not find that to be sufficient reason to depart from the guidelines and the expense in the amount of \$181.00 is disallowed. On the overtime issue, the firm states that exigent circumstances existed in connection with the chapter 11 filing, motion to convert, and other matters that justify departing from the guidelines. The court does not find that to be a sufficient reason to depart and the overtime in the amount of \$675.95 is disallowed. The same is true with respect to the taxi expenses. The firm may well choose to have its personnel travel by taxi at night, but that is an overhead issue, not an expense that should be borne by the estate. The expense of \$27.00 is disallowed.

6. GE contends that entries totaling \$2,094.00 have inadequate detail. The firm responds that most of the entries relate to downloading dockets from the PACER system and, with respect to one entry, more detail would violate the attorney-client privilege. The firm is instructed to provide a more detailed explanation for these activities in any future application, but the time will be allowed as filed in this first application.

7. GE argues that the firm did not justify the need to have more than one professional attend certain meetings or hearings. The firm responds that the case complexity warrants the multiple attendance. At the beginning of the case, this was undoubtedly true. As the case winds down, one attorney may well be able to handle many of the hearings. The court assumes that the firm will evaluate each hearing on an individual basis and that for routine hearings, only one professional will attend or, if the firm chooses to have more than one professional attend, that the

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firm will only bill for one individual's time. The court accepts the firm's position that in the beginning months of this case, it served the estate to have more than one professional in attendance. In reaching this conclusion, the court notes that GE has had two representatives at many of the same hearings.

8. GE objects that the firm requested \$2,092.50 in travel time that does not conform to the guidelines. The firm did not specifically respond to this, but may be saying that it has already voluntarily reduced its time in this category. Nevertheless, the application still includes travel time that does not conform to the guidelines and this objection is sustained for that reason.

9. GE objects to \$1,720.50 in time spent asserting the debtors' rights against GE, which GE alleges cannot be paid out of GE's cash collateral under various orders. The firm responds that this time represents investigation of the GE issues, not prosecution. As investigation is specifically permitted under the terms of the agreed orders, this objection is overruled.

10. The firm asks for \$4,637.50 for services performed that should have been performed by the debtors, including filing and examining proofs of claim. The court accepts the firm's explanation that this time relates to processing proofs of claim erroneously sent to the debtors and responding to creditor inquiries. The objection is overruled.

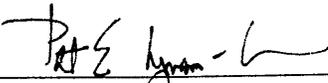
CONCLUSION

For the reasons stated, the objections are sustained in part and overruled in part. The application of Hahn Loeser & Parks LLP for compensation is approved in the amount of

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\$456,624.60 for fees and \$28,279.48 for expenses. A separate order will be entered reflecting this decision.

Date: 15 September 2014



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

To be served by clerk's office email and the Bankruptcy Noticing Center on:

Daniel DeMarco, Esq.
Andrew Vara, Esq.
Ronald Beacher, Esq.
Russell Kornblut, Esq.
Joseph Hutchinson, Esq.

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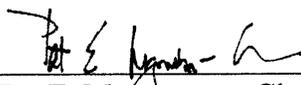
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) (jointly administered)
Debtors.)
) Judge Pat E. Morgenstern-Clarren
)
) **ORDER**

For reasons stated in the memorandum of opinion filed this same date,

IT IS, THEREFORE, ORDERED that the application of Hahn Loeser & Parks LLP for compensation for the period from November 7, 2003 through April 30, 2004 is granted in part and the objections of the United States trustee and GE HFS Holdings, Inc. to the application are sustained in part. (Docket 469, 480, 512, 516). Hahn Loeser & Parks LLP is awarded compensation in the amount of \$456,624.60 and reimbursement of expenses in the amount of \$28,279.48.

Date: 15 September 2004



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

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