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April 16, 2012

**VIA FEDERAL EXPRESS AND ELECTRONIC MAIL**

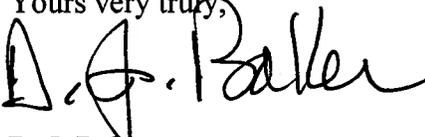
Executive Office for United States Trustees  
20 Massachusetts Avenue, N.W.  
Eighth Floor  
Washington, D.C. 20536

Re: Revised Proposed Fee Guidelines

Ladies and Gentlemen:

In response to the request of the Executive Office for United States Trustees, please find attached revised draft guidelines (the "Revised Guidelines") and commentary accompanying the Revised Guidelines (the "Commentary"), submitted to you on behalf of the 118 law firms listed as signatories at the end of the Commentary. A blackline reflecting changes against the guidelines proposed by the United States Trustee Program is also enclosed.

The Executive Office for United States Trustees should feel free to contact any of the individual representatives of the signatory firms, whose names are listed below.

Yours very truly,  
  
D. J. Baker

cc (via electronic mail): Individuals listed on the attached Exhibit A

**EXHIBIT A**

| <b>FIRM</b>  | <b>REPRESENTATIVE(S)</b>                               |
|--|--|
| Akin Gump Strauss Hauer & Feld LLP                 | Daniel Golden  |
| Andrews Kurth LLP                                  | Robin Russell<br>Jeffrey E. Spiers<br>Paul Silverstein |
| Armstrong Teasdale LLP                             | Janet L. Chubb   |
| Ashby & Geddes, P.A.                               | William P. Bowden                                      |
| Baker & Hostetler LLP                              | Marc Hirschfield                                       |
| Baker, Donelson, Bearman, Caldwell & Berkowitz, PC | Timothy M. Lupinacci                                   |
| Ballard Spahr LLP                                  | Vincent J. Marriott, III                               |
| Bayard, P.A.                                       | Neil B. Glassman                                       |
| Berger Singerman LLP                               | Paul Steven Singerman                                  |
| Bernstein Shur                                     | Robert J. Keach  |
| Bingham Greenebaum Doll LLP                        | John W. Ames   |
| Bingham McCutchen LLP                              | Jeffrey S. Sabin                                       |
| Brown Rudnick LLP                                  | Edward S. Weisfelner                                   |
| Bryan Cave LLP                                     | Lloyd A. Palans  |
| Burr + Forman LLP                                  | Michael L. Hall  |
| Cadwalader, Wickersham & Taft LLP                  | George Davis<br>John Rapisardi                         |
| Choate, Hall & Stewart LLP                         | Douglas R. Gooding                                     |
| Cleary Gottlieb Steen & Hamilton LLP               | James L. Bromley                                       |
| Cole, Schotz, Meisel, Forman & Leonard, P.A.       | Norman L. Pernick                                      |
| Cooley LLP   | Jay R. Indyke  |
| Cox Smith Matthews Incorporated                    | Deborah D. Williamson                                  |
| Cross & Simon, LLC                                 | Kevin S. Mann  |
| Curtis, Mallet-Prevost, Colt & Mosle LLP           | Steven J. Reisman                                      |
| Debevoise & Plimpton LLP                           | Natasha Labovitz                                       |
| Dechert LLP  | Shmuel Vasser  |
| Dewey & LeBoeuf LLP                                | Martin J. Bienenstock                                  |
| Diamond McCarthy LLP                               | Allan Diamond  |
| DiConza Traurig Magaliff LLP                       | Jeffrey Traurig  |
| DLA Piper (US) LLP                                 | Gregg Galardi  |
| Dorsey & Whitney LLP                               | Eric Lopez Schnabel                                    |

| FIRM                                  | REPRESENTATIVE(S)                         |
|---------------------------------------|---|
| Drinker Biddle & Reath LLP            | Andrew C. Kassner                         |
| Duane Morris LLP                      | William S. Katchen                        |
| Faegre Baker Daniels LLP              | Michael R. Stewart                        |
| Fennemore Craig, PC                   | Cathy Reece                               |
| Foley & Lardner LLP                   | Judy A. O'Neill                           |
| Frost Brown Todd LLC                  | Ronald E. Gold                            |
| Fulbright & Jaworski L.L.P.           | Louis R. Strubeck, Jr.                    |
| Gardere Wynne Sewell LLP              | John P. Melko                             |
| Gibson, Dunn & Crutcher LLP           | David Feldman                             |
| Goodwin Proctor LLP                   | Michael J. Pappone                        |
| Gordon Silver                         | Gerald Gordon                             |
| Greenberg Traurig, LLP                | Keith J. Shapiro                          |
| Hahn & Hessen LLP                     | Mark T. Power                             |
| Holland & Knight LLP                  | John Monaghan                             |
| Hunton & Williams                     | Ben Ackerly                               |
| Irell & Manella LLP                   | Jeffrey M. Reisner                        |
| Jennings, Strouss & Salmon, PLC       | Carolyn Johnsen                           |
| Jones Day                             | Paul D. Leake                             |
| K&L Gates LLP                         | Jo Ann Brighton                           |
| Kane Russell Coleman & Logan PC       | Joseph A. Friedman                        |
| Kasowitz Benson Torres & Friedman LLP | David M. Friedman                         |
| Kegler, Brown, Hill & Ritter Co., LPA | Kenneth R. Cookson                        |
| Kelley Drye & Warren LLP              | James S. Carr                             |
| King & Spalding LLP                   | Sarah Robinson Borders                    |
| Kirkland & Ellis LLP                  | James H.M. Sprayregen<br>Richard M. Cieri |
| Klee, Tuchin, Bogdanoff & Stern LLP   | Lee R. Bogdanoff                          |
| Kozyak Tropin & Throckmorton, P.A.    | John W. Kozyak                            |
| Kramer Levin Naftalis & Frankel LLP   | Kenneth H. Eckstein<br>Thomas Moers Mayer |
| Landis Rath & Cobb LLP                | Adam G. Landis                            |
| Lane Powell PC                        | Bruce Leaverton                           |
| Lewis and Roca LLP                    | Susan M. Freeman                          |
| Loeb & Loeb LLP                       | William M. Hawkins<br>Walter H. Curchack  |

| FIRM  | REPRESENTATIVE(S)                                   |
|---|---|
| Lowenstein Sandler PC   | Kenneth A. Rosen<br>Sharon Levine<br>Bruce Buechler |
| Mayer Brown LLP   | Brian Trust   |
| McDonald Carano Wilson LLP  | Karaan Thomas                                       |
| McGuire Woods LLP   | Douglas M. Foley                                    |
| Mesch, Clark & Rothschild,<br>P.C.  | Michael McGrath                                     |
| Milbank, Tweed, Hadley &<br>McCloy LLP  | Dennis Dunne  |
| Miller Nash LLP   | Teresa H. Pearson                                   |
| Mintz, Levin, Cohn, Ferris,<br>Glovsky and Popeo, P.C.  | Richard Mikels                                      |
| Mock, Schwabe, Waldo, Elder,<br>Reeves & Bryant, A<br>Professional Limited Liability<br>Company | G. Blaine Schwabe, III                              |
| Morgan, Lewis & Bockius<br>LLP  | James L. Garrity, Jr.                               |
| Morris James LLP  | Brett D. Fallon                                     |
| Morris, Nichols, Arsht &<br>Tunnell LLP   | Gregory W. Werkheiser                               |
| Morrison & Foerster LLP   | Larren M. Nashelsky                                 |
| Murphy & King, Professional<br>Corporation  | Harold B. Murphy                                    |
| Nixon Peabody LLP   | Mark Berman   |
| Obuchowski & Emens-Butler,<br>PC  | Raymond J. Obuchowski                               |
| O'Melveny & Myers LLP   | Suzanne Uhland                                      |
| Orrick, Herrington & Sutcliffe<br>LLP   | Marc A. Levinson                                    |
| Pachulski Stang Ziehl & Jones<br>LLP  | Richard Pachulski                                   |
| Paul Hastings LLP   | Luc A. Despins                                      |
| Paul, Weiss, Rifkind, Wharton<br>& Garrison LLP   | Alan W Kornberg                                     |
| Pepper Hamilton LLP   | David B. Stratton                                   |
| Perkins Coie LLP  | Steven M. Hedberg                                   |
| Porter Hedges LLP   | John F. Higgins                                     |
| Potter Anderson & Corroon<br>LLP  | Jeremy W. Ryan                                      |
| Proskauer Rose LLP  | Mark K. Thomas                                      |
| Quarles & Brady LLP   | Susan G. Boswell                                    |

| <b>FIRM</b>                                      | <b>REPRESENTATIVE(S)</b> |
|--|--------------------------|
| Reed Smith LLP                                   | Paul M. Singer           |
| Richards Kibbe & Orbe LLP                        | Michael Friedman         |
| Richards, Layton and Finger,<br>P.A.             | Mark D. Collins          |
| Riker, Danzig, Scherer,<br>Hyland & Perretti LLP | Dennis J. O'Grady        |
| Ropes & Gray LLP                                 | Mark Bane                |
| Saul Ewing LLP                                   | Mark Minuti              |
| Schulte Roth & Zabel LLP                         | Michael L. Cook          |
| Shea & Carlyon, Ltd.                             | Candace C. Carlyon       |
| Shearman & Sterling LLP                          | Douglas P. Bartner       |
| Sidley Austin LLP                                | Larry J. Nyhan           |
| Simpson Thacher & Bartlett<br>LLP                | Peter Pantaleo           |
| Skadden, Arps, Slate, Meagher<br>& Flom LLP      | Jay M. Goffman           |
| Smith Hulsey & Busey                             | Stephen D. Busey         |
| Snell & Wilmer L.L.P.                            | Donald L. Gaffney        |
| Snow Fogel Spence LLP                            | Ross Spence              |
| SNR Denton US LLP                                | Fruman Jacobson          |
| Squire Sanders (US) LLP                          | G. Christopher Meyer     |
| Stroock & Stroock & Lavan<br>LLP                 | Mark A. Speiser          |
| Stutman Treister & Glatt                         | Theodore B. Stolman      |
| Sullivan & Cromwell LLP                          | Andrew G. Dietderich     |
| Taft Stettinius & Hollister LLP                  | Timothy J. Hurley        |
| Vinson & Elkins LLP                              | William L. Wallander     |
| Weil, Gotshal & Manges LLP                       | Marcia L. Goldstein      |
| Willkie Farr & Gallagher LLP                     | Marc Abrams              |
| Wilmer Cutler Pickering Hale<br>and Dorr LLP     | William J. Perlstein     |
| Winston & Strawn LLP                             | David Neier              |
| Womble Carlyle Sandridge &<br>Rice, LLP          | Frank Monaco             |
| Young Conaway Stargatt &<br>Taylor, LLP          | James L. Patton, Jr.     |

**COMMENTARY ACCOMPANYING  
REVISED GUIDELINES SUPPORTED BY 118 LAW FIRMS (LF PROPOSED  
REVISED GUIDELINES)  
FOR REVIEWING COMPENSATION OF PROFESSIONALS IN LARGER CHAPTER  
11 CASES**

On January 31, 2012, 119 Law Firms submitted Comments (Comments) regarding the “Proposed Guidelines for Reviewing Applications for Compensation & Reimbursement of Expenses Filed Under 11 U.S.C. §330 by Attorneys in Larger Chapter 11 Cases” issued by the Executive Office of the United States Trustee for public comment on November 4, 2011 (Proposed Fee Guidelines). Subsequently, several additional law firms joined the Comments.

Since then, various law firms that signed the Comments have worked to develop a set of LF Proposed Revised Guidelines that address the concerns raised by the Comments. In doing so, we have had several key objectives:

1. To recognize the exclusive statutory role of the bankruptcy courts in deciding compensation for professionals in bankruptcy cases and related evidentiary requirements, while also providing the United States Trustee and any professional or committee appointed to review and comment on fees with the information required to do so.
2. To follow and implement the statutory standard that professionals in bankruptcy should be compensated at their customary hourly rates for comparable non-bankruptcy work. Accordingly, the LF Proposed Revised Guidelines require that attorneys seeking compensation from the bankruptcy estate provide information setting forth their customary hourly rates for comparable non-bankruptcy matters. Because discounts negotiated by some private clients are not customary rates and also involve circumstances and market factors not applicable to the bankruptcy context, the LF Proposed Revised Guidelines reject the notion that such discounted rates, blended rates reflecting discounts, or other “economy of administration” standards are legally relevant.
3. To suggest practical and feasible procedures with respect to attorney fee applications in Larger Chapter 11 Cases that are (i) cost effective, taking into consideration the cost and expense to the estate of providing various information against its relevance and value, and (ii) within the capabilities of current law firm accounting and record-keeping practices and related technology that is available at reasonable cost to both small and large law firms.

The LF Proposed Revised Guidelines largely implement the Comments. This Commentary supplements the prior Comments regarding the rationale behind certain provisions included in the LF Proposed Revised Guidelines.

## **1. Definition of “Larger Chapter 11 Cases.”**

There is a widely held view among the supporting law firms that the threshold to apply the revised fee guidelines should be significantly higher than the test incorporated into the Proposed Fee Guidelines. While the threshold test incorporated into the LF Proposed Revised Guidelines is on the lower end of the range many thought appropriate, it incorporates a number of additional requirements designed to assure that the additional cost and expense of complying with the revised guidelines is required only in larger and more complex cases. Thus, for example, the LF Proposed Revised Guidelines include a requirement that there be more than \$250 million in assets, with more than \$50 million of unencumbered assets in the case. The requirement of significant unencumbered assets reflects both the limits on a surcharge of collateral under § 506(c) of the Bankruptcy Code, and the restraint that under-collateralized lienholders have historically brought to bear on estate professional fees. The LF Proposed Revised Guidelines also require that there be more than \$250 million of unsecured debt with at least 250 unsecured creditors excluding present and former employees. Lastly, to assure that the case warrants application of the LF Proposed Revised Guidelines, there is a requirement that there be more than \$50 million of syndicated debt for borrowed money. The supporting firms generally believe that all these requirements are easily satisfied in what most professionals in the bankruptcy field would consider to be a significant and large chapter 11 case warranting more involved fee application procedures.

## **2. Geographic Variations in Rates (Section B.4.i).**

Modern communications have largely eliminated geographic distinctions in handling most matters. For example, both in and outside of bankruptcy, a national matter is likely to be staffed with attorneys from multiple offices. For those matters, the usual and customary rate charged by most national law firms would be based on a national rate card that largely or entirely eliminates local regional differences in rates. The revisions to this section recognize that the elevated threshold before a case qualifies as a Larger Chapter 11 Case makes the LF Proposed Fee Guidelines applicable only to national cases for which national rates would be appropriate. The proposed changes in language are also designed to allow professionals the opportunity to demonstrate the market appropriateness of variations in a particular rate structure to a particular case. For example, for a matter based in New York, attorneys from outside New York may spend significant amounts of time working in the law firm’s New York office consuming more costly New York resources. In those situations, the LF Proposed Revised Guidelines are designed to allow professionals to apply higher rates, if applicable, that apply in their New York office to such time, regardless of where the particular attorney may maintain his or her primary office.

## **3. Overhead (Sections B.4.g; B.5.e).**

The Proposed Fee Guidelines eliminated the definition of overhead expenses found in the 1996 Guidelines, but it is hard to find a better conceptual definition. The 1996 Guidelines’ definition is accordingly re-incorporated into the LF Proposed Revised Guidelines. We note in that respect that there may be instances where charges that usually constitute overhead are in fact incremental expenses attributable to the particular case. An example is after-hours lighting, heating, or air

conditioning. Many current building leases exclude such items from monthly rent. In those instances, when such services are required, special arrangements need to be made with the building, and the tenant is surcharged for the after-hours lighting, heating, or air conditioning. When attributable to a particular case, such incremental costs should fairly be treated as additional expenses billable to the estate.

#### **4. Case Status (Section C.6).**

As a practical matter, the information sought by this section is largely in the exclusive control of the debtor. The LF Proposed Revised Guidelines accordingly place the onus on the debtor's primary bankruptcy counsel to gather such information and include it in their fee application. In the case of administrative expenses, the Comments observed that it can be extremely costly to obtain a truly accurate snapshot of administrative expenses at any particular point in time, while noting that the level of unpaid administrative expenses is largely relevant for fee application purposes only to confirm that the case is not administratively insolvent. Accordingly, the LF Proposed Revised Guidelines contemplate the use of less costly estimates where precisely accurate information to confirm administrative solvency is not needed in a particular case.

#### **5. Threshold for Justifying Individual Expenses (Section C.7.e).**

It is entirely unreasonable to require that the reason for every individual expense be explained. Such a requirement is unheard of outside bankruptcy. The standard fails to take into consideration the professional and staff time necessary to document the reason for each particular expense and carry it forth into the fee application. Perhaps the clearest example of this is a \$0.10 photocopying charge. It seems clear therefore that the cost of documenting the reason for the expense should be significantly less than the expense itself. In addition, there seems no reason to spend estate time and resources documenting the reason for routine expenses like photocopying motion papers. While some believe that a higher threshold is appropriate, the LF Proposed Revised Guidelines settle on a threshold of \$500 before an explanation of the individual expense is required.

#### **6. Special Fee Review Procedures (Section E).**

A considerable concern with the Special Fee Review Procedures set forth in the Proposed Fee Guidelines is that their level of detail seeks to constrain the flexibility of the court to establish special fee review procedures appropriate to the case, in effect exercising regulatory authority that the United States Trustee lacks. At the same time, the likelihood of such special procedures working effectively is enhanced if they fit the particular case and the requirements of the court that will be making compensation decisions. The LF Proposed Revised Guidelines therefore adopt the broad parameters set forth in the Proposed Fee Guidelines while seeking to provide greater flexibility. At the same time, they provide that the United States Trustee should not be bound by the recommendations of a fee review committee or examiner unless it has agreed to the special fee review procedures ultimately applied in a particular case.

Another concern is that special fee review procedures involve considerable additional time and expense to the estate and can add significant complexity to the fee review and application

process. The proposal that the United States Trustee should not object to fee applications that have been approved by a special procedure to which it has agreed, reflects the view both that the United States Trustee should not have two bites at the apple in objecting to fee applications, and secondly that such special procedures and their related costs should not be incurred if they will not be recognized in the case as the primary mechanism to resolve disagreements over fees.

**7. Project Categories – Exhibits A and C.**

The number of project categories into which time is recorded is reduced from 24 to 16 categories that are in current widespread use, with the possibility of additional categories being added for significant matters peculiar to a particular case. For example, a chapter 11 case involving a power plant might have both significant regulatory and environmental matters, while such matters are of minor importance in most other cases. Additional categories for regulatory and environmental work could then be added in the power case. The LF Proposed Revised Guidelines encourage the parties to consult with the United States Trustee and work out any additional categories appropriate to the case. Sub-categories are eliminated for the reasons set forth in the Comments.

The expense categories in the Proposed Fee Guidelines are incorporated with only minor wording changes into the LF Proposed Revised Guidelines. Exhibit A, which specifies the categories by which time is to be recorded, is conformed to Exhibit C, which specifies the categories into which time and fees are to be divided in the application for compensation.

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AKIN GUMP STRAUSS HAUER &  
FELD LLP

ANDREWS KURTH LLP

ARMSTRONG TEASDALE LLP

ASHBY & GEDDES, P.A.

BAKER & HOSTETLER LLP

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC

BALLARD SPAHR LLP

BAYARD, P.A.

BERGER SINGERMAN LLP

BERNSTEIN SHUR

BINGHAM GREENEBAUM DOLL  
LLP

BINGHAM MCCUTCHEN LLP

BROWN RUDNICK LLP

BRYAN CAVE LLP

BURR + FORMAN LLP

CADWALADER, WICKERSHAM &  
TAFT LLP

CHOATE, HALL & STEWART LLP

CLEARY GOTTlieb STEEN &  
HAMILTON LLP

COLE, SCHOTZ, MEISEL,  
FORMAN & LEONARD, P.A.

COOLEY LLP

COX SMITH MATTHEWS  
INCORPORATED

CROSS & SIMON, LLC

CURTIS, MALLETT-PREVOST,  
COLT & MOSLE LLP

DEBEVOISE & PLIMPTON LLP

DECHERT LLP

DEWEY & LEBOEUF LLP

DIAMOND MCCARTHY LLP

DICONZA TRAUIG MAGALIFF  
LLP

DLA PIPER (US) LLP

HUNTON & WILLIAMS

DORSEY & WHITNEY LLP

IRELL & MANELLA LLP

DRINKER BIDDLE & REATH LLP

JENNINGS, STROUSS & SALMON,  
PLC

DUANE MORRIS LLP

JONES DAY

FAEGRE BAKER DANIELS LLP

K&L GATES LLP

FENNEMORE CRAIG, PC

KANE RUSSELL COLEMAN &  
LOGAN PC

FOLEY & LARDNER LLP

FROST BROWN TODD LLC

KASOWITZ BENSON TORRES &  
FRIEDMAN LLP

FULBRIGHT & JAWORSKI L.L.P.

KEGLER, BROWN, HILL &  
RITTER Co., LPA

GARDERE WYNNE SEWELL LLP

GIBSON, DUNN & CRUTCHER  
LLP

KELLEY DRYE & WARREN LLP

GOODWIN PROCTOR LLP

KING & SPALDING LLP

GORDON SILVER

KIRKLAND & ELLIS LLP

GREENBERG TRAURIG, LLP

KLEE, TUCHIN, BOGDANOFF &  
STERN LLP

HAHN & HESSEN LLP

KOZYAK TROPIN &  
THROCKMORTON, P.A.

HOLLAND & KNIGHT LLP

KRAMER LEVIN NAFTALIS &  
FRANKEL LLP

LANDIS RATH & COBB LLP

LANE POWELL PC

LATHAM & WATKINS LLP

LEWIS AND ROCA LLP

LOEB & LOEB LLP

LOWENSTEIN SANDLER PC

MAYER BROWN LLP

MCDONALD CARANO WILSON  
LLP

MCGUIREWOODS LLP

MESCH, CLARK & ROTHSCHILD,  
P.C.

MILBANK, TWEED, HADLEY &  
McCLOY LLP

MILLER NASH LLP

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C.

MOCK, SCHWABE, WALDO,  
ELDER, REEVES & BRYANT, A  
PROFESSIONAL LIMITED  
LIABILITY COMPANY

MORGAN, LEWIS & BOCKIUS  
LLP

MORRIS JAMES LLP

MORRIS, NICHOLS, ARSHT &  
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WHARTON & GARRISON LLP

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PROSKAUER ROSE LLP

QUARLES & BRADY LLP

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RICHARDS KIBBE & ORBE LLP

RICHARDS, LAYTON AND  
FINGER, P.A.

RIKER, DANZIG, SCHERER,  
HYLAND & PERRETTI LLP

ROPES & GRAY LLP

SAUL EWING LLP

SCHULTE ROTH & ZABEL LLP

SHEA & CARLYON, LTD.

SHEARMAN & STERLING LLP

SIDLEY AUSTIN LLP

SIMPSON THACHER & BARTLETT  
LLP

SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP

SMITH HULSEY & BUSEY

SNELL & WILMER L.L.P.

SNOW FOGEL SPENCE LLP

SNR DENTON US LLP

SQUIRE SANDERS (US) LLP

STROOCK & STROOCK & LAVAN  
LLP

STUTMAN TREISTER & GLATT

SULLIVAN & CROMWELL LLP

TAFT STETTINIUS & HOLLISTER  
LLP

VINSON & ELKINS LLP

WINSTON & STRAWN LLP

WEIL, GOTSHAL & MANGES LLP

WOMBLE CARLYLE SANDRIDGE  
& RICE, LLP

WILLKIE FARR & GALLAGHER  
LLP

YOUNG CONAWAY STARGATT &  
TAYLOR, LLP

WILMER CUTLER PICKERING  
HALE AND DORR LLP

**REVISED DRAFT SUPPORTED BY 118 LAW FIRMS  
PREVIOUSLY SUBMITTING COMMENTS  
4-16-2012**

**Guidelines for Reviewing Applications  
for Compensation & Reimbursement of  
Expenses Filed Under 11 U.S.C. § 330  
by Attorneys in Larger Chapter 11 Cases**

In 1996, in accordance with 28 U.S.C. § 586, the United States Trustee Program (“USTP”) promulgated Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330 (“1996 guidelines”). The guidelines set forth herein (“Guidelines”) apply only in “Larger Chapter 11 Cases”, which shall mean chapter 11 cases in which, with respect to either the debtor, or a group of debtors whose cases are jointly administered, the initial schedules filed in the case show: (i) assets exceed \$250 million, (ii) unencumbered assets (including the scheduled value of assets in excess of secured claims against them) exceed \$50 million, (iii) at least 250 pre-petition unsecured creditors, excluding employees and former employees, holding more than \$250 million in general unsecured claims, and (iv) there is outstanding pre-petition debt for borrowed money in excess of \$50 million (a) held by three or more creditors, and (b) subject to a common loan or credit agreement, purchase agreement, trust indenture, or other similar agreement setting forth common terms and conditions singularly applicable to at least \$50 million of such debt. For purposes of determining whether the thresholds set forth herein have been satisfied, the Schedules filed by the debtor shall be determinative, including with respect to the value of encumbered and unencumbered assets.

The 1996 guidelines remain in effect for the USTP review of applications for compensation in all cases that are not Larger Chapter 11 Cases. In accordance with 28 U.S.C. § 586, the 1996 guidelines and these Guidelines are intended to be uniformly applied by the United States Trustee in each district when reviewing applications for compensation and reimbursement of expenses under 11 U.S.C. § 330, except when circumstances warrant a different treatment.

**A. GENERAL INFORMATION**

1. 28 U.S.C. § 586(a)(3)(A) provides that United States Trustees may review “in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States Trustee except when circumstances warrant different treatment) applications filed for compensation and reimbursement under section 330 of title 11 . . . .” United States Trustees may also file “with the court comments with

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4-16-2012**

respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.” Id. The Executive Office for United States Trustees promulgated guidelines, which apply to all cases filed after October 21, 1994.

2. Because the circumstances in certain chapter 11 cases warrant different treatment, these Guidelines apply only when USTP attorneys review applications for compensation filed by attorneys employed under sections 327 or 1103 of the United States Bankruptcy Code (the “Code”) in Larger Chapter 11 Cases.
3. These Guidelines are statements of United States Trustee policies that the USTP will follow in the absence of controlling law or rules in a jurisdiction. Thus, the Guidelines do not supersede local rules, court orders, or other controlling authority.
4. Because only the court has authority to award compensation and reimbursement under section 330 of the Code, the Guidelines should be interpreted in a manner that is consistent with standards and procedures in section 330 of the Code and Rule 2016 of the Federal Rules of Bankruptcy Procedure.
5. Applications that contain the information requested in these Guidelines will assist review by the United States Trustee. The Guidelines thus should be construed to seek the disclosure only of information relevant to awarding compensation and reimbursing expenses under section 330.
6. The United States Trustees shall use these Guidelines in all Larger Chapter 11 Cases filed on or after [effective date].
7. Nothing in the Guidelines should be construed:
  - a. To limit the United States Trustee's discretion to request additional information or to refer any information received to any law enforcement authority of the United States or a state.
  - b. To limit the United States Trustee's discretion to determine whether to file comments or objections to applications, except as expressly provided in Section E.
  - c. To create any private right of action enforceable against the United States Trustee, the United States, or any other entity.

**REVISED DRAFT SUPPORTED BY 118 LAW FIRMS  
PREVIOUSLY SUBMITTING COMMENTS  
4-16-2012**

**B. UNITED STATES TRUSTEE'S CONSIDERATIONS IN REVIEWING AND COMMENTING ON FEE APPLICATIONS**

1. In determining whether to object to or comment on fee applications, the United States Trustee will be guided, in part, by the principles that follow. These principles, however, are not exclusive and in no way limit the discretion of the United States Trustee to object or comment.
2. In applying the Guidelines, the United States Trustee seeks to:
  - a. Ensure bankruptcy professional fees are reasonable based on the customary compensation charged in comparable non-bankruptcy engagements.
  - b. Ensure adherence to the requirements of 11 U.S.C. § 330 so that all professional compensation is reasonable and necessary.
  - c. Provide adequate disclosure and transparency with respect to services rendered to the estate in the billing practices of professionals seeking compensation from the estate.
  - d. Increase the efficiency and decrease the administrative burden of review.
  - e. Maintain the burden of proof on the professional seeking compensation to establish that fees and expenses are reasonable and necessary even absent an objection.
  - f. Increase public confidence in the integrity of the bankruptcy compensation process.
3. The United States Trustee will consider the factors set forth in section 330 of the Code, including the following:
  - a. The time spent.
  - b. The rates charged.
  - c. Whether the services were necessary to the administration of, or beneficial towards the completion of, the case at the time they were rendered.

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- d. Whether services were performed within a reasonable time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed.
  - e. The professional's demonstrated skill and experience in bankruptcy or other applicable area of law.
  - f. Whether compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.
4. The Guidelines are intended to elicit information that will aid the United States Trustee in determining whether a fee application meets the requirements for reasonable and necessary fees and expenses required by section 330 of the Code. In applying section 330 to the review of fee applications, the United States Trustee will consider the following:
- a. **Comparable services standard:** whether the professional's compensation in the application is reasonable as compared to the customary compensation charged by comparably skilled practitioners in non-bankruptcy matters.
  - b. **Staffing inefficiencies:** whether there was unjustified or unjustifiable duplication of effort or services.
  - c. **Rate increases:** whether the application contains rates higher than those disclosed or contemplated in the application for retention or any supplemental application for retention or agreed to with the client.
  - d. **Routine billing activities:** whether a professional billed for routine billing activities that are typically required by clients to be provided in non-bankruptcy matters on an uncompensated basis. Reasonable charges for preparing interim and final fee applications, however, are compensable.
  - e. **Block billing or lumping:** whether the application contains entries with multiple tasks aggregating over 0.5 hours without discrete tasks separately identified and billed. Phrases like "attention to" or "review file," without more, are generally insufficient.
  - f. **Vague or repetitive entries:** whether the application contains insufficient information to identify the purpose of the work or the benefit to the estate.

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- g. **Overhead:** whether the application includes matters that should be considered part of the professional's overhead and not billed to the estate under prevailing billing practices in non-bankruptcy cases for the rates charged by the professional in the case, such as clerical tasks and word processing.
  - i. **Non-working travel:** whether the application includes time for non-working travel billed at the full rate. The United States Trustee will not object to non-working travel time billed at one-half the normal billing rate for each professional.
  - j. **Geographic variations in rates:** whether the professional increased the rate based solely on the geographic location of the case. The United States Trustee will not object to “non-forum” rates of professionals when the “non-forum” rates are based on the reasonable rates for comparable non-bankruptcy matters charged by the professional in his or her primary work location, even if the locally prevailing rates where the case is pending are lower (i.e., a professional may bill the same reasonable rate in any forum). Conversely, the United States Trustee will object if professionals increase their rates based solely on the forum where the case is pending when they bill a lower rate in their primary work location. However, the United States Trustee will not object to professionals charging national rates in Larger Chapter 11 Cases.
  - k. **Fee Enhancements:** if the application contains a request for a fee enhancement, whether the applicant has identified any facts or theories that, outside of bankruptcy, would enable a professional to justify to his or her client a professional fee in excess of the contractual amount due.
  - l. **Burden of Proof:** whether the applicant has provided sufficient information in the application to satisfy its burden under section 330 even absent an objection.
5. In applying section 330 to the review of applications for reimbursement of reasonable, actual, and necessary expenses, the United States Trustee will consider the following:

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- a. Whether the applicant has prorated expenses where appropriate between the estate and other cases (e.g., travel expenses applicable to more than one case) and has adequately explained the basis for any such proration.
- b. Whether the expense is reasonable and consistent with market standards for non-bankruptcy matters. For example, domestic travel should be in coach class, and first class and other above standard travel or accommodations will normally be objectionable.
- c. Whether the requested expenses are customarily charged to non-bankruptcy clients of the applicant that are billed at the rates billed to the estate.
- d. Whether the expenses incurred by the applicant to third parties are limited to the actual amounts billed to, or paid by, the applicant on behalf of the estate, or whether the professional has marked-up the expense. Expenses also include, but are not limited to, payments to contract or other “outsourced” professionals, vendors, and consultants. For any contract legal professionals, the applicant should disclose the actual expense, the “mark-up,” if any, and the basis or justification for the mark-up.
- e. Whether the expenses are or should be non-reimbursable overhead costs incident to the operation of the applicant's office or represent expenses particularly attributable to the case. Overhead consists of all continuous administrative or general costs incident to the operation of the applicant's office and not particularly attributable to an individual client or case. Overhead generally includes, but is not limited to, word processing, proofreading, secretarial and other clerical services, rent, utilities, office equipment and furnishings, insurances, taxes, local telephone charges, monthly telephone charges, lighting, heating and cooling, and library and publication charges.
- f. Whether the expenses incurred “in-house” or by any affiliates of the applicant reflect the actual cost of such expenses to the applicant.
- g. Whether the applicant has adhered to allowable rates for expenses as may be fixed by any local rule or order of the court.
  - a. Unusual items require more detailed explanations.

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- b. Some larger or unusual expenses may require the submission of receipts.

**C. CONTENTS AND FORMAT OF APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES**

1. **General:** All applications should include sufficient detail to demonstrate compliance with the standards of 11 U.S.C. § 330. The fee application should also contain sufficient information about the case and the applicant so that the court, the creditors, and the United States Trustee can review it without searching for relevant information in other documents. The information sought below will facilitate review of the application and should be provided in every fee application, unless the United States Trustee determines the circumstances warrant different treatment.
2. **Electronic Records:** The billing records (detailed time entries) substantiating the application should generally be provided to the United States Trustee (and, if requested, to the court or any other party) in an open electronic data format that is searchable, subject to redaction to protect all applicable privileges. Applicants are encouraged to consult with the United States Trustee if there is a question as to the need for electronic billing data in any particular case. The submission of electronic data does not substitute for the need to meet all of the requirements of the Code, local rules, and any applicable compensation or case management orders.
3. **Information about the Applicant and the Application:**
  - a. Name of applicant.
  - b. Name of client.
  - c. Petition date.
  - d. Retention date.
  - e. Date of order approving employment.
  - f. Time period covered by application.
  - g. Terms and conditions of employment and compensation, including source of compensation, retainer terms, if any, and any budgetary or other limitations on fees.

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- h. Draws on any retainer and amounts remaining.
- i. Interim or final application.
- j. The date and terms of any order allowing filing of interim applications more frequently than 120 days, if applicable.
- k. Whether the applicant seeks compensation under a provision of the Code other than section 330.
- l. For each professional and paraprofessional who billed or worked on the matter:
  - i. Name.
  - ii. Title.
  - iii. Primary department, group, section, or practice area, if applicable.
  - iv. Date of first admission to the bar, if applicable.
  - v. Total fees billed included in application.
  - vi. Total hours billed included in application.
  - vii. Current hourly rate contained in application and customary hourly rate for comparable non-bankruptcy matters.
  - viii. Any increase in hourly rate during the application period and the number of rate increases since the inception of the case.

**Exhibit D** is a model form that may be useful in transmitting the information requested in C.3.I.

**4. Information about prior interim applications:**

- a. Date(s) filed and period covered.
- b. Fees and expenses requested.
- c. Fees and expenses approved.
- d. Date of previous order(s) on interim compensation or reimbursement of expenses.
- e. Amounts requested in previous interim applications and cumulatively since case inception.

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- f. Amounts allowed, disallowed, and/or withdrawn in previous interim orders and cumulatively since case inception.
- g. Amounts of all previous payments.
- h. Amount of any allowed fees and expenses remaining unpaid.

**5. Billing Format:**

- a. Time and service entries should be reported in chronological order.
- b. Each time or service entry should include:
  - i. The timekeeper's name.
  - ii. Time spent on task.
  - iii. Hourly rate.
  - iv. Fees sought for each entry.
  - v. Description of task or service.
- c. Time should be recorded in tenths of an hour.
- d. Services should be described in detail and not combined or “lumped” together, with each service showing a separate time entry; however, multiple tasks performed in a project which total a *de minimus* amount of time can be combined or lumped together if they do not exceed 0.5 hours on a daily aggregate. For example, 0.4 hours “reading and responding to 6 emails from creditors regarding filing proofs of claims and hearing dates”. In addition, where a particular activity involves a series of connected continuous tasks that are not meaningfully segmented into tenths of an hour segments, such connected continuous tasks may be included under a single time entry. Examples of a series of connected continuous tasks include (i) “review and analysis of [motion/complaint/memorandum/declaration/agreement, etc. regarding\_\_\_\_\_]; (ii) review and analysis of relevant facts and law and preparation of related [motion/complaint/memorandum/declaration/agreement, etc. regarding\_\_\_\_\_]; (iii) review, analyze and revise/edit/respond to [motion/complaint/memorandum/declaration/agreement, etc. regarding\_\_\_\_\_].
- e. Time entries should be kept substantially contemporaneously with the services rendered whenever practical.

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- f. Entries should give sufficient detail about the work, identifying the subject matter of the communication, hearing, or task and any recipients or participants.
- g. The project categories set forth in **Exhibit A** should be used to the extent applicable. The United States Trustee has discretion to determine that the project billing format is not necessary in a particular case or in a particular class of cases. Applicants should be encouraged to consult with the United States Trustee if there is a question as to the need for project billing in any particular case.
- h. For each project category, the applicant should provide a brief narrative summary of the following information:
  - i. A description of the project, its necessity and benefit to the estate, and the status of the project including all pending litigation for which compensation and reimbursement are requested.
  - ii. Identification of each person providing services on the project.
  - iii. A statement of the number of hours spent and the amount of compensation requested for each professional and paraprofessional on the project.

6. **Case Status:** The following information should be provided to the extent possible by the primary bankruptcy counsel for the debtor:

- a. A brief summary of the case, discussing key steps completed and key steps remaining until the case can be closed.
- b. The amount of cash on hand or on deposit, and the amount of unencumbered funds in the estate based on information provided by the debtor.
- c. Any material changes in the status of the case that occur after the filing of the fee application should be raised at the hearing on the application or, if a hearing is not required, prior to the expiration of the time period for objection.

To the extent known to or reasonably ascertained by the debtor without incurring unreasonable additional costs, the fee applications of the debtor's primary bankruptcy counsel should include a statement, which may be an estimate if described as such, based on information provided by the debtor of the amount and nature of accrued unpaid administrative expenses.

7. **Contents of Application for Reimbursement of Reasonable, Actual, and Necessary Expenses:** Any expense for which reimbursement is sought must be

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reasonable, actual, and necessary and must be of the kind customarily billed to non-bankruptcy clients. Expense applications should include the following information:

- a. Amount.
- b. Description and pertinent detail (*e.g.*, copy costs, messengers, computer research, type of travel, type of fare, rate, destination, *etc.*).
- c. Date incurred.
- d. Who incurred the expense, if relevant.
- e. Reason for expense for each individual expense item exceeding \$500.
- f. Categorization of expenses according to standard expense categories on Exhibit A.

**D. SUMMARY COVER SHEET, PROJECT BILLING SUMMARY, AND PROFESSIONAL STAFFING SUMMARY TO BE INCLUDED WITH APPLICATION**

1. **Summary:** All applications should contain a summary cover sheet that provides the information below. **Exhibit B** is a model form that may be useful in transmitting this information.

- a. Name of applicant.
- b. Name of client.
- c. Time period covered by application.
- d. Total compensation sought this period.
- e. Total expenses sought this period.
  - a. Petition date.
  - b. Retention date.
  - c. Date of order approving employment.
  - d. Total compensation approved by interim order to date.
  - e. Total expenses approved by interim order to date.
- f. Total allowed compensation paid to date.
- g. Total allowed expenses paid to date.
- h. Blended rates in this application for all attorneys and for all timekeepers.

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- i. Compensation sought in this application already paid pursuant to a monthly compensation order but not yet allowed.
  - j. Expenses sought in this application already paid pursuant to a monthly compensation order but not yet allowed.
  - k. Number of professionals included in this application.
2. All applications should summarize fees and hours by project-task category and expenses by expense category. **Exhibit C** is a model form that may be useful in transmitting this information.
3. All applications should summarize professionals (preferably in alphabetical order) included in the fee application by the professional's name, title, year of graduation from law school, rates charged to the estate, hours spent during the application period, fees charged during the application period, and primary practice group, department, or area of practice, if applicable. **Exhibit D** is a model form that may be useful in transmitting this and other information.

**E. SPECIAL FEE REVIEW PROCEDURES**

In those Larger Chapter 11 Cases where a number of professionals will be retained and the normal fee application and review process would be unduly burdensome, the United States Trustee will, in his or her discretion, on his or her own initiative, or if requested by the court, the debtor, or an official committee, comment on establishing a special fee review process, such as a fee review committee or an independent fee examiner. Whether a committee or examiner is appointed and the parameters governing such a committee or examiner is ultimately the court's decision. The United States Trustee will follow these Guidelines in connection with recommending fee review committees and independent fee examiners, subject to the court's directions and orders. In addition, the United States Trustee will not object to an application for compensation that, as amended or revised by the applicant, has been approved by a Fee Review Committee or Independent Fee Examiner appointed pursuant to a court order acceptable to the United States Trustee. For such purposes only, the terms and conditions of the appointing order will be deemed acceptable to the United States Trustee if the United States Trustee has not made objection in writing or on the record of the applicable court hearing to

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the provisions of the appointing order, or has otherwise consented to the appointing order.

**Timing.** The United States Trustee, if it is going to recommend the use of special fee review procedures, should do so as early in the case as practicable.

1. **Purpose.** The purposes, scope, authority, functions, and amount and manner of compensation of a fee examiner or fee review committee are for the court to decide as appropriate for each case.
2. **Models.** The United States Trustee will generally recommend that a special fee review procedure take one of several forms. In making its recommendation for a particular case, the United States Trustee shall consult with the debtor and any official committee, recognizing that the institution of special fee review procedures and their parameters is always the court's decision. There are several possible models, including a fee review committee, a fee review committee with an independent member, and an independent fee examiner.
  - a. **Fee Review Committee.** The United States Trustee may recommend that the court appoint a Fee Review Committee. The United States Trustee will recommend that it ordinarily consist of representatives of the debtor in possession, the unsecured creditors committee, any other official committee, and the United States Trustee, with representatives of the debtor in possession and the official committee(s) not being retained professionals whose fees and expenses will be subject to review by the Fee Review Committee.
  - b. **Fee Review Committee with Independent Member.** In addition to appointing a Fee Review Committee as described above, the United States Trustee may recommend that the court appoint an "Independent Member" of the Fee Review Committee, to function either as a member of the Fee Review Committee, or as an experienced advisor not otherwise involved in the case as a party in interest or as a representative of a party in interest. The role of the Independent Member in each case will be determined by the court. The United States Trustee will, if the court desires, solicit from parties in interest suggestions for appointment as Independent Member and submit several names to the court for consideration. The United States Trustee will not seek to preclude parties in interest from submitting other names to the court for consideration.

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- c. **Independent Fee Examiner.** As an alternative to a Fee Review Committee, the United States Trustee may recommend that the court appoint a single person to serve as an Independent Fee Examiner for the case who is an experienced person not otherwise involved in the case as a party in interest or a representative of a party in interest.
- 3. If the court authorizes the Fee Review Committee to retain professionals, the United States Trustee may not participate in or vote on the hiring of professionals for the Fee Review Committee, although the United States Trustee may suggest persons to serve as Independent Members and Independent Fee Examiners.
- 4. The United States Trustee will not object to the inclusion in the order establishing a Fee Review Committee or Independent Fee Examiner of appropriate provisions exculpating and indemnifying Fee Review Committee members, the Independent Member, or the Fee Examiner from any liability arising out of their service.

###

**EXHIBIT A**  
**PROJECT CATEGORIES AND EXPENSE CATEGORIES**

| <b>PROJECT CATEGORIES</b> |   |
|---------------------------|---|
| 1.                        | Asset Disposition   |
| 2.                        | Executory Contracts and Unexpired Leases  |
| 3.                        | Case Administration   |
| 4.                        | Claims Administration and Objections  |
| 5.                        | Corporate Governance/Board Matters/Securities   |
| 6.                        | Employee Benefits/Pensions  |
| 7.                        | Fee Application Preparation and Defense   |
| 8.                        | Financing, Cash Collateral and Adequate Protection  |
| 9.                        | Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category). |
| 10.                       | Meetings with Creditors and Creditor Inquiries  |
| 11.                       | Non-Working Travel  |
| 12.                       | Plan and Disclosure Statement   |
| 13.                       | Relief from Stay  |
| 14.                       | Retention of Professionals - Application Preparation and Defense  |
| 15.                       | Special Matters (environmental, regulatory, insurance, etc., as appropriate to the case) <sup>1</sup>       |
| 16.                       | Tax   |
| 17.                       | Trustee-Examiner-CRO Motions  |

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<sup>1</sup> Some cases may have matters peculiar to that case that involve significant amounts of time and resources. After consultation among the debtor, statutory committees, their professionals, and the United States Trustee, one or more categories may be added, as appropriate to the case, to the list of standard categories set forth above.

**EXHIBIT A**  
**EXPENSE CATEGORIES<sup>2</sup>**

|  | <b>VENDOR, if any</b> | <b>UNIT COST, if applicable</b> | <b>AMOUNT</b> |
|--|-----------------------|---------------------------------|---------------|
| Copies   |                       |                                 |               |
| Outside Printing   |                       |                                 |               |
| Telephone  |                       |                                 |               |
| Facsimile  |                       |                                 |               |
| Online research  |                       |                                 |               |
| Delivery Services/Couriers                                 |                       |                                 |               |
| Postage  |                       |                                 |               |
| Local travel and parking                                   |                       |                                 |               |
| Out-of-town<br>travel:<br>Transportation<br>Hotel<br>Meals |                       |                                 |               |
| Meals (local)  |                       |                                 |               |
| Court and Clerk fees                                       |                       |                                 |               |
| Subpoena fees  |                       |                                 |               |
| Witness fees   |                       |                                 |               |
| Deposition transcripts                                     |                       |                                 |               |
| Hearing Transcripts  |                       |                                 |               |
| Hearing Exhibits   |                       |                                 |               |
| Litigation Support Vendors                                 |                       |                                 |               |
| Experts  |                       |                                 |               |
| Investigators  |                       |                                 |               |
| Arbitrators/Mediators                                      |                       |                                 |               |
| Other  |                       |                                 |               |

<sup>2</sup> Although certain expense categories may appear in the category list, the United States Trustee may still object to the inclusion of any expenses that should properly be deemed a professional's overhead, such as phones, postage, local meals, online research, etc.

**EXHIBIT B**

**SUMMARY OF FEE APPLICATION COVER SHEET**

|   |  |
|---|--|
| Name of applicant   |  |
| Name of client  |  |
| Time period covered by application  |  |
| Total compensation sought this period   |  |
| Total expenses sought this period   |  |
| Petition date   |  |
| Retention date  |  |
| Date of order approving employment  |  |
| Total compensation allowed to date  |  |
| Total expenses allowed to date  |  |
| Total allowed compensation paid to date   |  |
| Total allowed expenses paid to date   |  |
| Blended rate in this application for all attorneys and all timekeepers  |  |
| Compensation sought in this application already paid pursuant to a monthly compensation order but not yet allowed |  |
| Expenses sought in this application already paid pursuant to a monthly compensation order but not yet allowed     |  |
| Number of professionals included in this application  |  |

Case Name and Number: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Retention, Interim Fee, or Final Fee: \_\_\_\_\_

**EXHIBIT C**

**COMPENSATION REQUESTED BY PROJECT CATEGORY**

| <b>PROJECT CATEGORY</b>  | <b>HOURS BILLED</b> | <b>FEES SOUGHT</b> |
|--|---------------------|--------------------|
| <b>Asset Disposition</b>   |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Executory Contracts and Unexpired Leases</b>  |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Case Administration</b>   |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Claims Administration and Objections</b>  |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Corporate Governance/Board Matters/Securities</b>   |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Employee Benefits/Pensions</b>  |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Fee Application Preparation and Defense</b>   |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Financing , Cash Collateral and Adequate Protection</b>   |                     |                    |
|  |                     |                    |
| Subtotal   |                     |                    |
| <b>Litigation:</b> Contested Matters and Adversary Proceedings (not otherwise within a specific project category). |                     |                    |
|  |                     |                    |

| <b>PROJECT CATEGORY</b>                                   | <b>HOURS BILLED</b> | <b>FEEES SOUGHT</b> |
|---|---------------------|---------------------|
| Subtotal  |                     |                     |
| <b>Meetings with Creditors and<br/>Creditor Inquiries</b> |                     |                     |
| Subtotal  |                     |                     |
| <b>Non-Working Travel</b>                                 |                     |                     |
| Subtotal  |                     |                     |
| <b>Plan and Disclosure Statement</b>                      |                     |                     |
| Subtotal  |                     |                     |
| <b>Relief from Stay</b>                                   |                     |                     |
| Subtotal  |                     |                     |
| <b>Retention of Professionals</b>                         |                     |                     |
| Subtotal  |                     |                     |
| <b>Special Matters</b> (as appropriate to<br>the case)    |                     |                     |
| Subtotal  |                     |                     |
| <b>Tax</b>  |                     |                     |
| Subtotal  |                     |                     |

| <b>PROJECT CATEGORY</b>      | <b>HOURS BILLED</b> | <b>FEEES SOUGHT</b> |
|------------------------------|---------------------|---------------------|
| Trustee-Examiner-CRO Motions |                     |                     |
|                              |                     |                     |
| Subtotal                     |                     |                     |
| <b>TOTAL</b>                 |                     |                     |

Case Name and Number: \_\_\_\_\_  
Applicant's Name: \_\_\_\_\_  
Date of Application: \_\_\_\_\_  
Retention, Interim Fee, or Final Fee: \_\_\_\_\_

**EXHIBIT C**

**EXPENSE REIMBURSEMENT REQUESTED SUMMARY BY CATEGORY**

|                            | <b>VENDOR, if any</b> | <b>UNIT COST, if applicable</b> | <b>AMOUNT</b> |
|----------------------------|-----------------------|---------------------------------|---------------|
| Copies                     |                       |                                 |               |
| Outside Printing           |                       |                                 |               |
| Telephone                  |                       |                                 |               |
| Facsimile                  |                       |                                 |               |
| Online research            |                       |                                 |               |
| Delivery Services/Couriers |                       |                                 |               |
| Postage                    |                       |                                 |               |
| Local travel and parking   |                       |                                 |               |
| Out-of-town<br>travel:     |                       |                                 |               |
| Transportation             |                       |                                 |               |
| Hotel                      |                       |                                 |               |
| Meals                      |                       |                                 |               |
| Meals (local)              |                       |                                 |               |
| Court and Clerk fees       |                       |                                 |               |
| Subpoena fees              |                       |                                 |               |
| Witness fees               |                       |                                 |               |
| Deposition transcripts     |                       |                                 |               |
| Trial transcripts          |                       |                                 |               |
| Trial exhibits             |                       |                                 |               |
| Litigation Support vendors |                       |                                 |               |
| Experts                    |                       |                                 |               |
| Investigators              |                       |                                 |               |
| Arbitrators/Mediators      |                       |                                 |               |
| Other                      |                       |                                 |               |

Case Name and Number: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Retention, Interim Fee, or Final Fee: \_\_\_\_\_



**REVISED DRAFT FOR PUBLIC COMMENT SUPPORTED BY 118 LAW FIRMS**  
**PREVIOUSLY SUBMITTING COMMENTS**  
**4-16-2012**

**~~DRAFT FOR PUBLIC COMMENT~~**  
**~~GUIDELINES FOR REVIEWING APPLICATIONS~~**  
**~~FOR COMPENSATION & REIMBURSEMENT OF~~**  
**~~EXPENSES FILED UNDER 11 U.S.C. § 330~~**  
**~~BY ATTORNEYS IN LARGER CHAPTER 11 CASES~~**

**Guidelines for Reviewing Applications**  
**for Compensation & Reimbursement of**  
**Expenses Filed Under 11 U.S.C. § 330**  
**by Attorneys in Larger Chapter 11 Cases**

In 1996, in accordance with 28 U.S.C. § 586, the United States Trustee Program (“USTP”) promulgated Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330 (“1996 guidelines”). ~~The USTP is revising the 1996 guidelines in phases and has drafted new proposed guidelines for reviewing applications for attorney compensation in larger chapter 11 cases (more than \$50 million in combined assets and liabilities, aggregated for jointly administered cases). The USTP invites public review of and comment on these proposed guidelines by January 31, 2012.~~ **guidelines set forth herein (“Guidelines”) apply only in “Larger Chapter 11 Cases”, which shall mean chapter 11 cases in which, with respect to either the debtor, or a group of debtors whose cases are jointly administered, the initial schedules filed in the case show: (i) assets exceed \$250 million, (ii) unencumbered assets (including the scheduled value of assets in excess of secured claims against them) exceed \$50 million, (iii) at least 250 pre-petition unsecured creditors, excluding employees and former employees, holding more than \$250 million in general unsecured claims, and (iv) there is outstanding pre-petition debt for borrowed money in excess of \$50 million (a) held by three or more creditors, and (b) subject to a common loan or credit agreement, purchase agreement, trust indenture, or other similar agreement setting forth common terms and conditions singularly applicable to at least \$50 million of such debt. For purposes of determining whether the thresholds set forth herein have been satisfied, the Schedules filed by the debtor shall be determinative, including with respect to the value of encumbered and unencumbered assets.**

The 1996 guidelines remain in effect for the USTP review of applications for compensation in all cases. ~~Only after the public comment period and upon publication of the proposed guidelines in final form in the Federal Register will applications for attorney compensation in larger chapter 11 cases be subject to review under the new guidelines. Until the USTP adopts other superseding guidelines, the 1996 guidelines will continue in effect for the~~

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**REVISED DRAFT SUBMITTED BY 118 COMMENTING LAW FIRMS**

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~~review of applications filed under section 330 in (1) larger chapter 11 cases by those seeking compensation who are not attorneys, (2) all chapter 11 cases below the \$50 million threshold, and (3) cases under other chapters of the Bankruptcy Code~~ **that are not Larger Chapter 11 Cases. In accordance with 28 U.S.C. § 586, the 1996 guidelines and these Guidelines are intended to be uniformly applied by the United States Trustee in each district when reviewing applications for compensation and reimbursement of expenses under 11 U.S.C. § 330, except when circumstances warrant a different treatment.**

**A. GENERAL INFORMATION**

1. 28 U.S.C. § 586(a)(3)(A) provides that United States Trustees may review “in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States Trustee except when circumstances warrant different treatment) applications filed for compensation and reimbursement under section 330 of title 11 . . . .” United States Trustees may also file “with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.” Id. The Executive Office for United States Trustees promulgated guidelines, which apply to all cases filed after October 21, 1994.
2. Because the circumstances in certain chapter 11 cases warrant different treatment, these Guidelines (~~“Guidelines”~~) apply only when USTP attorneys review applications for compensation filed by attorneys employed under sections 327 or 1103 of the United States Bankruptcy Code (the “Code”) in ~~chapter 11 cases where the debtor’s scheduled assets and liabilities combined exceed \$50 Million (aggregated for jointly administered cases)~~ **Larger Chapter 11 Cases.**
3. These Guidelines are statements of United States Trustee policies that the USTP will follow in the absence of controlling law or rules in a jurisdiction. Thus, the Guidelines do not supersede local rules, court orders, or other controlling authority ~~but complement them to the extent possible.~~
4. Because only the court has authority to award compensation and reimbursement under section 330 of the Code, the Guidelines ~~reflect~~ **should be interpreted in a manner that is consistent with** standards and procedures in section 330 of the Code and Rule 2016 of the Federal Rules of Bankruptcy Procedure.

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5. Applications that contain the information requested in these Guidelines will assist review by the ~~court, the parties, and the~~ United States Trustee. The Guidelines thus should be construed to seek the disclosure only of information relevant to awarding compensation and reimbursing expenses under section 330.
- ~~6. Because terms and conditions of employment approved by the court when the professional is retained will often affect later applications for compensation, these Guidelines also address disclosure of information in applications for retention filed under sections 327 and 1103 of the Code.<sup>†</sup>~~
- ~~6.~~ 7. The United States Trustees shall use these Guidelines in all ~~eases~~ Larger Chapter 11 Cases filed on or after [effective date].
- ~~7.~~ 8. Nothing in the Guidelines should be construed:
- a. To limit the United States Trustee's discretion to request additional information or to refer any information received to any law enforcement authority of the United States or a state.
  - b. To limit the United States Trustee's discretion to determine whether to file comments or objections to applications, except as expressly provided in Section E.
  - c. To create any private right of action enforceable against the United States Trustee ~~or~~ the United States, or any other entity.

**B. UNITED STATES TRUSTEE'S CONSIDERATIONS IN REVIEWING AND COMMENTING ON FEE APPLICATIONS**

- ~~1.~~ 1. In determining whether to object to or comment on fee applications, the United States Trustee will be guided, in part, by the principles that follow. These principles, however, are not exclusive and in no way limit the discretion of the United States Trustee to object or comment.
- ~~2.~~ 2. In applying the Guidelines, the United States Trustee seeks to:

<sup>†</sup>~~Applications for retention are always filed under section 327, not section 328. Although certain terms of the engagement may be governed by section 328, the application itself is filed under section 327.~~

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- a. Ensure bankruptcy professional fees are ~~subject to the same client-driven market forces, scrutiny, and accountability that apply in~~ **reasonable based on the customary compensation charged in comparable** non-bankruptcy engagements.
  - b. Ensure adherence to the requirements of 11 U.S.C. § 330 so that all professional compensation is reasonable and necessary, ~~particularly as compared to the market measured both by the professional's own billing practices for bankruptcy and non-bankruptcy engagements and those of its peers.~~
  - c. ~~Increase~~ **Provide adequate** disclosure and transparency **with respect to services rendered to the estate** in the billing practices of professionals seeking compensation from the estate.
  - d. ~~Increase client and constituent accountability for overseeing the fees and billing practices of their own professionals who are being paid by the estate.~~
  - e. ~~Encourage the adoption of budgets and staffing plans developed between the client and professional to bring discipline, predictability, and client involvement and accountability to the bankruptcy process.~~
  - d.** ~~f.~~ Increase the efficiency and decrease the administrative burden of review.
  - e.** ~~g.~~ Maintain the burden of proof on the professional seeking compensation to establish that fees and expenses are reasonable and necessary even absent an objection.
  - f.** ~~h.~~ Increase public confidence in the integrity of the bankruptcy compensation process.
- ~~3.~~ **3.** The United States Trustee will consider the factors set forth in section 330 of the Code, including the following:
- a. The time spent.
  - b. The rates charged.
  - c. Whether the services were necessary to the administration of, or beneficial towards the completion of, the case at the time they were rendered.

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- d. Whether services were performed within a reasonable time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed.
  - e. The professional's demonstrated skill and experience in bankruptcy **or other applicable area of law.**
  - f. Whether compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.
- 4.4.** The Guidelines are intended to elicit information that will aid the ~~parties~~ **United States Trustee** in determining whether a fee application meets the requirements for reasonable and necessary fees and expenses required by section 330 of the Code. In applying section 330 to the review of fee applications, the United States Trustee will consider the following:
- ~~a.~~ **a.** **Comparable services standard:** whether the professional's ~~rate~~ **compensation** in the application is reasonable, ~~particularly as compared to the market measured both by the professional's own billing practices for bankruptcy and non-bankruptcy engagements and those of its peers and whether the applicant provided sufficient information to evaluate comparability~~ **as compared to the customary compensation charged by comparably skilled practitioners in non-bankruptcy matters.**
  - ~~b.~~ **b.** **Staffing inefficiencies:** whether there was unjustified or unjustifiable duplication of effort or services, ~~including multiple professionals attending hearings or meetings, or whether the seniority or skill level of the professional was commensurate with the complexity, importance, and nature of the issue or task.~~
  - ~~c.~~ **c.** **Rate increases:** whether the application contains rates higher than those disclosed ~~and approved on~~ **or contemplated in** the application for retention or any supplemental application for retention or agreed to with the client.
  - ~~d.~~ ~~**Transitory professionals:**~~ ~~whether a professional billed few hours with no evidence of benefit to the estate.~~
  - ~~e.~~ **d.** **Routine billing activities:** whether a professional billed for routine billing activities that are typically ~~not compensable outside of bankruptcy. Most are not~~

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~~compensable because professionals do not charge a client for preparing invoices, whether detailed or not~~**required by clients to be provided in non-bankruptcy matters on an uncompensated basis.** Reasonable charges for preparing interim and final fee applications, however, are compensable. ~~Activities that the United States Trustee may object to as non-compensable include but are not limited to:~~

- ~~i. Redacting bills or invoices for privileged or proprietary information. Professionals whose compensation will be paid by the bankruptcy estate know at the inception that their billing records must be publicly filed and should prepare time entries and invoices accordingly.~~
- ~~ii. Entering, preparing, reviewing, or revising time records or invoices.~~
- ~~iii. Preparing and issuing the monthly statement in cases with a monthly compensation order.~~

~~f. e.~~ **Block billing or lumping:** whether the application contains entries **with multiple tasks aggregating** over **.50.5** hours without discrete tasks separately identified and billed. **Phrases like “attention to” or “review file,” without more, are generally insufficient.**

~~g. f.~~ **Vague or repetitive entries:** whether the application contains insufficient information to identify the purpose of the work or the benefit to the estate. ~~Phrases like “attention to” or “review file,” without more, are generally insufficient.~~

~~h. g.~~ **Overhead:** whether the application includes matters that should be considered part of the professional's overhead and not billed to the estate **under prevailing billing practices in non-bankruptcy cases for the rates charged by the professional in the case,** such as clerical tasks and word processing.

~~i. i.~~ **Non-working travel:** whether the application includes time for non-working travel billed at the full rate. **The United States Trustee will not object to non-working travel time billed at one-half the normal billing rate for each professional.**

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~~j. **Contesting or litigating fee objections:** whether the fee application seeks compensation for defending or explaining fee applications or monthly invoices that would normally not be compensable outside of bankruptcy.~~

~~k.~~ **j. Geographic variations in rates:** whether the professional increased the rate based solely on the geographic location of the case. The United States Trustee will not object to “non-forum” rates of professionals when the “non-forum” rates are based on the reasonable rates ~~where they maintain their primary office~~ **for comparable non-bankruptcy matters charged by the professional in his or her primary work location**, even if the locally prevailing rates where the case is pending are lower (i.e., a professional may bill the same reasonable rate in any forum). Conversely, the United States Trustee will object if professionals increase their rates based **solely** on the forum where the case is pending when they bill a lower rate ~~where they maintain their primary office.~~ **in their primary work location. However, the United States Trustee will not object to professionals charging national rates in Larger Chapter 11 Cases.**

~~l. **Budgets and Staffing Plans:** whether budgets and staffing plans for hourly billing engagements have been agreed to between professionals and clients. A model budget and staffing plan is attached at **Exhibit B.**<sup>2</sup> The United States Trustee will also consider the following matters regarding budgets and staffing plans:~~

- ~~i. Whether professionals have periodically updated or amended their budgets and staffing plans as a case progresses and obtained client approval of all significant or material amendments.~~
- ~~ii. Whether budget estimates track project categories used in a particular case. Linking budgets to the project categories used in fee applications can facilitate the review of fee applications.~~
- ~~iii. Whether the application sufficiently explains any substantial upward variation (e.g., 10% or more) between the client-approved budget and the fee application.~~
- ~~iv. Whether the application sufficiently explains any substantial~~

<sup>2</sup>~~The model forms included as exhibits to the Guidelines are not official forms and are simply templates offered as guidance to facilitate preparation and review of requested information.~~

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- ~~v. upward variation between the number or identity of professionals between the client approved staffing plan and the fee application.~~
  - ~~m. **Verified and other statements:** whether the client has provided a verified statement regarding its budgeting, review, and approval process for fees and expenses and whether the professional has made similar representations and disclosures in the retention application and application for compensation.~~
  - ~~n. **k. Fee Enhancements:** ~~—If~~ the application contains a request for a fee enhancement, whether the applicant has identified any facts or theories that, outside of bankruptcy, would enable a professional to ~~compel its~~ **justify to his or her** client ~~to pay~~ a professional fee in excess of the contractual amount due. ~~This also includes any request for fees incurred in preparing, seeking, or defending an application for fee enhancement.~~~~
  - ~~o. **Summer Associates:** whether the application includes fees for summer clerks or summer associates that are more properly the firm's overhead for recruiting and training.~~
  - ~~p. **l. Burden of pProof:** whether the applicant has provided sufficient information **in the application** to satisfy its burden ~~in the application~~ **under section 330** even absent an objection.~~
- ~~5. **5.**~~ In applying section 330 to the review of applications for reimbursement of reasonable, actual, and necessary expenses, the United States Trustee will consider the following:
- a. Whether the applicant has prorated expenses where appropriate between the estate and other cases (e.g., travel expenses applicable to more than one case) and has adequately explained the basis for any such proration.
  - b. Whether the expense is reasonable and ~~economical.~~ **consistent with market standards for non-bankruptcy matters.** For example, **domestic** travel should be in coach class, and first class and other above standard travel or accommodations will normally be objectionable.
  - c. Whether the requested expenses are customarily charged to non-bankruptcy clients of the applicant **that are billed at the rates billed to the estate.**

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- d. Whether the expenses incurred by the applicant to third parties are limited to the actual amounts billed to, or paid by, the applicant on behalf of the estate, or whether the professional has marked-up the expense. Expenses also include, but are not limited to, payments to contract or other “outsourced” professionals, vendors, and consultants. For any contract legal professionals, the applicant should disclose the actual expense, the “mark-up,” if any, and the basis or justification for the mark-up.
- e. Whether the expenses are or should be non-reimbursable overhead costs incident to the operation of the applicant’s office or represent expenses particularly attributable to the case. Overhead consists of all continuous administrative or general costs incident to the operation of the applicant’s office and not particularly attributable to an individual client or case. Overhead generally includes, but is not limited to, word processing, proofreading, secretarial and other clerical services, rent, utilities, office equipment and furnishings, insurances, taxes, local telephone charges, monthly telephone charges, lighting, heating and cooling, and library and publication charges.
- f. Whether the expenses incurred “in-house” or by any affiliates of the applicant reflect the actual cost of such expenses to the applicant.
- g. Whether the applicant has adhered to allowable rates for expenses as may be fixed by any local rule or order of the court.
  - a. ~~h.~~ Unusual items require more detailed explanations ~~and should be allocated, where practicable, to specific projects.~~
  - b. ~~i.~~ Some larger or unusual expenses may require the submission of receipts.

**C. CONTENTS AND FORMAT OF APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES**

- 1. **General:** All applications should include sufficient detail to demonstrate compliance with the standards of 11 U.S.C. § 330. The fee application should also contain sufficient information about the case and the applicant

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so that the court, the creditors, and the United States Trustee can review it without searching for relevant information in other documents. The information sought below will facilitate review of the application and should be provided in every fee application, unless the United States Trustee determines the circumstances warrant different treatment.

2. **Electronic Records:** The billing records (detailed time entries) substantiating the application should generally be provided to the United States Trustee (and, if requested, to the court or any other party) in an open electronic data format that is searchable, subject to redaction to protect all applicable privileges. Applicants are encouraged to consult with the United States Trustee if there is a question as to the need for electronic billing data in any particular case. The submission of electronic data does not substitute for the need to meet all of the requirements of the Code, local rules, and any applicable compensation or case management orders.
  
3. **Information about the Applicant and the Application:**
  - a. Name of applicant.
  - b. Name of client.
  - c. Petition date.
  - d. Retention date.
  - e. Date of order approving employment.
  - f. Time period covered by application.
  - g. Terms and conditions of employment and compensation, including source of compensation, retainer terms, if any, and any budgetary or other limitations on fees.
  - h. Draws on any retainer and amounts remaining.
  - i. Interim or final application.
  - j. The date and terms of any order allowing filing of interim applications more frequently than 120 days, if applicable.
  - k. Whether the applicant seeks compensation under a provision of the Code other than section 330.

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- I. For each professional and paraprofessional who billed or worked on the matter:
  - i. Name.
  - ii. Title.
  - iii. Primary department, group, ~~or~~ section, **or practice area, if applicable.**
  - iv. Date of first admission to the bar, if applicable.
  - v. Total fees billed included in application.
  - vi. Total hours billed included in application.
  - vii. Current hourly rate contained in application and ~~current~~ **customary** hourly rate ~~for all other matters (if applicable).~~
  - ~~viii. Highest, lowest, and average hourly rate billed in the preceding 12 months for estate billed- **for comparable non-**bankruptcy matters ~~and all other matters (if applicable).~~~~
  - viii.** ~~ix.~~ Any increase in hourly rate during the application period and the number of rate increases since the inception of the case.

**Exhibit ED** is a model form that may be useful in transmitting the information requested in C.3.I.

- ~~m. The effect of any rate increases since the order approving retention on the fee application. That is, if a professional has increased rates during a case, the total compensation sought in the fee application (interim and final) should be calculated for comparison purposes under originally approved rates and current rates. The application should also indicate who approved the rate increase(s) for the client and when.~~
  - ~~n. Debtors only: An estimate of the fees and expenses for which approval is sought that the debtor would have incurred even absent the bankruptcy (e.g., non-bankruptcy litigation, tax advices).~~
4. **Information about prior interim applications:**
- ~~a.~~ **a.** Date(s) filed and period covered.

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- ~~b.~~ **b.** Fees and expenses requested.
- ~~c.~~ **c.** Fees and expenses approved.
- ~~d.~~ **d.** Date of previous order(s) on interim compensation or reimbursement of expenses.
- ~~e.~~ **e.** Amounts requested in previous interim applications and cumulatively since case inception.
- ~~f.~~ **f.** Amounts allowed ~~and~~, disallowed **, and/** or withdrawn in previous interim orders and cumulatively since case inception.
- ~~g.~~ **g.** Amounts of all previous payments.
- ~~h.~~ **h.** Amount of any allowed fees and expenses remaining unpaid.

~~5.~~ **5.** **Billing Format:**

- a. Time and service entries should be reported in chronological order.
- b. Each time or service entry should include:
  - ~~i.~~ **i.** The timekeeper's name.
  - ~~ii.~~ **ii.** Time spent on task.
  - ~~iii.~~ **iii.** Hourly rate.
  - ~~iv.~~ **iv.** Fees sought for each entry.
  - ~~v.~~ **v.** Description of task or service.
    - ~~vi.~~ **Project category.**
- c. Time should be recorded in tenths of an hour. ~~A disproportionate number of entries billed in half or whole hour increments may indicate that actions are being lumped or not accurately billed.~~
- d. Services should be described in detail and not combined or "lumped" together, with each service showing a separate time entry; however, **multiple** tasks performed in a project which total a *de minimus* amount of time can be combined or lumped together if they do not exceed ~~.5~~ **0.5** hours on a daily aggregate. **For example, 0.4 hours "reading and responding to 6 emails from creditors regarding**

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filing proofs of claims and hearing dates”. In addition, where a particular activity involves a series of connected continuous tasks that are not meaningfully segmented into tenths of an hour segments, such connected continuous tasks may be included under a single time entry. Examples of a series of connected continuous tasks include (i) “review and analysis of [motion/complaint/memorandum/declaration/agreement, etc. regarding \_\_\_\_\_]; (ii) review and analysis of relevant facts and law and preparation of related [motion/complaint/memorandum/declaration/agreement, etc. regarding \_\_\_\_\_]; (iii) review, analyze and revise/edit/respond to [motion/complaint/memorandum/declaration/agreement, etc. regarding \_\_\_\_\_].

- e. Time entries should be kept substantially contemporaneously with the services rendered whenever practical.
- f. Entries should give sufficient detail about the work, identifying the subject matter of the communication, hearing, or task and any recipients or participants.
- ~~g. If more than one professional from the applicant firm attends a hearing or conference, the applicant should explain the need for multiple attendees.~~
- ~~g.~~ h. The project ~~categories and sub-categories~~ set forth in **Exhibit A** should be used to the extent applicable. ~~Applicants are~~ The United States Trustee has discretion to determine that the project billing format is not necessary in a particular case or in a particular class of cases. Applicants should be encouraged to consult with the United States Trustee ~~regarding~~ if there is a question as to the need for ~~the use of sub-categories or the need to formulate case-specific~~ project billing ~~with respect to a~~ in any particular case.
- ~~h.~~ i. For each project category, the applicant should provide a brief narrative summary of the following information:
  - i. A description of the project, its necessity and benefit to the estate, and the status of the project including all pending litigation for which compensation and reimbursement are requested.
  - ii. Identification of each person providing services on the project.

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- iii. A statement of the number of hours spent and the amount of compensation requested for each professional and paraprofessional on the project.

**~~6. Budgets—Benchmarking the Fee Application to the Budget and Staffing Plan:~~**

- ~~a. While not binding, as set forth above, the United States Trustee will consider budgets and staffing plans in reviewing applications for compensation. Accordingly, if a budget and staffing plan has been adopted by a professional, the budget and staffing plan should be attached to the application. A model budget and staffing plan is attached at **Exhibit B**.~~
- ~~b. Fee applications should include a summary by project category of fees and hours budgeted compared to fees and hours billed. **Exhibit D** is a model form that may be useful in reporting fees sought in comparison to client approved budgets.~~
- ~~e. If the fees sought in the application vary upward from the client approved budget by more than 10%, the professional should explain the variation in the application.~~
- ~~d. If fees are sought in the application for professionals who did not appear on the client approved staffing plan, the professional should explain in the application why the professional seeks compensation without having previously been identified in the staffing plan.~~

**~~7. Statement from the Professional:~~** ~~The professional applicant should answer the questions below in the fee application. Most questions require only a yes or no answer. Professionals, however, are free to provide additional information if they choose to explain or clarify their answers.~~

- ~~a. During the preceding 12 months, have you or your firm charged any client less than the hourly rates included in this application in other estate billed bankruptcy engagements? Other bankruptcy engagements? Other engagements?~~
- ~~b. During the preceding 12 months, have you or your firm charged any client more than the hourly rates included in this application in other estate billed bankruptcy engagements? Other bankruptcy engagements? Other engagements?~~
- ~~e. Did you offer your client variations from your standard or customary billing rates, fees, or terms for services provided during the period covered by the application?~~

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- ~~d. Did you agree to any variations from, or alternatives to, your standard or customary billing rates, fees or terms for services provided during the period covered by the application?~~
  - ~~e. Do any of the professionals included in this fee application vary their rate based on the geographic locale of the forum?~~
  - ~~f. Does the fee application include time or fees related to entering, reviewing, or editing time records, invoices, and draft invoices, etc.? (This is limited to work involved in preparing time and billing records that would not be compensable outside of bankruptcy and does not include reasonable fees for preparing a fee application).~~
  - ~~g. Does this application include time or fees for reviewing time records to redact any privileged or other confidential information?~~
- ~~8. **Verified Statement from the Client:**<sup>3</sup> The client should provide a verified statement answering the questions below. Most questions require only a yes or no answer. Clients, however, are free to provide additional information if they choose to explain or clarify their answers.~~
- ~~a. Did you review and approve a budget and staffing plan in advance for the professional covering the time period in this application?~~
  - ~~b. If the fees sought vs. the fees budgeted for the time period covered by this fee application are higher by 10% or more, did you discuss the reasons for the variation with the professional?~~
  - ~~c. Did you take steps to ensure the compensation sought in this application is comparable to the compensation paid to the professional or the professional's firm for bankruptcy and non-bankruptcy engagements?~~
  - ~~d. Before this application was filed, did you review the professional's compensation and expenses sought in this application to ensure that they are reasonable and are for actual and necessary services?~~
  - ~~e. Did you review the application to ensure that the professional has staffed the engagement with professionals of the appropriate seniority or experience~~

~~<sup>3</sup> A verified statement is either a declaration executed in accordance with 28 U.S.C. § 1746 or an affidavit conforming to the laws of the jurisdiction where executed.~~

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~~commensurate with the complexity, importance, and nature of the problem, issue, or task addressed?~~

- f. ~~If the application includes any rate increases since retention or the last fee application, did you review and approve those rate increases in advance?~~

**9. 6. Case Status:** The following information should be provided to the extent possible by the primary bankruptcy counsel for the debtor:

- a. A brief summary of the case, discussing key steps completed and key steps remaining until the case can be closed.
- b. The amount of cash on hand or on deposit, ~~the amount and nature of accrued unpaid administrative expenses~~, and the amount of unencumbered funds in the estate based on information provided by the debtor.
- c. Any material changes in the status of the case that occur after the filing of the fee application should be raised at the hearing on the application or, if a hearing is not required, prior to the expiration of the time period for objection.

To the extent known to or reasonably ascertained by the debtor without incurring unreasonable additional costs, the fee applications of the debtor's primary bankruptcy counsel should include a statement, which may be an estimate if described as such, based on information provided by the debtor of the amount and nature of accrued unpaid administrative expenses.

~~10.~~ **7. Contents of Application for Reimbursement of Reasonable, Actual, and Necessary Expenses:** Any expense for which reimbursement is sought must be reasonable, actual, and necessary and must be of the kind customarily billed to non-bankruptcy clients. Expense applications should include the following information:

- a. Amount.
- b. Description and pertinent detail (e.g., copy costs, messengers, computer research, type of travel, type of fare, rate, destination, etc.).
- c. Date incurred.
- d. Who incurred the expense, if relevant.
- e. Reason for expense: for each individual expense item exceeding \$500.

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- f. Categorization of expenses according to standard expense categories on Exhibit A.

**D. SUMMARY COVER SHEET, PROJECT BILLING SUMMARY, AND PROFESSIONAL STAFFING SUMMARY TO BE INCLUDED WITH APPLICATION**

**1. Summary:** All applications should contain a summary cover sheet that provides the information below. **Exhibit CB** is a model form that may be useful in transmitting this information.

- a. Name of applicant.
- b. Name of client.
- c. Time period covered by application.
- d. Total compensation sought this period.
- e. Total expenses sought this period.
- ~~f. a.~~ Petition date.
- ~~g. b.~~ Retention date.
- ~~h. c.~~ Date of order approving employment.
- ~~i. d.~~ Total compensation approved by interim order to date.
- ~~j. e.~~ Total expenses approved by interim order to date.
- ~~f.~~ ~~k.~~ Total allowed compensation paid to date.
- ~~g.~~ ~~l.~~ Total allowed expenses paid to date.
- ~~h.~~ ~~m.~~ Blended rates in this application for all attorneys and for all timekeepers.
- ~~i.~~ ~~n.~~ Compensation sought in this application already paid pursuant to a monthly compensation order but not yet allowed.
- ~~j.~~ ~~o.~~ Expenses sought in this application already paid pursuant to a monthly compensation order but not yet allowed.
- ~~k.~~ ~~p.~~ Number of professionals included in this application.
- ~~q.~~ ~~Number of professionals in this application not included in staffing plan approved by client.~~

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- ~~r. Difference between fees budgeted and compensation sought for this application period.~~
  - ~~s. Are any rates higher than those approved at retention? If yes, calculate the amount of compensation attributable to any rate increase.~~
  - ~~t. Number of “transitory” professionals included in application (fewer than 15 hours of work per 120-day interim period).~~
  - ~~u. Debtors Only: Estimate of compensation sought that would have been incurred irrespective of bankruptcy.~~
2. All applications should summarize fees and hours by project-task category and ~~sub-category and~~ expenses by expense category. **Exhibit DC** is a model form that may be useful in transmitting this information.
3. All applications should summarize professionals (preferably in alphabetical order) included in the fee application by the professional's name, title, ~~experience~~ **year of graduation from law school**, rates **charged to the estate**, hours, ~~fees~~ **spent during the application period**, **fees charged during the application period**, and primary practice group, **department, or area of practice, if applicable**. **Exhibit ED** is a model form that may be useful in transmitting this and other information.

**E. APPLICATIONS FOR EMPLOYMENT**

~~The following information should be disclosed in, or attached to, all applications for employment filed in accordance with sections 327 and 1103 of the Code:~~

- ~~1. The professional should answer the questions below. Most questions require only a yes or no answer. Professionals, however, are free to provide additional information if they choose to explain or clarify their answers.~~
  - ~~a. Did you disclose to your client information regarding how your fees and terms for this engagement compare to other estate-billed bankruptcy engagements? Other bankruptcy engagements? Other engagements?~~
  - ~~b. Did you offer your client variations from your standard or customary billing rates, fees, or terms?~~

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- ~~e. Did you agree to any variations from, or alternatives to, your standard or customary billing arrangements for this engagement?~~
  - ~~d. During the preceding 12 months, have you or your firm charged any client less than the hourly rates quoted for this engagement in other estate-billed bankruptcy engagements? Other bankruptcy engagements? Other engagements?~~
  - ~~e. During the preceding 12 months, have you or your firm charged any client more than the hourly rates quoted for this engagement in other estate-billed bankruptcy engagements? Other bankruptcy engagements? Other engagements?~~
  - ~~f. Do any of the professionals included in this engagement vary their rate based on the geographic locale of the forum?~~
  - ~~g. If you or your firm has a prior or existing relationship with the client (including a member of an official committee), do the terms and conditions of the proposed post-petition retention differ in any respect, including billing and compensation terms, from the prior retention? If so, describe the differences.~~
- ~~2. With the application for employment, the professional should provide summary billing data comparisons between firm professionals in the bankruptcy practice group and all other practice groups combined, categorized by position held within the firm. This data is not specific to individuals in a firm but is rather the highest and lowest rate billed by any professional at every experience level or position (e.g., sr. partner, partner, shareholder, member, counsel, associate, etc.) and an average rate for all professionals by experience level or position (e.g., sr. partner, partner, shareholder, member, counsel, associate, etc.). The summary billing data should be reported for U.S. professionals only. The information should include the following for both bankruptcy practice groups and all other practice groups combined (to the extent applicable):~~
- ~~a. Lowest hourly rate billed in the last 12 months.~~
  - ~~b. Highest hourly rate billed in the last 12 months.~~
  - ~~e. Average hourly rate billed in the last 12 months.~~

~~Exhibit F is a model form that may be useful in transmitting this information. The table below is a sample from Exhibit F.~~

**PICKUP**

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| TITLE OR POSITION WITHIN FIRM<br>(e.g., Sr. Partner, Partner, Member, Shareholder, Counsel, Of Counsel, Assoc., Staff Atty. etc.) | LOWEST HOURLY RATE-BILLED BY ANY PROFESSIONAL IN THAT POSITION<br>(last 12 months) |                          | HIGHEST HOURLY RATE-BILLED BY ANY PROFESSIONAL IN THAT POSITION<br>(last 12 months) |                          | AVERAGE HOURLY RATE-BILLED FOR ALL PROFESSIONALS IN THAT POSITION<br>(last 12 months) |                          |
|---|--|--------------------------|---|--------------------------|---|--------------------------|
|   | BANKRUPTCY-GROUP   | ALL OTHER-PRACTICE-AREAS | BANKRUPTCY-GROUP  | ALL OTHER-PRACTICE-AREAS | BANKRUPTCY-GROUP  | ALL OTHER-PRACTICE-AREAS |
| Ex., Sr. Partner  |  |                          |   |                          |   |                          |
| Ex., Counsel  |  |                          |   |                          |   |                          |
| Ex., Assoc.   |  |                          |   |                          |   |                          |
| Ex., Paralegal  |  |                          |   |                          |   |                          |

**F. E. SPECIAL FEE REVIEW PROCEDURES**

In ~~at those~~ larger ~~Chapter 11~~ Cases where a number of professionals will be retained and the normal fee application and review process would be unduly burdensome, the United States Trustee will, in his or her discretion, ~~recommend~~ on his or her own initiative, or if requested by the court, the debtor, or an official committee, ~~comment on~~ establishing a special fee review process, such as a fee review committee or an independent fee examiner. ~~Either can assist the professionals, the court, and the United States Trustee in preparing or reviewing fee applications and can bring consistency, predictability, and transparency to the process. Although whether~~ Whether a committee or examiner is appointed and the parameters governing such a committee or examiner is ultimately the court's decision. ~~The United States Trustee will follow these Guidelines in connection with recommending fee review committees and independent fee examiners, subject to the court's directions and orders.~~ The United States Trustee will follow these Guidelines in connection with recommending fee review committees and independent fee examiners, subject to the court's directions and orders. In addition, the United States Trustee will not object to an application for compensation that, as amended or revised by the applicant, has been approved by a Fee Review Committee or Independent Fee Examiner appointed pursuant to a court order acceptable to the United States Trustee. For such purposes only, the terms and conditions of the appointing order will be deemed acceptable to the United States Trustee if the United States Trustee

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has not made objection in writing or on the record of the applicable court hearing to the provisions of the appointing order, or has otherwise consented to the appointing order.

~~1. **Timing.** *Special*~~

Timing. The United States Trustee, if it is going to recommend the use of special fee review procedures, should be established do so as early in the case as practicable.

~~1. **2. Purpose.** *An examiner or committee's primary purpose is ensuring that professional fees and expenses paid by the estate are reasonable, actual, and necessary, as required by the Code. Thus, an examiner or committee will monitor, review, and where appropriate, object to interim and final applications for fees and expenses filed by professionals who seek compensation from the estate. If a case has a monthly compensation order permitting the payment of fees and expenses before approval of interim or final applications, the examiner and committee will also monitor, review, and where appropriate, object to monthly invoices submitted for payment. The examiner or committee can also establish other measures to assist the court and the professionals in complying with the Code, the Federal Rules of Bankruptcy Procedure, local rules or general orders, the Guidelines, and other controlling law within the jurisdiction.*~~  
The purposes, scope, authority, functions, and amount and manner of compensation of a fee examiner or fee review committee are for the court to decide as appropriate for each case.

~~2. **3. Models.** *Special*~~  
The United States Trustee will generally recommend that a special fee review procedure take one of several forms. The determination of the appropriate form In making its recommendation for a particular case will be the product of consultation among the United States Trustee, shall consult with the debtor, and any official committee, but it is ultimately the court's recognizing that the institution of special fee review procedures and their parameters is always the court's decision. There are several possible models, including a fee review committee, a fee review committee with an independent member, and an independent fee examiner.

~~a. **a. Fee Review Committee.** *The United States Trustee may recommend that the court could appoint a Fee Review Committee, which should. The United States Trustee will recommend that it*~~ ordinarily consist of representatives of the debtor in possession, the unsecured creditors committee, any other official committee, and the United States Trustee.

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~~The, with~~ representatives of the debtor in possession and the official committee(s) ~~should not be~~ **being** retained professionals whose fees and expenses will be subject to review by the Fee Review Committee. ~~One member of the Fee Review Committee should be designated as chairman, but that person's function should be administrative. Decisions should be reached by majority vote. If there is an even number of Fee Review Committee members and the committee is evenly divided on a decision, the United States Trustee's position will be determinative.~~

~~b. b.~~ **Fee Review Committee with Independent Member.** In addition to appointing a Fee Review Committee as described above, the **United States Trustee may recommend that the** court ~~could~~ appoint an "Independent Member" ~~to chair~~ **of the Fee Review Committee, to function either as a member of** the Fee Review Committee. ~~The Independent Member should be, or as~~ an experienced **person advisor** not otherwise involved in the case as a party in interest or as a representative of a party in interest. The **role of the** Independent Member ~~will be an active participant in the substantive discussions of the Fee Review Committee and will, in consultation with the committee, meet and otherwise communicate with professionals whose compensation is subject to Fee Review Committee review. The Independent Member will also serve as the primary point of contact for any professionals retained by the Fee Review Committee. Each Fee Committee member has one vote, and in the event of a tie, the Independent Member's vote should be determinative~~ **in each case will be determined by the court.** The United States Trustee will, if the court desires, solicit from parties in interest suggestions for appointment as Independent Member and submit several names to the court for consideration. **The United States Trustee will not seek to preclude parties in interest from submitting other names to the court for consideration.**

~~e. c.~~ **Independent Fee Examiner.** As an alternative to a Fee Review Committee, the **United States Trustee may recommend that the** court ~~may~~ appoint a single person to serve as an Independent Fee Examiner for the case. ~~The Fee Examiner should be~~ **who is** an experienced person not otherwise involved in the case as a party in interest or a representative of a party

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in interest. ~~The order appointing the Fee Examiner should fully describe the Fee Examiner's duties and reporting obligations.~~

- ~~3.~~ **4. Fee Review Committees and Independent Fee Examiners should be authorized, subject to court approval, if the court authorizes the Fee Review Committee to retain professionals, including but not limited to attorneys and fee auditors, to assist in discharging its duties. The** United States Trustee, ~~however,~~ may not participate in or vote on the hiring of professionals for the Fee Review Committee, although the United States Trustee may suggest ~~parties who should~~ **persons to** serve as Independent Members and Independent Fee Examiners.
- ~~4.~~ **5. The Independent Fee Examiner, the Independent Member, and the Fee Review Committee's professionals should be compensated in accordance with the fee procedures established in the case and should file interim and final fee applications for consideration under the reasonableness standards set forth in 11 U.S.C. § 330(a). Compensation under a flat fee arrangement may be appropriate in certain cases but only if subject to reasonableness review under section 330. Fee examiners and professionals retained by a Fee Review Committee should not be subject to any monthly compensation processes otherwise applicable in the case. United States Trustee will not object to the inclusion in the order establishing a Fee Review Committee or Independent Fee Examiner of appropriate provisions exculpating and indemnifying Fee Review Committee members, the Independent Member, or the Fee Examiner from any liability arising out of their service.**
- ~~6.~~ Fee Review Committees and Independent Fee Examiners should have the rights of a party in interest in connection with fee issues and should be authorized to negotiate fee disputes with retained professionals, to object to fee applications both interim and final, to object to monthly invoices if a case is governed by a monthly compensation order, and to undertake discovery in connection with contested fee matters.
- ~~7.~~ Fee Review Committees and Independent Fee Examiners should establish guidelines and requirements for the preparation and submission of fee and expense budgets by the retained professionals. Fee Review Committees and Independent Fee Examiners should also consider whether case-specific project billing codes should be developed to facilitate preparation and review of fee applications.
- ~~8.~~ Fee Review Committees and Independent Fee Examiners should establish procedures to resolve fee disputes with retained professionals, while retaining the right to file and prosecute objections if disputes cannot be resolved.

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9. ~~The order appointing Fee Review Committees and Independent Fee Examiners should contain appropriate provisions exculpating and indemnifying Fee Review Committee members, the Independent Member, or the Fee Examiner from any liability arising out of their service.~~

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## PROJECT CATEGORIES, SUB-CATEGORIES, AND EXPENSE CATEGORIES

| PROJECT CATEGORIES |   |
|--------------------|---|
| 1.                 | <del>Asset Analysis and Recovery</del>  |
|                    | <del>1</del> Asset Disposition  |
|                    | <del>2</del> <del>Assumption Rejection of Leases and</del> <del>Executory</del> Contracts <del>and Unexpired Leases</del>   |
| 4.                 | <del>Avoidance Action Analysis</del>  |
| 5.                 | <del>Budgeting (Case)</del>   |
| 6.                 | <del>Business Operations</del>  |
|                    | <del>3</del> Case Administration  |
|                    | <del>4</del> Claims Administration and Objections   |
|                    | <del>5</del> Corporate Governance/Board Matters/ <del>Securities</del>  |
|                    | <del>6</del> Employee Benefits/Pensions   |
|                    | <del>7</del> Employment <del>Fee</del> Application Preparation and Defense ( <del>own</del> )   |
| 12.                | <del>Employment Application Review and Objections (other's)</del>   |
| 13.                | <del>Fee Application Preparation and Defense (own)</del>  |
| 14.                | <del>Fee Application Review and Objections (other's)</del>  |
|                    | <del>8</del> <del>Financing and</del> Cash Collateral <del>and Adequate Protection</del>  |
|                    | Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category). <del>Identify each separately by adv. no and caption or title of motion or application and docket no.</del> |
| 7.                 | <del>10</del> <sup>1</sup> Meetings with Creditors <del>and Creditor Inquiries</del>  |
|                    | <del>9</del> Non-Working Travel   |
|                    | <del>11</del> Plan and Disclosure Statement   |
|                    | <del>12</del> <del>Real Estate</del> <del>Relief from Stay</del>  |
|                    | <del>13</del> <del>Relief from Stay</del> <del>Retention of Professionals - Application Preparation</del> and <del>Adequate</del>   |
|                    | <del>14</del> <del>Special Matters (environmental, regulatory, insurance, etc., as appropriate to the</del>   |
|                    | <del>15</del> Tax <sup>2</sup>  |
|                    | <del>16</del> Trustee-Examiner-CRO Motions  |
| 24.                | <del>Valuation</del>  |

<sup>1</sup> Some cases may have matters peculiar to that case that involve significant amounts of time and resources. After consultation among the debtor, statutory committees, their professionals, and the United States Trustee, one or more categories may be added, as appropriate to the case, to the list of standard categories set forth above.

| <b>SUB-CATEGORIES (WITHIN EACH PROJECT CATEGORY)</b> |  |
|--|--|
| 1.   | <del>Review/Analysis/Strategy</del>  |
| 2.   | <del>Pleading/Motion/Application/Objection/Briefing/Other Written Court Submission</del>                       |
| 3.   | <del>Transactional Documents/Plan: Draft and Revise</del>  |
| 4.   | <del>Transaction: Closing/Post-Closing</del>   |
| 5.   | <del>Reporting: Accounting/Schedules and SOFA/MORs/Other</del>   |
| 6.   | <del>Research and Research Memoranda</del>   |
| 7.   | <del>Written Discovery and Document Production or Review</del>   |
| 8.   | <del>Deposition Preparation</del>  |
| 9.   | <del>Deposition 1st Chair (take or defend)</del>   |
| 10.  | <del>Deposition 2nd Chair (Attend)</del>   |
| 11.  | <del>Communicate Meet (in firm)</del>  |
| 12.  | <del>Communicate Meet (with client)</del>  |
| 13.  | <del>Communicate Meet (external, including creditors' meetings and calls, including settlement meetings)</del> |
| 14.  | <del>Hearing/Trial/Oral Argument Preparation</del>   |
| 15.  | <del>Hearing/Trial/Oral Argument/Court Conference 1st Chair (Conduct)</del>                                    |
| 16.  | <del>Hearing/Trial/Oral Argument/Court Conference 2nd Chair (Attend)</del>                                     |
| 17.  | <del>Experts/Consultants</del>   |
| 18.  | <del>Valuation/Liquidation Analyses</del>  |
| 19.  | <del>Testify</del>   |
| 20.  | <del>Non-working travel: local and non-local</del>   |

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EXPENSE CATEGORIES<sup>42</sup>

|   | VENDOR, if any | UNIT COST, if applicable | AMOUNT |
|---|----------------|--------------------------|--------|
| Copies  |                |                          |        |
| Outside Printing  |                |                          |        |
| Telephone   |                |                          |        |
| Facsimile   |                |                          |        |
| Online research   |                |                          |        |
| Delivery Services/Couriers                                      |                |                          |        |
| Postage   |                |                          |        |
| Local travel <u>and parking</u>                                 |                |                          |        |
| Out-of-town<br>travel:<br>Transportation<br>Hotel<br>Meals      |                |                          |        |
| Meals (local)   |                |                          |        |
| Court <u>and Clerk</u> fees                                     |                |                          |        |
| Subpoena fees   |                |                          |        |
| Witness fees  |                |                          |        |
| Deposition transcripts  |                |                          |        |
| <del>Trial</del> <u>Hearing</u> <del>€</del> <u>Transcripts</u> |                |                          |        |
| <del>Trial</del> <u>Hearing</u> <del>e</del> <u>Exhibits</u>    |                |                          |        |
| Litigation Support <del>v</del> <u>Vendors</u>                  |                |                          |        |
| Experts   |                |                          |        |
| Investigators   |                |                          |        |
| Arbitrators/Mediators   |                |                          |        |
| Other <del>(please specify)</del>                               |                |                          |        |

<sup>42</sup> Although certain expense categories may appear in the category list, the United States Trustee may still object to the inclusion of any expenses that should properly be deemed a professional's overhead, such as phones, postage, local meals, online research, etc.

**BUDGET AND STAFFING PLAN TEMPLATE**

Case Name and Number \_\_\_\_\_

Professional/Firm \_\_\_\_\_

Dates and Time Period Covered \_\_\_\_\_

Date Retention Approved \_\_\_\_\_

Date Budget Approved by Client \_\_\_\_\_

Client's Signature \_\_\_\_\_

A budget approved by the client in advance should generally be attached to each interim and final fee application filed by the professional. If the fees sought in the fee application vary upward by more than 10% from the budget or if fees are sought for professionals who do not appear on the staffing plan, the fee application should include a narrative explanation for the variance

| <b>PROJECT CATEGORY</b>   | <b>ESTIMATED HOURS</b> | <b>ESTIMATED FEES</b> |
|---|------------------------|-----------------------|
| <del>Asset Analysis and Recovery</del>                                |                        |                       |
| <del>Asset Disposition Analysis</del>                                 |                        |                       |
| <del>Assumption Rejection of Leases and Contracts</del>               |                        |                       |
| <del>Avoidance Actions</del>  |                        |                       |
| <del>Budgeting (Case)</del>   |                        |                       |
| <del>Business Operations</del>  |                        |                       |
| <del>Case Administration</del>  |                        |                       |
| <del>Claims Administration and Objections</del>                       |                        |                       |
| <del>Corporate Governance/Board Matters</del>                         |                        |                       |
| <del>Employee Benefits/Pensions</del>                                 |                        |                       |
| <del>Employment — Application — Preparation — and Defense (own)</del> |                        |                       |
| <del>Employment Application Review and Objections (other's)</del>     |                        |                       |

|  |  |  |
|--|--|--|
| <del>Fee Application Preparation and Defense (own)</del>   |  |  |
| <del>Fee Application Review and Objections (other's)</del>   |  |  |
| <del>Financing and Cash Collateral</del>   |  |  |
| <del>Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category). Identify each separately by adv. no. and caption or title of motion or application and docket no.</del> |  |  |

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| <b>PROJECT CATEGORY</b>                  | <b>ESTIMATED HOURS</b> | <b>ESTIMATED FEES</b> |
|--|------------------------|-----------------------|
| Meetings with Creditors                  |                        |                       |
| Non-Working Travel                       |                        |                       |
| Plan and Disclosure Statement            |                        |                       |
| Real Estate                              |                        |                       |
| Relief from Stay and Adequate Protection |                        |                       |
| Tax                                      |                        |                       |
| Trustee Examiner CRO Motions             |                        |                       |
| Valuation                                |                        |                       |
| <b>TOTAL</b>                             |                        |                       |

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**PROFESSIONALS ANTICIPATED TO WORK ON THE MATTER DURING THE BUDGET PERIOD**

| <b>NAME</b> | <b>TITLE</b> | <b>PRIMARY PRACTICE GROUP OR SECTION OR CONTRACT/TEMP</b> | <b>RATE DISCLOSED IN RETENTION APPLICATION</b> | <b>PRIMARY PROJECT CATEGORIES IN WHICH PROFESSIONAL WILL WORK</b> |
|-------------|--------------|---|--|---|
|             |              |   |  |   |
|             |              |   |  |   |
|             |              |   |  |   |
|             |              |   |  |   |

**EXHIBIT B**

**SUMMARY OF FEE APPLICATION COVER SHEET**

|   |  |
|---|--|
| Name of applicant   |  |
| Name of client  |  |
| Time period covered by application  |  |
| Total compensation sought this period   |  |
| Total expenses sought this period   |  |
| Petition date   |  |
| Retention date  |  |
| Date of order approving employment  |  |
| Total compensation <del>approved by interim order</del> <b>allowed</b> to   |  |
| Total expenses <del>approved by interim order</del> <b>allowed</b> to date  |  |
| Total allowed compensation paid to date   |  |
| Total allowed expenses paid to date   |  |
| Blended rate in this application for all attorneys and all timekeepers  |  |
| Compensation sought in this application already paid pursuant to a monthly compensation order but not yet allowed                       |  |
| Expenses sought in this application already paid pursuant to a monthly compensation order but not yet allowed                           |  |
| Number of professionals included in this application  |  |
| <del>Number of professionals in this application not included in staffing plan approved by client</del>                                 |  |
| <del>Difference between fees budgeted and compensation sought for this application period</del>   |  |
| <del>Are any rates higher than those approved at retention? If yes, calculate the amount of compensation attributable to any rate</del> |  |

|   |  |
|---|--|
| increase  |  |
| Number of “transitory” professionals included in application (fewer than 15 hours of work per 120-day interim period) |  |
| Debtors Only: Estimate of compensation sought that would have been incurred irrespective of bankruptcy                |  |

Case Name and Number: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Retention, Interim Fee, or Final Fee: \_\_\_\_\_

**EXHIBIT C**

**COMPENSATION REQUESTED BY PROJECT CATEGORY ~~AND SUB-CATEGORY~~**

| <b>PROJECT-CATEGORY</b>                      | <b>SUB-CATEGORY<sup>5</sup></b>  | <b>HOURS-BUDGETED</b> | <b>FEES-BUDGETED</b> | <b>HOURS-BILLED</b> | <b>FEES- SOUGHT</b> |
|--|----------------------------------|-----------------------|----------------------|---------------------|---------------------|
| Asset Analysis and Recovery                  | (e.g., Review/Analysis/Strategy) |                       |                      |                     |                     |
|  | (e.g., Research)                 |                       |                      |                     |                     |
| Sub-total                                    |                                  |                       |                      |                     |                     |
| Asset Disposition                            |                                  |                       |                      |                     |                     |
|  |                                  |                       |                      |                     |                     |
| Sub-total                                    |                                  |                       |                      |                     |                     |
| Assumption Rejection of Leases and Contracts |                                  |                       |                      |                     |                     |
|  |                                  |                       |                      |                     |                     |
| Sub-total                                    |                                  |                       |                      |                     |                     |
| Avoidance Action Analysis                    |                                  |                       |                      |                     |                     |
|  |                                  |                       |                      |                     |                     |
| Sub-total                                    |                                  |                       |                      |                     |                     |

| <b><u>PROJECT CATEGORY</u></b>  | <b><u>HOURS BILLED</u></b> | <b><u>FEES SOUGHT</u></b> |
|---------------------------------|----------------------------|---------------------------|
| <b><u>Asset Disposition</u></b> |                            |                           |

<sup>5</sup> ~~Because budgeting may not be done at the sub-category level, the budgeted columns for sub-categories may be marked n/a or left blank.~~

**EXHIBIT D**

| <u>PROJECT CATEGORY</u>  | <u>HOURS BILLED</u> | <u>FEES SOUGHT</u> |
|--|---------------------|--------------------|
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Executory Contracts and Unexpired Leases</u>  |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Case Administration</u>   |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Claims Administration and Objections</u>  |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Corporate Governance/Board Matters/Securities</u>   |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Employee Benefits/Pensions</u>  |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Fee Application Preparation and Defense</u>   |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Financing, Cash Collateral and Adequate Protection</u>  |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category).</u> |                     |                    |
|  |                     |                    |
| <u>Subtotal</u>  |                     |                    |
| <u>Meetings with Creditors and Creditor Inquiries</u>  |                     |                    |
|  |                     |                    |

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**EXHIBIT D**

| <u>PROJECT CATEGORY</u>                             | <u>HOURS BILLED</u> | <u>FEES SOUGHT</u> |
|---|---------------------|--------------------|
| <u>Subtotal</u>                                     |                     |                    |
| <u>Non-Working Travel</u>                           |                     |                    |
|   |                     |                    |
| <u>Subtotal</u>                                     |                     |                    |
| <u>Plan and Disclosure Statement</u>                |                     |                    |
|   |                     |                    |
| <u>Subtotal</u>                                     |                     |                    |
| <u>Relief from Stay</u>                             |                     |                    |
|   |                     |                    |
| <u>Subtotal</u>                                     |                     |                    |
| <u>Retention of Professionals</u>                   |                     |                    |
|   |                     |                    |
| <u>Subtotal</u>                                     |                     |                    |
| <u>Special Matters (as appropriate to the case)</u> |                     |                    |
|   |                     |                    |
| <u>Subtotal</u>                                     |                     |                    |
| <u>Tax</u>  |                     |                    |
|   |                     |                    |
| <u>Subtotal</u>                                     |                     |                    |

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| <u>PROJECT CATEGORY</u>             | <u>HOURS BILLED</u> | <u>FEES SOUGHT</u> |
|-------------------------------------|---------------------|--------------------|
| <u>Trustee-Examiner-CRO Motions</u> |                     |                    |
| <u>Subtotal</u>                     |                     |                    |
| <u>TOTAL</u>                        |                     |                    |

~~Case Name and Number:~~ Case Name and Number: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Retention, Interim Fee, or Final Fee: \_\_\_\_\_

~~Applicant's Name:~~ \_\_\_\_\_

~~Date of Application:~~ \_\_\_\_\_

~~Retention, Interim Fee, or Final Fee:~~ \_\_\_\_\_

| <b>PROJECT-CATEGORY</b>              | <b>SUB-CATEGORY</b> | <b>HOURS-BUDGETED</b> | <b>FEE-BUDGETED</b> | <b>HOURS-BILLED</b> | <b>FEE-SOUGHT</b> |
|--------------------------------------|---------------------|-----------------------|---------------------|---------------------|-------------------|
| Budgeting (Case)                     |                     |                       |                     |                     |                   |
|                                      |                     |                       |                     |                     |                   |
| Sub-total                            |                     |                       |                     |                     |                   |
| Business Operations                  |                     |                       |                     |                     |                   |
|                                      |                     |                       |                     |                     |                   |
| Sub-total                            |                     |                       |                     |                     |                   |
| Case Administration                  |                     |                       |                     |                     |                   |
|                                      |                     |                       |                     |                     |                   |
| Sub-total                            |                     |                       |                     |                     |                   |
| Claims-Administration and-Objections |                     |                       |                     |                     |                   |
| Subtotal                             |                     |                       |                     |                     |                   |

Case Name and Number:— \_\_\_\_\_

Applicant's Name:— \_\_\_\_\_

Date of Application:— \_\_\_\_\_

Retention, Interim Fee, or Final Fee:— \_\_\_\_\_

| <b>PROJECT-CATEGORY</b>                                | <b>SUB-CATEGORY</b> | <b>HOURS-BUDGETED</b> | <b>FEES-BUDGETED</b> | <b>HOURS-BILLED</b> | <b>FEES-BOUGHT</b> |
|--|---------------------|-----------------------|----------------------|---------------------|--------------------|
| Corporate-Governance/Board-Matters                     |                     |                       |                      |                     |                    |
|  |                     |                       |                      |                     |                    |
| Subtotal   |                     |                       |                      |                     |                    |
| Employee-Benefits/Pensions                             |                     |                       |                      |                     |                    |
|  |                     |                       |                      |                     |                    |
| Subtotal   |                     |                       |                      |                     |                    |
| Employment-Application-Preparation and-Defense (own)   |                     |                       |                      |                     |                    |
|  |                     |                       |                      |                     |                    |
| Subtotal   |                     |                       |                      |                     |                    |
| Employment-Application-Review-and-Objections-(other's) |                     |                       |                      |                     |                    |

Case Name and Number:— \_\_\_\_\_

Applicant's Name:— \_\_\_\_\_

Date of Application:— \_\_\_\_\_

Retention, Interim Fee, or Final Fee:— \_\_\_\_\_

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| <b>PROJECT-CATEGORY</b>                         | <b>SUB-CATEGORY</b> | <b>HOURS-BUDGETED</b> | <b>FEES-BUDGETED</b> | <b>HOURS-BILLED</b> | <b>FEES-BOUGHT</b> |
|---|---------------------|-----------------------|----------------------|---------------------|--------------------|
|   |                     |                       |                      |                     |                    |
| Subtotal  |                     |                       |                      |                     |                    |
| Fee-Application-Preparation-and-Defense (own)   |                     |                       |                      |                     |                    |
|   |                     |                       |                      |                     |                    |
| Subtotal  |                     |                       |                      |                     |                    |
| Fee-Application-Review-and-Objections (other's) |                     |                       |                      |                     |                    |
|   |                     |                       |                      |                     |                    |
| Subtotal  |                     |                       |                      |                     |                    |
| Financing-and-Cash-Collateral                   |                     |                       |                      |                     |                    |
|   |                     |                       |                      |                     |                    |
| Subtotal  |                     |                       |                      |                     |                    |

Case Name and Number:— \_\_\_\_\_

Applicant's Name:— \_\_\_\_\_

Date of Application:— \_\_\_\_\_

Retention, Interim Fee, or Final Fee:— \_\_\_\_\_

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| <b>PROJECT-CATEGORY</b>   | <b>SUB-CATEGORY</b> | <b>HOURS-BUDGETED</b> | <b>FEE-BUDGETED</b> | <b>HOURS-BILLED</b> | <b>FEE-REQUESTED</b> |
|---|---------------------|-----------------------|---------------------|---------------------|----------------------|
| Litigation: Contested Matters and Adversary Proceedings (not otherwise within a specific project category). Identify each separately by adv. no. and caption or title of motion or application and docket no. |                     |                       |                     |                     |                      |
|   |                     |                       |                     |                     |                      |
| Subtotal (for each adversary or contested matter)   |                     |                       |                     |                     |                      |
| Meetings with Creditors   |                     |                       |                     |                     |                      |
|   |                     |                       |                     |                     |                      |
| Subtotal  |                     |                       |                     |                     |                      |
| Non-Working Travel  |                     |                       |                     |                     |                      |
|   |                     |                       |                     |                     |                      |
|   |                     |                       |                     |                     |                      |

Case Name and Number:— \_\_\_\_\_

Applicant's Name:— \_\_\_\_\_

Date of Application:— \_\_\_\_\_

Retention, Interim Fee, or Final Fee:— \_\_\_\_\_

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| <b>PROJECT-CATEGORY</b>                  | <b>SUB-CATEGORY</b> | <b>HOURS-BUDGETED</b> | <b>FEEES-BUDGETED</b> | <b>HOURS BILLED</b> | <b>FEEES SOUGHT</b> |
|--|---------------------|-----------------------|-----------------------|---------------------|---------------------|
| Plan and Disclosure Statement            |                     |                       |                       |                     |                     |
|  |                     |                       |                       |                     |                     |
| Subtotal                                 |                     |                       |                       |                     |                     |
| Relief from Stay and Adequate Protection |                     |                       |                       |                     |                     |
|  |                     |                       |                       |                     |                     |
| Subtotal                                 |                     |                       |                       |                     |                     |
| Tax                                      |                     |                       |                       |                     |                     |
|  |                     |                       |                       |                     |                     |
| Subtotal                                 |                     |                       |                       |                     |                     |
| Trustee Examiner CRO Motions             |                     |                       |                       |                     |                     |
|  |                     |                       |                       |                     |                     |
| Subtotal                                 |                     |                       |                       |                     |                     |
| Valuation                                |                     |                       |                       |                     |                     |
|  |                     |                       |                       |                     |                     |
| Subtotal                                 |                     |                       |                       |                     |                     |
| <b>TOTAL</b>                             |                     |                       |                       |                     |                     |

Case Name and Number:— \_\_\_\_\_

Applicant's Name:— \_\_\_\_\_

Date of Application:— \_\_\_\_\_

Retention, Interim Fee, or Final Fee:— \_\_\_\_\_

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**EXHIBIT C**

**EXPENSE REIMBURSEMENT REQUESTED SUMMARY BY CATEGORY**

|                                     | <b>VENDOR, if any</b> | <b>UNIT COST, if applicable</b> | <b>AMOUNT</b> |
|-------------------------------------|-----------------------|---------------------------------|---------------|
| Copies                              |                       |                                 |               |
| Outside Printing                    |                       |                                 |               |
| Telephone                           |                       |                                 |               |
| Facsimile                           |                       |                                 |               |
| Online research                     |                       |                                 |               |
| Delivery Services/Couriers          |                       |                                 |               |
| Postage                             |                       |                                 |               |
| Local travel <u>and parking</u>     |                       |                                 |               |
| Out-of-town<br>travel:              |                       |                                 |               |
| Transportation                      |                       |                                 |               |
| Hotel                               |                       |                                 |               |
| Meals (local)                       |                       |                                 |               |
| Court <u>and Clerk</u> fees         |                       |                                 |               |
| Subpoena fees                       |                       |                                 |               |
| Witness fees                        |                       |                                 |               |
| Deposition transcripts              |                       |                                 |               |
| Trial transcripts                   |                       |                                 |               |
| Trial exhibits                      |                       |                                 |               |
| Litigation Support vendors          |                       |                                 |               |
| Experts                             |                       |                                 |               |
| Investigators                       |                       |                                 |               |
| Arbitrators/Mediators               |                       |                                 |               |
| Other ( <del>please specify</del> ) |                       |                                 |               |

Case Name and Number: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Retention, Interim Fee, or Final Fee: \_\_\_\_\_





~~(For Retention Application and Fee Application)~~

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**EXHIBIT E**

\*U.S. professionals only.

Case Name and Number: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Date of Application: \_\_\_\_\_

Retention, Interim Fee, or Final Fee: \_\_\_\_\_