

BUTLER | SNOW

January 31, 2012

Via email: USTP.Fee.Guidelines@usdoj.gov

Executive Office of the United States Trustee
20 Massachusetts Ave. N.W., 8th Floor
Washington, D.C., 20530

RE: Response to Draft of Proposed Guidelines for Reviewing Applications for Compensation & Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases

Dear Sir/Madam:

I am writing on my own behalf to give you my comments on the above-captioned guidelines (the "Proposed Guidelines"). I appreciate the opportunity to share my thoughts on the Proposed Guidelines.

Although the Proposed Guidelines are initially intended to apply only to attorneys in larger Chapter 11 cases, it has been expressed by officials from the Region 5 United States Trustee's Office that these standards may eventually apply to professionals that are retained under §327 or §1103 of the United States Bankruptcy Code (the "Code") in many, if not all, Chapter 11 cases, regardless of the size of the case.

While I understand and support the objectives of the Proposed Guidelines, my concern is that these Proposed Guidelines do not serve to enhance and further those goals, but instead will create substantial obstacles to achieving those objectives. I believe that the Proposed Guidelines, if applied in the smaller Chapter 11 cases, will create further inefficiencies and will only increase expenses in these bankruptcy cases.

Potential Impact of the Guidelines. I am concerned that the additional disclosure and reporting requirements, especially with regard to budgets and staffing plans, will lead to substantial increase in professional costs because of the administrative burden imposed on bankruptcy professionals who seek to comply with these requirements. This will also become an increased burden on the Office of the United States Trustee both in monitoring compliance and in

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analyzing, interpreting and applying in any positive and useful way the information produced by such reports. Finally, these requirements may further involve the already overloaded Bankruptcy Courts who will necessarily need to address the many disputes that will inevitably arise. All of these factors will be to the detriment of the stated objectives of the Proposed Guidelines.

Budgets – Benchmarking the Fee Application to the Budget and Staffing Plan. The Proposed Guidelines encourage the use of budgets and staffing plans and require explanations of budget variances exceeding 10% of the amounts budgeted, as well as explanations for the appearance of any timekeeper(s) not appearing on the staffing plan. While almost all of our Chapter 11 cases are “small” or “middle market” cases, it is my experience that it is not feasible to anticipate all or many of the developments that occur in a Chapter 11 case, even a small case. Consequently, any budget or staffing plan will likely be subject to continuous and significant modification as issues arise during the course of a case. Any modifications to the budget and/or staffing plan will require reconciliations to previous budgets and explanations of variances to each party-in-interest, which will require substantial effort by all parties and result in decreased efficiency and increased administrative review. Finally, the preparation of a meaningful budget and staffing plan may disclose confidential or otherwise privileged issues and such disclosure may not be in the best interests of the estate.

Rates and Fee Structure. Many of the disclosures required by the Proposed Guidelines require the disclosure of (1) the highest, lowest and average hourly rate billed during the preceding 12 months for each professional and paraprofessional for estate-billed and all other matters (if applicable); and (2) whether any client was charged more or less than the hourly rates included in the application. Because many law firms utilize a variety of alternative billing arrangements which are generally applied to the overall engagement and are not available for each individual timekeeper, it may be difficult to comply with this requirement.

Geographic Variations in Rates. The Proposed Guidelines allow “non-forum” rates where the locally prevailing rates are lower; conversely, the US Trustee will object if professionals increase their rates based on the forum where the case is pending if they bill a lower rate where they maintain their primary office. Unfortunately, in our area, the present practice is to limit the “forum” rates while not imposing any specific rate limitation on non-forum rates. Still, even within the “forum” rates, rates are not monolithic, but instead there is a significant variance in

the rates depending on the competency and experience of the bankruptcy lawyers. This natural variation must be recognized.

Recommendations. While it may be possible to develop guidelines to ensure that the amount of fees for bankruptcy professionals in Chapter 11 cases are reasonable and necessary for these very large bankruptcy cases, such Proposed Guidelines will not work, and in fact would be counterproductive, in smaller Chapter 11 cases. Clearly, in Chapter 11 bankruptcy cases, there is no “one size fits all” approach for controlling professional fees.

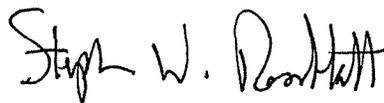
I encourage you to talk with the United States Trustees for each of the regions outside of Delaware and New York, but especially bankruptcy professionals from each of those regions, to get their perspective on how these Proposed Guidelines would apply to smaller Chapter 11 cases.

I have also read the “Comments from 119 Law Firms” to the Proposed Guidelines, and I share many of the concerns expressed in that response.

Thank you again for this opportunity to provide this input into the Proposed Guidelines.

Very truly yours,

BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC

A handwritten signature in black ink that reads "Stephen W. Rosenblatt". The signature is written in a cursive, slightly slanted style.

Stephen W. Rosenblatt