

BERNSTEIN SHUR SAWYER & NELSON, P.A.
100 Middle Street
P.O. Box 9729
Portland, ME 04104
Telephone: (207) 774-1200
Robert J. Keach, Esq. (*Admitted Pro Hac Vice*)

Fee Examiner

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

AMR CORPORATION, et al.,

Debtors.

Chapter 11 Case No.

11-15463 (SHL)

(Jointly Administered)

**FEE EXAMINER'S CONSOLIDATED FINAL REPORT PERTAINING TO THE
INTERIM FEE APPLICATIONS OF CERTAIN RETAINED PROFESSIONALS
ADJOURNED FROM THE MAY 30, 2013 HEARING
(WEIL GOTSHAL & MANGES LLP AND DEBEVOISE & PLIMPTON)**

Robert J. Keach (the “Fee Examiner”) submits this Consolidated Final Report (the “Supplemental Third Period Final Report”) pursuant to the Stipulation and Order With Respect to Appointment of a Fee Examiner [Docket No. 3184] (the “Fee Examiner Order”) in connection with the applications for allowance of compensation for professional services rendered and for reimbursement of actual and necessary expenses (the “Fee Applications”) of certain professionals retained in the above-captioned, jointly administered cases (the “Retained Professionals”). Except as discussed below, the Fee Applications are interim applications and relate to the compensation and reimbursement of expenses requested for the period August 1, 2012 through November 30, 2012 (the “Third Fee Period”). The Fee Applications were adjourned from the May 30, 2013 hearing to the June 27, 2013 omnibus hearing date.

I. INTRODUCTION

1. This Supplemental Third Period Final Report covers the Fee Applications of the five (5) Retained Professionals who asked to adjourn the hearing on their respective Fee Applications to June 27, 2013. Those Retained Professionals were Cooley, LLP (“Cooley”); Debevoise & Plimpton (“Debevoise”); Felsberg, Pedretti (“Felsberg”); Rothschild, Inc. (“Rothschild”); and Weil Gotshal & Manges LLP (“Weil”). Of those professionals, Cooley and Rothschild have again asked to adjourn, this time to September 12, 2013. The Fee Examiner consents to those adjournments. By agreement of the Debtors, the United States Trustee, the Fee Examiner and Felsberg, Felsberg will be returned to the status of an ordinary course professional *nunc pro tunc* to the date of its original designation as a Retained Professional subject to the Fee Examiner Order, and will not be subject to the Fee Examiner Order. That agreement will be presented to the Court in the form of a stipulation and order. Accordingly, this report covers the Third Fee Period Fee Applications of Debevoise and Weil, as well as the Second Fee Period Fee Application of Debevoise. As a consequence of the process described below, the Fee Examiner has reached an agreement with each of those Retained Professionals, and the Fee Examiner’s recommendations as to fees to be allowed and expenses to be reimbursed for the Third Fee Period are detailed below and also set forth, for the convenience of the Court, on Exhibit A to this Supplemental Third Period Final Report. A cumulative report with respect to the First, Second and Third Fee Periods is attached hereto as Exhibit B.

2. As the Fee Applications are interim applications under section 331 of the Bankruptcy Code, the Fee Examiner reserves all rights to challenge fees and expenses sought in connection with subsequent interim applications and any final applications. The Fee Examiner also takes this opportunity to once again thank Weil and Debevoise (and, in particular, Alfredo

Perez and Jasmine Ball, respectively) for their promptness and professionalism in cooperating with the Fee Examiner throughout this process, and for the timely, thorough, and detailed responses to the Fee Examiner's Preliminary Reports, and their responses to the Fee Examiner's requests for additional information.

II. THE APPOINTMENT OF THE FEE EXAMINER AND THE FEE EXAMINATION PROCESS

3. In light of the size and complexity of these chapter 11 cases, this Court appointed the Fee Examiner to “review and assess all Applications filed by Retained Professionals, and the fees and reimbursement of expenses for which allowance is sought pursuant to the Applications” for compliance with various applicable orders, rules and guidelines, and, to the extent such Applications are found to not be in compliance, “to object to the allowance of fees or expenses sought by [any] Retained Professional on any grounds, including, without limitation, the reasonableness of the fees and expenses sought” Fee Examiner Order, ¶¶ 1, 2.¹ After reviewing each Application filed by a Retained Professional, “the Fee Examiner shall prepare periodic reports on each Application (each, a “Preliminary Report”) setting forth any issue or objection relating to the Retained Professional’s Application” Id. at ¶ 4. The Fee Examiner shall transmit the Preliminary Report to the Debtors, the Debtors’ lead counsel, counsel to the official committee of unsecured creditors (the “Committee”), the United States Trustee (the “UST”), and the Retained Professional that is the subject of the Preliminary Report; the contents of the Preliminary Report shall be confidential until such time as the Fee Examiner incorporates any or all of the content of the Preliminary Report into a Final Report. Id. at ¶ 4.a. The Fee Examiner and the Retained Professional “shall endeavor to reach a mutually acceptable resolution of any issues identified by the Fee Examiner in the Preliminary Report,” and the Fee

¹ Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Fee Examiner Order.

Examiner shall provide the Retained Professional “with a reasonable opportunity to resolve any issues identified in the Preliminary Report or to amend the Application.” Id. at ¶ 4.b. “After a reasonable opportunity to respond to the Preliminary Report and resolve any issues set forth therein, the Fee Examiner shall file a final report . . . with the Court setting forth any unresolved objections to the Application.” Id. at ¶ 4.c.

4. The Fee Examiner reviewed the Fee Applications for compliance with applicable provisions of the Bankruptcy Code (the “Bankruptcy Code”), the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), and the United States Trustee Guidelines for Reviewing Applications for Compensation & Reimbursement of Expenses filed under 11 U.S.C. § 330 (28 C.F.R. Part 58, Appendix A) (the “UST Guidelines”), as supplemented by this Court’s Order regarding Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases (“M-389”).² The Fee Examiner also reviewed the Fee Applications for general compliance with legal precedent established by the District Courts and Bankruptcy Courts for the Southern District of New York, the Second Circuit Court of Appeals, and other applicable precedent.

5. Following that review, the Fee Examiner issued a detailed Preliminary Report as to each Retained Professional. Each Preliminary Report set forth the legal and other standards governing the review, and raised questions as to certain designated time entries or expenses. Each Retained Professional was invited to respond to the Preliminary Report, and all of the Retained Professionals covered by this Supplemental Third Period Final Report produced responses addressing the questions, in some cases more detailed and extensive than the original

² M-389 has been superseded by General Order M-447 (“M-447”); by its terms, M-447 applies to all fee applications filed on or after February 5, 2013.

Fee Application. E-mail exchanges were conducted and telephone and in-person conferences were held. Through this process, substantial additional information was provided to the Fee Examiner.

6. Following receipt of the additional information, which information often clarified or resolved many of the questions raised by the Fee Examiner, the Fee Examiner communicated revised proposals to the Retained Professionals as to his recommendations for allowance of fees and reimbursement of expenses. As a consequence of exchanges with the Retained Professionals following the communication of these revised proposals, resolutions were reached with Debevoise and Weil.

III. STANDARDS APPLIED BY THE FEE EXAMINER

7. The general standards applied by the Fee Examiner are set forth in the Consolidated Final Report previously filed with the Court [Docket No. 4453], and those standards are incorporated herein by reference, and except to the extent necessary to describe particular results below, will not be repeated in this Supplemental Third Period Final Report. However, for the Third Fee Period, as to Debevoise, the Fee Examiner dealt with issues of rate increases, particularly so-called “step-up” increases. In addition, the Fee Applications for the Third Fee Period raised, for the first time, the issue of the compensability of time spent and expenses incurred for defending a fee application and with respect to interaction with the Fee Examiner. Accordingly, the Fee Examiner sets forth in detail below, for the benefit of the Court, the legal standards employed by the Fee Examiner with respect to those categories of fees and expenses.

Hourly Rate Increases

8. The subject of rate increases during the course of a chapter 11 case has generated some controversy.³ However, such rate increases are not generally prohibited; indeed a number of courts have allowed mid-case implementation of reasonable, routine, across-the-board rate increases otherwise applicable to all of the professional's clients. In re Lee Tractor Co., Inc., No. 07-03928-8-RDD, 2008 WL 2788413 at *2 (Bankr. E.D.N.C. July 16, 2008) (allowing rate increases in the middle of a pending case where the letter of engagement notified the client of the possibility of a rate increase during the case, client was not objecting, and "[e]ven though the proposed increases in the hourly rates represent increases ranging from 7.7 to 32 percent, such amounts are not out of line with what other experienced Chapter 11 practitioners charge in this district"); In re Teraforce Tech. Corp., 347 B.R. 838, 860 (Bankr. N.D. Tex. 2006) ("[A]s [the professional] explained at the Final Fee Application Hearing, and as is common knowledge in this district, it is the customary practice of local law firms to review and adjust their billable rates on an annual basis [T]he Court is satisfied by the explanation offered . . . [and] the rate increases objected to were not so large as to overly concern the Court"; court also noted that the retention application preserved the option of raising rates periodically); In re Dimas, LLC, 357 B.R. 563, 577-78 (Bankr. N.D. Cal. 2006) (overruling objection to rate increases: "Where counsel bills the estate on an hourly basis, it is contemplated that there will be periodic upward adjustments of the hourly rates to keep pace with the market. Moreover, the fee agreement attached to the employment application expressly discloses the hourly rates 'at this time' and states that the billing policies and procedures 'are subject to change.'").

³ See Stipulation and Agreed Order Resolving the Fee Examiner's Objection to the Final Fee Applications of Weil, Gotshal & Manges LLP; Kramer Levin Naftalis & Frankel LLP; and Butzel Long, a Professional Corporation [Docket No. 11844]. In re Motors Liquidation Co., Chapter 11 Case No. 09-50026 (REG) (Bankr. S.D.N.Y., June 20, 2012) (settlement relating to fees attributable to rate increases).

9. As these cases suggest, there are procedural and ethical prerequisites to implementing mid-case increases in rates. A recent ABA Ethics Opinion provides that:

Modification of an existing fee agreement is permissible under the Model Rules, but the lawyer must show that any modification was reasonable under the circumstances at the time of the modification as well as communicated and accepted by the client. Periodic, incremental increases in a lawyer's regular hourly billing rates are generally permissible if such practice is communicated clearly to and accepted by the client at the commencement of the client-lawyer relationship and any periodic increases are reasonable under the circumstances. Modifications sought by a lawyer that change the basic nature of a fee arrangement or significantly increase the lawyer's compensation absent an unanticipated change in circumstances ordinarily will be unreasonable.

ABA Formal Op. 11-458, *Changing Fee Arrangements During Representation* (Aug. 4, 2011).

The requirement of prior notice and consent of the client can be accomplished in the engagement letter or retention agreement:

In some cases, the client's acceptance of a modified fee arrangement may be inferred from the circumstances. For example, many lawyers who bill for their services on an hourly basis routinely increase their "normal" or "regular" hourly billing rates incrementally from time to time, often on an annual basis, without negotiating every increase separately with each client. Such billing practices, if communicated clearly to clients at the commencement of the client-lawyer relationship, generally are permissible. The lawyer nevertheless remains responsible for showing that current clients are adequately informed of the lawyer's billing practices, that those clients have consented to those practices, and that any periodic rate increase is reasonable under the circumstances within the meaning of Rule 1.5(a).

Id.; see also Lee Tractor, *supra*; Teraforce Tech., *supra*; Dimas, LLC, *supra*. However, if the option of raising rates was not preserved in the retention documents, and the client has not otherwise consented after full disclosure, the rate increases must be disallowed. Holland v. EMC Mortgage Corp. (In re Holland), 374 B.R. 409, 435 (Bankr. D. Mass. 2007) (holding no rate increase where no prior disclosure or agreement). Moreover, changes in rates should be conspicuously disclosed in the notice of the fee application sent to creditors and clearly identified and discussed in the fee application itself; the United States Trustee, fee examiner and

creditors—and more importantly, the court—should not have to search the exhibits to the fee application to unearth a rate increase. In re Computer Learning Ctrs., Inc., 285 B.R. 191, 236-37 (Bankr. E.D. Va. 2002) (“Without a prominent discussion in the fee application itself, the change may easily be overlooked.”).

10. Following the rate change, the resulting rates must be reasonable, including being in line with market rates in the professional’s district. Teraforce Tech., 347 B.R. at 860 (finding that rate increase objection “goes to the reasonableness of [the professional’s] rates . . . thus, a comparison with the local market is in order”); Lee Tractor, 2008 WL 2788413 at *2 (“Even though the proposed increases in the hourly rates represent increases ranging from 7.7 to 32 percent, such amounts are not out of line with what other experienced Chapter 11 practitioners charge in this district”); *see also* Computer Learning Ctrs., Inc., 285 B.R. at 237 (“The issue remains the prevailing market hourly rates The [professional] offered no evidence of a change in the prevailing hourly rate and the court’s review reveals none. The mere passage of time is not itself sufficient to justify a change in [a professional’s] hourly rate and does not necessarily indicate a change in the prevailing market hourly rates. The fees requested will be re-computed at the rates previously applied.”). As noted above, courts are likely to approve modest across-the-board annual increases that apply uniformly to the majority, if not all, of a professional firm’s clients. Teraforce Tech., 347 B.R. at 860

11. Accordingly, where the applicant seeks approval of fees resulting from a mid-case rate increase, the professional must establish, within the contours of the fee application or any supplemental information permitted, that the client, the parties-in-interest and the court were given prior notice of the possibility of periodic rate increases in the retention documents and that the client agreed to the same, that all other procedural prerequisites are met, and that,

following the increase, the rates remain reasonable in the sense that such new rates are in line with the market rates in the prevailing district. (In this case, the terms of the retention orders impose a specific prior ten-day notice requirement that must also be satisfied.) As with all elements of the fee application, the burden is on the professional to establish that all of these preconditions have been met. Id. All Fee Applications including actual or proposed rate increases, and the fees generated thereby, have been scrutinized under these standards.

12. So-called “step-up” increases in the rate for a particular professional are treated differently from across-the-board increases in the firm’s billing rates. A “step-up” increase refers to the progress of a professional or paraprofessional (or such professional’s or paraprofessional’s class within the firm, such as an associate or partner class) to a higher billing rate (although among the rates approved at retention), by virtue of such professional or paraprofessional gaining additional experience and seniority, despite the fact that the firm’s rates have not generally increased. Although the reported case law on step-up increases is sparse, the available authority suggests that step-up increases are generally allowed during the progress of the chapter 11 case. In re Pintlar Corp., 1994 WL 704476 at *2 (Bankr. D. Idaho Nov. 30, 1994) (court approves increase in professional’s billing rate upon his election to partner over objection by retiree committee that professional’s “expertise did not increase with his promotion”; such an increase was customary within the firm); In re Heck’s Props., Inc., 151 B.R. 739, 754 (S.D. W. Va. 1992) (district court reversed, as clearly erroneous, bankruptcy court’s disallowance of increase in rates for two associates: “Inasmuch as the bankruptcy case progressed over a period of two and one-half years and the billing rates for those two associates would be expected to increase during that period, no adequate reason for the denial has been assigned.”). Indeed, the recently announced guidelines for larger chapter 11 cases, as issued by

the Executive Office of the United States Trustee, treat step-up increases as different from true rate increases. However, a step-up increase presumes that the professional's or paraprofessional's experience, professional growth and increased responsibility over the prior period justify the increase, rather than the mere passage of time. Accordingly, in the event a Retained Professional seeks allowance of step-up increases in rates for particular professionals or paraprofessionals during the case, the Retained Professional should provide, for each such person, information as to (1) the time of service with the firm for such person since the setting of his or her immediately prior billing rate; and (2) the evolution of the individual's role in the case, including any change in the professional's or paraprofessional's level or type of work and/or responsibility in the case (including, for example, assumption of a supervisory or leadership role with respect to other junior professionals or paraprofessionals, even though the type of work may be unchanged).

13. The Fee Applications of Debevoise containing requests to approve step-up increases have been reviewed under this rubric. In that connection, at the request of the Fee Examiner, Debevoise provided a detailed narrative with an explanation of the changed roles and responsibilities of each professional who was the subject of a step-up increase. That narrative was reviewed by the Fee Examiner and found to be compliant with the standard set forth above.

Defending Fee Applications; Interaction with the Fee Examiner

14. In the Southern District of New York, the decisional law appears relatively settled with respect to whether fees and costs incurred by a professional in defending his or her fee application are compensable: applying the so-called "American Rule," such fees and costs are not compensable unless the applicant "substantially prevails" in the defense of the fee application. As Judge Bernstein, in reviewing the prevailing case law, reasoned in In re Brous:

While the cost of preparing a fee application is compensable, the cost of defending one may not be. The Bankruptcy Code expressly covers the former. *See* 11 U.S.C. § 330(a)(6) (“Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.”). Moreover, the professional must prepare and submit an application in order to get paid. . . . There is no parallel statutory requirement to defend against an objection to a fee application, or to receive compensation for the legal fees incurred in that defense. Furthermore, fee litigants, like other litigants, must generally bear their own legal expenses under the “American Rule.”

Nevertheless, some courts have awarded the litigation fees and expenses incurred by the successful applicant out of fear that the failure to do so would dilute the fee award, and encourage parties to file frivolous objections. . . . Conversely, other courts have declined to award the fees where the objection was filed in good faith and the objecting party prevailed. . . . At least one court has expressed the concern that allowing the losing applicant to recover its legal fees would encourage meritless fee requests because the applicant could earn more fees opposing objections to its frivolous request.

In the present case, the Trustee failed to justify a departure from the “American Rule.” He relied on § 326 to support his fee, and ignored § 330. [The objector] asserted a good faith objection to the Trustee’s and the two other requests, and has substantially prevailed. Finally, the Trustee’s defense of his and the other fee applications were neither reasonable nor necessary from the standpoint of the other creditors, and plainly failed to provide them with any benefit.

370 B.R. 563, 572 (Bankr. S.D.N.Y. 2007) (internal citations omitted); *see also In re CCT Commc’ns, Inc.*, 2010 WL 3386947 at *8-9 (Bankr. S.D.N.Y. Aug. 24, 2010) (duplicating the reasoning of *Brous*, but allowing fees and costs in defending fee application where applicant “substantially prevailed, and denial of the defense costs would dilute its award”); *In re 530 West 28th St.*, 2009 WL 4893287 at *11 (Bankr. S.D.N.Y. Dec. 11, 2009) (following *Brous* and not awarding any portion of fees incurred in defending a fee application where objections to the application were made in good faith, the court sustained many of the objections, and “there was no reason to deviate from the American Rule under which litigants must bear their own legal expenses”); *In re Ahead Commc’ns Sys., Inc.*, 2006 WL 2711752 at *4 (Bankr. D. Conn. Sept. 21, 2006) (collecting cases and holding that: “This court concurs with the courts which have

allowed the compensation of attorneys' fees incurred in successfully defending fee applications against objections."); *see also Bench Decision on Pending Fee Issues, In re Motors Liquidation Company*, Ch. 11 Case No. 09-50026 (REG) (Bankr. S.D.N.Y. Nov. 23, 2010), ECF No. 7986 (Bankruptcy Judge Gerber adopts holdings of CCT and Brous).

15. Other courts have taken a harsher approach, finding that the fees and costs incurred in defending a fee application benefit only the professional and provide no benefit to the estate; accordingly, such courts simply deny the allowance of such fees and the reimbursement of such expenses. *In re Wireless Telecomm., Inc.*, 449 B.R. 228, 237-38 (Bankr. M.D. Pa. 2011); *In re Parklex Assocs., Inc.*, 435 B.R. 195, 214 (Bankr. S.D.N.Y. 2010) (although Court reluctant to establish *per se* rule); *In re St. Rita's Assocs. Private Placement, L.P.*, 260 B.R. 650, 652 (Bankr. W.D.N.Y. 2001).

16. Thus, available case law would suggest that time spent responding to the Fee Examiner's inquiries and objections would not, in most cases, be compensable. However, as set forth above, the Fee Examiner Order in this case establishes a procedure under which: (1) the Fee Examiner transmits the Preliminary Report to the Retained Professional; (2) the Fee Examiner and the Retained Professional "endeavor to reach a mutually acceptable resolution of any issues identified by the Fee Examiner in the Preliminary Report"; and (3) the Fee Examiner shall provide the Retained Professional "with a reasonable opportunity to resolve any issues identified in the Preliminary Report or to amend the Application." Given the procedure outlined in the Fee Examiner Order, and, indeed, mandated thereby, the Fee Examiner believes it would be unfair to recommend that all fees incurred in responding to the Fee Examiner's inquiries and attempting to resolve such inquiries be disallowed. Routine involvement in the

process should not be penalized. Indeed, the Fee Examiner in the Motors Liquidation case recommended that some of such fees be allowed on (at least in part) a formula basis:

The recommendation embodied in the Fee Examiner's individual reports suggests a pragmatic approach. For experienced firms, it proposes a 50 percent payment for time spent on responding to the Fee Examiner or to the U.S. Trustee or, for that matter, to the Court itself. For less experienced firms, the suggested reduction is less. This approach takes into account the case law, to the extent there is bright line authority in those cases, and tries to account both for sustained objections and stipulations as well as for objections that, though not sustained, are made in good faith-generally in concert, though not jointly, by the U.S. Trustee and the Fee Examiner.

See Fee Examiner's Summary and Recommendations-Interim Fee Applications Scheduled for Hearing on October 26, 2010 (Including Those Adjourned From September 24, 2010) at 11, In re Motors Liquidation Company, Ch. 11 Case No. 09-50025(REG) (Bankr. S.D.N.Y. Oct. 19, 2010), ECF No. 7448.

17. While a fixed formula or predetermined percentage reduction (or monetary cap) is tempting, would be easier to apply, and would result in a level of predictability, the Fee Examiner had not adopted such an approach. The Fee Examiner has exercised his judgment in this respect on a case-by-case basis, given his direct involvement in the process. However, consistent with both the case law and the Fee Examiner Order, the Fee Examiner has recommended and will generally recommend that time be treated as compensable when spent: (a) preparing an initial response to the Preliminary Report (which response may be detailed); (b) in an initial meeting or teleconference with the Fee Examiner as to a Preliminary Report; and/or (c) considering a single revised resolution proposal or response by the Fee Examiner following such response, meeting and/or teleconference. In most situations to date, with all types of Retained Professionals, this simple (up to) three-step approach has been sufficient. Continued negotiations after that time have been and will likely be treated as solely for the benefit of the

Retained Professional and as not compensable. The Fee Examiner, however, has reserved and continues to reserve the right to challenge *any* time spent responding to the Preliminary Report (including all or part of an initial response) if the Fee Application is materially deficient and such deficiencies precipitated any inquiries or objections set forth in the Preliminary Report, or where the Fee Examiner has determined or, in the future, determines that all or part of any such response is not in good faith and/or not supported by a reasonable interpretation of prevailing law or guidelines. Moreover, the Fee Examiner does not believe that a routine response to a Preliminary Report and participation in the routine process above requires the retention and use of outside counsel, even as to Retained Professionals that are not law firms. (Financial advisors and consultants in this case have successfully and efficiently navigated through the process without counsel.) Accordingly, the Fee Examiner has taken the position, and will generally recommend, that Retained Professionals not be reimbursed for outside counsel legal fees incurred in connection with this process. Of course, as with any objection by the Fee Examiner, any Retained Professional may seek allowance of contested fees and expenses by the Court; under current case law, fees and costs, including attorneys' fees, incurred in defending before the Court any actual objections preserved in a Final Report of the Fee Examiner will be treated as not compensable unless the Retained Professional substantially prevails in such defense, as determined by the Court. Accordingly, for the Third Fee Period, time spent defending the Fee Application or interacting with the Fee Examiner has been reviewed in accordance with these standards. The time spent and the expenses incurred by Weil and Debevoise in this context were acceptable and allowable in accordance with the standards outlined above.

**IV. UPDATE ON THE REVIEW OF UNREDACTED TIME ENTRIES FOR WEIL
AND COOLEY**

18. In light of the issues related to redaction of time entries allegedly to protect privileged information, work product and confidential or proprietary information, as detailed in the Fee Examiner's prior reports, the Fee Examiner and the Debtors agreed to file the Joint Motion of Debtors and Robert J. Keach, Esq., Fee Examiner, Pursuant to Administrative Order M-389, 11 U.S.C. § 107(b), Fed. R. Bankr. P. 9018, and Fed. R. Evid. 502 (d), for Entry of a Protective Order [Docket No. 6400] (the "Motion for Protective Order").⁴ The Motion for Protective Order was granted by the Court on February 14, 2013 [Docket No. 6690] (the "Protective Order"). Entry of the Protective Order allowed the Retained Professionals to provide the Fee Examiner with unredacted time entries and other information without waiver of the attorney-client privilege, work product immunity, or other claims of confidentiality, thus providing the Fee Examiner with the information necessary to assess the reasonableness of the fees sought, and to determine issues of potential duplication.

19. Pursuant to the Protective Order, Weil provided unredacted time entries and other information to the Fee Examiner for the Third Fee Period. Based upon a review of the unredacted time entries and supplemental information, the Fee Examiner prepared and served Preliminary Reports, and conducted additional discussions and exchanges with Weil. Those exchanges lead to the resolution outlined below and shown on Exhibit A.

20. Cooley has only recently produced unredacted time for the Third Fee Period (which is under review by the Fee Examiner). Accordingly, and for other reasons as well, the

⁴ Prior to the filing of the Motion for Protective Order, the Fee Examiner signed a confidentiality agreement, and the Debtors supplied additional documents to the Fee Examiner thereunder. In addition, the Fee Examiner met with the Debtors' representatives in New York and Dallas to gain additional information on the staffing and prosecution of the GDS Litigation and the role of each GDS Litigation Firm.

hearings on the Second Fee Period Fee Application and the Third Fee Period Fee Application of Cooley were adjourned by agreement to September 12, 2013.

V. THE FEE EXAMINER'S RECOMMENDATIONS AS TO THE FEE APPLICATIONS

21. The Fee Examiner makes the following specific recommendations as to the Fee Applications:

Debevoise & Plimpton LLP – Second Fee Application

22. Debevoise serves as special aircraft counsel to the Debtors. For its services, Debevoise is compensated on an hourly basis. See Final Order Pursuant to 11 U.S.C. § 327(e) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 Authorizing the Employment and Retention of Debevoise & Plimpton LLP as Special Aircraft Counsel for the Debtors Nunc Pro Tunc to the Commencement Date [Docket No. 1559]. On September 17, 2012, Debevoise filed the Second Fee Application of Debevoise & Plimpton LLP, as Special Aircraft Attorneys for the Debtors, for Interim Allowance and Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from April 1, 2012 Through July 31, 2012 [Docket No. 4506] (the “Debevoise Second Fee Application”). The Debevoise Second Fee Application seeks approval of fees in the amount of \$8,398,758.50 and reimbursement of expenses in the amount of \$59,212.48.

23. The Fee Examiner reviewed the Debevoise Second Fee Application to ensure compliance with the applicable rules, orders, and guidelines. Based on that review, the Fee Examiner generated the Fee Examiner’s Preliminary Report Regarding Second Interim Fee Application of Debevoise & Plimpton LLP (the “Debevoise Second Preliminary Report”), which raised questions in the following areas with respect to the Debevoise Second Fee Application:

- (a) Technical compliance with the UST Guidelines and M-389;
- (b) Hourly rate increases;
- (c) Application of the retainer;
- (d) Discrepancies between the fees requested and the fees actually documented in the electronic and/or hard copy data received from Debevoise;
- (e) Lumped time entries;
- (f) Block billing/time increments;
- (g) Transitory timekeepers;
- (h) Vague billing entries;
- (i) Services potentially outside the scope of retention;
- (j) Repetitive billing entries;
- (k) Duplication of services;
- (l) Extended days;
- (m) Multiple attendees at the same meeting, conference, hearing, or other event;
- (n) Clerical and overhead-type activities;
- (o) Paralegal tasks performed by attorneys;
- (p) Non-working travel;
- (q) Reviewing/editing time records;
- (r) Non-supported expenses;
- (s) Overtime expenses;
- (t) Meal expenses;
- (u) Overhead expenses; and
- (v) Local travel expenses.

24. Although the Debevoise Second Preliminary Report raised issues relating to all of the above, the Fee Examiner simply requested additional information and additional supporting documentation in relation to many of the above categories.

25. In response to the Debevoise Second Preliminary Report, and through telephone conferences, email communication, and a face-to-face meeting with the Fee Examiner, Debevoise provided the Fee Examiner with an explanation of the issues raised in the Debevoise Second Preliminary Report. As a result, Debevoise and the Fee Examiner have agreed to a recommended reduction of fees in the amount of \$224,928.60 and a recommended reduction of expenses in the amount of \$39,360.95. The Fee Examiner recommends that the Court allow fees in the amount of \$8,173,829.90 and reimbursement for expenses in the amount of \$19,851.53 in relation to the Debevoise Second Fee Application.

Debevoise & Plimpton LLP – Third Fee Application

26. On January 31, 2013, Debevoise filed the Third Fee Application of Debevoise & Plimpton LLP, as Special Aircraft Attorneys for the Debtors, for Interim Allowance and Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from August 1, 2012 Through November 30, 2012 [Docket No. 6501] (the “Debevoise Third Fee Application”). The Debevoise Third Fee Application seeks approval of fees in the amount of \$10,527,631.75 and reimbursement of expenses in the amount of \$88,595.16.

27. The Fee Examiner reviewed the Debevoise Third Fee Application to ensure compliance with the applicable rules, orders, and guidelines. Based on that review, the Fee Examiner generated the Fee Examiner’s Preliminary Report Regarding Third Interim Fee

Application of Debevoise & Plimpton LLP (the “Debevoise Third Preliminary Report”), which raised questions in the following areas with respect to the Debevoise Third Fee Application:

- (a) Technical compliance with the UST Guidelines and M-389;
- (b) Discrepancies between the fees requested and the fees actually documented in the electronic and/or hard copy data received from Debevoise;
- (c) Lumped time entries;
- (d) Block billing/time increments;
- (e) Transitory timekeepers;
- (f) Vague billing entries;
- (g) Services potentially outside the scope of retention;
- (h) Repetitive billing entries;
- (i) Duplication of services;
- (j) Extended days;
- (k) Multiple attendees at the same meeting, conference, hearing, or other event;
- (l) Clerical and overhead-type activities;
- (m) Paralegal tasks performed by attorneys;
- (n) Reviewing/editing time records;
- (o) Non-supported expenses;
- (p) Meal expenses;
- (q) Overhead expenses; and
- (r) Local travel expenses.

28. Although the Debevoise Third Preliminary Report raised issues relating to all of the above, the Fee Examiner simply requested additional information and additional supporting documentation in relation to many of the above categories.

29. In response to the Debevoise Third Preliminary Report, and through telephone conferences, email communication, and a face-to-face meeting with the Fee Examiner, Debevoise provided the Fee Examiner with an explanation of the issues raised in the Debevoise Third Preliminary Report. As a result, Debevoise and the Fee Examiner have agreed to a recommended reduction of fees in the amount of \$287,546.45 and a recommended reduction of expenses in the amount of \$64,057.18. The Fee Examiner recommends that the Court allow fees in the amount of \$10,240,085.30 and reimbursement for expenses in the amount of \$24,537.98 in relation to the Debevoise Third Fee Application.

Weil, Gotshal & Manges LLP

30. Weil serves as general bankruptcy counsel to the Debtors, and served as litigation counsel in connection with the GDS Litigation. For its services, Weil is paid on an hourly basis. See Final Order Pursuant to 11 U.S.C. § 327(a) and Fed. R. Bank. P. 2014(a) Authorizing the Employment and Retention of Weil, Gotshal & Manges LLP as Attorneys for the Debtors Nunc Pro Tunc to the Commencement Date [Docket No. 1554]. On January 31, 2013, Weil filed its Third Application of Weil, Gotshal & Manges LLP, as Attorneys for the Debtors, for Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from August 1, 2012 Through November 30, 2012 [Docket No. 6492] (the “Weil Third Fee Application”). The Weil Third Fee Application seeks approval of fees in the amount of \$19,976,781.00 and reimbursement of expenses in the amount of \$900,908.17. The total amount of fees sought by Weil in the Weil Third Fee Application accounts for a voluntary reduction totaling \$273,785.00 (the “Initial Reduction”) for time billed for reviewing and editing time entries allegedly primarily for privilege, work product, and related issues.

31. The Fee Examiner reviewed the Weil Third Fee Application to ensure compliance with the applicable rules, orders and guidelines. Based on that review, the Fee Examiner generated a Preliminary Report that identified the following issues and questions with respect to the Weil Third Fee Application:

- (a) Time billed outside of the period covered by the third interim fee application;
- (b) Lumped time entries;
- (c) Block billing/time increments;
- (d) Transitory timekeepers;
- (e) Vague time entries;
- (f) Extended days;
- (g) Time billed by an attorney not yet admitted to the bar;
- (h) Multiple attendees;
- (i) Multiple counsel at intra-office conferences;
- (j) Administrative or clerical activities;
- (k) Reviewing/editing time records;
- (l) Non-supported expenses;
- (m) Travel expenses;
- (n) Luxury hotel expenses;
- (o) Copy expenses;
- (p) Meal expenses;
- (q) Overhead expenses; and
- (r) Personal expenses.

32. In response to the Preliminary Report and through telephone conferences and email communication with the Fee Examiner regarding the Preliminary Report, Weil provided the Fee Examiner with additional backup documentation and explanation of the issues raised in the Preliminary Report. Additionally, pursuant to the Protective Order, Weil provided the Fee

Examiner with unredacted time entries related to tasks performed and services provided during the Third Fee Period. As a result, Weil and the Fee Examiner have agreed to a recommended reduction in fees in the amount of \$535,391.45 and a reduction in expenses in the amount of \$9,731.59 (collectively, the “Agreed-Upon Reductions”), which Agreed-Upon Reductions are exclusive of, and in addition to, the Initial Reduction. Of the Agreed-Upon Reductions, a total of \$14,864.50 constitutes fees for time billed for reviewing and editing time records (the “Time Record Review Fees”) that were not included in the Initial Reduction.

33. Consistent with prior agreements, Weil and the Fee Examiner have agreed that Weil shall reserve the right to request allowance of Time Record Review Fees and the fees subject to the Initial Reduction at a later date, which request may be set forth in a final fee application or upon motion.

34. After consideration of the agreed-upon reductions, Weil is requesting allowance of fees in the amount of \$19,441,389.55 and expenses in the amount of \$891,176.58 in relation to the Weil Third Fee Application. The Fee Examiner supports Weil’s modified request.

VI. FEE EXAMINER’S RECOMMENDATION AS TO THE HOLDBACK

35. As the United States Bankruptcy Court for the Southern District of New York has noted, there are difficulties in “assessing the reasonableness of compensation when the results of the bankruptcy are not yet known and uncertain.” In re Value City Holdings, Inc., 436 B.R. 300, 303 (Bankr. S.D.N.Y. 2010) (footnote omitted). As that court noted, the position of the United States Trustee has usually been that “it is not prudent to award payment in full of requested fees on an interim basis until events in the case have unfolded and more is revealed about the outcome of the reorganizations process.” Id. Accordingly, maintaining a holdback through at least the early fee periods, if not the entire case (in some, perhaps declining amount

as time progresses) has become a fairly standard procedure in many chapter 11 cases in this district:

With this salutary objection in mind, it has become standard practice for interim fee orders to include a holdback in a percentage (often in the range of ten to twenty percent) that is acceptable to the applicant and to the UST with the understanding that the amount held back will be available for distribution at a later date depending on developments in the case and the results achieved. Indeed, in the present chapter 11 cases, the interim fee order provides for a twenty percent holdback on interim monthly compensation.

Id.; *see also* In re Acme Cake Co., Inc., 2010 WL 4103761(Bankr. E.D.N.Y. Oct. 18, 2010) (court notes awards of interim fees were subject to a 20% holdback). Indeed, Judge Gerber has noted that holdbacks serve at least two purposes: as a hedge against uncertainty in the future of the case, and also “as a carrot to incentivize professionals to get the case wrapped up and to get the plan consideration into the pockets of creditors.” In re Motors Liquidation Co., First Interim Fee H’rg Tr. At 43:8-17, No. 09-50026 (Bankr. S.D.N.Y. April 29, 2010 at 5:24 p.m.). Judge Gerber also notes that it may be appropriate to reduce the holdback percentage as the case progresses. Id. at 44:1-11. The Fee Examiner believes it is appropriate to release a portion of the holdback in this case, but not all of such amount.

36. The Interim Compensation Order in these cases also provides for a twenty percent (20%) holdback on payment of fees requested in the monthly statement submitted by any Retained Professional. Given the status of the case, and for the reasons detailed below, the Fee Examiner recommends that the holdback amounts applicable to the Second Fee Period be released to Weil and Debevoise (but as to Debevoise, only to the extent that the Debevoise Second Fee Application has been approved by the Court). However, the Fee Examiner further

recommends that the full 20% holdback, for all subsequent fee periods, remain in place for Weil and Debevoise.

37. As noted in prior reports, these cases have resulted in the retention of close to 40 professionals, not counting ordinary course professionals. Many of the professionals are working regularly within common or closely-related topic areas. In addition, for the Debtors and the two committees, there are multiple counsel and financial advisors whose defined roles nonetheless have the potential to overlap. The Fee Examiner reviewed the Fee Applications for these issues, and the Retained Professionals are apparently working diligently to avoid any duplication or overlapping scope of services. However, it is still too early to conclude with certainty that they will all be ultimately successful in avoiding unnecessary duplication. For those reasons, and the more typical reasons noted above, the Fee Examiner believes that, notwithstanding the amounts allowed under the Fee Applications, the twenty percent (20%) holdback on payment of fees for the Second Fee Period may be released to Weil and Debevoise, subject to the condition noted above, but that the holdback should otherwise remain in place.

VII. CONCLUSION

38. Accordingly, the Fee Examiner recommends that (i) fees be allowed and expenses be reimbursed to Weil and Debevoise as set forth above and on Exhibit A hereto, subject to the usual holdback; (ii) that the holdback amounts applicable to the Second Fee Period be released to Weil and Debevoise (as to Debevoise, assuming that the Second Period Fee Application is allowed); and (iii) that the holdback otherwise remain in place at 20% for Weil and Debevoise for all other fee periods.

Dated: June 20, 2013

FEE EXAMINER

Portland, Maine

/s/ Robert J. Keach, Esq.
Robert J. Keach, Esq.
BERNSTEIN, SHUR, SAWYER & NELSON,
P.A.
100 Middle Street, P.O. Box 9729
Portland, ME 04104-5029
E-mail address: rkeach@bernsteinshur.com
Telephone number: (207) 774-1200



Case No. 11-15463 (SHL)

Summary of Fees and Expenses Challenged by Fee Examiner relating to the Third Fee Period

Interim Applications to be Heard on June 27, 2013

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
1	Debevoise & Plimpton LLP (Second Interim Fee Application)	\$8,398,758.50	\$224,928.60	\$8,173,829.90	\$59,212.48	\$39,360.95	\$19,851.53
2	Debevoise & Plimpton LLP (Third Interim Fee Application)	\$10,527,631.75	\$287,546.45	\$10,240,085.30	\$88,595.16	\$64,057.18	\$24,537.98
3	Weil, Gotshal & Manges LLP (Third Interim Fee Application)	\$19,976,781.00 ¹	\$535,391.45 ²	\$19,441,389.55	\$900,908.17	\$9,731.59	\$891,176.58
	TOTAL	\$38,903,171.25	\$1,047,866.50	\$37,855,304.75	\$1,048,715.81	\$113,149.72	\$935,566.09

¹ This amount is net of a voluntary reduction of \$273,785.00 for time spent reviewing and editing time records. Consistent with prior agreements, Weil reserves the right to seek allowance of such amount in connection with a final fee application or by motion.

² As to \$14,864.50 of this amount (a reduction for reviewing and editing time records), Weil reserves the right to seek allowance of such amount in connection with a final fee application or by motion.



Case No. 11-15463 (SHL)

Summary of Fees and Expenses Challenged by Fee Examiner for the First, Second and Third Fee Periods

Interim Applications Heard on September 20, 2012

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
1	Bain & Company, Inc.	\$1,312,500.00	\$0.00	\$1,312,500.00	\$81,316.62	\$ 29,632.38	\$51,684.24
2	The Boston Consulting Group, Inc.	\$3,882,000.00	\$31,334.27	\$3,850,665.73	\$0.00	\$0.00	\$0.00
3	Brinks Hofer Gilson & Lione	\$ 93,932.50	\$5,257.50	\$ 88,675.00	\$43,164.91	\$0.00	\$43,164.91
4	Deloitte Consulting LLP	\$ 413,117.50	\$20,000.00	\$393,117.50	\$2,754.94	\$72.52	\$2,682.42
5	Epiq Bankruptcy Solutions, LLC	\$ 12,212.90	\$1,750.82	\$10,462.08	\$30,932.48	\$199.69	\$30,732.79
6	Ernst & Young LLP	\$1,020,995.60	\$44,641.10	\$976,354.50	\$14,099.00	\$113.34	\$13,985.66
7	GCG, Inc.	\$ 220,597.60	\$12,334.31	\$208,263.29	\$589.73	\$589.73	\$0.00
8	Groom Law Group, Chartered	\$ 1,534,371.75	\$69,415.16	\$1,464,956.59	\$34,575.02	\$131.85	\$34,443.17
9	Haynes and Boone, LLP	\$ 317,485.62	\$23,400.70	\$294,084.92	\$20,482.95	\$89.13	\$20,393.82
10	McKinsey Recovery & Transformation Services U.S., LLC	\$ 2,461,738.50	\$52,956.85	\$2,408,781.65	\$189,703.16	\$15,804.93	\$ 173,898.23
11	Mesirow Financial Consulting, LLC	\$ 4,732,175.00	\$73,909.89	\$4,658,265.11	\$156,368.10	\$33,976.27	\$122,391.83
12	Moelis & Company LLC	\$ 671,774.20	\$0.00	\$671,774.20	\$ 146,006.47	\$8,439.71	\$137,566.76
13	Paul Hastings LLP	\$7,530,144.89	\$47,534.72	\$7,482,610.17	\$305,475.09	\$4,046.40	\$301,428.69

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
14	Perella Weinberg Partners LP	\$ 675,000.00	\$175,000.00	\$500,000.00	\$ 20,088.00	\$12,675.00	\$7,413.00
15	Rothschild Inc.	\$ 813,333.33	\$0.00	\$813,333.33	\$ 281,199.33	\$24,432.38	\$256,766.95
16	Sheppard, Mullin, Richter and Hampton LLP	\$ 604,354.50	\$48,151.92	\$556,202.58	\$25.35	\$0.00	\$25.35
17	Skadden, Arps, Slate, Meagher & Flom LLP	\$5,739,023.00 ¹	\$341,547.91 ²	\$5,709,846.83	\$176,212.00	\$2,116.09	\$174,095.91
18	Togut, Segal & Segal LLP	\$ 852,154.00	\$21,087.10	\$831,066.90	\$5,769.40	\$45.52	\$5,723.88
19	Weil, Gotshal & Manges LLP	\$15,282,445.25 ³	\$498,470.00 ⁴	\$14,783,975.95	\$410,893.12	\$3,779.20	\$407,113.92
	TOTAL	\$48,169,356.14	\$1,466,792.25	\$47,014,936.33	\$1,919,655.67	\$136,144.14	\$1,783,511.53

Interim Applications Heard on November 29, 2012

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
20	AvAirPros (First Fee Application)	\$277,855.80	\$17,254.48	\$260,601.32	\$22,456.90	\$450.61	\$22,006.29
21	AvAirPros (Second Fee Application)	\$292,389.12	\$9,943.78	\$282,445.34	\$21,023.88	\$2,850.25	\$18,173.63
22	Debevoise & Plimpton LLP	\$13,391,884.00	\$454,872.25	\$12,937,011.75	\$250,664.39	\$129,840.13	\$120,824.26
23	Deloitte Financial Advisory Services LLP	\$6,944,230.35	\$447,862.18	\$6,496,368.17	\$1,283,258.20	\$0.00 (Adjourned)	\$0.00 (Adjourned)
24	KPMG LLP	\$1,333,785.20	\$75,311.06	\$1,258,474.14	\$129,195.55	\$731.89	\$128,463.66

¹ This amount includes a voluntary reduction of \$601,506.00 in fees and \$25,891.00 in expenses.

² Amount absorbed by voluntary reduction in excess of mandatory components thereof.

³ This amount includes a voluntary reduction of approximately \$300,000.00 in fees and \$100,000.00 in expenses.

⁴ A component of the request in the amount of \$144,425 of fees resulting from time billed at rates in excess of \$1,000/hour is being withdrawn by Weil Gotshal subject to requesting same at a future date; another component for reviewing time records for privileged or confidential information is disallowed at this time, but without prejudice to Weil Gotshal seeking reinstatement of that amount in a final fee application or upon motion.

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
25	Morgan, Lewis & Bockius LLP	\$877,738.80	\$69,358.82	\$808,379.98	\$75,090.05	\$3,577.79	\$71,512.26
26	Ryan, LLC (First Fee Application)	\$1,216,707.08	\$0.00	\$1,216,707.08	\$0.00	\$0.00	\$0.00
27	Ryan, LLC (Second Fee Application)	\$675,525.13	\$0.00	\$675,525.13	\$0.00	\$0.00	\$0.00
28	SkyWorks Capital, LLC	\$1,809,666.00	\$80,000.00	\$1,729,666.00	\$22,325.69	\$0.00	\$22,325.69
29	Winstead, PC	\$371,361.47	\$23,182.25	\$348,179.22	\$0.00	\$0.00	\$0.00
	TOTAL	\$27,191,142.95	\$1,177,784.82	\$26,013,358.13	\$1,804,014.66	\$137,450.67	\$383,305.79

Final Application Heard on January 23, 2013

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
30	The Boston Consulting Group, Inc. (Second and Final Fee Application)	\$11,700,655.73	\$0.00	\$11,700,655.73	\$0.00	\$0.00	\$0.00
	TOTAL	\$11,700,655.73	\$0.00	\$11,700,655.73	\$0.00	\$0.00	\$0.00

Fee Examiners Cumulative Report Pg 4 of 9
Interim Applications Heard on February 14, 2013

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
31	Brinks Hofer Gilson & Lione	\$272,778.00	\$4,144.75	\$268,633.25	\$165,220.02	\$0.00	\$165,220.02
32	Epiq Bankruptcy Solutions, LLC	\$12,436.10	\$0.00	\$12,436.10	\$36,850.19	\$29.77	\$36,820.42
33	Ernst & Young LLP	\$1,663,796.14	\$22,363.85	\$1,641,432.29	\$22,159.32	\$1,110.92	\$21,048.40
34	Ford Harrison LLP	\$787,564.50	\$13,676.00	\$773,888.50	\$127,352.70	\$13,692.41	\$113,660.29
35	GCG, Inc.	\$28,153.76	\$1,200.85	\$26,952.91	\$37.77	\$17.67	\$20.10
36	Groom Law Group, Chartered	\$1,933,140.15	\$100,661.36	\$1,832,478.79	\$60,763.63	\$363.30	\$60,400.33
37	Haynes & Boone, LLP	\$453,908.87	\$29,890.34	\$424,018.53	\$12,766.00	\$176.18	\$12,589.82
38	Jenner & Block LLP	\$278,020.50	\$9,575.75	\$268,444.75	\$6,414.50	\$195.32	\$6,219.18
39	Kelly Hart & Hallman LLP (First Fee Application)	\$661,118.50	\$105,061.78	\$556,056.72	\$3,307.39	\$0.00	\$3,307.39
40	Kelly Hart & Hallman LLP (Second Fee Application)	\$927,357.50	\$17,596.50	\$909,761.00	\$10,001.35	\$0.00	\$10,001.35
41	KPMG LLP	\$1,188,571.83	\$103,108.68	\$1,085,463.15	\$121,098.00	\$1,920.64	\$119,177.36
42	McKinsey Recovery & Transformation Services U.S., LLC et al	\$1,458,005.33	\$61,847.98	\$1,396,157.35	\$55,468.12	\$7,398.24	\$48,069.88
43	Mesirow Financial Consulting, LLC	\$2,769,919.20	\$49,705.30	\$2,720,213.90	\$63,501.91	\$7,945.78	\$55,556.13
44	Moelis & Company, LLC	\$700,000.00	\$0.00	\$700,000.00	\$24,139.97	\$2,921.01	\$21,218.96
45	Sheppard, Mullin, Richter & Hampton LLP	\$734,910.50	\$48,965.15	\$685,945.35	\$24,211.51	\$2,061.52	\$22,149.99
46	Skadden, Arps, Slate, Meagher & Flom LLP	\$5,586,167.00 ⁵	\$721,368.00 ⁶	\$5,586,167.00	\$267,335.00	\$42,244.00	\$267,335.00
47	SkyWorks Capital, LLC	\$1,780,000.00	\$65,144.00	\$1,714,856.00	\$62,558.24	\$14,856.00	\$47,702.24
48	Togut, Segal & Segal LLP	\$465,747.50	\$11,220.21	\$454,527.29	\$2,582.38	\$0.00	\$2,582.38
49	Winstead PC	\$696,507.00	\$43,078.85	\$653,428.15	\$23,987.41	\$232.63	\$23,754.78
	TOTAL	\$22,398,102.38	\$1,408,609.35	\$21,710,861.03	\$1,089,755.41	\$95,165.39	\$1,036,834.02

⁵ This amount is net of the voluntary reduction taken by Skadden in its Second Interim Fee Application.

⁶ This amount includes the voluntary reduction of \$721,368.00 in fees and \$42,244.00 in expenses.

Interim Applications Heard on April 23, 2013

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
50	Duff & Phelps, LLC	\$100,000.00	\$0.00	\$100,000.00	\$0.00	\$0.00	\$0.00
51	Harris, Finley & Bogle, P.C. (First Interim Fee Application)	\$260,123.50	\$13,385.90	\$246,737.60	\$6,560.43	\$382.79	\$6,177.64
52	Harris, Finley & Bogle, P.C. (Second Interim Fee Application)	\$266,741.00	\$10,871.55	\$255,869.45	\$4,502.70	\$326.73	\$4,175.97
53	Paul Hastings LLP	\$8,341,497.62	\$98,160.22	\$8,243,337.40	\$518,461.91	\$22,411.26	\$496,050.65
54	Rothschild Inc.	\$800,000.00	\$0.00	\$800,000.00	\$407,622.71	\$94,186.22	\$313,436.49
55	Weil Gotshal & Manges LLP	\$17,118,196.25	\$403,394.12	\$16,714,802.13	\$859,416.72	\$1,054.05	\$858,362.67
56	Yetter Coleman LLP (First Interim Fee Application)	\$963,769.17	\$36,730.75	\$927,038.42	\$216,145.77	\$7,129.19	\$209,016.58
57	Yetter Coleman LLP (Second Interim Fee Application)	\$1,419,758.10	\$52,245.45	\$1,367,512.65	\$79,945.56	\$8,993.58	\$70,951.98
	TOTAL	\$29,270,085.64	\$614,787.99	\$28,655,297.65	\$2,092,655.80	\$134,483.82	\$1,958,171.98

Final Application Heard on May 9, 2013

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
58	Stuart Maue Mitchell and James, Ltd.	\$417,925.00	\$104,481.25	\$313,443.75	\$0.00	\$0.00	\$0.00
	TOTAL	\$417,925.00	\$104,481.25	\$313,443.75	\$0.00	\$0.00	\$0.00

Interim Applications to be Heard on May 30, 2013

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
59	Brink Hofer Gilson & Lione LLP	\$335,209.00	\$961.20	\$334,247.80	\$148,119.67	\$0.00	\$148,119.67
60	Collateral Verifications LLC	\$51,957.50	\$783.75	\$51,173.75	\$0.00	\$0.00	\$0.00
61	Deloitte Financial Advisory Services LLP (First Interim Fee Application – expenses only)				\$1,283,258.20	\$45,120.32	\$1,238,137.88
62	Deloitte Financial Advisory Services LLP (Second Interim Fee Application)	\$3,665,963.80	\$110,499.40	\$3,555,464.40	\$686,363.50	\$20,740.06	\$665,623.44
63	Deloitte Financial Advisory Services LLP (Third Interim Fee Application)	\$5,370,021.25	\$44,330.05	\$5,325,691.20	\$305,625.08	\$22,493.02	\$283,132.06
64	Duff & Phelps, LLC	\$100,000.00	\$0.00	\$100,000.00	\$0.00	\$0.00	\$0.00
65	Epiq Bankruptcy Solutions, LLC	\$11,482.40	\$221.52	\$11,260.88	\$19,214.46	\$0.00	\$19,214.46
66	Ernst & Young LLP	\$1,458,945.58	\$5,917.00	\$1,453,028.58	\$21,778.47	\$2,387.38	\$19,391.09
67	Ford Harrison LLP	\$138,810.00	\$3,828.00	\$134,982.00	\$9,042.14	\$306.67	\$8,735.47
68	GCG, Inc.	\$133,982.68	\$2,500.00	\$131,482.68	\$127.33	\$75.02	\$52.31
69	Groom Law Group, Chartered	\$2,424,446.35	\$13,151.83	\$2,411,294.52	\$111,797.09	\$2,192.28	\$109,604.81
70	Harris, Finley & Bogle, P.C.	\$422,828.50	\$17,803.90	\$405,024.60	\$41,682.58	\$1,091.07	\$40,591.51
71	Haynes & Boone, LLP	\$348,425.08	\$3,620.80	\$344,804.28	\$6,226.50	\$0.00	\$6,226.50
72	Husch Blackwell LLP	\$525,591.45	\$39,035.61	\$486,555.84	\$39,030.54	\$1,092.96	\$37,937.58

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
73	ICF SH&E, Inc.	\$435,750.00	\$0.00	\$435,750.00	\$118.71	\$118.71	\$0.00
74	Jenner & Block LLP	\$2,872,322.50	\$39,337.35	\$2,832,985.15 ⁷	\$172,029.87	\$12,173.06	\$159,856.81
75	Kelly Hart & Hallman LLP	\$1,351,944.50	\$31,618.25	\$1,320,326.25	\$25,595.60	\$3,731.00	\$21,864.60
76	KPMG LLP	\$1,495,580.35	\$81,488.56	\$1,414,091.79	\$69,931.43	\$2,088.37	\$67,843.06
77	McKinsey Recovery & Transformation Services U.S., LLC, et al.	\$2,951,395.88	\$69,921.13	\$2,881,474.75	\$168,781.26	\$11,175.01	\$157,606.25
78	Mesirow Financial Consulting, LLC	\$2,915,391.50	\$45,592.75	\$2,869,798.75	\$45,493.72	\$3,952.62	\$41,541.10
79	Moelis & Company, LLC	\$700,000.00	\$0.00	\$700,000.00	\$98,766.62	\$57,549.64	\$41,216.98
80	Morgan Lewis & Bockius LLP (Second Interim Fee Application)	\$939,007.03	\$67,833.25	\$871,173.78	\$72,104.09	\$23,757.07	\$48,347.02
81	Morgan Lewis & Bockius LLP (Third Interim Fee Application)	\$845,026.35	\$17,794.85	\$827,231.50	\$17,236.69	\$4,796.87	\$12,439.82
82	Paul Hastings LLP	\$4,934,983.00 ⁸	\$190,643.25 ⁹	\$4,870,207.93	\$188,114.05	\$4,771.48	\$183,342.57
83	Ryan, LLC (OCP Tax) (Third Interim Fee Application)	\$544,132.78	\$0.00	\$544,132.78	\$0.00	\$0.00	\$0.00
84	Ryan, LLC (OCP Tax) (Fourth Interim Fee Application)	\$3,198,083.67	\$0.00	\$3,198,083.67	\$0.00	\$0.00	\$0.00
85	Sheppard, Mullin, Richter & Hampton LLP	\$747,330.90	\$28,454.65	\$718,876.25	\$8,726.96	\$0.00	\$8,726.96

⁷ By agreement between the Debtors and Jenner, approval of the remaining \$64,895.25 of SAMF-related fees sought in the Jenner Second Fee Application (\$87,650.50 - \$20,854.75 = \$64,895.25) will be adjourned until the hearing with respect to the Jenner Third Fee Application. Accordingly, Jenner seeks approval of only \$2,768,089.90 in fees at this time.

⁸ This amount is net of the voluntary reduction taken by Paul Hastings in its Third Interim Fee Application.

⁹ This amount includes the voluntary reduction of \$125,868.18 in fees.

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
86	Skadden, Arps, Slate, Meagher & Flom LLP	\$4,976,124.00 ¹⁰	\$518,787.00 ¹¹	\$4,976,124.00	\$239,303.00	\$36,669.00 ¹¹	\$239,303.00
87	SkyWorks Capital, LLC	CONFIDENTIAL	\$0.00	CONFIDENTIAL ¹²	\$104,562.65	\$53,398.10	\$51,164.55
88	The Segal Company	\$118,795.90	\$7,822.71	\$110,973.19	\$759.44	\$0.00	\$759.44
89	Togut, Segal & Segal LLP	\$715,328.00	\$4,561.50	\$710,766.50	\$4,594.24	\$146.70	\$4,447.54
90	Winstead PC	\$564,909.13	\$10,680.59	\$554,228.54	\$0.00	\$0.00	\$0.00
91	Yetter Coleman LLP	\$2,586,662.40	\$59,171.40	\$2,527,491.00	\$139,150.32	\$25,638.37	\$113,511.95
92	Zolfo Cooper, LLC	\$808,793.50	\$17,795.80	\$790,997.70	\$10,211.87	\$617.25	\$9,594.62
	TOTAL	\$48,689,224.98¹³	\$1,434,156.10	\$47,899,724.06¹³	\$4,037,746.08	\$336,082.03	\$3,738,333.05

¹⁰ This amount is net of the voluntary reduction taken by Skadden in its Third Interim Fee Application.

¹¹ These amounts include the voluntary reduction of \$518,787.00 in fees and \$36,669.00 in expenses.

¹² The Fee Examiner recommends allowance of all fees requested by SkyWorks Capital, LLC, including as requested in the Fee Application filed under seal.

¹³ This amount does not include fees requested by, and recommended for, SkyWorks Capital, LLC.

Fee Examiners Cumulative Report Pg 9 of 9
Interim Applications to be Heard on June 27, 2013

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
93	Debevoise & Plimpton LLP (Second Interim Fee Application)	\$8,398,758.50	\$224,928.60	\$8,173,829.90	\$59,212.48	\$39,360.95	\$19,851.53
94	Debevoise & Plimpton LLP (Third Interim Fee Application)	\$10,527,631.75	\$287,546.45	\$10,240,085.30	\$88,595.16	\$64,057.18	\$24,537.98
95	Weil, Gotshal & Manges LLP (Third Interim Fee Application)	\$19,976,781.00 ¹⁴	\$535,391.45 ¹⁵	\$19,441,389.55	\$900,908.17	\$9,731.59	\$891,176.58
	TOTAL	\$38,903,171.25	\$1,047,866.50	\$37,855,304.75	\$1,048,715.81	\$113,149.72	\$935,566.09

	GRAND TOTAL	\$226,739,664.07	\$7,254,478.26	\$221,163,581.43	\$11,992,543.43	\$952,475.77	\$9,835,722.46
--	--------------------	-------------------------	-----------------------	-------------------------	------------------------	---------------------	-----------------------

Interim Applications Adjourned to later Date

	RETAINED PROFESSIONAL	FEES REQUESTED	FEES AGREED REDUCTION	FEES RECOMMENDED	EXPENSES REQUESTED	EXPENSES AGREED REDUCTION	EXPENSES RECOMMENDED
1	Cooley LLP (First Interim Fee Application)	\$709,748.70			\$8,959.59		
2	Cooley LLP (Second Interim Fee Application)	\$1,087,579.00			\$46,618.86		
3	Dewey & LeBoeuf LLP (First and Final Fee Application)	\$4,569,107.40			\$42,023.42		
4	Rothschild Inc. (Third Interim Fee Application)	\$800,000.00			\$298,294.01		
	TOTAL						

¹⁴ This amount is net of a voluntary reduction of \$273,785.00 for time spent reviewing and editing time records. Consistent with prior agreements, Weil reserves the right to seek allowance of such amount in connection with a final fee application or by motion.

¹⁵ As to \$14,864.50 of this amount (a reduction for reviewing and editing time records), Weil reserves the right to seek allowance of such amount in connection with a final fee application or by motion.