

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

In re:

Case No. 6:07-bk-00761-ABB  
Chapter 11

LOUIS J. PEARLMAN, *et al.*,

Jointly Administered Debtors.

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**ORDER**

This matter came before the Court on the Motion to Modify the Terms of Employment of (I) the Law Firm of Akerman Senterfitt, and (II) the Law Firm of Genovese Joblove & Battista, P.A. to Pursue Certain Litigation Claims on a Contingency Fee Basis Pursuant to Section 328 of the Bankruptcy Code (Doc. No. 1585) (“Motion”) filed by Soneet R. Kapila, the Chapter 11 Trustee herein (“Trustee”).<sup>1</sup> A hearing was held on February 10, 2009 at which the Trustee, counsel for the Trustee, and counsel for the Office of the United States Trustee appeared.

The law firms of Genovese Joblove & Battista, P.A. (“GJB”) and Akerman Senterfitt (“Akerman”) represent the Trustee in the above-captioned consolidated cases pursuant to the Orders authorizing their employment entered on May 11, 2007 (Doc. No. 124 “GJB Employment Order” and Doc. No. 126 “Akerman Employment Order”). The May 11, 2007 Orders provide GJB and Akerman are to be compensated on an hourly fee basis.

The Trustee seeks to modify counsels’ compensation terms from an hourly fee basis to a contingency fee basis for certain matters. The Trustee has established good cause for modification of counsels’ compensation terms.

Accordingly, it is

**ORDERED, ADJUDGED and DECREED** that the Trustee’s Motion (Doc. No.

1585) is hereby **GRANTED** pursuant to the following terms:

- (i) The GJB Employment Order and the Akerman Employment Order are hereby modified to provide that GJB and Akerman are employed and will charge for their legal services on a contingency fee basis pursuant to Section 328 of the Bankruptcy Code for the investigation of, discovery on and, if determined by the Trustee to be appropriate, prosecution of certain claims and causes of action available to these bankruptcy estates, including, without limitation, claims and causes of action under Chapter 5 of the Bankruptcy Code, disclosed to the Court at the February 10, 2009 hearing and/or for which a notice is filed as set forth below (the “Contingency Cases”) effective *nunc pro tunc* to the date when GJB and/or Akerman commenced work on each such Contingency Case.
- (ii) GJB and Akerman shall be compensated for their services related to the Contingency Cases on a contingent fee basis. The contingency fee shall be calculated as a percentage on any recovery obtained by the Trustee in respect of any Contingency Case, whether by collection on a judgment, settlement or otherwise. Compensation will be awarded to GJB and Akerman upon application and a hearing consistent with the requirements of 11 U.S.C. Sections 328, 330, and 331.
- (iii) Reimbursement for GJB’s and Akerman’s actual, reasonable, and necessary expenses will be awarded upon application and a hearing consistent with the requirements of 11 U.S.C. Sections 328, 330, and 331.

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed in the Motion.

- (iv) Upon the filing by the Trustee of any complaint relating to the Contingency Cases, the Trustee will file a notice with the Court setting forth whether such action is the subject of the contingency fee arrangement approved herein.
- (v) Any and all hourly fees billed prior to the date hereof by either Akerman or GJB in respect to the investigation and discovery of the potential targets/defendants in the Contingency Cases shall be included in and not compensated separately from the contingency fee arrangement approved herein.
- (vi) Notwithstanding anything herein to the contrary, any hourly fees previously incurred and/or to be incurred by Akerman and GJB in respect of any matters other than the Contingency Cases shall be compensated by the Court in accordance with the Akerman Employment Order and the GJB Employment Order and not included in the contingency fee arrangement approved herein.
- (vii) The Court retains jurisdiction to review the proposed fees and costs to be awarded hereunder upon the filing of fee applications by Akerman and GJB on the basis of their reasonableness pursuant to Sections 328, 330, and 331 of the Bankruptcy Code.

Dated this 16<sup>th</sup> day of March, 2009.

/s/ Arthur B. Briskman  
ARTHUR B. BRISKMAN  
United States Bankruptcy Judge