

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

Case No. 6:07-bk-00761-ABB
Chapter 11
(Jointly Administered)

LOUIS J. PEARLMAN, et al.,

Debtors.

ORDER

This matter came before the Court on the Joint Motion of Petitioning Creditors for Allowance and Payment of Administrative Fees and Expenses (Doc. No. 1212) filed by the Petitioning Creditors American Bank of St. Paul (“American Bank”), Tatonka Capital Corporation, Integra Bank, N.A., and First National Bank & Trust pursuant to 11 U.S.C. Sections 503(b)(3) and 503(b)(4). A hearing was held on July 16, 2008 at which the Chapter 11 Trustee, counsel for the Chapter 11 Trustee, counsel for American Bank, counsel for the Office of the United States Trustee, and various other parties in interest appeared. The applicants filed post-hearing summaries of their applications (Doc. No. 1385) pursuant to the Court’s directive.

American Bank requests an administrative expense award of \$80,749.93 for reimbursement of fees of \$70,150.00 and costs of \$10,599.93 paid to its legal counsel in the following manner: (A) \$70,673.55, consisting of fees of \$60,294.00 and costs of \$10,379.55, paid to the law firm of Rider Bennet, LLP; and (B) \$10,076.38, consisting of fees of \$9,856.00 and costs of \$220.38, paid to the law firm of Dean, Mead, Egerton, Bloodworth, Capouano & Bozart, P.A. (“Dean Mead”). The Application reflects fees and costs incurred in connection with: (i) the fraud investigation and related involuntary bankruptcy petitions filed against Pearlman and related entities; (ii) the appointment of the Chapter 11 Trustee in the related bankruptcy cases; and (iii) the transition of the Pearlman and related bankruptcy estates to the Chapter 11 Trustee and the formation of the Official Committee of Unsecured Creditors.

Rider Bennett, LLP provided redacted billing records reflecting fees and costs incurred during the period January 4, 2007 through April 25, 2007 (Doc. No. 1212, Exh. 1). Rider Bennet, LLP also provided a summary of redacted invoices reflecting a total of 277.3 hours billed at hourly rates ranging from \$62.50 to \$285.00, with a blended hourly rate of \$217.43. The documentation does not delineate whether any of the rates constitute paraprofessional rates.

Dean Mead provided redacted billing records reflecting fees and costs incurred during the period March 5, 2007 through May 10, 2007 (Doc. No. 1212, Exh. 2). The documentation does not state a total number of billed hours, the corresponding hourly rate of each transaction, or whether any time was billed for paraprofessional services. However, the redacted invoices total a sum calculated by the Court to equal 25.6 hours billed at a blended hourly rate of \$385.00. This calculation supports the Declaration submitted by Dean Mead, which states \$385.00 as the hourly rate charged for professional services during this period.

After consideration of the First Colonial and Johnson factors,¹ American Bank is due an interim award of fees of \$32,000.00 and costs of \$10,599.93, consisting of: (A) reimbursement for fees of \$28,000.00 and costs of \$10,379.55 paid to Rider Bennet, LLP; and (B) reimbursement for fees of \$4,000.00 and costs of \$220.38 paid to Dean Mead.

¹ The reasonableness of attorney’s fees and costs is determined through an examination of the criteria enunciated by the Fifth Circuit Court of Appeals in In the Matter of First Colonial Corp. of Am., 544 F.2d 1291 (5th Cir. 1977) and Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974). The twelve factors are: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the “undesirability” of the case; (11) the nature and the length of the professional relationship with the client; (12) awards in similar cases. Johnson at 714.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that American Bank is hereby awarded on an interim basis fees of \$32,000.00 plus costs of \$10,599.93, for a total award of \$42,599.93, as an allowed administrative expense pursuant to 11 U.S.C. Sections 503(b) and 507(a)(2). This interim award of fees and costs is subject to disgorgement upon final application and review by the Court.

Dated this 26th day of September, 2008.

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