

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

In re:

C & D DOCK WORKS, INC.,

Case No. 6:08-BK-04051-ABB

Chapter 7

Debtor.

**ORDER GRANTING SUPPLEMENT TO FEE APPLICATION OF
SWOPE, RODANTE P.A. AS SPECIAL COUNSEL TO THE TRUSTEE**

THIS CASE came before the Court on September 13, 2010, at 3:00 p.m. (the “**Hearing**”) for consideration of the *Fee Application by Swope, Rodante P.A. as Special Counsel to the Trustee* (Doc. No. 30) (the “**Application**”). At the Hearing, the Court instructed Swope, Rodante P.A. (“**Swope**”) to provide additional factual detail supporting the relief requested in the Application and, as instructed, Swope filed its *Supplement to Fee Application of Swope, Rodante P.A. as Special Counsel to the Trustee* (Doc. No. 45) (the “**Supplement**”). Through the Application and the Supplement, Swope seeks the allowance and payment of (a) \$2,205,000.00 as voluntarily reduced compensation for services rendered as special counsel to the Trustee for the handling of the estate’s claims against Scottsdale Insurance Company (the “**Application Period**”), and (b) reimbursement of expenses in the amount of \$4,500.25 incurred during the Application Period, for a total request for compensation and reimbursement of expenses during the Application Period in the amount of \$2,209,500.25. No timely objections to either the Application or the Supplement have been received and the docket reflects that none have been filed.

In this case, Swope bargained for, and this Court approved, a contingency fee arrangement in its *Order Appointing Special Counsel* (Doc. No. 16) (the “**Employment Order**”). In considering an application for compensation, the Court must consider the standards of *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), *overruled on other grounds, Blanchard v. Bergeron*, 489 U.S. 87, 109 S. Ct. 939, 103 L.Ed.2d 67 (1989), which was made applicable to bankruptcy cases in *Matter of First Colonial Corp. of Am.*, 544 F.2d 1291 (5th Cir. 1970) *cert. denied*, 431 U.S. 904 (1977). Specifically in this case, (i) the time and labor required by Swope was substantial, (ii) the novelty and difficulty of the questions at issue were considerable, (iii) the skill requisite to Swope to performing the legal services properly were unique and highly specialized, (iv) Swope’s representation precluded its employment and legal service in other cases, (v) Swope’s fee arrangement was customary and, in fact, better for the Debtor’s estate than typical fee arrangements for representations of this type, (vi) as approved by this Court, Swope’s fee was contingent and Swope alone bore the risks associated with the outcome of the litigation, (vii) Swope completed its representation timely and efficiently under the circumstances, (viii) the amount of the recovery involved and the results obtained by Swope were extraordinary, (ix) the superior experience, reputation, and ability of Swope’s attorneys substantially benefitted the estate and led to a successful resolution, (x) the representation was undesirable in that payment and recovery were highly speculative and required highly specialized skills, acumen, and experience, (xi) the nature, length, and time invested by Swope in its professional relationship with the Trustee was extensive, and (xii) the requested fee amount is comparable with fee

recoveries in similar representations involving insurance “bad faith” issues. Further, the Court finds that no unforeseeable development has occurred in this case that would render the terms of Swope’s engagement improvident.

Upon consideration of the Application and the Supplement, together with the record, this Court finds that, of the fees requested in the amount of \$2,205,000.00, a reasonable fee for professional services rendered during the Application Period is \$2,205,000.00, and of reimbursable expenses requested in the amount of \$4,500.25, a reasonable amount is \$4,500.25, for a total amount of \$2,209,500.25. In allowing the foregoing fees and costs, this Court has considered the Employment Order, 11 U.S.C. §§ 328 and 330, and each of the aforesaid factors that govern the reasonableness of fees as set forth in the *Johnson* case. *See In re RFS Ecusta, Inc.*, 422 B.R. 53 (Bankr. W.D. N.C. 2009).

Accordingly, it is

ORDERED:

1. The Application and Supplement are **APPROVED**, as set forth below.
2. Pursuant to Section 330 of the Bankruptcy Code, Swope is awarded the amount of \$2,205,000.00 as final compensation and \$4,500.25 as reimbursement of expenses incurred as special counsel for the Trustee during the Application Period for a total amount of \$2,209,500.25.

3. The Trustee is authorized and directed to immediately pay (or cause to be paid) to Swope the amounts awarded pursuant to this Order which shall be allowed and paid as an administrative expense under Section 503(b)(2) of the Bankruptcy Code.

Dated this 12th day of October, 2010.

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

Copies furnished by CM/ECF service:

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