

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:

GENERAL ORDER
GOVERNING DEBTOR'S COUNSEL
FEES IN CHAPTER 13 CASES

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THIS 27th DAY OF AUGUST, 2012, IT IS HEREBY **ORDERED** AS FOLLOWS:

1. Unless otherwise ordered by the Court, this General Order governs the compensation of Debtor's counsel and reimbursement of expenses in cases filed under Chapter 13 of the Bankruptcy Code on or after September 1, 2012.
2. An attorney representing a Debtor under Chapter 13 shall be the attorney of record from the filing of the petition for relief under Chapter 13 (if signed by the attorney), from the filing of a notice of appearance on behalf of the Debtor (if the Debtor filed the case pro se), or from the date of the substitution of counsel (if the Debtor filed the case with other counsel) until the close or dismissal of the case (including disposition of motion(s) to reinstate), unless relieved of representation by order of the Court. Debtor's attorneys shall provide a copy of this General Order to the Debtor at the time of retention.
3. In an individual, non-business case, the Court deems \$4,000 (the "Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the Debtor in accordance with 11 U.S.C. § 330(a)(3)(B). The Court will therefore allow the Standard Fee, plus bankruptcy clerk filing fees and the cost of a credit report for each Debtor (collectively, the "Costs"), in an individual, non-business case, without the requirement of an application for compensation under 11 U.S.C. § 330 and Bankruptcy Rule 2016(a). PROVIDED, HOWEVER, that an attorney may request attorney's fees and expenses exceeding the Standard Fee and Costs upon (i) formal application under Rule 2016(a) and Section 9 and 10 of this General Order, with notice and hearing, for all fees and expenses; or (ii) motion under Section 11 of this General Order for matters designated therein. Allowance of fees and expenses greater than the Standard Fee and Costs shall be by separate order of the Court.
4. An attorney may not receive a post-petition retainer or payment from the Debtor other than as specified in this General Order without leave of Court.
5. As guidelines, the Court contemplates that the following matters will be included in the Standard Fee:

- (A) All conferences with the Debtor, including timely responses to Debtor inquiries, whether by telephone or in writing;
- (B) Preparation of the bankruptcy petition, schedules, and statement of financial affairs, including emergency petitions;
- (C) Preparation of, and representation of the Debtor on, a motion to continue or impose the stay;
- (D) Representation of the Debtor at the Section 341 meeting and any continued meeting;
- (E) Representation of the Debtor at the pre-hearing conference and confirmation hearing;
- (F) Representation of the Debtor in connection with one motion under 11 U.S.C. §362, but not including an evidentiary final hearing;
- (G) Representation of the Debtor on a motion to dismiss, including Trustee motions to dismiss (with or without prejudice);
- (H) Preparation of, and representation of the Debtor on, uncontested motions to avoid liens and judgments;
- (I) Preparation of, and representation of the Debtor on, one motion to reinstate the case;
- (J) Preparation of documents and notices, including submissions for Trustee recommendation, and attendance at all hearings and/or pre-hearing conferences, including:
 - (i) Suggestion(s) of bankruptcy, and filing same in the appropriate courts;
 - (ii) Requests for a Plan payment moratorium;
 - (iii) Objections to claims after appropriate review;
 - (iv) The Plan and Plan documents;
 - (v) Notices to creditors, where appropriate, explaining the automatic stay;
 - (vi) Communications and negotiations with the Internal Revenue

Service and the Delaware Division of Revenue;

- (vii) Communications to the Debtor explaining the Trustee's annual or semi-annual report;
- (viii) Motions to extend the time to file paperwork;
- (ix) Requests to the Trustee to reset the Section 341 Meeting;
- (x) Amendments of schedules and statement of financial affairs;
- (xi) All case-related correspondence;
- (xii) Notices or motions, if necessary, to convert the case;
- (xiii) Motions to dismiss the case;
- (xiv) Motions regarding the manner of the Debtor's attendance at the Section 341 Meeting;
- (xv) Interlocutory orders;
- (K) Wage order preparation and review;
- (L) Budget consultations;
- (M) Preparation of a request for voluntary increase or decrease in Plan payments;
- (N) Making and performing, or assisting the Debtor in making or performing, the disclosures and duties required by 11 U.S.C. § 521, 527, 528, and 1308;
- (O) Taking all steps reasonably necessary to insure that the Debtor receives a discharge in the case, including the filing of Local Form 104; and
- (P) Other miscellaneous normal, customary services, including correspondence to clients and review of correspondence from clients, communication with the Trustee and the Trustee's office, and communication with the Clerk.

6. The guidelines assume one lift stay motion and one motion to dismiss the case, all of which typically occur in the life of a Chapter 13 case. The guidelines assume the resolution of lift stay motions at preliminary hearings, or by agreement (at either preliminary or final hearings),

and a typical hearing on other contested matters routinely heard at a Chapter 13 Standing Trustee docket. The guidelines do not contemplate that the Standard Fee would include an evidentiary final hearing on a motion to lift stay, or an evidentiary hearing of more than 30 minutes on a motion to dismiss, objection to exemption, confirmation hearing, claims objection, or other contested matters, or would include representation of the Debtor in an adversary proceeding.

7. This General Order does not apply to a Chapter 13 case converted to a case under Chapter 7 of the Bankruptcy Code. Upon entry of an order or the filing of a notice converting a case to Chapter 7, the parties shall be governed by Rule 1019 and submit such supplemental Rule 2016 statements as may be appropriate and necessary.

8. In a business case, the Court deems \$5,000 as reasonable compensation and reimbursement of expenses for an attorney under 11 U.S.C. § 330(a)(3)(B) (the "Business Standard Fee"). The Court will therefore allow the Business Standard Fee, plus bankruptcy clerk filing fees and the cost of a credit report for each Debtor, in a business case without the requirement of an application for compensation under 11 U.S.C. § 330 and Rule 2016(a).

9. In any case a Debtor's attorney may elect to apply for all attorney's compensation and expenses based solely on a lodestar analysis, with notice and hearing. The application must comply with 11 U.S.C. § 330, Rule 2016(a) and applicable provisions of this Court's Local Rules. The application must include time records for all work performed on the case.

10. For applications requesting compensation and expenses for particular matters not included in the Standard Fee or the Business Standard Fee under this General Order, e.g., a final evidentiary hearing on a motion to lift stay, the attorney must include time records for the particular matter. For those matters, the Debtor's attorney must use the lodestar analysis and comply with 11 U.S.C. § 330, Rule 2016(a) and applicable provisions of this Court's Local Rules. For lodestar applications for particular matters, the Court will not approve a fee over \$250 for the preparation of the fee application.

11. Provided the Debtor agrees, and notwithstanding any other provision of this General Order, for certain matters not within the guidelines for the Standard Fee or Business Standard Fee, and to encourage uniformity and consistency and to minimize the expense of the fee application process, the Court will approve, upon motion or stipulation, and waive the application requirement, the following fees:

- (A) for a Plan modification or a voluntary increase/decrease in Plan payments, \$500.
- (B) for a motion to sell property, \$500.
- (C) for a motion to incur debt, refinance or enter into a mortgage modification, \$500.
- (D) for responding to a motion to lift the stay (after the motion to lift stay

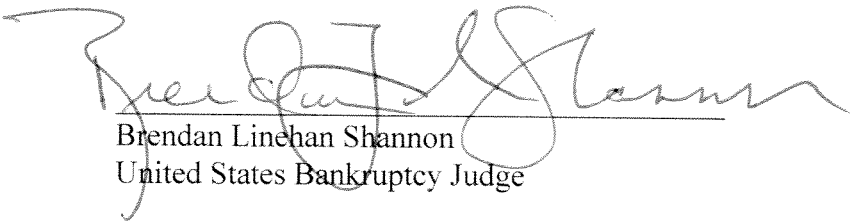
Standard Fee or the Business Standard Fee), \$450.

(E) for an application for a hardship discharge, \$500.

A motion under this paragraph may request that the Court authorize the Debtor to pay these fees or expenses directly to his or her attorney.

12. The amounts listed in the attorney's Rule 2016(b) disclosure, the attorney's fees identified in and included for payment under the confirmed Plan and the attorney's proof of claim must all reconcile. Upon request by the Chapter 13 Trustee or the Court for such a reconciliation, the Debtor's attorney shall respond within 14 days.

Dated: Wilmington, Delaware
August 27, 2012


Brendan Linehan Shannon
United States Bankruptcy Judge