

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

**FIBERMARK, INC.,
FIBERMARK NORTH AMERICA, INC., and
FIBERMARK INTERNATIONAL HOLDINGS, INC.
Debtors,**

**Chapter 11 Case
04-10463
Jointly Administered**

ORDER
GRANTING IN PART THE APPLICATION OF CHANIN CAPITAL PARTNERS
FOR INTERIM ALLOWANCE OF COMPENSATION AND
FOR REIMBURSEMENT OF EXPENSES
DURING THE PERIOD OF JULY 1, 2004 - OCTOBER 31, 2004

WHEREAS on December 21, 2004, Chanin Capital Partners (“Chanin”), in its capacity as financial advisor and investment banker for the Official Committee of Unsecured Creditors (the “Committee”), filed an application for interim allowance of compensation and for the reimbursement of expenses for services rendered during the period from July 1, 2004 through October 31, 2004 (the “Application Period”) (doc. # 891) (“Chanin’s Second Application”); and

WHEREAS no party has filed an objection, and the United States Trustee has neither objected nor to Chanin’s Second Application; and

WHEREAS Chanin’s Second Application seeks compensation in the amount of \$400,000.00 for professional services rendered, and \$47,028.98 for reimbursement of expenses incurred, during the Application Period; and

WHEREAS all of the time records submitted in support of Chanin’s Second Application record time in half hour increments, contrary to the U.S. Trustee Guidelines and the standards of the Court;

THE COURT FINDS the time entries suggest either a lack of precision or a failure to comply with the Court’s fee application requirements, but that notwithstanding this deficiency in the format of Chanin’s Second Application the actual compensation sought for this period appears to be reasonable.¹

¹ The Court’s acceptance of these records as sufficient to support a finding of reasonableness at this time of interim allowance does not guarantee that disgorgement may not be ordered at the time of the final allowance of Chanin’s fees, particularly if Chanin fails to submit the requisite, detailed records in the future.

THE COURT FURTHER FINDS the professional's fees earned during the Application Period to be properly compensable. Specifically, the Court finds the services rendered by Chanin were reasonable, necessary and of benefit to the estate, pursuant to 11 U.S.C. § 330(a). See also In re JLM, Inc., 210 B.R. 19, 24 (2d Cir. BAP 1997). Accordingly, the fees sought in connection with services rendered by Chanin during the Application Period are approved and allowed in full.

THE COURT FURTHER FINDS that certain of the expenses for which reimbursement is sought lack sufficient information for the Court to determine whether the expenses are actual, necessary or justified. See 11 U.S.C. § 330(a); In re S.T.N. Enterprises, 70 B.R. 823, 836 (Bankr. Vt. 1987); In re Fibermark, No. 04-10463, *4 (Bankr. Vt. filed Nov. 29, 2004)(doc. # 783); In re Fibermark, No. 04-10463, *10 (Bankr. Vt. filed Oct. 22, 2004)(doc. # 698); In re Fibermark, No. 04-10463, *2-3(Bankr. Vt. filed Sept. 30, 2004)(doc. # 645). Specifically, the Court finds that Chanin's Second Application lacks sufficient information for the Court to determine whether expenses detailed as "Telephone" should not be considered overhead expenses and, thus, compensable from the estate. In re S.T.N. Enterprises, Inc., 70 B.R. at 844. Consequently, these expenses totaling \$5,063.09 are denied. Id.

THE COURT FURTHER FINDS that Chanin's Second Application lacks sufficient information for the Court to determine whether the expenses categorized as "research," minus a \$1,750.49 PACER expense, are justified as actual and necessary and compensable from the estate. In re Fibermark, No. 04-10463, *10-11 (Bankr. Vt. filed Oct. 22, 2004)(doc. # 698). Accordingly, the \$4,049.71 sought for research expenses is denied.

THE COURT FURTHER FINDS that Chanin's practice of billing copies at \$0.15 a page and faxes at \$1.00 a page exceeds that which is the customary allowance therefor in this District. Consequently, the Court allows these expenses but only to the extent of \$0.10 a page for a total of \$1,929.80. The remaining \$1,069.45 is disallowed.

THE COURT FURTHER FINDS that certain travel expenses between Montreal and Los Angeles lack sufficient explanation or justification for the court to determine whether they are actual and necessary and hence, compensable from the estate. In re S.T.N. Enterprises, 70 B.R. at 835. The \$3,413.72 sought in connection with this particular travel is denied.

THE COURT FURTHER FINDS that the remaining \$ 33,433.01 sought for reimbursement of expenses incurred during the Application Period to be reasonable and appropriate and, accordingly, is approved and allowed.

THEREFORE, IT IS HEREBY ORDERED that

1. Chanin's Second Application is allowed in part and disallowed in part.
2. The following fees and expenses requested in Chanin's Second Application are approved and allowed:
 - (A) \$400,000.00 for professional services rendered; and
 - (B) \$ 33,433.01 for reimbursement of expenses.
3. The Debtors are hereby authorized and directed to pay to Chanin Capital Partners (to the extent not previously paid) the sum of:
 - (A) \$400,000.00, representing fees earned by Chanin Capital Partners during the Application Period; and
 - (B) \$ 33,433.01, representing reimbursement for the approved expenses incurred by Chanin Capital Partners during the Application Period.

SO ORDERED.

February 4, 2005
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge