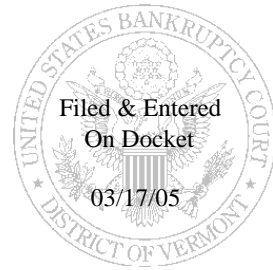


**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**



In re:
FIBERMARK, INC.,
FIBERMARK NORTH AMERICA, INC., and
FIBERMARK INTERNATIONAL HOLDINGS, INC.,
Debtors.

Chapter 11 Case
04-10463
Jointly Administered

ORDER

ALLOWING, IN PART THE SECOND FEE APPLICATION OF RYAN, SMITH & CARBINE, LTD.
FOR SERVICES RENDERED, GRANTING, IN PART, THE REIMBURSEMENT OF EXPENSES,
AND SETTING SCOPE OF HEARING

WHEREAS, on February 22, 2005, Ryan Smith & Carbine, Ltd. (“RS&C”), in its capacity as local counsel for the Official Committee of Unsecured Creditors (the “Committee”), filed a Second Application for Compensation and for Reimbursement of Expenses (doc. # 1245) (“RS&C’s Second Application”); and

WHEREAS no objection has been filed and the United States Trustee has neither objected nor consented to RS&C’s Second Application; and

WHEREAS RS&C’s Second Application was noticed under this Court’s default procedure and is currently set for hearing on March 22, 2005, and

WHEREAS RS&C’s Second Application seeks compensation in the amount of \$13,135.00 for professional services rendered for the period from August 1, 2005 through January 31, 2005 (the “Application Period”) and \$10,830.26 for reimbursement of expenses incurred during the Application Period;

THE COURT FINDS that RS&C’s Second Application lacks sufficient information for the Court to determine whether all of the paraprofessionals’ fees earned during the Application Period are compensable. Therefore, pending further hearing, professionals’ fees are approved only to the extent of \$11,597.50.

THE COURT FINDS that the following “lumped” entries for paraprofessional services lack sufficient information for the Court to determine whether the time expended was reasonable.

<i>Date</i>	<i>Description of Services</i>	<i>Time Spent</i>	<i>Amount Billed</i>
12/10/2004	File with Court and distribute Official Committee of Unsecured Creditors’ Notice of Submission of Solicitation Letter	1.00	75.00
12/21/4	Prepare and file with the Court and distribute Application of Chanin Capital Partners, Financial Advisor and Investment Banker for the Official Committee of Unsecured Creditors, For	3.00	225.00

	Interim Allowance of Compensation and for the Reimbursement of Expenses for Services Rendered During the Period From July 1, 2004 through October 31, 2004, Notice under VT LBR default procedure and certificate of service.		
12/21/04	Prepare and file with the Court and distribute the Second Application of Akin Gump Strauss Hauer & Feld, LLP, Counsel for the Official Committee of Unsecured Creditors, 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. Notice under VT LBR default procedure and certificate of service.	6.50	487.50
8/24/04	Get Chanin Fee Application ready for filing with Court; mail out to people on Certificate of Service.	4.00	300.00
8/31/04	Scanned documents for RS&C application for fees and expenses; e-filed documents with the Bankruptcy Court; mailing of documents to appropriate parties.	4.00	300.00
9/27/04	Scan Motion and other documents pertaining to same; electronically file paperwork with Bankruptcy Court; prepare documentation for mailing.	2.00	150.00

While most of these tasks appear to be properly compensable, the “lumping” of the many tasks within each entry makes it impossible to assess the reasonableness of the fees requested. Moreover, some of the tasks appear to be administrative in nature and hence, is not compensable from the Debtors’ estates. See In re S.T.N. Enterprises, 70 B.R. 823, 838 (Bankr. D. Vt. 1987). Based upon the descriptions provided, the Court cannot determine what amount of time was spent on each discrete task to determine whether the amount of time was reasonable or properly compensable. Consequently, the Court disallows all fees for these entries at this time.

THE COURT FURTHER FINDS that a hearing is necessary to address the requested paraprofessional fees.

THE COURT FURTHER FINDS that the remaining professionals’ fees earned during the Application Period to be properly compensable. Specifically, the Court finds the services rendered by RS&C professionals 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 professionals’ fees sought in connection with services rendered by RS&C during the Application Period are approved and allowed to the extent of \$11,597.50.

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); S.T.N. Enterprises, 70 B.R. at 836; 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).

In particular, the expense for “Long Distance Telephone” (\$40.00) lacks sufficient information for the Court to distinguish it from overhead expenses. As articulated in S.T.N. Enterprises, those expenses which are incurred day-to-day by a professional regardless of whom it represents are considered “overhead expenses” and are categorically not reimbursable from the estate. 70 B.R. at 844. However, if the applicant provides information for such charges which demonstrate and justify that they are of benefit to the estate, the expenses may be reimbursed. Id.

Upon review of RS&C’s Second Application, THE COURT FINDS that a hearing is necessary to address the copy expenses for which RS&C requests reimbursement. RS&C’s request for reimbursement of copy charges in the amount of \$9,252.00 lacks sufficient information for the Court to determine whether this expense was actual, necessary or justified. See 11 U.S.C. § 330(a); S.T.N. Enterprises, 70 B.R. at 836. Based upon the information before it, it appears as though RS&C served those documents it helped prepare during the Application Period multiple times on the same parties in interest.¹ It is unclear how these expenses could be justified as actual and necessary, and be considered compensable from the estate. Accordingly, these expenses are disallowed at this time.

THE COURT FURTHER FINDS that the remaining \$1,538.26 of expenses for which RS&C seeks reimbursement during the Application Period is reasonable and appropriate and, accordingly, they are approved and allowed.

THEREFORE, IT IS HEREBY ORDERED that


1. A representative of RS&C appear to clarify and supplement the record in connection with RS&C’s Second Application by addressing the following questions:
 - a. with regard to the “lumped” paraprofessional time entries, what is the actual amount of time spent on each discrete task; and
 - b. with regard to the copying expenses requested, what documents were copied, how many copies were made and whether service was effectuated multiple times upon the same parties (as the various certificates of service seem to indicate); and if there was duplicative service, how can this be a reasonable, actual, and justified expense to the estate.
2. Ryan, Smith & Carbine, Ltd.’s Second Application is allowed in part and disallowed in part.
3. The following fees and expenses requested in RS&C’s Second Application are approved and allowed:
 - a. \$11,597.50 for professional services rendered; and

¹ For example, based upon the certificates of service for the Chanin Fee Application (doc. # 891) and Akin Gump’s Second Application (doc. # 894), the parties listed on the actual certificate of service received these documents (80 and 233 pages respectively) three times. Additionally, all parties identified on Exhibit B as having been served electronically are also listed on Exhibit A as having been served via first class mail. Without even considering whether it is reasonable or justified to serve three parties at one firm twice, via first class mail and electronically, the service appears excessive.

- b. \$ 1,538.26 for reimbursement of expenses.
3. The Debtors are hereby authorized and directed to pay to Ryan, Smith & Carbine, Ltd. (to the extent not previously paid) the sum of:
- a. \$11,597.50, representing professionals' fees earned by Ryan, Smith & Carbine, Ltd. during the Application Period; and
 - b. \$ 1,538.26, representing reimbursement for the approved expenses incurred by Ryan, Smith & Carbine, Ltd. during the Application Period.

SO ORDERED.

March 17, 2005
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge