

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 AND GRANTING, IN PART, THE REIMBURSEMENT OF EXPENSES**

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 was filed and the United States Trustee neither objected nor consented to RS&C’s Second Application; and

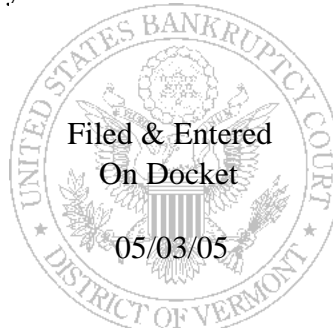
WHEREAS, on March 17, 2005, the Court entered an order allowing, in part, RS&C’s Second Application and setting the scope of a hearing on RS&C’s Second Application (doc. # 1325); and

WHEREAS, on March 22, 2005, the Court held a hearing on RS&C’s Second Application; and

WHEREAS, on March 29, 2005, RS&C filed a Supplement to RS&C’s Second Application (doc. # 1351) to clarify specific paraprofessional time entries and copy expenses;

Now, after consideration of RS&C’s Second Application and Supplement, and the entire record in this case,

THE COURT FINDS that certain of the paraprofessional’s fees requested are not compensable and therefore, the paraprofessional’s fees in the Supplement are approved only to the extent of \$757.50. The remaining \$870.00 of paraprofessional fees sought herein are disallowed in accordance with S.T.N. Enterprises. 70 B.R. at 838, because time devoted to administrative activities such as mailing or delivering papers, photocopying, word processing, and organizing files constitutes overhead expenses and is not compensable from the debtor’s estate. See id. The Court finds the following tasks to be administrative activities, and accordingly denies allowance of compensation for the amounts of time specified:



<i>Date</i>	<i>Description of Services</i>	<i>Time Spent</i>	<i>Amount Billed</i>
8/24/04	Preparation (to include photocopying, stuffing envelopes and applying postage) of documents for service upon the service list via U.S. First Class Mail and via e-mail.	2.0	150.00
8/31/04	Preparation (to include photocopying, stuffing envelopes and applying postage) of documents for service upon the service list via U.S. First Class Mail and via e-mail.	2.0	150.00
9/27/04	Preparation (to include photocopying, stuffing envelopes and applying postage) of documents for service upon the service list via U.S. First Class Mail and via e-mail.	2.0	150.00
12/10/04	Preparation (to include photocopying, stuffing envelopes and applying postage) of documents for service upon the service list via U.S. First Class Mail and via e-mail.	0.1	7.50
12/21/04	Preparation (to include photocopying, stuffing envelopes and applying postage) of documents for service upon the service list via U.S. First Class Mail and via e-mail.	2.0	150.00
12/21/04	Preparation (to include photocopying, stuffing envelopes and applying postage) of documents for service upon the service list via U.S. First Class Mail and via e-mail.	3.5	262.50

THE COURT FURTHER FINDS that the remaining paraprofessional's fees requested are properly compensable. Specifically, the Court finds the other services rendered by the RS&C paraprofessional 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 paraprofessional's fees sought in connection with services rendered by RS&C are approved and allowed to the extent of \$757.50.

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. 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). As set forth in this Court's March 17th Order (doc. # 1325), RS&C's Second Application appears to seek reimbursement of copy charges for multiple service on certain parties in interest. Although the Supplement details the number of copies made with specific docket numbers, the numbers provided do not mathematically coincide with the docket entries and certificates of service. For example, docket entry number 555 consists of 52 pages that should have been served on 42 interested parties which would result in 2,184 copies. However, RS&C allocates 3,068 copies for this document. The Court has attempted to decipher the information RS&C has provided. The only mathematical explanation that even comes close to RS&C's grand total of 38,810 copies is if RS&C did serve certain parties more than once. At the March 22, 2005 hearing, counsel appeared and stated that out of an "abundance of caution" RS&C served paper copies upon those parties in interest that had consented to


electronic service. In other words, for those parties who consented to electronic service, RS&C noticed the filings electronically but also served “hard copies” of the filings. Although RS&C may be commended for the care it is taking to ensure proper service, the additional copy expenses attributable to this abundance of caution are not necessary and, therefore, are not reimbursable from the estate. As the movant, RS&C bears the burden of establishing that its requested expenses are both actual and necessary. S.T.N. Enterprises, 70 B.R. at 835. Accordingly, the Court approves reimbursement for RS&C’s copy charges only to the extent necessary to produce and serve copies on the parties required to be served paper copies; the Court computes this to be an expense in the amount of \$7,306.25. The remaining \$1,945.75 is disallowed.

THEREFORE, IT IS HEREBY ORDERED that

1. Ryan, Smith & Carbine, Ltd.’s Second Application as clarified in the Supplement is allowed in part and disallowed in part.
2. The following fees and expenses requested in RS&C’s Second Application and the Supplement are approved and allowed:
 - a. \$ 757.50 for paraprofessional services rendered; and
 - b. \$7,306.25 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. \$757.50, representing paraprofessional’s fees earned by Ryan, Smith & Carbine, Ltd. during the Application Period; and
 - b. \$7,306.25, representing reimbursement for the approved expenses incurred by Ryan, Smith & Carbine, Ltd. during the Application Period.

SO ORDERED.

May 3, 2005
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge