

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 THE THIRD INTERIM FEE APPLICATION OF WEISER, LLP
AND GRANTING, IN PART, THE REIMBURSEMENT OF EXPENSES

WHEREAS, on June 21, 2005, Weiser, LLP (“Weiser”), as restructuring accountant for the Debtors, filed a Third Quarterly Fee Application for Compensation for Professional Services Rendered and Reimbursement of Expenses for the period from November 1, 2004 through May 31, 2005 (doc. # 1551) (“Weiser’s Third Application”); and

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

WHEREAS Weiser’s Third Application seeks compensation of \$489,400.50 for professional services rendered for the period from November 1, 2004 through May 31, 2005 (the “Application Period”) and \$35,421.86 for reimbursement of expenses incurred during the Application Period;

THE COURT FINDS that the professionals’ fees earned during the Application Period to be fully and properly compensable. Specifically, the Court finds the services rendered by Weiser 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 Weiser 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 and 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). In particular, the Court observes that although many of the entries requesting reimbursement for hotel charges specify the length of stay (making it possible to compute the per day charge), several lodging entries set forth only the date the expense was incurred, the fact that it

was for lodging, and the amount of the expense. In light of the lack of information provided, this Court cannot determine whether the expenses are necessary or justified. Therefore, the Court denies reimbursement for the following entries:

<i>Date Expense Incurred</i>	<i>Detail Provided</i>	<i>Amount Requested</i>
11/04/04	Lodging while working at the client	\$500.94
11/11/04	Lodging while working at the client	\$487.01
11/18/04	Lodging while working at the client's site	\$435.28
11/23/04	Lodging while working at the client	\$141.86

THE COURT FURTHER FINDS that the expenses for cell phone and various other telephone charges totaling \$649.53 likewise lack sufficient information for the Court to assess their eligibility for reimbursement and specifically, to distinguish them from overhead expenses. As articulated in S.T.N. Enterprises, those expenses which are incurred day-to-day by a professional, regardless of whom the professional represents, are considered "overhead expenses" and are categorically not reimbursable from the estate. 70 B.R. at 844. By contrast, if the applicant provides information for such charges that demonstrates and justifies that the expenses generated a benefit to the estate, the expenses may be reimbursed. Id. Due to the lack of information provided, the Court denies Weiser's request for reimbursement for these cell phone and telephone charges.

THE COURT FURTHER FINDS that Weiser's Third Application lacks sufficient information for the Court to determine whether expenses for rental cars for various periods of time, including "two months and one day," "three weeks," and numerous five day periods in the aggregate amount of \$10,913.21, may be justified as actual and necessary and hence compensable from the estate. Accordingly, these expenses are denied.

THE COURT FURTHER FINDS that the remaining \$22,294.03 sought for reimbursement of expenses incurred during the Application Period to be reasonable, necessary and justified. Accordingly, these expenses are allowed.


THEREFORE, IT IS HEREBY ORDERED that

1. The Third Quarterly Fee Application of Weiser, LLP (doc. # 1551) is allowed in part and disallowed in part.
2. The following fees and expenses requested in Weiser's Third Application are approved and allowed:
 - (A) \$498,400.50 for professional services rendered; and
 - (B) \$22,294.03 for reimbursement of expenses.
3. The Debtors are hereby authorized and directed to pay to Weiser, LLP (to the extent not previously paid) the sum of:

- (A) \$498,400.50, representing professionals' fees earned by Weiser, LLP during the Application Period; and
- (B) \$22,294.03, representing reimbursement for the approved expenses incurred by Weiser, LLP during the Application Period.

SO ORDERED.

August 23, 2005
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge