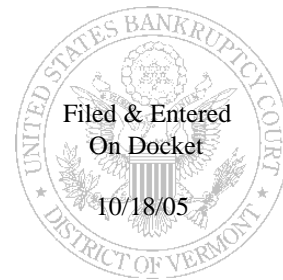


UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT



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

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

**ORDER**

**GRANTING BERENSON & COMPANY, LLC'S MOTION TO AMEND RECORD  
IN CONNECTION WITH PREVIOUSLY DISALLOWED EXPENSES, AND  
GRANTING, IN PART, THE REIMBURSEMENT OF CERTAIN EXPENSES**

On June 9, 2005, Berenson & Company, L.L.C. ("Berenson") as financial advisor and investment banker for the Debtors, filed a Third Interim Fee Application for compensation for Professional Services Rendered and Reimbursement of Expenses Incurred for the period from October 1, 2004 through February 28, 2005 (doc. # 1529) ("Berenson's Third Application"). On September 1, 2005, the Court granted in part Berenson's Third Application by allowing the professional fees sought in full and allowing the reimbursement of a portion of the expenses. Based upon the record provided, the Court found \$20,600.69 of the \$93,321.32 requested for reimbursement of expenses to be compensable from the estate (doc. # 1840) (the "September 1<sup>st</sup> Order"). On September 26, 2005, Berenson filed a motion to amend the record, seeking to supplement Berenson's Third Application to provide more detailed records to justify allowance of the previously disallowed expenses (doc. # 1912) (the "Motion to Amend"). The Court grants Berenson's request to supplement the record on Berenson's Third Application. Upon consideration of the Motion to Amend, for the reasons set forth below, the Court grants the reimbursement of certain expenses it previously disallowed.

**Travel and Hotel Expenses**

In the September 1<sup>st</sup> Order, the Court disallowed certain expenses for travel and hotel charges because Berenson's Third Application failed to set forth sufficient information for the Court to determine whether the expenses were actual, necessary and justified. Specifically, Berenson's Third Application failed to provide any explanation or identify the destination for two travel entries aggregating \$10,675.50 and did not specify the length of stay for hotel charges, making it impossible to compute the per day charge or determine whether that charge was reasonable and justified. In the Motion to Amend, Berenson has provided sufficient information for such a finding, and the Court therefore allows the reimbursement of the \$12,171.73 sought for these travel and hotel expenses.

### Legal Fees

In the September 1<sup>st</sup> 2005 Order, the Court disallowed legal expenses in the amount of \$47,279. In the Motion to Amend, Berenson has provided time sheets of its attorneys and has adequately explained the necessity of the legal expenses and has directly correlated those expenses to these cases. Accordingly, the Court allows the \$47,279.00 Berenson seeks for reimbursement of its legal expenses incurred in connection with its retention in these cases.

### Copy Expenses

Berenson's Third Application sought \$3,813.65 for reimbursement of copy costs; however, Berenson failed to provide an itemization sufficient to demonstrate that the expenses were reasonable. Based upon the additional information Berenson has provided in the Motion to Amend, the Court finds that the \$3,813.65 sought for reimbursement of copy expenses is reasonable, necessary and justified. Consequently, the Court allows the \$3,813.65 sought for reimbursement of copy expenses.

### Various Telephone Expenses

Berenson's Third Application requested reimbursement for various telephone charges totaling \$1,224.84. Berenson provided additional information the Motion to Amend in an attempt to justify allowance of all telephone charges. However, the Court finds that the itemization provided is insufficient to demonstrate that all of the telephone expenses are distinguishable from overhead expenses. By contrast, with respect to conference calls, Berenson has provided sufficient detail to demonstrate that this component of the telephone expenses is reasonable, justified and necessary. Accordingly, the Court allows an additional \$228.25 to be reimbursed. Lastly, the Court finds that Berenson has failed to provide sufficient detail, even after considering the Motion to Amend, to deem that the cell phone charges for which reimbursement is sought are not part of Berenson's overhead expenses. Accordingly, the Court disallows the \$726.59 attributable to cell phone expense.

### Meal Expenses

The September 1<sup>st</sup> 2005 Order specifically identified certain meal expenses, for which Berenson sought reimbursement that the Court found to be beyond the scope of what could be reimbursed by the estate. While the Court has allowed reimbursement for certain costs related to out-of-state professionals' meals in this case, In re Fibermark, No. 04-10463, \* 2-3 (Bankr. Vt. filed Sept. 30, 2004) (doc. #645), certain meal expenses in Berenson's Third Application were extraordinarily high and beyond what appeared to be objectively reasonable. In the Motion to Amend, Berenson contends that these expenses include both the cost of meals and the cost of renting a conference room. However, nowhere in Berenson's Third Application or the Motion to Amend does Berenson identify which portion of each meal represents a rental cost. Based upon the record before it, the Court finds Berenson has not demonstrated

that these expenses are reasonable or justified. Accordingly, the Court finds that the \$4,090.47 sought for reimbursement for three meals is not compensable from the estate.

Transportation Expenses

Finally, Berenson's Third Application also sought reimbursement for \$4,410.94 in transportation costs that included various car rentals, transportation by a limousine service, numerous car services for the same persons on the same date (on which dates those persons also incurred expenses for taxi services) and van rentals exceeding \$1,900. In the September 1<sup>st</sup> 2005 Order, the Court found that Berenson failed to carry its burden of proof to justify these requested transportation costs as reasonable and necessary. Berenson has supplemented the information provided in the Motion to Amend to address these expenses. However, Berenson has not yet carried its burden of demonstrating that these expenses are reasonable and necessary. The record does not support a finding that numerous car services for the same persons on the same date (on which dates those persons also incurred expenses for taxi services) is reasonable or necessary. Likewise, there is no justification provided for the extraordinary expenses of renting vans for various excursions. Accordingly, the Court reiterates its prior determination disallowing the \$4,410.94 sought for reimbursement of travel expenses.

THEREFORE, IT IS HEREBY ORDERED that

1. the Motion to Amend (doc. # 1912) is granted
2. based upon the supplemental record, the Court allows certain previously disallowed expenses;
3. reimbursement of expenses in the amount of \$63,492.63 as requested in Berenson's Third Application and supplemented by the Motion to Amend is approved and allowed;
4. the Debtors are hereby authorized and directed to pay to Berenson & Company, L.L.C. (to the extent not previously paid) \$63,492.63 for the reimbursement of expenses; and
5. to the extent the requested expenses have already been paid to Berenson under this Court's Administrative Order dated June 1, 2004 (doc. # 292), Berenson is directed to return any sums in excess of the allowed expenses to the Debtors within ten (10) days of the date of this Order;

**SO ORDERED.**

October 18, 2005  
Rutland, Vermont



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Colleen A. Brown  
United States Bankruptcy Judge