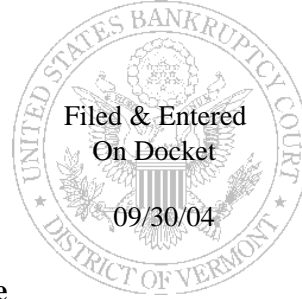


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

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

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

**ORDER GRANTING APPLICATION OF CHANIN CAPITAL PARTNERS LLC
FOR INTERIM ALLOWANCE OF COMPENSATION AND
GRANTING IN PART THE REIMBURSEMENT OF EXPENSES
FOR THE PERIOD OF APRIL 7, 2004 THROUGH JUNE 30, 2004**

On August 24, 2004, Chanin Capital Partners LLC (“Chanin”), Financial Advisor and Investment Banker for the Official Committee of Unsecured Creditors, filed an application for Interim Allowance of Compensation and for the Reimbursement of Expenses for Services Rendered During the Period from April 7, 2004 through June 30, 2004 (doc. #532)(the “Application”). No party has filed an objection to the Application. After considering the Application in light of the standards set forth in In re S.T.N. Enterprises, Inc., 70 B.R. 823 (Bankr. D. Vt. 1987), the Court grants the Application for payment of fees in full and grants the application for reimbursement of expenses in part.

There is an inherent public interest that must be considered in awarding fees in a bankruptcy case. Senate Report No. 95-989, 95th Congress, 2d Session 40 (1978). U.S. Code Cong. & Admin. News 1978, p. 5787. Accordingly, the Bankruptcy Code imposes upon this Court a supervisory obligation not only to approve the employment of professionals, but also to ensure that the fees sought by those professionals in a bankruptcy case are reasonable, and that the services and expenses were actually and necessarily incurred. 11 U.S.C. §§ 327 - 330. Notwithstanding the absence of any objection to the Application, this Court has an independent judicial responsibility to evaluate the appropriateness of the fees and expenses requested. 11 U.S.C. § 330 (a)(3) and Bankruptcy Rules 2016 and 2017; STN Enterprises, Inc., 70 B.R. at 831; In re ACT Mfg., Inc., 281 B.R. 468, 474 (Bankr. D. Mass. 2002). This responsibility is especially acute when the professionals seek compensation out of a bankruptcy estate. STN Enterprises, Inc., 70 B.R. at 832. The rationale for the bankruptcy court’s independent duty to review fee applications has been described as “a duty to protect the estate ‘lest overreaching...professionals drain it of wealth which by right should inure to the benefit of unsecured creditors.’” In re Keene Corp., 205 B.R. 690, 695 (Bankr. S.D. N.Y.1997).

Having reviewed the Application, the Court finds Chanin's fees earned from April 7, 2004 through June 30, 2004 (the "Compensation Period") to be compensable. Specifically, the Court finds the services rendered by the applicant were reasonable, necessary and of benefit to the estate. 11 U.S.C. § 330(a); In re JLM, Inc., 210 B.R. 19, 24 (2d Cir. BAP 1997). Accordingly, the fees sought in connection with services rendered by Chanin are approved and allowed in full.

The Court finds certain of the expenses incurred during the Compensation Period are not compensable and therefore it does not approve reimbursement of all expenses sought. The Court approves reimbursement for expenses to the extent of \$ 25,693.05. The request for reimbursement of the remaining \$ 1,308.18 is denied, for the reasons set forth below, in accordance with S.T.N. Enterprises, 70 B.R. at 838. Under the terms of the Revised Engagement Letter, as approved by this Court in an Order dated June 14, 2004 (doc. #338) in order to be reimbursable, expenses incurred must be reasonable. This is consistent with the Bankruptcy Code and Rules.

The Application seeks reimbursement for \$3,965.47 in meal expenses. In STN Enterprises, Inc., this Court (Conrad, J.) previously held that the cost of meals incurred by out-of-state counsel was not compensable from the estate. 70 B.R. at 844. Notwithstanding the holding in STN, this Court has allowed reimbursement for the reasonable cost of working meals in this case. To the extent STN can be interpreted to establish a bright-line rule prohibiting reimbursement for the costs of out-of-state professionals' meals, the Court declines to adopt such a bright-line rule. Rather, the Court will determine whether meals are reimbursable from the estate depending upon the facts and circumstances of the case as well as the specific reason for the retention of the out-of-state professional applying for reimbursement. Generally, if the Court deems that it is appropriate for out-of-state professionals to be retained and the meal expenses in question are reasonable and otherwise meet the criteria for allowance, reimbursement for working meals will be permitted. However, in accordance with this Court's independent duty to protect the estate and the creditors from overreaching professionals and established precedent, the Court follows STN as to the requirements that such expenses be actual and justified as necessary. 70 B.R. at 844. Thus, the applicant has the burden to demonstrate that (1) there were no other reasonable alternatives available that would have been less expensive; and (2) there is good reason for the estate to pay the expense (looking to ensure that the applicant is using good judgment and not expending estate resources on extravagances). Id.

The Court finds that under the facts and circumstances of this case, reasonable meal expenses are reimbursable from the estate. However, this finding does not give professionals carte blanche where meals are concerned. The \$3,965.47 sought by Chanin includes the cost of 174 meals, with an average price of \$22.70 per meal. Overall, given the nature and amount of work completed by Chanin during the Compensation

Period, and the delineation of the number of professionals involved in various meals, this appears reasonable to the Court. The Application articulates that most of the larger expenses in this category were for meals for multiple professionals. However, there is one glaring exception: the Application seeks reimbursement for one meal on April 28, 2004, for \$70.00 and does not indicate that multiple professionals participated. While such a large expense for one meal may well be reasonable if it is a meal for more than one professional, there is no indication that this was the case here. The Application is so clear about specifying when meals were for multiple professionals, it appears to the Court that this expense is for just one person. Chanin has not demonstrated that this particular expense was reasonable or justified as necessary. Because the Application lacks sufficient information, the \$70.00 expended on a working dinner on April 28, 2004 is disallowed without prejudice to Chanin addressing this issue prior to or in its next interim application.

The Court further finds the following travel expenses lack sufficient information for the Court to find them to be reasonable and accordingly denies reimbursement for them, at this time:

Peter Corbell	4/28/04	Taxi	\$ 7.00 ¹
Peter Corbell	4/28/04	Taxi	\$ 5.00
Peter Corbell	4/28/04	Taxi	\$ 7.00
Peter Corbell	4/28/04	Taxi	\$ 6.00
Peter Corbell	4/28/04	Car Service	\$732.36
Peter Corbell	4/28/04	Car Service	\$128.66
Griffith Lee	4/28/04	Car Service	\$125.66 ²

The Court also finds the Application lacks sufficient information for the Court to determine whether the following expenses should be considered overhead expenses or reasonable and necessary expenses specific to this case. Thus, the Court disallows these expenses without prejudice:

Verizon	4/16/04	\$ 52.37
AT&T	5/31/04	\$ 26.01
Verizon Wireless	5/16/04	\$ 67.09
Verizon Wireless	6/02/04	\$ 38.34
Verizon Wireless	6/16/04	\$ 42.69

The Application does not provides an explanation or justification for these expenses upon which the Court can determine that they are properly compensable from the estate. Based upon the lack of documentation, description and/or justification, the Court disallows reimbursement of the delineated expenses without prejudice at this time. However, the Court will allow Chanin an opportunity to supplement the

¹ While these four taxi expenses standing alone do not appear to be unreasonable, when considered in the context of the additional car service expenses incurred on the same date the Court finds them to be excessive.

² While this expense standing alone does not appear to be unreasonable, when considered in context with additional car service expenses incurred on the same date the Court finds it is unreasonable.


Application to provide a more detailed description and explanation for these expenses, so the Court may evaluate whether they are reasonable and justified. STN Enterprises, Inc., 70 B.R. at 836.

THEREFORE, IT IS HEREBY ORDERED that

1. The Application is allowed in part and disallowed in part.
2. The following fees and expenses as set forth in the Application are approved and allowed:
 - (A) \$ 280,000.00 for professional fees; and
 - (B) \$ 25,693.05 for reimbursement of expenses.
3. The Debtors are hereby authorized and directed to pay to Chanin Capital Partners LLC (to the extent not previously paid) the sums of:
 - (A) \$ 280,000.00, representing fees earned by Chanin Capital Partners, LLC during the Compensation Period and
 - (B) \$25,693.05, representing the reduced expenses incurred by Chanin Capital Partners, LLC during the Compensation Period.
4. If Chanin would like to supplement the Application to provide a more thorough description of the expenses found not to be compensable from the estate in order to enable this Court to evaluate whether these expenses are reasonable and justified, such supplement must be filed with, or prior to, its next interim application.

SO ORDERED.

September 29, 2004
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge