

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re)	Chapter 11 Cases
Adelphia Communications Corporation, <u>et al.</u> ,)	Case No. 02-41729 (REG)
Debtors.)	Jointly Administered

**FINAL APPLICATION OF SHERMAN & HOWARD L.L.C., AS
ATTORNEYS FOR DEBTORS AND DEBTORS IN POSSESSION, FOR
ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND
REIMBURSEMENT OF EXPENSES INCURRED FEBRUARY 1, 2004
THROUGH FEBRUARY 12, 2007**

TO THE HONORABLE ROBERT E. GERBER, UNITED STATES BANKRUPTCY JUDGE:

Sherman & Howard L.L.C. ("S&H"), attorneys for the above-captioned debtors and debtors in possession in these cases (the "Debtors"), in support of its Final Application for Allowance of Compensation for Professional Services Rendered and Reimbursement of Expenses Incurred from February 1, 2004 through February 12, 2007 (the "Final Application"), respectfully represents:

PRELIMINARY STATEMENT

1. S&H was approved as an ordinary course professional pursuant to the Notice of Supplement to List of Ordinary Course Professionals filed with this Court on January 23, 2004 pursuant to Sections 327 and 328 of Title 11 of the United States Code (the "Bankruptcy Code") with respect to professional services rendered to the Debtors. In February 2004, the amount of professional fees exceeded the amount permitted as an ordinary course professional and on May 24, 2004 the Debtors applied for approval of S&H as special counsel pursuant to 11 U.S.C. § 327(e), which approval was granted on June 15, 2004. Prior to February 1, 2004, as an ordinary course professional, S&H was not required to submit its invoices in compliance with section II.B. of the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, issued January 30, 1996 (the "UST Guidelines").

2. By this Final Application and pursuant to 11 U.S.C. § 330 and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), S&H requests this Court authorize: (a) final allowance of compensation for professional services S&H rendered to the Debtors from February 1, 2004 through February 12, 2004 (the “Final Application Period”) in the amount of \$2,538,325.41;¹ and (b) the reimbursement of actual and necessary expenses S&H incurred in connection with the rendering of such professional services in the amount of \$106,481.16.

3. This Court has jurisdiction over this Final Application pursuant to 28 U.S.C. §§ 157 and 1334 and the “Standing Order of Referral of Cases to Bankruptcy Judges” dated July 10, 1984, of District Court Judge Robert T. Ward. Venue of these cases and this Final Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are 11 U.S.C. § 330 and Rule 2016 of the Bankruptcy Rules.

S&H’S FEES AND EXPENSES

4. S&H’s services in these cases have been substantial, necessary, and beneficial to the Debtors, their estates, creditors, and other parties in interest. Throughout the Final Application Period, the variety and complexity of the issues involved in these cases and the need to address those issues on an expedited basis required S&H, in discharge of its professional responsibilities, to devote substantial time by professionals from many legal disciplines on a daily basis, and often through night and weekend work.

5. S&H was retained to provide legal services related to labor and employment issues, specific litigation and to assist the Debtors in their efforts to address issues involving their franchises. These franchises were one of the Debtors’ most valuable assets and due to the efforts of S&H, the Debtors were able to consummate a very successful and lucrative sale of these assets.

6. Within the context of the labor and employment issues as well as the litigation matters, S&H was solely responsible for the work performed on behalf of the Debtors. In the

¹ S&H determined to “write off” \$109,338.65 in professional fees and \$3,286.55 in expenses during the Final Application Period in the exercise of its billing judgment. In addition, at the Fee Committee requested S&H agree to further reductions in the amount of \$81,424.34.

franchise and regulatory work, S&H coordinated its efforts with Cole, Raywid & Braverman, L.L.P. ("CRB"), also special counsel to the Debtors, to avoid any overlap in efforts.

7. By this Final Application, S&H seeks allowance of compensation in full for services rendered and expenses incurred during the Final Application Period.

8. No agreement or understanding exists between S&H and any other entity for the sharing of compensation to be received for services rendered in or in connection with this case. See Affidavit of Kimberley H. Tyson, Esq., annexed as Exhibit A to all six of S&H's interim applications.

9. S&H maintained written records of the time expended by attorneys, law clerks and paraprofessionals in rendering professional services to the Debtors. Such time records were made contemporaneously with the rendition of services by each person rendering such services. A copy of the daily time records for all six of S&H's interim applications, broken down by matter and listing the name of the attorney, law clerk or paraprofessional, the date on which the services were performed, and the amount of time spent in performing the services, were annexed as Exhibit B to S&H's six interim applications and are annexed hereto as Exhibit B.² For the convenience of the Court and parties-in-interest, annexed thereto as part of all Exhibits B were lists of the attorneys, law clerks and paraprofessionals who had worked on matters during each interim application period, the aggregate time expended by each individual during each interim application period, his or her hourly billing rate during that interim application period, and the amount of S&H's fees attributable to each individual.

10. Annexed as Exhibit C to all six interim applications and hereto was a list of all the matters for which services were rendered during each interim application period and the aggregate amount of hours and fees expended for each of those matters.

11. S&H also maintained contemporaneous records of all actual and necessary out-of-pocket expenses incurred in connection with the rendition of professional services. A schedule

² Copies of the daily time records for professional services for the Final Application Period were provided previously to the Court and the Office of the United States Trustee. Additionally, parties in interest required to be served with S&H monthly fee statements pursuant to the Compensation Order were previously furnished with the same daily time records. Much of the labor and employment work S&H performed for Adelpia involved ongoing litigation. The daily time records for these matters were redacted only where necessary to protect matters of attorney-client privilege, trial and hearing strategy, and other confidential, policy matters; accordingly, the daily time records do not include recitation or description of specific, confidential matters. Copies of the time records will be made available to other parties in interest upon reasonable request.

setting forth the categories of expenses and amounts for which reimbursement is requested was annexed as Exhibit D to all six interim applications and hereto.

12. Pursuant to the Administrative Order Regarding Guidelines For Fees and Disbursements for Professionals in Bankruptcy Cases (the "Administrative Order"), S&H recorded its services rendered and disbursements incurred on different matters reasonably expected by the Debtors to continue over a period of at least three months and to constitute a substantial portion of the fees sought during the six interim applications periods.

SUMMARY OF SERVICES RENDERED

13. Recitation of each and every item of professional services S&H performed during the Final Application Period would unduly burden the Court and parties in interest. Hence, the following summarizes the areas to which S&H devoted time and attention during the Final Application Period. The full breadth of S&H's services are reflected in S&H's time records annexed to all six of the interim applications. Additionally, Exhibit B to all six of the interim applications lists: (a) all attorneys, law clerks and paraprofessionals who have performed services in each respective Service Category; and (b) a breakdown of the hours spent and the amount of compensation requested for each attorney, law clerk and paraprofessional within each Service Category.

A. Employment Matters

(1) During the Final Application Period, S&H assisted Adelphia Communications Corporation ("Adelphia") on various employment and labor law matters. More detailed explanation of S&H's representation of Adelphia for the Final Application Period follows.³ In all instances where possible, S&H attempted to resolve labor and employment disputes consensually, without seeking judicial or agency intervention.

(2) During the Final Application Period, S&H conducted research, conferred with members of Adelphia management, and responded to opposing counsel in matters of threatened "withdrawal liability" pertaining to the cessation of participation in a multi-employer/International Brotherhood of Teamsters pension fund and a multi-employer/Communications Workers of America pension fund and in threatened breach of

³ Much of the labor and employment work S&H performed for Adelphia implicated matters of attorney-client privilege, trial and hearing strategy, and other confidential, policy matters; accordingly, the following summary does not include recitation or description of specific, confidential matters.

contract matters. These disputes included the adverse parties' claims that prior agreements compelled continuing payment or contributions and/or monetary penalties in order for Adelphia to extricate itself from pension funding. The legal issues researched included those under Sections 301 and 302 of the Labor Management Relations Act, ERISA, and the apposite case law. Resolution of these matters enabled Adelphia to avoid protracted litigation and adverse judgments assessing liability. S&H's representation of Adelphia in these matters assisted in reducing the amount of potential liability connected to union decertification and the attendant withdrawal from participation in the multi-employer pension funds.

(3) During the Final Application Period, S&H represented Adelphia in preparations for six matters, each involving anticipated federal court proceedings for injunctive relief and damages for breach of contract. These matters arose out of disputes pertaining to obligations under various collective bargaining agreements. Pre-filing resolution of these matters was effected by S&H's negotiation of *status quo* agreements and/or other resolution with the opposing party. S&H's representation of Adelphia in these matters enabled the company to avoid costly disputes and maintain *status quo* arrangements in order to more efficiently manage cable operations.

(4) During the Final Application Period, S&H represented Adelphia in various types of labor law proceedings at various company operation locations. S&H conducted labor contract negotiations in Ukiah and Yucca Valley, California as well as Colorado Springs, Colorado. S&H also conducted contract negotiations in Waterbury and Seymour, Connecticut; Lee, Massachusetts; Martinville, Virginia; and Sharon, Pennsylvania. In matters where S&H was not conducting the contract negotiations, S&H conferred with Adelphia representatives to assist in research of pertinent legal issues and successful implementation of company policies. This work was performed for approximately seven matters, each arising at a different location. The cases involved legal research on mandatory and permissive subjects of bargaining; pre-impasse, offensive lockouts and strikes; impasse labor disputes; obligatory responses to requests for information; and the elimination of successorship language. S&H conducted reviews of existing collective bargaining agreements, conferred with management to discern bargaining goals, composed, received, and revised contract provision proposals. Contract negotiations work required research and compliance with state wage laws, exceptions, and preemption. By consulting and representing Adelphia in these matters, S&H assisted in various successful

agency proceedings, withdrawal of recognition, and/or the implementation of broad company policy initiatives.

(5) During the Final Application Period, S&H conducted seven proceedings before the National Labor Relations Board (“NLRB”), on behalf of Adelphia. This work included representing the company in adversarial trial proceedings, as well as administrative unit hearings. In both instances, representation of the company included legal research and the drafting and filing of various motions and other pre-trial pleadings. S&H represented Adelphia in trials pertaining to violations by a union of Section 8(b)(1) of the NLRA, and alleged violations by Adelphia of Section 8(a) of the NLRA. S&H represented Adelphia in agency hearings pertaining to elections and “appropriate units.” In addition, S&H represented Adelphia in appellate proceedings on similar matters, seeking reversal of lower court/agency decisions and/or preservation of Adelphia’s right to challenge such lower court/agency decisions before the Circuit Court of Appeals. S&H also represented Adelphia in pre-trial, investigatory proceedings, winning case dismissals or withdrawals. Such pre-trial investigatory proceedings included allegations of violation of Section 8(a)(1), (3), and (5). S&H presented affidavit testimony and legal argument in furtherance of Adelphia’s position in these matters. S&H’s assistance on these matters resulted in prompt, favorable disposition of the various disputes and saved the Debtor costly litigation and assessment of damages.

(6) During the Final Application Period, S&H represented the Debtor in four arbitration matters, including matters pertaining to contract interpretation disputes and employee discipline. These matters arose under the various collective bargaining agreements to which the Debtor and certain union locals were parties. S&H advised Adelphia with respect to implementation of arbitral awards, appeals of such awards, and remedy clarification matters.

(7) During the Final Application Period, S&H represented Adelphia in legal proceedings attendant to union decertification and certification elections. S&H routinely conducted research on matters of labor law involving pre- and post-election communications, the employer’s obligation in bargaining, anticipated labor dispute situations and contract administration matters. S&H’s counsel on these matters assisted Adelphia in avoiding litigation, avoiding challenges to management conduct, and maintaining management flexibility in operating the various cable sites.

(8) During the Final Application Period, S&H conducted research, conferred with members of Adelphia management, and responded to the Colorado Civil Rights Division (“CCRD”) regarding a charge of discrimination filed by former employee Tanya Evans. Ms. Evans claimed her termination was discrimination on the basis of her race in violation of Title VII of the Civil Rights Act and the Colorado Anti-Discrimination Act. S&H submitted a position statement that pointed out the absence of evidence of discrimination and the legitimate nondiscriminatory reason for Ms. Evans’ discharge. Based on this submission and the prior position statement of Adelphia’s human resources department, the CCRD found no cause to proceed on Ms. Evans’ charge. Specifically, the CCRD concluded Ms. Evans’ was terminated for a legitimate nondiscriminatory reason. The CCRD also concluded there was insufficient evidence to support Ms. Evans’ allegations.

(9) During the Final Application Period, S&H, in consultation with Adelphia management, settled all remaining unfair labor practice charges filed by the International Brotherhood of Electrical Workers (“IBEW”) Local 1228. The charges were pending in two separate regions of the NLRB. Through negotiations with the counsel for the General Counsel of the NLRB and counsel for IBEW Local 1228, S&H achieved a favorable settlement in an amount far below conservative estimates of the expected cost of initial litigation of the charges in an unfair labor practice trial.

B. General Litigation

(1) During the Final Application Period, Adelphia was sued by Digimax, Inc. and two other entities for RICO, fraud and other claims based on Adelphia’s delivery of thousands of allegedly defective digital set top boxes to the plaintiffs. The case was originally filed in Pennsylvania but was subsequently transferred to Federal Court in Colorado on Adelphia’s motion. Upon the transfer of the case to Colorado, S&H entered its appearance in the case and began defending Adelphia. Plaintiffs sought in excess of \$3,000,000 in lost profit damages plus punitive damages and attorneys fees.

(2) During the Final Application Period, S&H drafted and negotiated a scheduling order, attended scheduling conferences, drafted a confidential settlement statement, and attended a settlement conference as required by the Court. S&H also wrote a written demand that plaintiffs amend their pleadings to drop their RICO claim under threat of sanctions.

Based on this written demand, plaintiffs dismissed their RICO claim. The remaining claims were based on state law and thus federal jurisdiction is based solely on diversity of citizenship.

(3) During the Final Application Period, S&H conducted substantial research into plaintiffs' claims, conducted investigative interviews of various witnesses, including interviews of warehouse employees located in the various warehouses involved in the transaction at issue. S&H reviewed thousands of pages of documents in preparation for depositions and trial.

(4) The parties engaged in protracted negotiations and demands regarding the scope of discovery and each parties' objections to the others' discovery. S&H drafted and responded to numerous letters and held numerous meet and confer conferences related to these disputes.

(5) S&H served and responded to substantial written discovery requests and produced thousands of pages of documents. S&H also prepared for, noticed and took the depositions of Michelle Medley and Christine Medley, both of plaintiff Medley, as well as depositions of the presidents of Cable Equipment Locators, Inc. and Digimax, Inc. S&H also prepared for and defended depositions of key employees, Marianne Kio and Steve Riley. Each of these depositions required travel and in many cases in-person interviews and witness preparation.

(6) S&H successfully moved to amend the original scheduling order to permit additional discovery, amended its Rule 26(a)(1) disclosures and opposed the plaintiffs' motion to amend its complaint.

(7) Plaintiffs' failure to cooperate in discovery resulted in S&H filing a motion to compel as well as a motion for sanctions for plaintiffs' failure to appear at previously noticed depositions and their refusal to respond to discovery. These motions were granted and sanctions in the amount of \$1,005 were credited to the client's account. In connection with this effort, S&H drafted motions and affidavits, reviewed and responded to plaintiffs' opposition papers, submitted reply briefs and argued at a hearing.

(8) S&H researched and prepared a draft motion for summary judgment to be filed following the close of discovery. At the same time, Adelphia opened complex settlement negotiations that ultimately resulted in the settlement of the case in November 2005. S&H not only negotiated the settlement of the disputes but also negotiated and drafted the transaction

documents that documented a complex agreement pursuant to which the parties agreed to work together over an extensive period to sell used cable equipment assets to the plaintiffs. This settlement required ongoing monitoring and advice through February 2006. S&H also worked with Adelphia's bankruptcy counsel to obtain bankruptcy court approval of the settlement.

(9) This case was staffed efficiently and cost effectively with one member, one associate, and the assistance of a paralegal where that proved most efficient.

(10) During the Final Application Period, S& H also worked on the matter Adelphia v. Falcon Cable, a case filed by Adelphia in United States District Court for the District of Colorado. In that case, Adelphia filed suit under the federal Cable Act and local municipal law claiming that Falcon Cable was illegally conducting business within the City of Colorado Springs, Colorado, without the required municipal franchise. Adelphia engaged in discovery and motions practice with the defendant. Ultimately the matter was resolved when defendant cancelled its contracts within the City and began seeking a franchise with the City. Falcon then moved to dismiss the case on the grounds of mootness and the case was dismissed.

(11) Also during the Final Application Period, Adelphia was sued in Denver District Court by Cable Plus, a cable construction company, relating to work done by Cable Plus for Adelphia in Northern California. S&H conducted factual inquiry, prepared an answer and counterclaim, commenced collection of documents and factual support. S&H negotiated motions for stay of the proceedings pending settlement negotiations, reviewed damages claims by plaintiff, reviewed and analyzed documents provided by witnesses, drafted and revised a settlement analysis for plaintiffs as part of the settlement negotiations, and investigated settlement opportunities. The case is currently in the early discovery stage.

(12) Finally, during the Final Application Period, Adelphia was sued by Falcon Cable in El Paso County District Court relating to alleged cuts and interference with Falcon Cable's infrastructure in El Paso county. S&H conducted factual investigation, collected documents related to the claims, conducted numerous witness interviews, prepared initial disclosures and an answer to the plaintiff's complaint. The case is in the early discovery phase and settlement negotiations are ongoing.

(13) These three additional cases were efficiently staffed with work done by associates and paralegals where practical.

C. Franchise/Regulatory Issues

(1) During the Final Application Period, together with CRB, S&H assisted the Debtors in analyzing the franchises that were entered into after the filing of the bankruptcy petition by the Debtors to determine whether consent would be required upon transfer or change of control of the franchise upon the Debtors' emergence from bankruptcy. The work involved reviewing the provisions of the franchises that related to transfer or change of control of the franchise for each of the approximately 180 post-petition franchises and preparing a summary matrix showing the results of the analysis.

(2) During the Final Application Period, together with CRB, S&H assisted the Debtors in updating its existing franchise database with respect to information concerning the transfer provisions for all of the approximately 2,800 written franchises held by the Debtors. In performing this task, S&H assisted in developing a paradigm of the types of the transactions that would require consent by the franchising authorities and other information that would be needed by the Debtors in the event of a transaction involving a transfer or a change of control of a franchise. S&H also assisted in establishing the information that would be captured in the database with respect to each franchise and these transfer provisions. S&H assisted in preparing training materials and guidelines for performing the work. All of these services were performed at the company's offices on a very short deadline, which required work on nights and weekends.

(3) During the Final Application Period, S&H assisted the Debtors in identifying and analyzing discrepancies among various company sources of data with respect to (a) the legal entity identified as holding the franchise, (b) the community unit identification number assigned by the Federal Communications Commission for each franchise operating area, (c) the information concerning the physical identification number and (d) the legal entity associated with the internal company cost code for the franchise area for each of the approximately 2,800 franchises held by Adelphia and making recommendations as to the action to be taken with respect to inconsistencies found as a result of the analysis. S&H also performed additional analyses requested by the company with respect to the data provided. At the Debtor's request, S&H agreed to perform these services at a blended rate of \$200 per hour for all project personnel other than the supervising member, resulting in a savings to the Debtors and their estates of \$46,779.50. The services were primarily performed at the company's offices under

supervision of company executives. Because the Debtors imposed a very short deadline, S&H personnel were required to perform these services on nights and weekends.

(4) During the Final Application Period, S&H assisted the Debtors in an extensive project on a short deadline to update their existing franchise database with respect to information concerning the effective date, expiration date and date of delivery of the 626 letters with respect to each of the approximately 2,800 written franchises held by the Debtors. The project was necessary because the Debtors had found numerous errors in the data in the database with respect to this information causing them to miss the "626 window" that preserved the Debtors' franchise renewal rights. The project involved analyzing the terms of each franchise to determine the effective date, term and expiration date; reviewing the franchise file to determine if a 626 letter was sent; and comparing that information to the information in the Adelpia database to determine if corrections were necessary. Because the project had to be error-free, the preliminary analysis was checked by more experienced attorneys for accuracy before the analysis was completed. The project also involved identifying documents that were missing from the files that were necessary for the analysis and requesting those from regional personnel of the Debtors; and analyzing the documents when received. Because the project involved substantial paralegal/administrative tasks, such as logging files in and out from and to the Debtors, proofreading and other tasks, administrative assistants dedicated to the project were used in lieu of having paralegal staff perform these services, which resulted in substantial savings to the Debtors.

(5) During the Final Application Period, S&H assisted the Debtors in auditing community unit information in the Debtor's database and FCC records.

(6) During the Final Application Period, S&H assisted the Debtors in franchise matters related to the proposed sale of the company's assets, including the following: (i) assisted in preparation of Forms 394 to be sent to franchising authorities requesting consent to transfer the franchise; (ii) determined the number of consents that might be required; (iii) determined whether consent was required for such transfer; (iv) analyzed the information to be provided in the consent application; (v) analyzed and prepared additional information required to be included in the Form 394; (vi) analyzed whether consent would be required to transfer franchises owned by the Rigas family to the Debtors; (vii) researched the enforceability of rights of first refusal in connection with such sale; (viii) assisted in preparation of responses to

anticipated requests for information from franchising authorities in response to receipt of Form 394; (ix) analyzed the Debtor's data with compliance with requirements in franchises regarding letters of credit and bonds, and (x) prepared due diligence information for potential bidders; and (xi) participated in conference calls and other tasks with respect to monitoring status of the consents of franchising authorities to the sale of the assets.

D. Asset Sales

(1) During the Final Application Period, S&H assisted the Debtors in matters related to the sale by the company of its Puerto Rico cable television systems, including assistance with preparation of Forms 394 and Petitions to be filed with the Puerto Rico Telecommunications Regulatory Board, responding to issues raised by the franchising authority, and analyzing issues regarding transfer of pole attachment agreements.

E. Tax Issues

(1) During the Final Application Period, S&H assisted the Debtors in evaluating the Colorado state tax consequences of a sale of substantially all of their assets.

EVALUATING S&H'S SERVICES

14. As highlighted above, during the Final Application Period, S&H provided services to assist the Debtors in managing their franchises, preparing for a sale of the company, and defending litigation filed in the ordinary course of the Debtors' business.

15. "[T]he 'lodestar' method of fee calculation developed by the First Circuit, see Lindy Bros. Builders Inc. v. American Radiator & Standard Sanitary Corp., 487 F.2d 161, 167 (3d Cir. 1973), is the method to be used to determine a 'reasonable' attorney fee in all the federal courts, including the bankruptcy courts." In re Cena's Fine Furniture, Inc., 109 B.R. 575, 581 (E.D.N.Y. 1990); In re Poseidon Pools of America, Inc., 216 B.R. 98, 100 (E.D.N.Y. 1997). Accord In re Drexel Burnham Lambert Group, Inc., 133 B.R. 13, 22 (Bankr. S.D.N.Y. 1991) ("In determining the 'reasonableness' of the requested compensation under § 330, Bankruptcy Courts now utilize the 'lodestar' method").

16. "The lodestar amount is calculated by multiplying the number of hours reasonably expended by the hourly rate, with the 'strong presumption' that the lodestar product is reasonable under § 330." Drexel, 133 B.R. at 22 (citations omitted). S&H's hourly rates and fees charged are consonant with the market rate for comparable services. The hourly rates and fees charged to the Debtors by S&H are the same as (or less than) those generally charged to, and paid by,

S&H's other clients. Indeed, unlike fees paid by most S&H clients, due to the "holdbacks" of fees from prior monthly fee statements (for which the estates are not charged interest) and the delays inherent in the fee application process, the present value of the fees paid to S&H by the Debtors is significantly less than fees paid monthly by other S&H clients.

17. The hours expended by S&H were necessary. "[T]he appropriate perspective for determining the necessity of the activity should be prospective: hours for an activity or project should be disallowed only where a Court is convinced it is readily apparent that no reasonable attorney should have undertaken that activity or project or where the time devoted was excessive." Drexel, 133 B.R. at 23 (emphasis added). Moreover, in passing upon the reasonableness of hours expended, courts should be mindful of the "practical judgments, often within severe time constraints, [professionals make] on matters of staffing, assignments, coverage of hearings and meetings, and a wide variety of similar matters." Id. These judgments are presumed to be made in good faith. Id.

S&H'S REQUEST FOR FINAL COMPENSATION

18. The allowance of final compensation for services rendered and reimbursement of expenses incurred in bankruptcy cases is expressly provided for in section 330 of the Bankruptcy Code. 11 U.S.C. § 330(a)(1)(A) provides, in pertinent part, that the court may award to a professional person, including the debtor's attorney:

reasonable compensation for actual, necessary services rendered by
the . . . professional person, or attorney. . . .

The Congressional intent and policy expressed in 11 U.S.C. § 330 is to provide for adequate compensation to continue to attract qualified and competent practitioners to bankruptcy cases.

19. S&H submits that its request for final allowance of compensation is reasonable.

20. With respect to the professional services for Employment Matters, the matters were staffed with the minimum number of personnel to perform the service effectively. To the extent possible, legal research and document review has been conducted by less expensive associates and paralegals. The results achieved resulted in substantial savings to the Debtors. Moreover, S&H was the only firm performing this work

21. With respect to the professional services for General Litigation, S&H was required to quickly assemble a litigation team and educate themselves about the case upon its

transfer to Colorado. To the extent possible, legal research and document review has been conducted by less expensive associates and paralegals. Member time has primarily involved negotiations with plaintiffs, interviews, legal strategy and analysis, and the defense of key Adelphia employee depositions. To date, the results achieved have resulted in substantial savings to the Debtors. Here to, S&H was the only firm performing this work.

22. With respect to the professional services for Franchise/Regulatory matters, these services were performed primarily at the company's offices and were approved by company personnel, who were able to observe the services being performed and evaluate whether there were any inefficiencies or duplication of efforts. The work S&H did was coordinated with CRB to ensure that neither law firm duplicated the work of the other. The services rendered by S&H for Franchise/Regulatory matters, as highlighted above, required substantial time and effort, most of which occurred under substantial pressure and during nights and weekends. To the extent possible, associate and paralegals were used in lieu of members to reduce overall costs. The work performed was key to the Debtors' successful sale of the assets which resulted in a substantial benefit to the estate and its creditors.

23. With respect to the professional services for Tax Issues and Sale of Assets, the matters were staffed with the minimum number of personnel to perform the service effectively. To the extent possible, legal research and document review has been conducted by less expensive associates and paralegals.

24. The services rendered by S&H during the Final Application Period were performed diligently and efficiently. Accordingly, when possible, S&H delegated tasks to lower cost junior attorneys and law clerks or, for discrete matters, to attorneys with specialized expertise in the particular task at issue. While that approach may have required intra-office conferences or involved individual attorneys who spent only a few hours on the matter at hand, the net result was enhanced cost efficiency.

25. Although duplication of effort has been avoided to the greatest extent possible, some duplication may have occurred as a result of the intensity of the matters in which S&H was engaged, and the urgent basis upon which most of these services were rendered. However, S&H believes that any duplication of effort was de minimis, is covered by S&H's voluntary write-offs totaling \$109,338.65 as well as Fee Committee's addition requested reduction of \$81,424.34.

26. As result of the exercise of its billing judgment and agreeing to the Fee Committee's requested additional reductions, S&H has reduced the amount for its professional fees by over 7.5%.

DISBURSEMENTS

27. S&H incurred actual and necessary out-of-pocket expenses during the First Application Period in connection with the rendition of the professional services described above, in the amounts set forth in Exhibit D to all six of S&H's interim applications.⁴ By this Final Application, S&H respectfully requests allowance of such reimbursement in full.

28. The disbursements for which S&H seeks reimbursement include the following:

- (a) In-House Copy Work - S&H's practice is to charge \$0.13 per page for in-house copy work. However, S&H has determined to charge \$0.10 per page in these cases, resulting in a savings to the Debtors and their estates of \$2,534.84.
- (b) Outside Copy Work - S&H's practice is to charge outside copy work at actual cost.
- (c) Telecommunications - S&H's practice is not to bill its clients individual long distance calls, resulting in a substantial savings to the Debtors and their estates. Teleconferencing services are charged at actual cost. In the First Application Period, S&H's practice was to bill outgoing facsimile transmittals at \$2.00 per page, and not bill for incoming facsimiles. In the First Application, S&H voluntarily reduced the charge to \$1.25 per page for outgoing facsimiles in these cases. However, S&H later voluntarily determined not to charge the Debtors for outgoing faxes, and accordingly, S&H gave a *credit* of \$234.25 for such charges billed to the Debtors in the First Application. In the Second Application Period, S&H voluntarily determined not to charge the Debtors for outgoing faxes, and accordingly, S&H gave an additional *credit* of \$5.00 for such charges paid by the Debtors during the Second Application Period. In the Third Application Period, S&H voluntarily determined not to charge the Debtors for

⁴ S&H's standard practice is to treat certain expenses as having been incurred when such obligations are recorded and reflected as payable in S&H's accounting system.

outgoing faxes, and accordingly, S&H gave a *credit* of \$12.75 for such charges paid by the Debtors during the Third Application Period. In the Fourth Application Period, S&H voluntarily determined not to charge the Debtors for outgoing faxes, and accordingly, S&H wrote off \$9.00 in charges incurred on behalf of the Debtors during the Fourth Application Period.

- (d) Computer Research Charges - S&H's practice is to bill clients for LEXIS and Westlaw research at actual cost.
- (e) Travel Expenses - S&H's practice is to travel economy class and to charge travel expenses at actual cost. Travel expenses incurred in the Final Application Period were mainly for the travel by the Member responsible for all the Employment Matters to locations of preparation for trial or arbitration (preparing witnesses, pretrial conferences and document production) and labor contract negotiations.
- (f) Court Filing Fees, Service of Process; Witness Fees and Mileage; Depositions and Transcripts - S&H's practice is to charge these services at actual cost. However, in its billing discretion, S&H voluntarily determined not to charge Debtors for filing fees incurred in April 2006 and, accordingly, S&H wrote off \$150.08 of such expense.
- (g) Professional Services - Arbitration - S&H's practice is to charge Arbitrators' fees at actual cost.
- (h) Federal Express, other Postal and Delivery Services and Local Delivery Services - S&H's practice is to charge postal, overnight delivery, courier services, and local delivery at actual cost, except for regular U.S. Postal Service. It is S&H's practice not to bill its clients for deliveries via the regular U.S. Postal Service.
- (i) Supplies - S&H's practice is to bill clients for special supplies necessary for a project at actual cost. However, S&H voluntarily determined not to charge Debtors for certain of such special supplies and, accordingly, S&H wrote off \$162.61 of such expenses.

- (j) Word Processing Charges and Secretarial Overtime - While S&H's practice is to bill clients for word processing and secretarial overtime at actual cost, S&H determined not to charge for such services in these cases, resulting in a substantial savings to the Debtors and their estates. In the Second Application, S&H gave a *credit* of \$35.48 for such charges. In the Third Application, S&H gave a *credit* of \$35.48 for such charges.
- (k) Meals. S&H's practice is to allow any attorney working later than 8:00 p.m. and any legal assistants working later than 7:30 p.m. to charge a working meal to the appropriate client. The meal charge is limited to \$20 per person. However, in its billing discretion, S&H determined not to charge the Debtors for such overtime meals in these cases. Accordingly, S&H gave a *credit* of \$71.00 for such charges paid by the Debtors during the Third Application Period.

Exercising its billing judgment, S&H voluntarily reduced its request for expense reimbursement by \$3,286.55.

PROCEDURE

29. S&H has provided notice of this Final Application to: (i) the Office of the United States Trustee; (ii) counsel to the agents for the Debtors' pre-petition and post-petition bank lenders; (iii) counsel to the Committees; (iv) the Debtors; (v) the Fee Committee; and (vi) all other parties that have filed a notice of appearance in these cases prior to the date hereof.

30. No previous application for the relief sought herein has been made to this or any other court.

CONCLUSION

A. WHEREFORE, S&H respectfully requests that this Court enter an order allowing S&H:

- (a) Final compensation from the Debtors for services rendered from February 1, 2004 through February 12, 2007, inclusive, in the amount of \$2,538,325.41;

- (b) reimbursement of actual, necessary expenses incurred in connection with the rendition of such services, in the amount of \$106,481.16;
- (c) such other and further relief as may be just.

Dated: March 27, 2007

SHERMAN & HOWARD L.L.C.

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