

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

HEARING DATE: December 17,
2003

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In re: :

Chapter 11

DEWEY BALLANTINE LLP
Special International Trade
Counsel

Case Nos. 01-15288 (BRL)
through
01-15302, 01-15308 through
01-15315 (BRL)

BETHEHEM STEEL CORPORATION, ET AL., :

Final Fee Application Fees Sought
to be Allowed: \$5,278,003.69

Jointly Administered

Debtors. :
----- x

Final Fee Application Expenses
Sought to be Allowed:
\$303,645.89

Docket #: 1688

NAME OF PROFESSIONALS

AMOUNT (\$)

HOURS RATE (\$)

	HOURS	RATE (\$)	AMOUNT (\$)	
Partners				
Hirshfield	7.50	\$630.00	\$4,725.00	Hourly Rates for similar work in non-bankruptcy matters are the same.
Wolff, A W	1,950.60	\$567.00 /	\$1,205,454.60	
Angland, J	8.50	\$522.00 /	\$4,542.30	
Howell, T R	1,519.20	\$522.00 /	\$842,630.40	
Kentz, A W	2,164.60	\$486.00 /	\$1,114,224.98	
Dempsey, K M	2,253.60	\$423.00 /	\$1,006,801.65	Blended Hourly Rate: <u>\$384.27</u> (Excluding Law Clerks and Paraprofessionals)
Magnus, J R	2,189.45	\$423.00 /	\$979,092.00	
Ward, B L	1,230.40	\$409.50 /	\$516,326.40	
Subtotal	11,323.85		\$5,673,797.33	
Counsel				
Stein, M H	658.10	\$522.00 /	\$363,207.15	
Ragosta, J A	168.20	\$508.50 /	\$90,049.95	
Subtotal	826.30		\$453,257.10	
Associates				
Wymes, M	3.50	\$373.50	\$1,307.25	
Bennett, M E	0.50	\$364.50	\$182.25	
Riccardi, J	1,349.35	\$351.00 /	\$532,273.95	

Bohn, J W	176.50	\$319.50	/	\$364.50		\$61,904.25
Hamilton, P	529.90	\$319.50				\$169,303.05
Quirk, R	1,662.10	\$319.50	/	\$364.50	/	\$405.00
Sperber IV, J J	827.70	\$319.50	/	\$364.50		\$595,911.17
Andros, L	369.90	\$301.50	/	\$342.00		\$295,671.15
Gilroy, M J	2.00	\$283.50				\$125,590.50
Glaser, A V	18.30	\$283.50				\$567.00
Holmes, D	2.80	\$265.50	/	\$319.50		\$5,188.05
Yu, H	1,746.20	\$265.50	/	\$319.50	/	\$360.00
Kobeissi, K	27.00	\$247.50				\$556,772.85
Bentley, D A	51.60	\$234.00	/	\$342.00		\$6,682.50
Joneja, N	125.10	\$225.00	/	\$283.50		\$14,094.00
Friends, N	440.30	\$206.73	/	\$283.50		\$29,311.65
Coppola, M B	7.50	\$202.50				\$117,505.35
Jayaram, S	901.50	\$202.50	/	\$252.00		\$1,518.75
Palma, K L	127.10	\$202.50				\$189,864.90
Zeldovich, M S	913.50	\$202.50	/	\$252.00		\$25,737.75
Avins, J	1,166.10	\$184.50	/	\$247.50		\$196,616.25
Calabrese, D B	1,782.60	\$184.50	/	\$202.50	/	\$274,989.15
Kirsch, J L	69.20	\$184.50	/	\$184.50		\$363,537.92
LaSala, B	1,806.90	\$184.50	/	\$202.50	/	\$12,767.40
Reilly, T B	162.60	\$184.50	/	\$202.50		\$371,037.60
Rickard, N M	2,302.80	\$184.50	/	\$202.50	/	\$30,764.70
Rothenberg, L E	69.70	\$184.50	/	\$202.50		\$466,698.15
Welt, M M	852.30	\$184.50	/	\$202.50	/	\$13,851.45
Yocis, D A	421.80	\$184.50	/	\$202.50	/	\$175,188.15
Subtotal	24,511.10					\$81,935.55
						\$8,758,138.77

Economists and Trade Analysts

Noellert, W A	1,751.50	\$396.00	/	\$409.50	/	\$423.00	\$713,171.70
Bartlett, B	380.90	\$342.00	/	\$355.50			\$132,496.65
Hester, S	1,121.00	\$342.00	/	\$355.50	/	\$369.00	\$394,627.50
Hume, G	817.40	\$324.00	/	\$337.50	/	\$351.00	\$274,261.95
Lutz, R	1,141.70	\$189.00	/	\$198.00	/	\$207.00	\$225,392.40
Brown, M J	466.00	\$171.00					\$79,686.00
Biondo, S / Denenberg	812.00	\$166.50	/	\$171.00	/	\$175.50	\$138,515.40
Ramos, A	373.90	\$157.50	/	\$162.00	/	\$171.00	\$62,436.80

Richardson, B	327.50	\$157.50		\$51,581.25
Mani, A	585.40	\$135.00		\$79,890.00
Subtotal	7,020.10			\$1,900,218.05

Other Paraprofessionals

Henderson, B	163.60	\$243.00 /	\$252.00	\$40,141.80
Bowers, S	17.60	\$175.50		\$3,088.80
Kawasaki, H	552.00	\$153.00 /	\$162.00	\$89,060.00
Hishikawa, M	467.60	\$148.50 /	\$162.00	\$75,126.15
Roberts, S B	33.30	\$148.50		\$4,945.05
Howe, R S	994.70	\$144.00		\$143,236.80
Straker, J R	12.30	\$144.00		\$1,880.00
Kajiwara, K	85.10	\$139.50		\$11,871.45
O'Connor, K	239.25	\$139.50 /	\$148.50	\$34,558.89
VanHeyningen, Z	915.60	\$135.00		\$123,619.50
Price, K E M	4.30	\$130.50 /	\$139.50	\$568.35
Guthrie, C	10.70	\$126.00		\$1,348.20
Murphy, M E	827.00	\$121.50		\$100,480.50
Proud, D	7.30	\$121.50		\$886.95
Broen, F	1,781.20	\$117.00 /	\$121.50	\$215,048.37
Holland, M P	89.50	\$112.50		\$10,068.75
Littlejohn, K	564.05	\$112.50		\$63,483.75
Ray, L	118.80	\$112.50		\$13,365.00
Robinson, C H	1,439.25	\$112.50 /	\$120.00 /	\$172,156.65
Dixon, M	458.60	\$108.00 /	\$112.50	\$49,747.95
Harden, M G	273.80	\$108.00 /	\$112.50	\$30,513.15
Kilik, M N	103.60	\$108.00 /	\$112.50	\$11,430.00
Marzelli, A	221.00	\$108.00 /	\$112.50	\$23,985.00
Bhada, P	71.70	\$99.00 /	\$108.00	\$7,477.20
Boger, A	340.80	\$99.00 /	\$108.00	\$36,614.70
Carter, S	1,485.70	\$99.00 /	\$108.00	\$157,812.30
Coakley, T	537.00	\$99.00 /	\$108.00 /	\$61,744.50
Hemnani, R	408.50	\$99.00 /	\$121.50	\$44,885.25
Jinkiri, M	653.50	\$99.00 /	\$108.00 /	\$68,798.25
Kaufman, L	400.30	\$99.00 /	\$108.00	\$42,269.40
Kim, Y	283.50	\$99.00 /	\$108.00	\$29,241.00
Lee, K	501.50	\$99.00 /	\$108.00	\$52,695.00

Martin, S	116.50	\$99.00	/	\$108.00	\$12,348.00
Park, J	1,465.85	\$99.00	/	\$112.50	\$160,763.85
Ranck, C	168.00	\$99.00	/	\$108.00	\$16,830.00
Salgado, V	585.00	\$99.00	/	\$108.00	\$61,902.00
Smith, D A	680.30	\$99.00	/	\$112.50	\$74,487.15
Taylor, S K	588.50	\$99.00	/	\$121.50	\$66,237.75
Thomas, M W	28.50	\$99.00			\$2,821.50
Ware, J W	1,027.85	\$99.00	/	\$108.00	\$111,188.70
Welch, N	1,472.20	\$99.00	/	\$108.00	\$156,265.20
Brownell-Forschner, B	155.00	\$90.00	/	\$99.00	\$13,950.00
Morrison, L	28.40	\$67.50			\$1,917.00
Wasicek, J	96.00	\$67.50			\$6,480.00
Subtotal	26,787.35				\$4,745,640.16

Steel Coalition Grand Total

70,468.70

\$21,531,051.41

Bethlehem Steel Corporation Share

\$5,278,003.69

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:)	
)	Chapter 11 Case Nos.
BETHLEHEM STEEL CORPORATION,)	01-15288 (BRL) through
<u>et al.</u>)	01-15302, 01-15308 through
)	01-15315 (BRL)
Debtors.)	(Jointly Administered)
)	

FINAL APPLICATION FOR ALLOWANCE OF COMPENSATION
OF DEWEY BALLANTINE LLP FOR SERVICES RENDERED AS SPECIAL
INTERNATIONAL TRADE COUNSEL TO THE DEBTORS
AND FOR REIMBURSEMENT OF EXPENSES AND DISBURSEMENTS

TO: THE HONORABLE BURTON R. LIFLAND,
UNITED STATES BANKRUPTCY JUDGE

Dewey Ballantine LLP (“Dewey Ballantine” or the “Applicant”) hereby submits this final fee application (the “Application”) pursuant to sections 330 and 331 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”) and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), seeking entry of an order (i) granting final allowance and directing payment for services rendered during the period from October 15, 2001 through and including February 28, 2003 (the “Fee Period”) as special international trade counsel to the above-captioned debtors and debtors-in-possession (collectively, the “Debtors” or “Bethlehem Steel”) and (ii) granting final allowance and directing payment of that portion of previously requested compensation that was subject to a holdback (the “Holdback”) during such period. In support of this Application, Dewey Ballantine respectfully represents as follows:

I. INTRODUCTION

1. On October 15, 2001 (the “Petition Date”), each of the Debtors filed a petition for relief under Chapter 11 of the Bankruptcy Code. Pursuant to an Order

on the Petition Date, the Debtors' cases are being jointly administered for procedural purposes only.

2. On October 23, 2001, the United States Trustee appointed an official Committee of Unsecured Creditors (the "Committee"). No trustee or examiner has been appointed in these cases.

3. The Debtors have continued in possession of their respective properties and have continued to operate and manage their businesses as debtors-in-possession since the Petition Date pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. On December 21, 2001, the Debtors filed a motion seeking the retention of Dewey Ballantine (the "Motion"). On January 4, 2002, the Court entered an Order authorizing the retention of Dewey Ballantine (the "Dewey Retention Order"), nunc pro tunc to October 15, 2001, as special international trade counsel to the Debtors to perform those services described in the Motion and the Affidavit of a member of Dewey Ballantine submitted in support of such Motion and such other services as the Debtors may request. A copy of the Dewey Retention Order is attached hereto as Exhibit "A".

5. This Application has been prepared in accordance with the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Under 11 U.S.C. § 330, made applicable to cases pending in the Southern District of New York by the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases (the "Guidelines").

6. On the Petition Date, the Debtors filed a motion seeking the approval of certain procedures for monthly compensation and reimbursement of expenses

of professionals, and on the same day, the Court entered an Order approving such motion (the "Fee Procedures Order"). In accordance with the Fee Procedures Order, professionals retained in these cases were directed to serve a monthly statement of fees and expenses upon the Debtors, counsel for the Debtors, counsel for the pre-petition lenders, counsel for the post-petition lenders, counsel to all statutory committees and the United States Trustee. If no objections were made to such statement, the Debtors were directed to pay eighty percent (80%) of the fees (with a 20% holdback (the "Holdback") and one hundred percent (100%) of the expenses identified in each monthly statement. Also, each professional was directed to serve and file with the Court approximately every 120 days, an application for interim or final Court approval and allowance, pursuant to Sections 330 and 331 of the Bankruptcy Code (as the case may be), of the compensation and reimbursement of expenses requested.

II. BACKGROUND

7. In accordance with the Procedures Order, Dewey Ballantine submitted an application seeking allowance of fees and expenses for each of the five (5) previous fee periods; and the Court allowed such fees and expenses as follows:

<u>Docket No.</u>	<u>Fee Period</u>	<u>Fees Requested¹</u>	<u>Expenses Requested</u>	<u>Fees Allowed</u>	<u>Expenses Allowed</u>
413	October 15, 2001 through and including January 31, 2002	\$1,401,518.39	\$105,179.73	\$1,121,214.71	\$105,179.73
624	February 1, 2002 through and including May 31, 2002	\$1,484,008.04	\$102,785.23	\$1,187,206.43	\$102,502.25
855	June 1, 2002 through and including September 30, 2002	\$1,352,273.41	\$52,741.48	\$1,081,818.73	\$52,741.48
974	October 1, 2002 through and including January 31, 2003	\$991,368.43	\$41,774.87	\$793,094.74	\$41,774.87
1291	February 1, 2003 through and including May 31, 2003 ²	\$48,835.42	\$1,164.58	\$39,068.34	\$1,164.58

8. During the Fifth Fee Period (February 1, 2003 to May 31, 2003), the Debtors notified Dewey Ballantine that as of March 1, 2003 Debtors would no longer be in a position to participate in the coalition of United States producers of flat-rolled carbon steel products (the "Coalition"), of which Debtors were a member, and to which Applicant was retained as special international trade counsel. As such, Dewey Ballantine is now submitting this final fee application.

¹ Prior to the Petition Date, the Debtors requested, in light of the nature of these cases, that Dewey Ballantine accept a ten percent discount for its work performed on the Debtors' behalf. Dewey Ballantine agreed and this total reflects a discount of ten percent from Dewey Ballantine's normal billing rate. By this application, therefore, Applicant seeks its customary fee discounted by ten percent. The amounts requested reflect this ten percent discount.

² During the Fee Period, Bethlehem terminated its relation with Applicant effective March 1, 2003. On March 19, 2003, Applicant submitted a monthly fee statement for services rendered during the month of February 2003, requesting fees totaling \$69,795.21. The Debtors reimbursed payment of fees and expensing totaling \$50,000 (\$48,835.42 in fees). Pursuant to an agreement between Applicant and Debtors, Applicant is only requesting payment of fees in the total amount of \$48,835.42 for the month of February 2003, a reduction of \$20,959.79.

III. RELIEF REQUESTED

9. Applicant submits this Application seeking allowance of final compensation in the amount of \$5,278,003.69 for the professional services rendered as special international trade counsel to the Debtors and reimbursement of expenses and disbursements in the amount of \$303,645.89 incurred during the Fee Period in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Fee Procedures Order, and the Guidelines. Applicant requests entry of an order directing payment by the Debtors of the outstanding amount, to the extent not yet paid, which was subject to the Holdback. This Application is made without prejudice to Applicant's right to seek further interim allowances of compensation and a final allowance of compensation at the end of these cases.

10. All of the professional services for which compensation is being sought were rendered solely on behalf of the Debtors in connection with these cases and not on behalf of any committee, creditor or other party.³

11. Applicant has maintained detailed records of the time expended in rendering the professional services performed on behalf of the Debtors in these cases. Such time records were generated contemporaneously with the performance of the professional services described therein and in the ordinary course of Applicant's practice. The individual time records were recorded by the attorney, economist, trade analyst, statistician or legal assistant who rendered the particular services described. Annexed

³ The Applicant rendered these services on behalf of a coalition (the "Coalition") of United States producers of flat-rolled carbon steel products consisting of Bethlehem Steel Corporation, National Steel Corporation, and United States Steel Corporation. As set forth above, Bethlehem Steel exited the Coalition effective March 1, 2003. The total fees and expenses incurred on behalf of the Coalition are allocated among the members of the Coalition by ratios calculated in accordance with a method upon which the members agreed. Bethlehem Steel's share in the fees and the expenses amounts to \$5,278,003.69 and \$303,645.89, respectively.

hereto as Exhibit “B” is a schedule which shows a summary of the hours worked, the hourly billing rates and the total charges of each professional and paraprofessional performing services in this matter. The time entries for the Fee Period, which are voluminous and have been submitted to this Court previously as exhibits to the Interim Fee Applications, are incorporated by reference. The chart above lists the docket entry where the Interim Fee Applications can be found.

12. Applicant's records reflect that, during the Fee Period, attorneys, economists, trade analysts, statisticians, clerks and legal assistants rendered an aggregate of 70,468.70 hours of legal, economic, foreign market research, and public policy-related services to the Debtors. These services represent a total charge, less the discount, of \$5,278,003.69 .

13. Applicant also maintains records of all necessary expenses and disbursements (collectively, the “Expenses”) incurred by Applicant in connection with the performance of its services. The amount of Expenses incurred by Applicant on behalf of the Debtors during the Fee Period total \$303,645.89. The breakdown of expenses for the remainder of the Fee Period, which are voluminous and have been submitted to this Court previously as exhibits to the Interim Fee Applications, are incorporated by reference. The chart above lists the docket entry where the Interim Fee Applications can be found.

14. Section 330 of the Bankruptcy Code authorizes bankruptcy courts to award professionals, employed by a debtor under section 327 of the Bankruptcy Code, “reasonable compensation” for actual and necessary services rendered to the debtor by such professionals. Under section 330 of the Bankruptcy Code, the reasonableness of the compensation sought by a professional is determined by consideration of the nature,

extent and value of such services, taking into account, inter alia, the following: (a) the time spent on such services; (b) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the task; and (c) the cost of comparable services for non-bankruptcy cases.

15. Applicant respectfully submits that the professional services which it has rendered and the Expenses that it incurred on behalf of the Debtors were necessary and have resulted in substantial benefits to the Debtors. Set forth below is a summary of the services provided by Applicant to the Debtors during the Fee Period. Based on an analysis of each of the foregoing and other relevant factors, Applicant respectfully submits that the compensation sought in this Application is reasonable.

Services Rendered

16. During the Fee Period, Applicant rendered professional legal, economic and foreign trade research-related services to the Debtors. In general, Applicant has been involved in the following activities on behalf of the Debtors:

A. Trade Litigation – Legal Services

17. During the Fee Period, Applicant's representation of the Debtors was limited to certain international trade matters. During the Fee Period, Applicant has represented the Debtors with respect to appeals and administrative and five-year reviews based on initial requests for the imposition of antidumping duties (“AD”) and countervailing duties (“CVD”) on various imported steel products submitted to the U.S. Government in 1992, 1996, 1998, and 1999 by the Debtors and other petitioners⁴

⁴ Co-petitioners were AK Steel Corp.; Geneva Steel; Gulf States Steel; Laclede Steel Co.; LTV Steel Co., Inc.; National Steel Corporation; Sharon Steel Corp.; USX Corp./U.S. Steel Group; Lukens Steel Company; Inland Steel Industries, Inc.; and Warren Consolidated Industries, Inc.

(collectively, the “Petitioners”). During the Fee Period, Applicant has also represented Bethlehem Steel with respect to investigations based on an initial request of Bethlehem Steel and other petitioners⁵ (“Cold-Rolled Steel Petitioners”) to the U.S. Government to impose AD and CVD duties on imported cold-rolled steel products.

18. The relief sought by the domestic steel producers was and is the imposition of *ad valorem* duties on imports of the subject merchandise to offset the margin of dumping and/or the rate of subsidization. AD and CVD duties are assessed against entries of the subject merchandise by the U.S. Customs Service (“Customs”) upon liquidation, and are paid by the importer of record, which in many cases will be a person or entity that does not produce the subject merchandise and is not a party to the investigation. Following an affirmative preliminary determination of dumping or subsidization, Customs suspends liquidation of entries of the subject imported merchandise and requires the importer of record to post a cash deposit or bond equal in amount to the *ad valorem* rates set in the preliminary determination. If an affirmative final finding is made by the U.S. Department of Commerce (the “Commerce Department”) with respect to dumping or subsidization, as the case may be, and a final affirmative finding is made by the U.S. International Trade Commission (the “Commission”) that such dumped or subsidized imports have materially injured a U.S. industry, the Department will issue an AD or CVD duty order as appropriate. Upon entry of an AD or CVD duty order, the importer of record is liable for duties on *ad valorem* rates calculated in the final affirmative AD or CVD determination. The duties may

⁵ Co-petitioners are United States Steel Corporation; National Steel Corporation; the Independent Steel Workers; Gallatin Steel Company; IPSCO Steel Inc.; Nucor Corporation; Steel Dynamics, Inc. and Weirton Steel Corporation. Dewey Ballantine, along with co-counsel Skadden, Arps, Slate, Meagher & Flom, represents Bethlehem Steel Corporation, National Steel Corporation, and United States Steel Corporation.

subsequently be continued, revoked, adjusted upward or downward, or otherwise modified, by the Commerce Department and the Commission following administrative and five-year reviews that are conducted from time to time after the final determination, based on changes in the level of dumping or subsidization, or on the magnitude and likelihood of injury suffered by the domestic industry, as the case may be.

19. To the extent Petitioners were successful in the AD and CVD investigations, the result was the imposition of *ad valorem* duties on the importation of certain cut-to-length carbon steel plate, as well as hot-rolled, cold-rolled and corrosion-resistant carbon steel flat products, which compete with Bethlehem Steel's products. The net effect of the investigations has been to enhance Bethlehem Steel's sales opportunities and to diminish the prospect that Bethlehem Steel will be injured by unfairly traded foreign steel.

20. Administrative reviews of existing AD and CVD orders were commenced by the Commerce Department with respect to products from various countries and were ongoing during the Fee Period. The goal of Petitioners' participation in the review process is to minimize any potential AD and CVD duty reductions. As the result of completion of an administrative review, the Commerce Department will assess AD and CVD duties on entries of the merchandise manufactured by the foreign producer during the period of review based on the actual margin of dumping or subsidization during that period, and will require the posting of a cash deposit equal to that margin of dumping for all future entries of the merchandise sold by the foreign producer.

21. Five-year reviews of existing AD and CVD orders were commenced by both the Commerce Department and the Commission with respect to products from various countries and were ongoing during the Fee Period. The results of

such reviews determine whether the existing orders will be continued or revoked. The goal of Petitioners' participation in such reviews is to prevent potential revocation of AD and CVD duty orders, where the revocation is likely to lead to recurrence of dumping, subsidization, or the injurious effects to the domestic industry, as the case may be.

22. Dewey Ballantine appeared during the Fee Period on behalf of domestic steel producers, including the Debtors, in appeals of Commerce Department and Commission determinations to the U.S. Court of International Trade and the Court of Appeals for the Federal Circuit. Additionally, Dewey Ballantine rendered services to the Debtors and other domestic steel producers in matters related to foreign governments' challenges to certain CVD measures under the World Trade Organization ("WTO") Dispute Settlement process. These appeals and challenges have been taken with respect to specific issues relating to the determination of the margin of dumping or subsidization, or the magnitude and likelihood of the injurious effects of imported steel products, as the case may be, and will potentially affect the AD or CVD margin ultimately established, as well as the continuation of the AD or CVD order.

23. Under the Continued Dumping and Subsidy Offset Act ("CDSOA"), the duties collected by Customs under an AD or CVD order are distributed to the petitioners. Dewey Ballantine performed various tasks in order to ensure that the duties imposed under the existing AD and CVD orders are collected at the correct rate and distributed accordingly, where appropriate. In addition, Dewey Ballantine rendered services to the Debtors and other domestic steel producers in matters related to WTO proceedings commenced by foreign governments challenging the CDSOA.

24. Separately, in June 2001 President Bush directed the United States Trade Representative ("USTR") to request the initiation of an investigation of injury to

the U.S. steel industry by the International Trade Commission under Section 201 of the Trade Act of 1974 (“Section 201”). The International Trade Commission determined unanimously that the flat-rolled steel industry, of which Bethlehem Steel is a part, has been seriously injured by imported steel. This finding allowed the President to order measures designed to counter the adverse effects that imported steel cause to the domestic steel industry. On March 5, 2002, the President announced significant tariffs against key product lines of Bethlehem Steel. The remedy has enhanced Bethlehem Steel's sales opportunities and diminished the prospect that Bethlehem Steel will be injured by foreign steel imports. An important aspect of the tariff measures is that the Administration may exclude certain products from the coverage of the tariffs where it deems warranted. Depending on the number and scope of the exclusions, the beneficial impact of the tariffs to the Debtors could be substantially mitigated. During the Fee Period, several requests for such exclusion were submitted by various parties. In order to minimize the scope and number of such product-specific exclusions, Applicant analyzed and responded to a substantial portion of the requests on a case-by-case basis. During the Fee Period, Dewey Ballantine professionals expended significant time in connection with the exclusion process and other matters related to representation of Bethlehem Steel in the Section 201 proceedings before the International Trade Commission, the Department of Commerce, and the Office of the United States Trade Representative. Dewey Ballantine also worked to assist Administration officials in formulating and implementing response strategies to WTO challenges to the Section 201 trade remedy measures.

B. Trade Litigation – Economic Services

25. A group of economists, trade analysts, statisticians, and other paraprofessionals provides economic consulting services and trade analysis that is an

integral part of Applicant's representation of Bethlehem Steel in international trade matters. This support work extends from statistical and econometric research in trade litigation to assistance in preparing analytical studies and materials used in the public forum to advocate the steel industry's trade policy interests.

26. During the Fee Period, Dewey Ballantine's economic staff was utilized for both litigation and trade policy matters, including the Section 201 proceeding and litigation before the Commerce Department, the U.S. International Trade Commission, and courts.

27. The Section 201 investigation initiated by President Bush has resulted in significant tariffs benefiting Bethlehem Steel's main product lines. The President initiated this investigation because of the continuing problem of low-priced foreign steel that seriously injured the domestic steel industry. Applicant's economic staff performed an important role in the litigation of this investigation and the public policy debate. Services during the Fee Period included: (1) analysis and processing of data for Section 201-related matters; (2) substantial data analysis to prepare presentation and briefing materials used in meetings with Administration officials; and (3) technical analysis of product specifications and related quantitative analysis, used in response to numerous parties' requests for exclusion of their products from the Section 201 trade remedy measures.

28. Support for the trade litigation activities undertaken on behalf of Bethlehem Steel during the Fee Period was provided by the economic staff through analysis of various steel import and price data.

C. Trade Litigation – Foreign Market Research

29. The Applicant's ability to identify and document foreign anticompetitive practices -- such as government subsidies to foreign steel companies, cartel arrangements by foreign producers, and other activities by foreign governments and manufacturers aimed at protecting their home markets -- is instrumental in supporting both the steel litigation efforts and in advocating Bethlehem Steel's interests with respect to trade policy. Specific activities in this area during the Fee Period included efforts relating to the international steel talks to achieve a reduction in global excess production capacity, foreign market research support for the Section 201 litigation, and documentation of global steel cartels and other anticompetitive practices.

30. During the Fee Period, Dewey Ballantine represented Bethlehem Steel with respect to the Administration's international negotiations with foreign governments to reduce the global excess steel producing capacity. The domestic integrated industry believes that the global excess steel capacity is largely to blame for the import crisis that has seriously injured U.S. steel companies and workers. A reduction in the global excess steel capacity will alleviate the importing pressure into the United States, and normalize the global steel trading system. Additionally, the industry has a vested interest in ensuring that multilateral negotiations are not used to weaken the existing antidumping and countervailing duty trade laws. The Applicant's research undertaken during the Fee Period regarding the measures of foreign governments with respect to subsidies and other assistance programs was an important step in providing the U.S. negotiators with arguments and data to respond to the arguments brought forth by their counterparts. To that end, Applicant conducted research and analysis of the causes

and status of excess steel production capacity abroad, as well as anticompetitive and other restrictive arrangements adopted by foreign steel producers and governments.

D. Public Policy

31. Dewey Ballantine's trade litigation activities before the various Administrative branches and federal courts are supplemented by advocating the domestic integrated producers' interests before key Administration officials and Members of Congress. During the Fee Period, Applicant continued to play an active role in promoting legislation that is favorable for Bethlehem Steel's interests. The severe steel import problem occurring during the Fee Period required substantial efforts geared towards Congress and the Administration to explain the nature of the problem and to raise support for administrative and legislative solutions. To protect the domestic integrated producers' interests in the public policy area, Applicant worked in close coordination with Bethlehem Steel's and the other domestic integrated producers' representatives (the "Representatives"). Examples of activities in the legislative and executive branch area included efforts relating to raising Congressional and public support for the Section 201 trade remedy; preparing materials and briefing steel company officials for Congressional hearings regarding steel trade issues; promoting various trade law proposals; developing a legislative defense to the numerous WTO cases brought against U.S. trade relief measures; developing strategy to protect the U.S. fair trade laws in international negotiations; and responding to the numerous requests for information from Congressional members, officials of the Administration, as well as various think tanks and the media.

32. During the Fee Period, Applicant prepared and distributed materials summarizing the domestic producers' key arguments in the Section 201 debate,

in particular those tailored to minimize the potential negative effects of product-specific exclusions to Bethlehem Steel and other domestic steel producers. In preparation for meetings between steel company CEOs and Administration officials, Applicant prepared talking points and briefed steel company officials on the pertinent issues. Applicant also worked with the companies' Representatives to prepare responses to the allegations put forth by various consumer groups and foreign interests who mounted a vigorous lobbying effort to force the Administration to reduce the level of the relief granted to the domestic industry. These materials were prepared with the support and analysis of the economic and foreign market research teams.

33. During the Fee Period, Applicant also worked to develop a legislative defense to the numerous WTO cases brought against U.S. trade relief measures. Applicant's efforts in this respect were aimed at introducing a provision to U.S. trade law diminishing the possibility that U.S. trade relief measures beneficial to the Debtors will eventually be lifted as a result of an adverse ruling by a WTO Dispute Settlement Panel. Specific tasks undertaken during the Fee Period in connection with such efforts included conducting research, drafting and circulating memoranda summarizing the results of such research and analysis, and assisting in conveying the Debtors' and other domestic steel producers' views on the impacts of adverse WTO rulings to U.S. legislators and their staff.

34. During the Fee Period, Applicant routinely responded on behalf of the domestic integrated producers for requests for information related to various policy issues from the media, Members of Congress, and Administration officials. Frequently, these requests were made by the various parties to gain a better understanding of the

issues, and to respond to arguments brought forth by parties representing the interests of those opposed to the imposition of relief for the domestic industry.

35. During the Fee Period, Applicant also engaged in efforts to advocate Bethlehem Steel's position that multilateral negotiations must not be used to weaken existing trade laws such as the antidumping and countervailing duty laws. Applicant closely monitored the developments and provided updates to steel company officials. Applicant also communicated with various government officials who represent the United States' in ongoing multilateral trade negotiations in order to convey the views of the domestic steel industry on these matters.

36. During the Fee Period, Dewey Ballantine's work relating to the international government-to-government discussions regarding the elimination of global inefficient and excess steelmaking capacity included participating in meetings and holding conferences with USTR and Commerce Department officials in preparation for the OECD steel talks. Applicant briefed the officials on past capacity discussions in the steel sector, criteria for identifying uneconomic capacity, and the means by which the United States can obtain market-driven outcomes. Applicant briefed steel company officials on the progress of the OECD meetings, followed-up with the Administration officials, and responded to inquiries from the media and policy institutions advocating U.S. steel producers' positions.

37. All services rendered by Dewey Ballantine on behalf of the Debtors were performed at the request of a member of the Debtors' Law Department and have been beneficial to the Debtors' estates by reason of providing legal services of value to Debtors' businesses.

E. Retention/Fee Matters

38. During the Fee Period, Dewey Ballantine professionals performed work related to preparation, filing, and service of monthly statements and fee applications in accordance with the procedure set forth by the Fee Procedures Order and Dewey Ballantine seeks compensation in connection therewith.

Allowance of Compensation

39. Applicant hereby seeks final compensation for legal services rendered during the period from October 15, 2001 through February 28, 2003, and reimbursement of Expenses incurred during this same period. As detailed above, Applicant has rendered various extensive and valuable professional legal, economic and foreign trade-related research services to the Debtors, which services have been demanding of time, effort, and expertise. Therefore, Applicant respectfully submits that the quality of services rendered, the results obtained and the nature of these cases warrant the allowance of Applicant's request for compensation for legal services and reimbursement of Expenses for the Fee Period.

40. Section 330 of the Bankruptcy Code prescribes the general standards for determining the reasonableness of the amount of compensation sought, including interim compensation allowable under section 331 of the Bankruptcy Code. 3 Collier on Bankruptcy, ¶ 331.03 at 331-12 (15th ed. rev. 1999). Section 330(a) of the Bankruptcy Code provides for the compensation of reasonable and necessary services rendered by professionals based upon the time, nature, extent and value of the services rendered, as well as the cost of comparable services in non-bankruptcy cases.

41. The concept of strict economy of administration of cases under the former Bankruptcy Act is no longer the rule. In re Ames Dep't Stores, Inc., 76 F.3d 66,

71 (2d Cir. 1996); In re Drexel Burnham Lambert Group, Inc., 133 B.R. 13, 19-20 (Bankr. S.D.N.Y. 1991). Congress enacted Bankruptcy Code section 330 to liberalize the practice of granting allowance of compensation to professionals in bankruptcy cases, in order to ensure “that attorneys be reasonably compensated and that future attorneys not be deterred from taking bankruptcy cases due to a failure to pay adequate compensation.” Ames Dep't Stores, 76 F.3d at 72 (quoting In re UNR Indus., Inc., 986 F.2d 207, 208-09 (7th Cir. 1993)). See also In re RBS Indus. Inc., 104 B.R. 579, 582 (Bankr. D. Conn. 1989) (stating that the Bankruptcy Code provides for marketplace fees “so that the best and the brightest professionals are encouraged to practice in our bankruptcy courts”). Simply stated, fee awards in bankruptcy cases are to be commensurate with those available in other areas of law. See Ames Dep't Stores, 76 F.3d at 71; H. Rep. No. 95-595, 9th Cong., 1st Sess., 329-30 (1977).

42. Section 330 of the Bankruptcy Code provides that fees awarded to professionals must be both necessary and reasonable. In re Keene Corp., 205 B.R. 690, 696 (Bankr. S.D.N.Y. 1997). The test for determining necessity is objective, focusing on what services a reasonable lawyer would have performed in the same circumstances. In re Angelika Films 57th Inc., 227 B.R. 29, 42 (Bankr. S.D.N.Y. 1998). This test does not rely on hindsight to determine the ultimate success or failure of the attorney's actions. See id.; Keene, 205 B.R. at 696. Ultimately, “if the services of a debtor's attorney are reasonably likely to benefit the debtor's estate, they should be compensable.” Angelika Films, 227 B.R. at 42.

43. As to the requirement of reasonableness under section 330, “Bankruptcy Courts now utilize the 'lodestar' method.” Drexel Burnham, 133 B.R. at 21-22 (footnote omitted). While some courts have considered the twelve factors enumerated

in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974), when considering fee awards,⁶ “[I]t is now settled that the 'lodestar' method of fee calculation developed by the Third Circuit, is the method to be used to determine a 'reasonable' attorney fee in all federal courts, including the bankruptcy courts.” In re Cena's Fine Furniture, Inc., 109 B.R. 575, 581 (E.D.N.Y. 1990) (citation omitted).⁷

44. The lodestar is calculated by multiplying the number of hours reasonably performed by a reasonable hourly rate. Savoie v. Merchants Bank, 166 F.3d 456, 460 (2d Cir. 1999). There is a “‘strong presumption’ that the lodestar product is reasonable under [Bankruptcy Code] § 330.” Drexel Burnham, 133 B.R. at 22. Indeed, the Supreme Court has found that “the lodestar figure includes most, if not all, of the relevant factors constituting a 'reasonable' attorney's fee.” Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546, 563, 106 S.Ct. 3088, 3097 (1986). The Supreme Court has further found that the lodestar figure incorporates such factors as “‘the novelty and complexity of the issues,' 'the special skill and experience of counsel,' the 'quality of representation,' and the 'results obtained' from litigation.” Cena's Fine Furniture, 109 B.R. at 575 (quoting Blum v. Stenson, 465 U.S. 886, 898-900, 104 S.Ct. 1541, 1548-49 (1983)).

⁶ The Johnson factors are: (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal services properly; (4) the preclusion of other employment by the attorney because of acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or other circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation and ability of the attorneys; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.

⁷ A number of courts, including courts in this district, have found that the lodestar approach has replaced the Johnson method of computing attorneys' fees. See Drexel Burnham, 133 B.R. at 22 (n. 5); Cena's Fine Furniture, 109 B.R. at 581. Cf. Masterwear, 233 B.R. at 278 (“Adjustments to the 'lodestar' amount are proper only in rare and exceptional cases supported by specific evidence and detailed findings.”) (citing Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546, 565 (1986)).

A. The Time And Labor Required

45. Under the lodestar method, the first relevant factor to be considered is the number of hours devoted by Applicant to the Debtors' cases. As described above, Applicant spent numerous hours (i) analyzing the voluminous submissions and electronic data filed by the many domestic and foreign interested parties in the AD and CVD investigations and reviews, the Section 201 investigation and various court and WTO proceedings, and preparing submissions filed with the Department of Commerce, the International Trade Commission, the Office of U.S. Trade Representative, WTO Dispute Settlement Panels, and various courts; (ii) researching and analyzing foreign private and government measures that cause significant trade flow distortions in international steel trade; and (iii) working with steel company officials to promote the domestic industry's public policy agenda.

46. Applicant has endeavored to restrict the number of lawyers and other professionals actively involved in these cases and to ensure that there has been no duplication of effort by Applicant's attorneys. In addition, Applicant assigned the performance of all tasks to the least senior attorney, economist, analyst, statistician or researcher capable of performing such tasks consistent with the goal of sound legal representation. Applicant has also worked closely with the Debtors to ensure that there is no duplication of services among the Debtors' other professionals. Indeed, Applicant believes that the services it has performed, as described herein, has been complimentary to the services provided by the Debtors' other professionals.

47. In assessing the reasonableness of the number of hours devoted to these cases by Applicant, the novelty and difficulty of the issues presented should be considered. Applicant has been faced with numerous complex legal and factual issues in

the approximately 50 separate matters that were actively litigated during the Fee Period. Since the trade cases involve a large number of countries, and typically several foreign producers or exporters for each country, the issues presented differ substantially from case to case and even from producer to producer. Adding to the complexity of this type of litigation is the fact that many new legal and factual issues that are specific to a certain country and/or producer typically arise during the course of an investigation or review. This requires extensive legal and factual research, and coordination with, depending on the issue at hand, Bethlehem Steel, Petitioners, Cold-Rolled Petitioners, co-counsel, and Commerce Department, International Trade Commission, U.S. Trade Representative, and numerous court officials. As each investigation and review has a separate factual record, each case must be litigated on the unique facts pertaining to that matter. Both foreign and domestic steel producers and other interested parties that participate in the AD, CVD, Section 201, and other proceedings submit large quantities of business confidential data. Each case therefore has a separate Administrative or Judicial Protective Order, further adding to the complexity of litigating international trade proceedings.

B. Dewey Ballantine's Hourly Rate

48. As described above, “[t]he reasonable hourly rates are the prevailing rates for similar services by lawyers of reasonably comparable skill, experience and reputation in the relevant market” Masterwear, 233 B.R. at 278; see also In re Busy Beaver Bldg. Centers, Inc., 19 F.3d 833, 849 (3d Cir. 1994) (“The unambiguous policy inspiring [Bankruptcy Code] § 330(a) . . . is that professionals and paraprofessionals in bankruptcy cases should earn the same income as their non-bankruptcy counterparts”). By this Application, therefore, Applicant seeks its customary fee for similar matters at rates which are comparable to those charged by law firms of a

similar size and expertise in Applicant's relevant market. Applicant's request for reimbursement of Expenses also comports with its general policy of collection in full of all such Expenses incurred on behalf of clients in non-bankruptcy cases, as modified by the Guidelines.

49. When considering the reasonableness of a law firm's hourly fee rate, an important factor to be considered is the experience, reputation, and ability of the attorneys. Applicant, in one form or another, has been engaged in the practice of law for more than ninety years. In addition to its group of attorneys specializing in international trade and related matters, Applicant has a group of economists, analysts, statistician and researchers with a particular expertise in international trade.

50. During the Fee Period, Applicant devoted a total of 70,468.70 hours to the performance of legal services as international special trade counsel to the Debtors, representing total time charges of \$5,278,003.69.

51. Applicant also seeks approval for the reimbursement of actual and necessary expenses incurred during the Fee Period in the sum of \$303,645.89. Applicant submits that the amount of expenses and disbursements it incurred in connection with the effective and efficient performance of services was necessary and is entirely reasonable.

LBR 9013-1(b) Waiver

52. Applicant respectfully requests that the Court waive the requirement under LBR 9013-1(b) that a separate memorandum of law be filed in support of this Application. Applicant reserves the right to submit a reply memorandum of law in the event objections to the Application are filed.

Notice

53. Notice of this Application has been given to (i) the Debtors (Attn: William H. Graham, Esq. and Stephen J. Selden, Esq.); (ii) Weil, Gotshal & Manges LLP (Attn: George A. Davis, Esq.), counsel to the Debtors; (iii) Kramer Levin Naftalis & Frankel LLP (Attn: Thomas Moers Mayer, Esq.), counsel to the Creditors' Committee; (iv) Davis Polk & Wardell (Attn: John Fouhey, Esq.), counsel to the Debtors' prepetition secured lenders (v) Sidley Austin Brown & Wood LLP (Attn: Lee S. Attanasio, Esq.), counsel to the Debtors' postpetition lenders; (vi) National City Bank (Attn: Terry Graffis), member of the Joint Fee Review Committee; and (vii) Office of the United States Trustee (Attn: Tracy Hope Davis, Esq.). Applicant respectfully submits, and request that this Court so find, that no other or further notice is necessary or required.

54. Annexed hereto as Exhibit "C" are certifications required by the Guidelines.

WHEREFORE, Applicant respectfully requests the entry of an order (a) allowing Applicant final compensation for legal services rendered during the Fee Period in the amount of \$5,278,003.69 and reimbursement for Applicant's actual and necessary expenses in the amount of \$303,645.89 during the same period in connection with such services, (b) directing payment of the Holdback in the amount of \$1,055,600.74 and (c) granting such other and further relief as may be just and proper.

Dated: New York, New York
November 11, 2003

DEWEY BALLANTINE LLP

By: 

Benjamin Hoch (BH-8983)

1301 Avenue of the Americas
New York, New York 10019-6092
(212) 259-8000

and

Alan Wm. Wolff
Thomas R. Howell
1775 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Special International Trade Counsel
for Debtors and Debtors-in-Possession