

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
: :
CITYSCAPE FINANCIAL CORP., : Case Nos. 98-B-22569 (ASH)
and CITYSCAPE CORP. : and 98B-22570 (ASH)
: Jointly Administered
Debtors. :
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**APPLICATION FOR COMPENSATION
AND FOR REIMBURSEMENT OF EXPENSES**

Name of Applicant: Winthrop, Stimson, Putnam & Roberts

Authorized to Provide

Professional Services to: The Examiner, Harrison J. Goldin

Date of Retention Orders: November 10, 1998

Period for which Compensation

and Reimbursement is Sought: October 21, 1998 through November 12, 1998

Amount of Compensation Sought

as Actual, Reasonable, and Necessary: \$ 107,376.60

Amount of Expense Reimbursement Sought

as Actual, Reasonable, and Necessary: \$ 4,674.41

This is the first and only Application.

**SUMMARY OF PROFESSIONAL
HOURS AND FEES
FROM OCTOBER 21, 1998 THROUGH NOVEMBER 12, 1998**

<u>PROFESSIONAL</u>	<u>POSITION WITH WSP&R</u>	<u>YEARS OF EXPERIENCE</u>	<u>HOURLY BILLING RATE</u>	<u>TOTAL HOURS BILLED</u>	<u>TOTAL COMPENSATION</u>
STEPHEN A. WEINER	PARTNER	40	\$450.00	77.00	\$34,650.00
RICHARD L. EPLING	PARTNER	21	\$425.00	65.30	\$27,752.50
EDWARD S. COWEN	COUNSEL	36	\$425.00	14.50	\$6,162.50
DANIEL A. LOWENTHAL	ASSOCIATE	10	\$310.00	17.60	\$5,456.00
KAREN B. DINE	ASSOCIATE	4	\$278.00	22.40	\$6,227.20
ATHENA FOLEY	ASSOCIATE	1	\$205.00	25.40	\$5,207.00
LYNN RYAN	ASSOCIATE	1	\$179.00	<u>43.60</u>	<u>\$7,804.40</u>
				265.80	\$93,259.60
GRAND TOTAL OF PROFESSIONAL FEES:				\$93,259.60	
BLENDED RATE				\$350.86	

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**APPLICATION OF
WINTHROP, STIMSON, PUTNAM & ROBERTS
FOR ALLOWANCE OF COMPENSATION
AND REIMBURSEMENT OF EXPENSES**

Winthrop, Stimson, Putnam & Roberts (“Applicant” or “WSP&R”), counsel to the Examiner, Harrison J. Goldin (“Examiner”), as and for its Application for Allowance of Compensation and Reimbursement of Expenses (the “Application”) covering the period October 21, 1998 through November 12, 1998 (the “Application Period”), respectfully sets forth the following:

I. APPLICANT’S BACKGROUND

1. Applicant is a law firm with offices located, among other places, at One Battery Park Plaza, New York, New York. Applicant and its partners and associates have extensive experience nationwide in virtually all types of insolvency proceedings involving chapter 11 cases, bankruptcies, assignments for the benefit of creditors and common law composition proceedings, representing either debtors or creditors. Additionally, Applicant possesses extensive experience in litigation, securities, secured transactions, corporate law, tax law, and all aspects of business law, including structured finance. By reason of its vast experience, Applicant is recognized and respected in the areas of law involved in this case.

2. Each attorney in Applicant's firm brought his or her own individual specialized areas of expertise to this case in order to provide effective counsel on the various issues addressed by the Examiner as described more fully below. The services for which compensation is hereby sought were performed by seven (7) attorneys and five (5) paraprofessionals of Applicant during the Application Period, although the preponderance of the work was performed by Richard L. Epling and Stephen A. Weiner, two partners of the firm.

3. A schedule listing the name of each professional and paraprofessional who worked on this case during the Application Period together with his or her position at WSP&R, the year the professional was licensed to practice (if applicable), the hourly rate and hours worked by each such professional or paraprofessional, and the resulting fee (hourly rate times hours) is annexed hereto as Exhibit A.

II. DESCRIPTION OF SERVICES RENDERED

4. On October 6, 1998 Cityscape Financial Corp. and Cityscape Corp. (together the "Debtor") separately filed in this Court voluntary petitions under Chapter 11 of the Bankruptcy Code.¹ On October 7, 1998 Elliott Associates, L.P. and Westgate International, L.P. (together "Elliott") moved, pursuant to Bankruptcy Code Section 1104(c), for entry of an order appointing an examiner. On October 20, 1998, the Court held a hearing and entered an order authorizing the appointment of an examiner setting guidelines and time limits for the examiner's investigation ("Examiner Order").

¹ On October 7, 1998 an order was entered granting the Debtor's application that the cases be jointly administered. Unless otherwise indicated, the two Debtors, Cityscape Financial Corp. and its wholly owned subsidiary Cityscape Corp., are referred to collectively below as the "Debtor."

5. Pursuant to the Examiner Order, the examiner was charged with conducting an investigation and reporting on the following issues by 5:00 p.m. New York City time on November 9, 1998:

- (a) Whether the facts relating to the Debtors' restatements of their financial statements and write-downs of assets for the period beginning with the quarter ended June 30, 1996 may give rise to potential claims of the Debtors' Estates against any of the Individual Defendants (or any other of the Debtors' current and former officers and directors) and/or the Debtors' financial advisors and other professionals (a "Potential Claim").
- (b) The results of any investigations with regard to the restatements of the Debtors' financial statements and write-downs of assets performed by the Debtors, any special committee of the Debtors' boards of directors or any independent third-party.
- (c) The extent to which, if at all, any person who may be liable on a Potential Claim and who is being released under the Plan is contributing to the Plan.
- (d) The facts and circumstances with respect to alleged short sales of the Debtors' common stock during 1997 and 1998 by the Individual Defendants (or any other of the Debtors' current and former officers and directors) and/or the Debtors' financial advisors and other professionals.
- (e) The extent to which the proceeds of insurance policies of the Debtors that might cover a Potential Claim are being used to fund payments under the Plan.
- (f) The extent to which the proceeds of insurance policies of the Debtors might be available to satisfy Potential Claims.

Examiner Order at 3.

6. On October 22, 1998 the Court approved the appointment of Harrison J. Goldin as Examiner. On October 23, 1998, the Examiner sought an order from the Court authorizing him to employ Applicant as his counsel.

7. By order dated November 10, 1998, Applicant was retained as counsel to the Examiner *nunc pro tunc* to October 21, 1998, to advise and assist the Examiner in connection with his duties under the Examiner Order.

8. The Examiner initially was given a fee and expense cap budget of \$100,000 to complete his investigation and report. On November 2, 1998, the Examiner filed a motion requesting a status conference on the progress of the investigation and requesting that the Examiner's budget cap be raised to \$275,000. A hearing was held on the same day, and over the opposition of certain creditor groups and preferred stockholders, the Examiner's budget cap was raised to \$200,000.

9. On November 9, 1998, the Applicant, on behalf of the Examiner, filed the Examiner Report.

Description Of Services Rendered

10. Since its retention, Applicant has been actively involved in all aspects of the Examiner's duties under the Examiner Order. Applicant conducted interviews, reviewed documents, conducted relevant legal research, and prepared multiple drafts of the Examiner Report for the Examiner's review. Exhibit B, annexed hereto, contains detailed time entries, recorded by professionals and paraprofessionals with respect to the matters described in paragraph 5 above. Applicant believes that all of the time entries contained in Exhibit B are for necessary and appropriate services, and Applicant seeks allowance for all of those amounts.

11. In addition to the amounts in Exhibit B for services rendered to the Examiner during the Application Period, and the amounts in Exhibit C for disbursements, Applicant seeks allowance of fees and disbursements incurred subsequent to the Application Period in connection with its preparation of its own fee application, as well as the Examiner's fee application. The total fees sought in connection with the preparation of fee applications are \$3,639.50 for professional and paraprofessional services, and \$49.46 for disbursements. The fees and disbursements are detailed in Exhibit A-1, and Exhibit C-1, respectively.

12. Because of the nature of Applicant's computerized accounting and billing system, the time entries from and after November 12, 1998, which relate only to fee application activities, had to be prepared by hand and are not reflected on Exhibit A.

A. Representation of the Examiner in connection with the Examiner Order

13. As counsel to the Examiner, Applicant assisted the Examiner in all aspects of the investigation and report. As preliminary matters, Applicant drafted all appropriate papers necessary to secure the appointment of the Examiner, and all appropriate papers necessary to secure its own retention and Court approval of same.

14. Applicant was present at and conducted, along with the Examiner, all of the interviews necessary to the investigation which totaled some eighteen (18) in number. (Examiner Report at 5-6).

15. Applicant reviewed and analyzed voluminous documents and analyses produced to the Examiner by the Debtor.

16. Applicant researched legal issues necessary to the conclusions and recommendations contained in Examiner's Report. For example, the Applicant researched third-party and derivative releases in a plan of reorganization, and the existence (or nonexistence) of a private cause of action against third party broker/dealers for short-selling.

17. Finally, the Applicant provided the Examiner with a first draft of the Examiner Report and worked along with the Examiner on revisions thereto.

III. AMOUNTS REQUESTED

18. The instant Application is made pursuant to Bankruptcy Code sections 330(a), 327 and 328, the Administrative Orders of this Court dated June 21, 1991 and April 19, 1995, and in compliance with Local Rules 2016-1.

19. Applicant hereby states that it is seeking an allowance of compensation and expenses in the total amount of \$107,376.60 representing the sum of (i) necessary professional and paraprofessional services actually and reasonably rendered by Applicant as counsel for the Examiner during the Application Period in the amount of \$103,737.10 plus (ii) necessary professional and paraprofessional services actually and reasonably rendered by the Applicant in the preparation of this Fee Application and the fee application of the Examiner, Harrison J. Goldin, in the amount of \$3,639.50 plus (iii) reimbursement for necessary expenses and services actually incurred by Applicant as counsel for the Examiner during the Application Period in the amount of \$4,624.95 plus (iv) reimbursement for necessary expenses and services actually incurred by Applicant in the preparation and service of this Fee Application and the fee application of the Examiner, Harrison J. Goldin, in the amount of \$49.46.

20. During the Application Period Applicant expended a total of 265.60 professional hours and 98.90 paraprofessional hours on the Examiner's behalf in connection with this case. Applicant expended a total of 14.5 professional hours and 8.00 paraprofessional hours in preparation of the fee applications.

IV. TIME RECORDS SUPPORTING FEE APPLICATION

21. Applicant has diligently and carefully maintained records of the time expended in this proceeding, the entries of which have been made by each professional and paraprofessional rendering services herein. Except for time entries since November 12, 1998, as

explained above, each such professional's and paraprofessional's time records contain a narrative description of the services rendered for that particular day, edited for clarity, and the time records have been entered onto Applicant's on-line computer system on a daily basis.

22. Each such professional's or paraprofessional's time records also delineate the actual amount of time spent on each discrete activity during a given day. These time records are in compliance with the requirements set forth in the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. §330 and this Court's Administrative Orders dated June 21, 1991 and April 19, 1995. All of the time records entered by such professionals and paraprofessionals who have rendered services during the Application Period have been transcribed in Exhibit B.

V. PRESENTATION OF DISBURSEMENTS AND EXPENSES

23. Applicant has expended funds for necessary disbursements and expenses, in the form of photocopying expenses, telecommunications services, courier and freight expenses, messenger services, computerized research expenses, word processing services, local meal expenses and travel expenses. Applicant seeks reimbursement with respect to such actual and necessary costs and expenses paid and incurred by Applicant on behalf of the Examiner during the Application Period. A true and correct summary of such expenses, maintained by

Applicant in the ordinary course of business, is annexed hereto as Exhibit C. Support for each item for which reimbursement is sought is available upon request of the Court. ²

VI. COMPENSATION

24. This is the Applicant's first and only fee application. Applicant has not received a retainer, nor has it received payment from any source for any of the fees and disbursements requested herein.

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- a. The internal photocopying charges set forth on Exhibit C reflect the amount (based on a rate that does not exceed \$0.09 per page) charged by WSP&R that is not included in Applicant's overhead for the purpose of setting billing rates, and does not include the amortization of the cost of any investment, equipment or capital outlay.
 - b. The charge for computerized legal services set forth on Exhibit C reflects the invoiced cost for such services charged by Lexis or Westlaw.
 - c. The charges for out-going facsimile transmissions set forth on Exhibit C reflect a rate of \$1.00 per page for domestic local transmissions and \$2.00 per page for international transmissions. Applicant submits that the actual toll charges for such transmissions are not readily determinable. No expenses for incoming facsimile transmissions are being requested herein.
 - d. All charges for postage, freight, overnight delivery, courier services, and long-distance telephone toll charges set forth on Exhibit C have been reasonably incurred.
 - e. Daytime, ordinary business hour charges for word processing, library and docket personnel on staff set forth on Exhibit C are not included in Applicant's overhead for the purpose of setting billing rates, and do not include the amortization of the cost of any investment, equipment or capital outlay. No expenses for the temporary employment of additional secretarial staff are set forth on Exhibit C.
 - f. No overtime expenses for nonprofessionals and paraprofessionals are set forth on Exhibit C.
 - g. All of the charges for local meals set forth on said Exhibit C are either for dinners for professionals delivered to the office where, if the professionals or nonprofessionals dined before 7:30 P.M., they worked for at least 2 hours thereafter or for lunches delivered to the office where the professionals participated in a necessary meeting concerning the case during the meal.
 - h. The transportation charges set forth on Exhibit C were necessary to provide transportation for professionals either to their residences when they were required to work overtime until after 8:00 P.M., or when necessary to and from the Court in White Plains, New York, the Examiner's offices in midtown Manhattan or other places of business in connection with these proceedings. Because of the delay we have experienced in receiving invoices from taxi services a portion of the transportation expenses have been estimated.

VII. SUMMARY AND CONCLUSION

25. Applicant has attempted merely to summarize its services rendered for which compensation is sought. Applicant was involved in many telephonic communications, and drafting of various documents and internal memoranda, not specifically identified herein, which were required in the proper and professional handling of this case during the Application Period. Applicant has not elaborated unnecessarily on matters which were the subject of Court proceedings but has attempted to familiarize the Court with the situations which confronted Applicant's office.

26. Experience indicates that not all time spent by professionals and paraprofessionals is recorded in time records. Occasionally, professionals and paraprofessionals do not record at all, or record inadequately, time spent on legal matters. It is for these reasons that this Court should regard the aggregate of recorded hours reported herein to be a conservative total of the hours actually expended.

27. In rendering services to the Examiner, Applicant endeavored efficiently to use its time by attempting to have a continuity of professionals and paraprofessionals handling the matters with respect to this case.

28. Applicant respectfully submits that the services rendered to the Examiner were necessary under this Court's Examiner Order dated October 20, 1998, and to that extent have been of value and benefit to the Debtor's estate.

WHEREFORE, in accordance with the foregoing, Applicant respectfully requests compensation for professional services rendered and reimbursement for expenses and services incurred as counsel for the Examiner in connection with this case in the total amount of \$112,051.01

Dated: New York, New York
November 23, 1998

WINTHROP, STIMSON, PUTNAM & ROBERTS
Counsel to the Examiner

By: /s/ Richard L. Epling
Richard L. Epling
A Member of the Firm
One Battery Park Plaza
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UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re:

CITYSCAPE FINANCIAL CORP.,
and CITYSCAPE CORP.,

Debtors.

Case Nos. 98-22569 (ASH) and
98-22570 (ASH)
Jointly Administered
Chapter 11

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STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

AFFIDAVIT OF SERVICE

CHRISTA DEMEKE, being duly sworn, deposes and says:

1. I am over 18 years of age and am employed by Winthrop, Stimson, Putnam & Roberts and am not a party to this action.

2. On Monday November 23, 1998, I served true copies of the Certification of Richard L. Epling in Support of Application of Winthrop, Stimson, Putnam & Roberts, Counsel for the Examiner, Harrison J. Goldin, for Reimbursement of Fees and Expenses Pursuant To Sections 330 and 331 of the Bankruptcy Code, dated 11/23/98, Certification of Harrison J. Goldin in Support of the Examiner's Application for Reimbursement of Fees and Expenses Pursuant to Sections 330 and 331 of the Bankruptcy Code, dated 11/20/98, Application of Winthrop, Stimson, Putnam & Roberts for Allowance of Compensation and Reimbursement of Expenses, dated 11/23/98, and Application of Harrison J. Goldin For Allowance of Compensation and Reimbursement of Expenses, dated 11/20/98, all in the above captioned proceeding, by prepaid first class mail, upon those listed on the attached service list, by depositing the same in an official depository of the United States Postal Service maintained at One Battery Park Plaza, New York, New York, 10004.

/s/ Christa Demeke
Christa Demeke

Sworn to before me this
23th day of November, 1998

/s/ Brendan Hickey
Notary Public

SERVICE LIST

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