

Docket #: 3239

2003
ECS MAY 14 2003

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
MAY 13 2003
KENNETH D. GARDNER, CLERK
PS REP. - KB

In re) Case No. 02 B 49672
Conseco, Inc., et al.,) Jointly Administered
Debtors.) Honorable Carol A. Doy
)
) Chapter 11

Docket under 02 B 49672

**VERIFIED FIRST QUARTERLY AND FINAL FEE APPLICATION FOR
PROFESSIONAL COMPENSATION AND REIMBURSEMENT OF EXPENSES
OF BECKER & POLIAKOFF, P.A. AS COUNSEL TO THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS OF THE CFC DEBTORS**

Pursuant to Section 330 and 331 of Title 11 of the United States Code (*as amended*), Fed.R.Bankr.P. 2016, Rule 607 of the Bankruptcy Rules for the United States District Court and the United States Bankruptcy Court for the Northern District of Illinois, and this Court's January 2, 2003, Order (Amended Administrative) Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members (to include Exhibit A) (Item #42) (the "Interim Compensation Order"), Becker & Poliakoff, P.A., bankruptcy counsel for the Official Committee of Unsecured Creditors of the CFC Debtors (the "Committee"), in the above-captioned Chapter 11 proceeding, hereby files its First Quarterly and Final Fee Application for Allowance and Payment of Compensation and Reimbursement of Expenses, and applies for *payment* of (a) compensation in the amount of **\$141,502.49**, for reasonable and necessary legal services that Becker & Poliakoff, P.A. has rendered to the Committee, and (b) reimbursement in the amount of **\$10,101.84**, for actual and necessary expenses incurred by Becker & Poliakoff, P.A., for the First Quarterly Period, and for the entry

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of an order granting *final approval* of all of its professional fees in the amount of **\$812,592.00**, and reasonable and necessary expenses in the amount of **\$138,143.07**, during the period December 17, 2002 through the date hereof, for a grand total of **\$950,735.07**. In support of this Application, the Applicant respectfully states:

Background

1. On December 17, 2002, CONSECO, INC. ("Conseco"), CIHC, Incorporated ("CIHC") CTIHC, Inc. ("CTIHC"), Partners Health Group, Inc. ("PHG") and the CFC Debtors (collectively, the "Debtors") filed a voluntary petition for relief under Chapter 11 of the Federal Bankruptcy Code, in the Northern District of Illinois, Eastern Division.

2. On December 17, 2002 (the "Petition Date"), the CFC Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The CFC Debtors are operating their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. On January 20, 2003, this Court rendered its Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, and Deadlines in the CFC Debtors' cases.

Debtor's Business Operations

3. The CFC Debtors, and their non-debtor affiliates, had been in the aggregate, one of the largest consumer finance lenders in the United States and among the market leaders in the manufactured housing, home equity, home improvement, and private label credit card lending.

Retention of Applicant, Disclosure of Compensation and Requested Award

4. On January 3, 2003, the US Trustee appointed the Committee in the cases of the CFC Debtors. The Committee then selected Applicant as legal counsel to the Committee.

5. On, January 13, 2003, the Committee moved the Court, by Application, for approval of the employment of the Applicant (the "Application"). A hearing was held on January 29, 2003, and the Court entered the Order granting the employment of the Applicant, *nunc pro tunc* to the Petition Date.

6. Post Petition, but prior to the appointment of the Committee, Becker & Poliakoff, P.A. received two payments totaling \$8,000.00 from Millennium Partners and Commonwealth Advisors for a retainer to cover services and expenses rendered by Applicant prior to the Petition Date in connection with this matter.

7. On or about February 23, 2003, Becker & Poliakoff, P.A. filed a Motion to Withdraw as Counsel to the Official Committee citing irreconcilable differences. On March 20, 2003 the Court granted Becker & Poliakoff, P.A.'s Motion to Withdraw as Counsel to the Official Committee, *nunc pro tunc* to February 20, 2003.

8. The Applicant submits this Application, pursuant to §328, §330, §331 and §503(b) of the Bankruptcy Code, Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and the U.S. Department of Justice, Executive Office for United States Trustee's Guidelines for Reviewing the Application for Compensation and Reimbursement of Expenses Filed Under U.S.C. §330 (the "Guidelines"), and this Court's January 2, 2003, Amended Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of expenses for Professionals and Committee Members (the "Interim Order").

9. Becker & Poliakoff, P.A. performed the services for which it is seeking compensation on behalf of the Committee and not on behalf of any other creditor or other person.

10. The Applicant requests *payment* of compensation for fees and expenses in the

amount of **\$141,502.49**, consisting of:

(a) **\$7,044.15**, which is the remaining 10% holdback of **\$70,441.50**, in fees for reasonable and necessary professional services rendered by Applicant, during the First Interim Fee Application Period, See Exhibit A;

(b) **\$37,877.75**, which is the remaining 10% holdback of **\$378,777.50** in fees for reasonable and necessary professional services rendered by Applicant during the Second Interim Fee Application Period, See Exhibit B;

(c) **\$30,300.75**, which is the remaining 10% holdback of **\$303,007.50**, in fees for reasonable and necessary professional services rendered by Applicant during the Second Interim Fee Application Period, See Exhibit C; and

(d) **\$56,178.00**, which represents 100% of fees for reasonable and necessary professional services rendered by Applicant, and **\$10,101.84**, for actual and necessary costs and expenses incurred by Applicant during the Quarterly and Final Fee Application Period, which have not otherwise previously been submitted or requested by Applicant in any of its previous three Interim Applications. See Exhibit D,

for a grand total *final payment* of **\$141,502.49**.

11. Applicant is also seeking *final approval* of those legal fees incurred from the Petition Date through the filing of this Application in the amount of **\$812,592.00** for reasonable and necessary professional services rendered by Applicant to the CFC Committee, and for actual and necessary costs and expenses incurred by Applicant during the Quarterly and Final Fee Application Period incurred by Applicant during the Quarterly and Final Fee Application Period in the amount of **\$138,143.07**, for total final approved fees and expenses of **\$950,735.07**.

12. This request for allowance and payment is Applicant's First Quarterly and Final Application to the Court for compensation and reimbursement of expenses for services rendered and expenses incurred as counsel the Official Committee.

Summary of Previous Fee Applications

13. Becker & Poliakoff, P.A. submitted its First Interim Fee Application on January 31, 2003, for the period December 17, 2002 through December 31, 2002, seeking legal fees in the amount of **\$63,397.35 (90% of the \$70,441.50 of services billed)** and reimbursement for expenses in the amount of **\$1,019.18**, which has been paid to Applicant. In this First Quarterly and Final Fee Application, Applicant is seeking payment in the amount of **\$7,044.15**, representing the remaining 10% of services billed during the First Interim Fee Application. Copies of the detailed time records are attached as Composite Exhibit A.

14. On March 31, 2003, Becker & Poliakoff, P.A. submitted its Second Interim Fee Application, for the period January 1, 2003 through January 31, 2003, seeking legal fees in the amount of **\$340,899.75 (90% of the \$378,777.50 services billed)** and reimbursement for expenses in the amount of **\$33,076.48**, which have been approved and paid to applicant. In this First Quarterly and Final Fee Application, Applicant is requesting payment in the amount of **\$37,877.75**, representing the remaining 10% of services billed during the Second Interim Fee Application. Copies of the detailed time records are attached as Composite Exhibit B.

15. On April 10, 2003, Becker & Poliakoff, P.A. submitted its Third Interim Application, for the period, February 1, 2003 through February 28, 2003, seeking legal fees in the amount of **\$272,706.75, (90% of total fees of \$303,007.50)**, and reimbursement of expenses in the amount of **\$62,757.15**, which have been approved for payment but have not yet been paid. In this First Quarterly and Final Fee Application, Applicant is requesting payment in the amount of **\$30,300.75**, representing the remaining 10% of services billed during the Third Interim Fee Application. Copies of the detailed time records are attached as Composite Exhibit C.

16. Exhibit D includes fees for professional services rendered and reasonable and necessary expenses that had not been posted in Applicant's accounting system by the time of the filing of the first three interim fee applications. As such, Applicant is now requesting payment in the amount of **\$56,178.00** in fees for reasonable and necessary professional services rendered by Applicant, and **\$10,101.84**, for actual and necessary costs and expenses incurred by Applicant during the Quarterly and Final Fee Application Period, which have not otherwise previously been submitted or requested by Applicant in any of its previous three Interim Applications. See Exhibit D.

17. Collectively, Applicant is requesting a total final payment of **\$141,502.49**, which comprises the 10% holdback on attorneys fees and 100% of those fees and expenses that had not been previously submitted during the Application Period. The fees and expenses sought during the Quarterly Fee Period, and those fees and expenses not previously requested in a Monthly Fee Application, are included as part of this Application, the detailed billing records for which are attached hereto as Exhibit D.

18. No understanding exists between the Applicant and any other person for the sharing of compensation sought by this Applicant, except among the partners, of counsel and associates of the Applicant.

Reasonable and Necessary Services Rendered by Becker & Poliakoff, P.A., Generally

19. The individual attorneys and paraprofessionals who worked on this proceeding during this case are as follows:

Attorney/Paralegal Name	Hours	Rate	Total Fee
Gary L. Blum, Esq.	471.3	\$350.00	\$164,955.00
Ivan J. Reich, Esq.	802.1	\$300.00	\$240,630.00
Lee S. Haramis, Esq.	6.3	\$300.00	\$1,890.00
Jason B. Burnett, Esq.	322.9	\$300.00	\$96,870.00
Robert J. Burnett, Esq.	109.9	\$300.00	\$32,970.00
Gary C. Rosen, Esq.	243.8	\$300.00	\$73,140.00
Kenneth B. Jacobs, Esq.	303.2	\$300.00	\$90,960.00
JoAnn N. Burnett, Esq.	3.2	\$300.00	\$960.00
Daniel L. Wallach, Esq.	62.8	\$300.00	\$18,840.00
Richard J. Plotkin, Esq.	95.9	\$300.00	\$28,770.00
Robert A. Anguiera, Esq.	19.0	\$300.00	\$5,700.00
Angel Armas, Esq.	13.3	\$300.00	\$3,990.00
Beth Thomas, Paralegal	103.4	\$125.00	\$12,925.00
Lisette Jimenez, Paralegal	441.6	\$95.00	\$41,952.00
TOTAL:	2,990.8		\$812,592.00

20. The Applicant has expended a total of **2,990.8** hours during the Application Period in rendering necessary and beneficial legal services to the Committee. Exhibit 1 contains a detail of Applicant's professionals and paraprofessionals who have provided services to the Committee during the Application Period, the hourly rate charged by each and a summary of the time expended by each. The summaries of time expended have been prepared by the Applicant using, among other things, detailed descriptions of the services rendered based upon contemporaneous daily time records. The foregoing, together with Exhibits 1 and A-D attached hereto details the time, nature and extent of the professional services of the Applicant rendered for the benefit of the Committee during the period covered by this application. The total number of hours expended, **2,990.8**, reveals the extensive time devoted to this matter by the Applicant

on a vast spectrum of legal issues which have arisen in this case during the period covered by this Application.

21. Exhibit D contains a summary of the Applicant's outstanding actual and necessary out-of-pocket expenses and disbursements, together with supporting documentation, on behalf of the Committee, for which the Applicant seeks reimbursement in accordance with Section 330(a)(1)(B) of the Bankruptcy Code, the Bankruptcy Rules and the Guidelines.

Reasonable and Necessary Services Rendered by Becker & Poliakoff, P.A., by Matter

22. The professional services that Becker & Poliakoff, P.A. rendered during the Quarterly Fee Period are grouped into numbered and titled categories of the subject matters described herein. If no category is listed, there was no time spent on the particular subject matter during the Quarterly Monthly Fee Period.

23. Litigation: **(Fees: \$16,838.50; Hours: 59.2)**

This subject matter includes legal services related to contested matters, adversary proceedings and all discovery issues related to this bankruptcy, including but not limited to (a) the preparation for and filing of requests for production, motions to compel these documents; and (b) attending hearings on these matters and attending document productions.

24. Financing: **(Fees: \$30,785.00; Hours: 98.5)**

This subject matter includes legal services related to DIP financing and cash collateral, including but not limited to: (a) reviewing DIP financial documents and related pleadings; (b) analyzing issues regarding such documents and related pleadings; and (c) objecting or responding to such documents and related pleadings.

25. Fee/Employment Application: **(Fees: \$33,283.50; Hours: 240.7)**

This subject matter includes legal services related to the preparation and filing of applications to retain professionals, including Becker & Poliakoff, P.A., local counsel, and the retention of the Committee's financial advisors, its monthly interim and quarterly fee applications in accordance with the procedures and standards of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, orders of the Court, and guidelines of the U.S. Trustee. Because many Becker & Poliakoff, P.A. individuals provide services in this case, reviewing Becker & Poliakoff, P.A.'s billing statements and preparing monthly Applications to ensure compliance is a time consuming process. This category also includes time spent on preparing expense reimbursement reports for members of the Official Committee of Unsecured Creditors of the CFC debtors.

26. Case Administration: **(Fees: \$194,937.5; Hours: 798.9)**

This subject matter includes legal services not described elsewhere where another under another matter, and mostly related to work discharged by paralegals, including, but not limited to: (a) the accumulation, organization, retention and distribution of information for reporting purposes; (b) preparation of pleadings and notice; (c) preparation for hearings as well as for parties of interest; (d) filing and maintenance of correspondence and pleadings files; (e) monitoring of case status including follow up with Clerks and other professionals re filings; and (f) updates to service lists and calendaring/docketing.

27. Asset Analysis & Recovery: **(Fees: \$154,902.50; Hours: 513.0)**

This subject matter includes legal services related to reviewing potential sources of recovery to the Estate.

28. Meeting of Creditors: **(Fees: \$53,403.50; Hours: 177.5)**

This subject matter includes legal services related to preparation for and attendance at creditor meetings, including Section 341 meeting, and the preparation of pleadings or documents related to the foregoing, as well as ongoing communications and services for creditors and the Committee.

29. Plan and Disclosure Statement: **(Fees: \$1,680.00; Hours: 59.2)**

This subject matter includes legal services related to Debtors' plan and disclosure statements.

30. Employee Benefits/Pensions: **(Fees: \$890.00; Hours: 2.9)**

This subject matter includes legal services related to benefits for key employees of Debtors.

31. Fee/Employment Objections: **(Fees: \$14,155.00; Hours: 44.8)**

This subject matter includes legal services related to review and objections to fee and/or employment objections to the retention or application for payment of other professionals.

32. Claims Administration and Objections: **(Fees: \$19,970.00; Hours: 64.4)**

This subject matter includes legal services related to claims, objections and matters that may affect the claims pool.

33. Business Operations: **(Fees: \$900.00; Hours: 3.0)**

This subject matter includes legal services related to generally related ongoing operations.

34. Asset Disposition: (Fees: \$171,351.50; Hours: 594.1)

This subject matter includes legal services related to the sale of certain of the Debtors' property and assets, including but not limited to: (a) reviewing certain asset purchase agreements and documents related thereto; (b) objection to the sale and procedures; (c) negotiating and discussions with all necessary parties including bidders; and (d) research and development of strategy regarding same.

Actual and Necessary Expenses

35. It is Becker & Poliakoff, P.A.'s policy to charge its clients in all areas of practice for identifiable, non-overhead expenses incurred in connection with the client's case that would not have been incurred except for the representation of that particular client. Examples of such expenses are filing fees, postage, overnight mail, courier deliveries, transportation, long distance telephone calls, airfare, meals, lodging and other travel expenditures, computerized-assisted legal research, photocopies, and outbound facsimiles.

36. Becker & Poliakoff, P.A. routinely charges \$0.25 per page for photocopies and \$2.00 per page for outbound facsimile transmittals. In this proceeding, Becker & Poliakoff, P.A. charges the client \$0.15 per page for photocopies and \$1.00 per page for outbound facsimile transmittals, the maximum allowable under the Bankruptcy Rules.

37. Becker & Poliakoff, P.A. requests (1) full and final payment in the amount of \$151,604.33, which amount represents \$141,502.49 for the remaining balance of its fees, and \$10,101.84 for the remaining balance of its expenses, and (2) final approval of all legal fees and costs incurred by Applicant in its representation of the CFC Committee from the Petition Date through the filing of this Application in the amount of \$950,735.07, which amount represents

\$812,592.00 in legal fees and **\$138,143.07** in expenses.

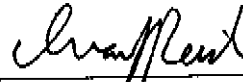
38. The deadline to timely file any objection to this Quarterly and Final Fee Application is **June 11, 2003**.

CERTIFICATE OF ADMISSION TO APPEAR BEFORE THIS COURT

Ivan J. Reich, Esq. hereby certifies that I am admitted to practice, *pro hac vice*, before the United States District Court for the Northern District of Illinois, Eastern Division, and I am in compliance with the additional qualifications to practice in this Court set forth in the Local Rules.

Dated: May 12, 2003

BECKER & POLIAKOFF, P.A.



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