

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Jointly Administered Case No. 01-42530-H4-11
Metals USA, Inc., et al.,	§	
	§	Case Nos. 01-42530-H4-11 through 01-42573-H4-11
Debtors.	§	
	§	Chapter 11

**FIRST AND FINAL FEE APPLICATION FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES BY
DELOITTE & TOUCHE, LLP, AS ACCOUNTANTS FOR DEBTORS**

NOTICE UNDER COMPLEX CASE ORDER

A HEARING WILL BE CONDUCTED ON THIS MATTER ON APRIL 4, 2003 AT 9:30 A.M. IN COURTROOM 403, 515 RUSK, HOUSTON, TEXAS 77002. IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING UNLESS YOU DID NOT RECEIVE THIS NOTICE IN TIME TO DO SO. IN THAT SITUATION, FILE YOUR RESPONSE AS SOON AS POSSIBLE. IN ADDITION TO FILING YOUR RESPONSE WITH THE CLERK, YOU MUST GIVE A COPY OF YOUR RESPONSE TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE

Deloitte & Touche LLP (“Applicant”) files this First and Final Application (the “Application”) for Allowance of Compensation and Reimbursement of Expenses for professional services rendered as accountants for Metals USA, Inc., and affiliated debtors¹ (the “Debtors”),

¹ Metals USA Management, Co., L.P., MUSA GP, Inc., MUSA L.P., Inc., Metals USA Finance Corp., Metals USA Realty Company, Metals Receivables Corporation, Jeffrey’s Real Estate Corporation, Aerospace Specification Metals, Inc., Aerospace Specification Metals-U.K., Inc., Allmet Building Products, L.P., Allmet GP, Inc., Allmet LP, Inc., Cornerstone Building Products, Inc., Cornerstone Metals Corporation, Cornerstone Patio Concepts, L.L.C., Harvey Titanium, Ltd., Interstate Steel Company of Maryland, i-Solutions Direct, Inc., Metalmart, Inc., Metals Aerospace International, Inc., Metals USA Building Products Southeast, Inc., Metals USA Carbon Flat Rolled, Inc., Metals USA Flat Rolled Central, Inc., Metals USA Plates and Shapes Northcentral, Inc., WSS Transportation,

for the period from June 30, 2002, through October 31, 2002 (the “Fee Period”), seeking allowance of \$869,241.54 in professional fees and \$50,270.35 in out-of-pocket expenses for a total amount of \$919,511.89.

This is the first and only Fee Application which Applicant shall file in this case. Applicant files this Application pursuant to this Court’s Order Granting Debtors’ Motion to Establish Procedures for Interim and Final Compensation of Professionals (the “80/90 Order”)[Dkt. No. 113].

I. OVERVIEW OF THE CASE

1. On November 14, 2001, (the “Petition Date”), Debtors commenced this case by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101, *et seq.* (“Bankruptcy Code”). Since the Petition Date, Debtors have continued to operate as debtors-in-possession under Sections 1107 and 1108 of the Bankruptcy Code, and Debtors have complied with the requirements and guidelines of the United States Trustee’s Office.

2. On June 25, 2002, the Court entered an order modifying nunc pro tunc the prior employment and retention of Deloitte & Touche LLP as audit and tax advisors to the Debtors in these Cases. A true and correct copy of the Chapter 11 Order Modifying Nunc Pro Tunc Prior Employment and Retention of Deloitte & Touche LLP as Audit and Tax Advisors for the Debtors is attached hereto and incorporated herein for all purposes as Exhibit A.

Inc., Metals USA Plates and Shapes Northeast, L.P. Levinson Steel GP, Inc., Levinson Steel LP, Inc., Metals USA Plates and Shapes Southcentral, Inc., Metals USA Plates and Shapes Southeast, Inc., Queensboro, L.L.C., Metals USA Plates and Shapes Southwest, L.P., Intsel GP, Inc., Intsel LP, Inc., Metals USA Specialty Metals Northwest, Inc., Metals USA Contract Manufacturing, Inc., Metals USA Specialty Metals Northcentral, Inc., National Manufacturing Inc., Texas Aluminum Industries, Inc., Valley Aluminum, Co., Valley Aluminum of Nevada, Inc., Western Awning Company, Wilkof-Morris Steel Corporation.

II. FEES AND EXPENSES REQUESTED

3. Applicant requests allowance of fees in the amount of \$869,241.54 and reasonable and necessary expenses in the amount of \$50,270.35 in expenses for a total request of \$919,511.89 for the period from the June 30, 2002 Petition Date through October 31, 2002.²

4. All members of Applicant involved in this case have avoided unnecessary duplication of work and Applicant believes that no duplication has occurred.

5. Applicant has maximized use of paralegal and staff personnel when applicable.

6. Under the provisions of Federal Rule of Bankruptcy Procedure 2016(a), Applicant had not shared or agreed to share with any other entity the compensation received, except to the extent that funds received may be distributed to partners of Applicant. All professional services for which allowance is requested were performed by Applicant for and on behalf of Debtors and not on behalf of any other entity or party-in-interest.

7. This Application has been provided to the Debtors.

III. LEGAL AUTHORITIES RELEVANT TO AWARDING REASONABLE COMPENSATION

8. The Fifth Circuit uses the “lodestar” method to calculate attorney’s fees.” *In re Fender*, 12 F.3d 480, 487 (5th Cir. 1994)(citation omitted). The lodestar is the number of hours reasonably expended multiplied by “the prevailing hourly rate in the community for similar work.” *Id.* The request for fees is then adjusted upward or downward based on the factors identified in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974) and *In re First Colonial Corporation of America*, 544 F.2d 1291 (5th Cir. 1977). These factors include the following: (a) time and labor expended, (b) experience, reputation, and ability, (c) skill required for performance of services, (d) the novelty and difficulty of issues, (e) customary fees, (f) time

² For a breakdown of these amounts see Exhibit B hereto.

involved and results obtained, (g) preclusion from other employment, (h) contingent nature of fees, (i) time limitations and other circumstances, (j) the undesirability of the case, (k) nature and length of relationship, and (l) awards in similar cases. A detailed description of the application of each of these 12 factors is set forth below as required by Local Bankruptcy Rule 2016(a)

A. Results Obtained

9. The Applicant believes that the results obtained to date have been extremely beneficial under the circumstances enumerated herein below. Exhibits B and D hereto set forth a detailed description of the work performed by each professional and for each project. Deloitte and Touche respectfully submits that the services provided were necessary and beneficial to the Debtors.

B. Time and Labor Expended

10. The total hours spent by Applicant in performing services for the Debtors for the Fee Period is 5230.05 hours, as detailed on Exhibit B of this Application. It is the Applicant's normal practice to utilize less-experienced staff where appropriate. However, the complexity of the consulting work at times in these cases required more experienced personnel. All personnel involved in the rendering of services in these cases have made a deliberate effort to avoid any unnecessary duplication of time and work expended, although at times circumstances required the attention of more than one professional. The Applicant's performance of consulting and accounting procedures was done in its customary manner of utilizing staff where appropriate, thereby minimizing the time required of more senior personnel.

11. Applicant used its secretaries and clerical personnel whenever possible for tasks that did not involve the rendering of professional services. Applicant submits that its use of its

secretaries and staff has resulted in a smooth and efficient administration of this case and correspondingly efficient use of Applicant's professionals.

C. Experience, Reputation, and Ability

12. Applicant possesses a national and regional reputation for experience in accounting matters in bankruptcy cases. Applicant and its partners and managers have been involved in numerous bankruptcy proceedings on behalf of debtors, trustees, creditors, and creditors' committees dating back to 1984.

D. Skill Required for Performance of Services

13. Professional services rendered in this case have been performed by accountants with broad experience and a high level of skill in the areas for which they have been employed. Applicant submits that its professionals and staff, who have varying levels of experience and seniority, have been used effectively and efficiently.

E. The Novelty and Difficulty of Issues

14. Some of the issues in these cases were novel and of moderate difficulty. Nevertheless, accountants and consultants for Applicant have on many occasions encountered similar questions and problems in other cases. Therefore, Applicant has made the most efficient use of the abilities of its accountants and consultants and has thereby saved a substantial amount of time that less knowledgeable accountants and consultants might have expended in these cases.

F. Customary Fees

15. Applicant has applied for allowance of compensation for fees that reflect its customary billing rates charged to clients by Applicant in 2002, reflecting annual rate increases as contemplated in the employment application and order. These rates are consistent with those

of other accounting firms of requisite and comparable skill and ability. Such hourly rates compare very favorably with the community standard at this time.

G. Categorization of Time Involved

16. Applicant represents that the time expended is commensurate with the size and complexity of this case.

17. Applicant believes these services, were performed as effectively and efficiently as possible and that the time expended is commensurate with the issues and objectives involved.

H. Preclusion from Other Employment

18. Applicant was not precluded from other employment during this case.

I. Contingent Nature of Fees

19. There was no contingency concerning fees in this case.

J. Time Limitations and Other Circumstances

20. In many instances, this case required immediate responses from the professionals and staff involved. Applicant believes that it has successfully handled the time limitations imposed in this case.

K. The Undesirability of the Case

21. Undesirability has not been a factor in this proceeding.

L. Nature and Length of Relationship

22. Applicant respectfully represents that this factor had no bearing particular to these cases.

M. Awards in Similar Cases

23. Applicant's fees incurred are consistent with fees incurred in other similar cases.

IV. EXPENSES

24. Before filing this Application, Applicant has reviewed the guidelines of General Order 2001-2, entered by the Court on May 3, 2001. Applicant has reviewed its invoices to Debtors to be sure the expenses charged to Debtors are in line with General Order 2002-2.

V. CONCLUSION

25. Applicant submits that Exhibits B and D hereto supply detailed time records and provide the court with a summary of the activities of the professionals of Applicant in this case. Careful records of Applicant's out-of-pocket expenditures were maintained and are included in Exhibit C to this Application. These expenses were reasonable and necessary and Applicant is entitled to the allowance of the sum provided therein.

26. Applicant submits that the foregoing services rendered warrant the allowance of the fees and expenses requested by Applicant hereunder the twelve factors identified by the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974).

27. Applicant seeks final approval of the fees and expenses already paid by Debtors to Applicant and an order authorizing payment of the additional twenty percent (20%) of fees and ten percent (10%) of reasonable and necessary out-of-pocket expenses due to Applicant for the Fee Period.

WHEREFORE, PREMISES CONSIDERED, Deloitte & Touche LLP respectfully requests that this Court grant its Application and allow Applicant \$869,241.54 in professional fees and \$50,270.35 in reasonable and necessary expenses, for a total of \$919,511.89, to be paid to Deloitte & Touche LLP for the period June 30, 2002 through October 31, 2002, and such other and further relief as may be just and equitable either at law or in equity.

Dated: January 17, 2003,
Houston, Texas.

Respectfully Submitted,

DELOITTE & TOUCHE LLP

By: /s/ Jeff B. Walker

Jeff B. Walker

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ACCOUNTANT AND TAX
ADVISOR FOR THE DEBTORS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing First and Final Application For Compensation by Deloitte & Touche LLP, Audit and Tax Advisors for the Debtors, for June 30, 2002 through October 31, 2002 and all exhibits was served the 17th day of January 2003, via first-class U.S. mail, on the persons and entities listed on the parties listed below:

DEBTORS

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