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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

FEB 02 2004

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

KENNETH S. GARDNER, CLERK
PS REP. - MJ

In re:)	Case No. 02-08699
)	(Jointly Administered)
NATIONAL STEEL CORPORATION,)	Chapter 11
<u>et al.</u> ,)	
)	Hon. John H. Squires
Debtors.)	
)	Hearing Date: March 9, 2004
)	Hearing Time: 8:30 a.m. (CST)

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**FINAL APPLICATION OF SEYFARTH SHAW LLP FOR
COMPENSATION AND REIMBURSEMENT, FOR THE PERIOD
OF JUNE 2, 2003, THROUGH MARCH 9, 2004, AS COUNSEL
TO THE OFFICIAL COMMITTEE OF RETIRED EMPLOYEES**

Pursuant to 11 U.S.C. §§ 330, 503(a) and (b), and 507(a)(1), and Federal Rule of Bankruptcy Procedure 2016, Seyfarth Shaw LLP ("Seyfarth") hereby files its Final Application for Compensation and Reimbursement (the "Application") for legal services rendered and expenses incurred on behalf of the Official Committee of Retired Employees (the "Committee") during period commencing on June 2, 2003, and ending on March 9, 2004 (the "Application Period"). In support of this Application, Seyfarth respectfully states as follows:

INTRODUCTION

1. Seyfarth makes this Application pursuant to (1) Sections 330, 503(a) and (b), and 507(a)(1) of title 11 of the United States Code, 11 U.S.C. §§ ("Sections") 101 through 1330, *as amended* (the "Bankruptcy Code"); (2) Rule 2016 of the Federal Rules (the "Rules") of Bankruptcy Procedure; (3) certain applicable provisions of the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330*, as adopted by the Office of the United States Trustee (the "Guidelines"); (4) Rule 5082-1 of the Local Bankruptcy Rules (the "Local Rules") for the United States Bankruptcy Court for the

Northern District of Illinois (the "Court"); (5) that certain *Order of the Court Authorizing Retroactive Retention and Employment of Seyfarth as Counsel to the Committee* (the "Seyfarth Retention Order"); and (6) other applicable case law discussed herein (collectively, the "Authorities for Relief"). In this regard, Seyfarth has made every reasonable effort to comply with the Authorities for Relief.

2. In making this Application, Seyfarth respectfully seeks the entry of an order of this Court: (1) allowing Seyfarth final compensation in the amount of \$409,939.00 for legal services rendered to date to the Committee, and the amount of those rendered thereafter, during the Application Period; (2) allowing Seyfarth final reimbursement of expenses in the amount of \$17,722.51 for costs incurred to date on behalf of the Committee, and the amount of those incurred thereafter, during the Application Period; (3) allowing such final compensation and reimbursement to Seyfarth as an administrative expense of the bankruptcy estates (the "Estates") of the above-captioned debtors (collectively, the "Debtors" or "National Steel"); and (4) directing the Debtors to promptly pay, to the extent not previously paid, to Seyfarth such final compensation and reimbursement as the Court allows, all as more fully discussed herein.

3. In this connection, Seyfarth attorneys have thus far expended approximately 1,429.70 hours in providing the above-referenced legal services to the Committee, thereby producing an aggregate lodestar rate, to date, of \$240.35 per hour.

JURISDICTION

4. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334.

5. This matter is before the Court pursuant to 28 U.S.C. § 157 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois.

6. Venue of the above-captioned cases (the "Cases") and this Application is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

7. Consideration of this Application is a core proceeding pursuant to 28 U.S.C. § 157(b)(1) and (2)(A), (M), and/or (O).

8. The predicates for the relief requested herein are Sections 330, 503(a) and (b), and 507(a)(1), as supported by Rule 2016(a) and Local Rule 5082-1.

BACKGROUND

Procedural Background

9. On March 26, 2002 (the "Petition Date"), the Debtors commenced these Cases by filing their voluntary petitions for Chapter 11 relief under the Bankruptcy Code.

10. On April 8, 2003, the Debtors filed their Motion Pursuant to Section 1114(d) for Appointment of Retiree Committee.

11. On April 24, 2003, the Court ordered the appointment of the Committee pursuant to Section 1114(d).

12. Subsequently, the United States Trustee appointed the members of the Committee. The Committee's approximately 8,000 constituents in these Cases include retired employees of the Debtors, and such retirees' spouses and certain of their dependents, not covered by a collective bargaining agreement (collectively, the "Retirees").

13. On June 2, 2003, the Committee selected Seyfarth to act as its counsel.

14. On June 20, 2003, the Committee filed its Application to Employ Seyfarth as its counsel, along with the appended Affidavit of William J. Hanlon in support of the same. In the

same connection, on July 14, 2003, and August 1, 2003, Seyfarth filed with the Court the Supplemental Affidavit of William J. Factor and Second Supplemental Affidavit of William J. Factor, respectively. Copies of the aforementioned application and affidavits, which are collectively referred to hereinafter as the "Retention Application," are located on the Court docket for these Cases (the "Docket") at Docket Numbers 2596 and 2747, as well as at Docket Number 3322, as Exhibit 1 thereto, and are incorporated herein by reference.

15. On or about July 15, 2003, the Court entered the Seyfarth Retention Order, a copy of which is located at Docket Number 2614, as well as at Docket Number 3322, as Exhibit 2 thereto, and which is incorporated herein by reference.

16. In accordance with Section 504(b)(1) of the Bankruptcy Code and Rule 2016, other than the terms of Seyfarth's engagement contemplated by the Retention Application and made applicable in these Cases pursuant to the Seyfarth Retention Order, Seyfarth has received no promises for payment for services rendered or to be rendered in any capacity whatsoever in connection with the Cases. Moreover, other than as permitted by Section 504(b)(1) of the Bankruptcy Code and Rule 2016(a), no agreement or understanding exists between Seyfarth and any other entity for a division of compensation and reimbursement received or to be received for services rendered in or in connection with these Cases.

SEYFARTH'S PRIOR COMPENSATION AND REIMBURSEMENT

17. Seyfarth has previously filed and served in the Cases its monthly fee statements for compensation and reimbursement (each a "Monthly Fee Statement"), as well as its *First Interim Application of Seyfarth Shaw LLP for Allowance of Compensation and Reimbursement of Expenses as Counsel to the Official Committee of Retired Employees for the Period of June 2, 2003, through November 30, 2003* (the "Interim Application"). A summary of Seyfarth's

Monthly Fee Statements and its Interim Application, as well as their disposition in these Cases, is set forth below:

Monthly Statement Filing Date and Docket Number	Statement Period Covered	Total Fees Requested	Total Expenses Requested	Fees Authorized for Payment at 90%	Objections Filed with the Court to Date	Fees Paid to Date
8/8/03 [Docket No. 2762]	6/2/03 - 6/30/03	\$86,024.50	\$0.00	\$77,422.05	None	\$77,422.05
8/28/03 [Docket No. 2867]	7/1/03 - 7/31/03	\$93,345.00	\$1,569.32	\$84,010.50	None	\$84,010.50
9/25/03 [Docket No. 2965]	8/1/03- 8/31/03	\$74,858.00	\$4,043.12	\$67,372.20	None	\$67,372.20
10/24/03 [Docket No. 3087]	9/1/03- 9/30/03	\$42,922.00	\$851.88	\$38,629.80	None	\$39,481.68
11/25/03 [Docket No. 3222]	10/1/03- 10/31/03	\$74,734.00	\$3,951.47	\$67,260.60	None	\$71,212.07
12/17/03 [Docket No. 3302]	11/1/03- 11/30/03	\$12,770.00	\$4,080.92	\$11,493.00	None	\$15,573.92
Interim Application Filing Date and Docket Number	Interim Period Covered	Total Fees Requested	Total Expenses Requested	Fees and Expenses Allowed by the Court	Objections Filed with the Court to Date	Fees and Expenses Paid to Date
12/24/03 [Docket No. 3322]	6/2/03- 11/30/03	\$384,653.50	\$13,872.35	\$398,445.47	None	\$37,760.61
TOTAL		\$384,653.50	\$13,791.97²	\$398,445.47	None	\$392,833.03

18. Copies of the Monthly Fee Statements are located at the above-referenced Docket Numbers, as well as at Docket Number 3322, as Exhibit 3 thereto, and are incorporated herein by reference. A copy of the Interim Application is located at Docket Number 3322 and is incorporated herein by reference.

19. The source of the above-referenced payments to Seyfarth was from one or more of the Estates.

² Of the original expense request in the Interim Application, the Court disallowed a meal expense incurred on August 29, 2003, in the amount of \$80.38. That expense has been omitted from the expense request in this Application.

**SUMMARY OF SERVICES RENDERED AND
COSTS ADVANCED BY SEYFARTH TO THE COMMITTEE**

Overview

20. This Application is Seyfarth's final application in these Cases.

21. Thus far during the Application Period, Seyfarth has advanced costs in connection with the legal services that it has heretofore provided to the Committee, and for which Seyfarth is now requesting allowance as final reimbursement, in the amount of \$17,722.51 (the "Incurred Expenses"). Between the filing of this Application and the hearing scheduled for March 9, 2003, thereon (the "Application Hearing"), Seyfarth will have incurred further actual and necessary expenses in preparing and presenting this Application (the "Further Expenses"). The Further Expenses are also included in Seyfarth's request for allowance of final reimbursement (the Incurred Expenses and Further Expenses are collectively referred to hereinafter as the "Final Reimbursement"). Based upon similar expenses incurred in connection with preparing and presenting the Interim Application, Seyfarth estimates that the Further Expenses may approximate \$1,900.00. Seyfarth will verify and document the Further Expenses in actual amount within five (5) days after the Application Hearing by supplemental pleading filed with the Court and served upon the Debtors and the other Notice Parties.

22. Thus far during the Application Period, Seyfarth has provided legal services to the Committee, and for which Seyfarth is now requesting allowance as final compensation, in the amount of \$409,939.00 (the "Incurred Fees"). Between the filing of this Application and the Application Hearing, Seyfarth will have provided further actual and necessary legal services in preparing and presenting this Application (the "Further Fees"). The Further Fees are also included in Seyfarth's request for allowance of final compensation (the Incurred Fees and Further Fees are collectively referred to hereinafter as the "Final Compensation"). Based upon

similar services provided in preparing and presenting the Interim Application, Seyfarth estimates that the Further Fees may approximate \$7,000.00. Seyfarth will verify and document the Further Fees in actual amount within five (5) days after the Application Hearing by supplemental pleading filed with the Court and served upon the Debtors and the other Notice Parties.

23. With respect to the Incurred Fees, the following table consists of a breakdown of this amount by each Seyfarth professional, including each such professional's (1) title and location, (2) primary practice area, (3) hourly rate, and (4) total hours expended in providing legal services in the Cases, and (5) the value attributable to such legal services:

PROFESSIONAL, TITLE AND LOCATION	PRIMARY PRACTICE AREA	HOURLY RATE	TOTAL HOURS	VALUE
William J. Hanlon PARTNER-BOSTON	Bankruptcy	\$350.00 ³	429.00	\$150,150.00
Gus A. Paloian PARTNER CHICAGO	Bankruptcy	\$370.00	5.20	\$1,924.00
Kathryn B. Solley PARTNER-ATLANTA	Employee Benefits	\$350.00	24.70	\$8,645.00
William J. Factor PARTNER-CHICAGO	Bankruptcy	\$320.00	18.90	\$6,048.00
Frederic S. Singerman PARTNER-WASHINGTON, D.C.	Employee Benefits	\$390.00	82.40	\$32,136.00
Peter C. Miller PARTNER CHICAGO	Employee Benefits	\$350.00	158.90	\$55,583.00
Linda E. Rosenzweig OF COUNSEL-WASHINGTON, D.C.	Employee Benefits	\$300.00	183.60	\$55,560.00
Samuel S. Choy ASSOCIATE-ATLANTA	Employee Benefits	\$275.00	2.50	\$687.50
Eugene M. Holmes ASSOCIATE-ATLANTA	Employee Benefits	\$250.00	1.30	\$325.00
Jeanette Richmond FRMR. ASSOC.-WASHINGTON, D.C.	Employee Benefits	\$250.00	0.60	\$150.00

³ Mr. Hanlon is lead counsel for the Committee in these Cases and has been sensitive to cost issues since their outset. Although Mr. Hanlon's 2004 hourly rate has been increased by Seyfarth from his 2003 hourly rate, Mr. Hanlon has decided to voluntarily absorb and write off this cost differential for all of his 2004 billing in the Cases. In this respect, Mr. Hanlon has applied his 2003 hourly rate, rather than his 2004 hourly rate, for such billing purposes.

PROFESSIONAL, TITLE AND LOCATION	PRIMARY PRACTICE AREA	HOURLY RATE	TOTAL HOURS	VALUE
Charles S. Riecke ASSOCIATE-CHICAGO	Bankruptcy	\$245.00 ⁴	140.80	\$33,350.00
Jennifer A. Kraft ASSOCIATE CHICAGO	Employee Benefits	\$235.00	2.70	\$634.50
Tina M. Kuska ASSOCIATE-CHICAGO	Employee Benefits	\$215.00	4.00	\$860.00
Justin M. Crawford ASSOCIATE-CHICAGO	Employee Benefits	200.00	198.20	\$39,640.00
Christina S. Pignatelli ASSOCIATE-WASHINGTON, D.C.	Labor & Employment	\$175.00	15.70	\$2,747.50
Jennifer M. McManus PARAPROFESSIONAL CHICAGO	Bankruptcy	\$147.50 ⁵	48.50	\$6,905.50
Denise Welding PARAPROFESSIONAL-BOSTON	Employee Benefits	\$155.00	11.90	\$1,844.50
Karen Carr PARAPROFESSIONAL-BOSTON	Employee Benefits	\$140.00	9.50	\$1,330.00
Sheri Fortier PARAPROFESSIONAL-BOSTON	Employee Benefits	\$130.00 ⁶	90.40	\$11,320.00
Susan Ryan PARAPROFESSIONAL-WASHINGTON, D.C.	N/A	\$115.00	0.70	\$80.50
Betty Edwards PARAPROFESSIONAL-BOSTON	N/A	\$90.00	0.20	\$18.00
TOTAL:			1,429.70	\$409,939.00

24. Biographies for the attorneys listed above, describing their qualifications and areas of expertise, are located at Docket No. 3322, as Exhibit 4 thereto, and are incorporated herein by reference.

25. During the Application Period, Seyfarth made every reasonable effort to have the services that it rendered to the Committee performed by those qualified professionals charging

⁴ This figure is a blended rate.

⁵ This figure is a blended rate.

⁶ This figure is a blended rate.

the lowest hourly rates consistent with the level of service, experience, and efficiency required of a given task.

26. All of the compensation for which Seyfarth requests allowance and payment, and all of the expenses for which Seyfarth requests reimbursement, in this Application relate to the discharge of Seyfarth's professional and attendant responsibilities as counsel to the Committee during the Application Period.

27. Seyfarth respectfully submits that its services to the Committee during the Application Period have, in all respects, been reasonable, necessary, and beneficial to the Estates, as further discussed herein.

Time and Expense Records

28. Seyfarth maintains written records of the time expended by its professionals. These time records are maintained contemporaneously with the provision of services by each Seyfarth professional.

29. Copies of such records, as were previously filed with the Court and that set forth Seyfarth's time detail from June 2, 2003 to November 30, 2003, are located at Docket Number 3322, as Exhibit 5 thereto, and are incorporated herein by reference. A further copy of such records, setting forth Seyfarth's time detail in these Cases from after November 30, 2003, through January 31, 2004, is attached hereto as **Exhibit 1**. Also, and as previously indicated, copies of such records from after January 31, 2004, representing the Further Fees, will be filed and served within five (5) days after the Application Hearing in their actual and verifiable amounts. The aforementioned records (collectively, the "Time Statement") set forth in detail (1) the services which Seyfarth rendered on behalf of the Committee during the Application Period, (2) the dates upon which such services were rendered, (3) the nature of the services, (4) the

amount of time spent on the services, and (5) the identity of each Seyfarth professional who performed such services. The Time Statement has been edited for privilege purposes.

30. Seyfarth has also maintained during these Cases records of all actual and necessary out-of-pocket expenses that it incurred in connection with the services that it rendered to the Committee. Copies of such records, as were previously filed with the Court and that set forth Seyfarth's expense detail in these Cases from June 2, 2003 to November 30, 2003, are located at Docket Number 3322, as Exhibit 6 thereto, and are incorporated herein by reference. A further copy of such records, setting forth Seyfarth's expense detail in these Cases from after November 30, 2003, is attached hereto as **Exhibit 2**. Also, and as previously indicated, copies of such records from after January 31, 2004, representing the Further Expenses, will be filed and served within five (5) days after the Application Hearing in their actual and verifiable amounts. The aforementioned expense records (collectively, the "Expense Statement") contain a complete listing of Seyfarth's expenses and the amounts for which reimbursement is sought.

Breakdown of Fees by Category of Services Rendered

31. During the Application Period, Seyfarth provided necessary legal services to the Committee.

32. By way of overview, during the Application Period, Seyfarth (1) was retained by the Committee, (2) analyzed the Committee's goals and the Debtors' financial situation, (3) researched and reviewed the Committee's rights, (4) organized Committee meetings, (5) negotiated for the Debtors' initial sponsorship of ongoing coverage to meet the needs of the Committee's constituents, (6) sought rulings from the IRS and DOR regarding the applicability of the Health Coverage Tax Credit to its plan, and (7) transitioned the coverage to a governing Board of Trustees.

33. The Committee's work in design and implementation of second available medical coverage ("COBRA Option B") and the Debtors' sponsorship of COBRA Option B has benefited the Estates considerably. First, it permitted the Estates to terminate by agreement retiree benefits which cost the Estates nearly \$3,000,000 a month (by the Debtors' own estimate). Over 2,200 retirees have opted to participate in COBRA Option B. Their choice was driven largely by the fact that they could not afford COBRA Option A and either could not afford or did not have available state insurance plans of last resort. A single retiree opting for COBRA Option A coverage faced a bill of \$550.00 per month. A single retiree opting COBRA Option B faced a bill of approximately \$280.00 per month. By qualifying the plan for the Health Coverage Tax Credit, Seyfarth was able to reduce the cost of coverage to \$100.00 per month. Moreover, the program will continue for the foreseeable future, ensuring that the retirees whose efforts built National Steel will not be left without coverage.

34. Employer sponsorship of a second available medical coverage is a unique solution to the dilemma posed by the Debtors' liquidation under Chapter 11. It was made possible by a knowledgeable Committee, a willing insurance partner and the depth of services, particularly ERISA knowledge, which Seyfarth brought to the table.

35. For the Court's convenience, Seyfarth has categorized the legal services that it provided the Committee during the Application Period, as follows: (1) Case Administration and Non-Committee Communications, (2) Committee Meetings, Minutes, and Committee Communications, (3) Benefit Plan Analysis/Legal Research, (4) Benefit Claim Analysis; (5) Section 1114 Proposal/Negotiation; (6) Settlement Implementation; (7) Engagement/Fee Applications; and (8) Travel. Each of these categories of services is more fully discussed below.

**CASE ADMINISTRATION AND NON-COMMITTEE
COMMUNICATIONS (50.60 HOURS VALUED AT \$15,211.00)**

36. Thus far during the Application Period, Seyfarth expended 50.60 hours, with a value of \$15,211.00, on behalf of the Committee on matters of Case Administration and Non-Committee Communications. Exhibit 7 to Docket Number 3322 and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

37. Services that Seyfarth provided the Committee in this category and that benefited the Estates include, but are not limited to:

- A. Telephonic communications with, and follow-up written and/or telephonic communications concerning retirees;
- B. Written and telephonic communications with Debtors' counsel, including, but not limited to, those regarding (1) Section 1114 issues, (2) the Debtors' various Section 1114 proposals, (3) the Committee's counter-proposals, and (4) due diligence matters;
- C. Written and telephonic communications regarding the NEBCO proposal;
- D. Preparation of pleadings and other documents related to the Cases;
- E. Preparation of a press release;
- F. Search for, and review and analysis of, pleadings; and
- G. Communications regarding, and analysis in support of, the preparation of pleadings, other documents, and/or strategy to promote the Committee's interests, including investigation of issues related to the Trade Adjustment Act of 2002 and its Health Coverage Tax Credit.

38. Seyfarth's services in this category directly benefited the Estates by, inter alia, satisfying requirements of the Bankruptcy Code and furthering administration of the Estates and the bankruptcy process by enabling the Committee to carry out its statutory role and function in these Cases.

39. In particular, at the outset of its engagement in these Cases, Seyfarth quickly established a rapport with special counsel to the Debtors, and this line of communication proved instrumental in coming to a negotiated settlement.

COMMITTEE MEETINGS, MINUTES, AND COMMITTEE COMMUNICATIONS (375.90 HOURS VALUED AT \$106,886.00)

40. Thus far during the Application Period, Seyfarth expended 375.90 hours with a value of \$106,886.00, on behalf of the Committee on matters of Committee Meetings, Minutes, and Committee Communications. Exhibit 8 to Docket Number 3322 and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

41. Actual and necessary services that Seyfarth provided the Committee in this category and that benefited the Estates include, but are not limited to:

- A. Preparation for and conduction of numerous Committee meetings, and conferences with individual Committee members, regarding issues in the Cases concerning the interests of the Retirees;
- B. Dictation and preparation of Committee minutes, and written communications regarding the same;
- C. Preparation of memoranda to the Committee;

- D. Written and telephonic communications regarding, and preparation, review, and analysis of documents concerning, the NEBCO plan and Debtors' proposal, and the Committee's counterproposals;
- E. Telephonic communications with numerous Retirees regarding (1) pensions, (2) costs, (3) life insurance, (4) notice language, (5) an alternative plan, (6) objections, and (7) the formation of the Committee;
- F. Communications regarding, and analysis in support of, the preparation of pleadings, other documents, and/or strategy to promote the Committee's interests, including investigation of issues related to (1) Section 1114 issues, and (2) business acquisition rules related to COBRA continuation coverage; and
- G. Communications regarding, and preparation of, a press release concerning the joint settlement regarding retiree benefits.

42. Seyfarth's services in this category directly benefited the Estates by, inter alia, satisfying requirements of the Bankruptcy Code and furthering administration of the Estates and the bankruptcy process by enabling the Committee to carry out its statutory role and function in these Cases.

43. Seyfarth was privileged to work with a Committee whose depth of knowledge and experience regarding retiree benefits was unrivaled. These volunteers gave up significant amounts of time to serve their constituents and their knowledge of benefit options, health law and the Debtors' programs was invaluable. Communications with the Committee informed counsel and gave counsel an opportunity to fully vet service providers, medical plan design and benefits, and various trade-offs involved in choosing among settlement options. Unlike many

situations where counsel is expected to take the lead, the time spent with the Committee was interactive and constructive, and saved the Estates time and money by eliminating guesswork and providing focused goals.

**BENEFIT PLAN ANALYSIS/LEGAL RESEARCH
(254.55 HOURS VALUED AT \$62,461.00)**

44. Thus far during the Application Period, Seyfarth expended 254.55 hours with a value of \$62,461.00 on matters concerning Benefit Plan Analysis and Legal Research on behalf of the Committee. Exhibit 9 to Docket Number 3322 and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

45. Actual and necessary services that Seyfarth provided the Committee in this category and that benefited the Estates include, but are not limited to:

- A. Analysis of Section 1114 requirements as applied to retiree medical benefits and modifications to same;
- B. Analysis of and research regarding (1) the Tax Adjustment Act and tax credits for COBRA regarding the same, and (2) the Trade Act of 2002 and the Health Coverage Tax Credit ("HCTC"), all in interrelation to pension plans;
- C. Legal research and analysis in support of the preparation of pleadings, other documents, and/or strategy to promote the Committee's interests, including investigation of issues related to (1) the Tax Adjustment Act and tax credits in furtherance of Committee counterproposals to the Debtors regarding Retiree benefits, (2) the Trade Act of 2002 and the Health Coverage Tax Credit ("HCTC"), including the effect of alternative

- health insurance options and duration of tax credit under the HCTC program, (3) Seventh Circuit standards regarding Section 1114, (4) COBRA issues, including what constitutes continuation coverage, a qualifying event, and a termination event for COBRA purposes; (5) unilateral termination of retiree benefits, (6) ERISA notice requirements upon termination of health coverage, (7) NEBCO issues, (8) revenue procedure relating to requests for private letter rulings, (9) Minnesota law and Minnesota State tax credit, including whether and under what circumstances the tax credit applies to a spouse, (10) regulations regarding eligibility for Voluntary Employee Benefit Association membership;
- D. Due diligence efforts, and review and analysis of documents, regarding NEBCO and affiliated entities;
 - E. Review and analysis of other large steel companies' bankruptcy cases and pleadings, as they pertain to similar Section 1114 issues impacting or potentially impacting on the Retirees' benefits;
 - F. Conferences regarding preparation of a draft emergency motion to compel Debtors to comply with Section 1114;
 - G. Review and revisions to plan documents; and
 - H. Written and/or telephonic communications, and/or preparation of memoranda, regarding items A through G, above.

46. Seyfarth's services in the above-listed categories during the Chapter 11 portion of the Cases directly benefited the Estates by, inter alia, satisfying requirements of the

Bankruptcy Code and furthering administration of the Estates and the bankruptcy process by enabling the Committee to carry out its statutory role and function in these Cases.

47. In particular, Seyfarth took advantage of its considerable depth in both the bankruptcy and the ERISA fields of law. As set forth herein, Seyfarth crafted a unique solution to a difficult problem, and in doing so, brought to bear its expertise and guidance to the Committee on difficult legal issues, including reconciling COBRA, ERISA, and Bankruptcy Code provisions, which, as is often the case with complex statutes, were written with differing goals in mind. By assigning knowledgeable attorneys to work together on difficult legal issues, Seyfarth reconciled issues efficiently.

BENEFIT CLAIM ANALYSIS (14.80 HOURS VALUED AT \$5,085.50)

48. Thus far during the Application Period, Seyfarth expended 14.80 hours with a value of \$5,085.50 on matters concerning Benefit Claim Analysis on behalf of the Committee. Exhibit 10 to Docket Number 3322 and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

49. Actual and necessary services that Seyfarth provided the Committee in this category and that benefited the Estates include, but are not limited to:

- A. Review and analysis of relevant pleadings, including an omnibus claim objection;
- B. Preparation of a class action proof of claim; and
- C. Communications regarding items A and B, above.

50. Seyfarth's services in the above-listed categories during the Chapter 11 portion of the Cases directly benefited the Estates by, inter alia, satisfying requirements of the

Bankruptcy Code and furthering administration of the Estates and the bankruptcy process by enabling the Committee to carry out its statutory role and function in these Cases.

51. More particularly, and as with its legal services on matters pertaining to Benefit Plan Analysis, Seyfarth took advantage of its considerable depth in both the bankruptcy and the ERISA fields of law in providing the Committee with legal services on matters pertaining to Benefit Claim Analysis.

SECTION 1114 PROPOSAL/NEGOTIATIONS (113.70 HOURS VALUED AT \$42,613.50)

52. Thus far during the Application Period, Seyfarth expended 113.70 hours, with a value of \$42,613.50, on behalf of the Committee on matters concerning a Section 1114 Proposal and Negotiations. Exhibit 11 to Docket Number 3322 and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

53. As further background for the Court, Seyfarth notes that the services rendered in this category, and the measurable success directly attributable to such services, relate to the Committee's negotiations with Debtors' counsel concerning the Debtors' and Retirees' Section 1114 issues.

54. Actual and necessary services that Seyfarth provided the Committee in this category and that benefited the Estates include, but are not limited to:

- A. Formation of strategy regarding negotiations with Debtors' counsel;
- B. Formulation of feasible and more beneficial alternatives to Debtors' initial Section 1114 proposal;

- C. Written and telephonic communications with Debtors' counsel and other parties in interests regarding settlement of the Debtors' and Retirees' Section 1114 issues;
- D. Preparation of documents, including various counterproposals to the Debtors' proposals, regarding and in furtherance of settlement of the Debtors' and Retirees' Section 1114 issues;
- E. Preparation of the Section 1114 settlement agreement and the related notice to Retirees;
- F. Preparation of responses to objections to the Section 1114 settlement agreement; and
- G. Efforts to obtain the Court's approval of the Section 1114 settlement agreement.

55. Seyfarth's services in this category directly benefited the Estates by, inter alia, satisfying requirements of the Bankruptcy Code and furthering administration of the Estates and the bankruptcy process by enabling the Committee to carry out its statutory role and function in these Cases.

56. This past summer the Debtors were under tremendous pressure to cease providing retiree benefits to the thousands of retirees represented by the Committee. The Debtors estimated their monthly burn rate at \$3 million. The Committee was faced with Retirees whose benefit costs would skyrocket from \$40.00 or \$50.00 per month, to \$500.00 or more per month. Counsel was employed on June 2, 2003, just days away from the initial proposed cessation of benefits. Scyfarth had to work quickly and intensively with the Committee and the Debtors to craft a satisfactory resolution.

57. Continuing health coverage for a matter of weeks or months and extending traditional COBRA coverage fit neither parties' needs. Instead, and in lieu of the Estates continuing coverage at \$3 million per month, the Committee and the Debtors negotiated for termination of coverage, a brief continuation (through October 31, 2003) of traditional COBRA coverage and for sponsorship of a second medical coverage option, which is referred to as "COBRA Option B." This medical coverage option (1) guaranteed acceptance, (2) imposed no preexisting condition limitations, (3) provided prescription drug coverage, (4) allowed for more affordable monthly payments, and (5) was positioned to take advantage of the Health Coverage Tax Credit passed as part of the Trade Adjustment Act of 2002.

58. The solution crafted by the Committee and Debtors is unique. Upon information and belief, based upon Seyfarth's review of other proceedings and discussions with industry experts, it has never been employed in a bankruptcy situation. It is one of the success stories of these Cases.

SETTLEMENT IMPLEMENTATION (403.95 HOURS VALUED AT \$127,547.50)

59. Thus far during the Application Period, Seyfarth expended 403.95 hours, with a value of \$127,547.50, on behalf of the Committee on matters of Settlement Implementation. Exhibit 12 to Docket Number 3322 and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

60. Actual and necessary services that Seyfarth provided the Committee in this category and that benefited the Estates include, but are not limited to:

- A. Amending the VEBA Trust and Plan documents to reflect the change in sponsorship from the Debtors to the Board of Trustees;

- B. Assistance with formation of the Board of Trustees (primarily from Committee members) and formalizing their by-laws;
- C. Educating the Committee with respect to their fiduciary obligations to their constituents;
- D. Amending the VEBA Trust to reflect the change from company sponsorship to Board of Trustee control and PNC Bank's revised role; and
- E. Requests for Private Letter Rulings from the IRS and DOL on, among other things, the structure of the second available medical coverage and the employee organization which sponsored it and the availability of the Health Coverage Tax Credit to COBRA B.

61. Seyfarth's services in this category directly benefited the Estates by, inter alia, satisfying requirements of the Bankruptcy Code and furthering administration of the Estates and the bankruptcy process by enabling the Committee to carry out its statutory role and function in these Cases, as more fully described below.

62. In order to qualify as an employer-sponsored plan and take advantage of the HCTC, National Steel sponsored COBRA Option B and on November 1, 2003, transitioned sponsorship of COBRA Option B to a newly created Board of Trustees. Both the Debtors' sponsorship and the transition to the Retirees were mandated by the Settlement Agreement in July of 2003.

63. Seyfarth provided the legal services related to the transition of the COBRA Option B from National Steel to a Board of Trustees. Seyfarth worked with the Retiree Committee to create the Board of Trustees, issue its by-laws, define its rights and responsibilities with respect to the VEBA Trust initially sponsored by National Steel, amend the VEBA Trust

and redefine the relationships between and among the plan sponsor, the named fiduciary, the corporate trustee (PNC Bank) and the Board. Because of the unique nature of the health program, and as discussed below, our attempts to capitalize on the Health Coverage Tax Credit, the documentation was not your typical "off the shelf" ERISA benefit plan.

64. Seyfarth directed considerable efforts to ensuring that the Retirees can take advantage of the sixty-five percent (65%) Health Coverage Tax Credit. To this end, Seyfarth prepared requests for Private Letter Rulings to both the IRS and the DOL, both of which were sent to Skadden Arps for prior review and comment and both of which are currently pending with the IRS and DOL. Initial feedback from the IRS is quite favorable. Throughout the process, Seyfarth responded to inquiries from the IRS and DOL and asked them to expedite the process where possible.

ENGAGEMENT/FEE APPLICATION (183.60 HOURS VALUED AT \$44,744.50)

65. Thus far during the Application Period, Seyfarth has expended 183.60 hours, with a value of \$44,744.50, in matters related to its Engagement and the preparation of its Monthly Statements, the Interim Application, and this Application. Exhibit 13 to Docket Number 3322 and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

66. Seyfarth's services in this category directly benefited the Estates by, inter alia, satisfying requirements of the Bankruptcy Code and furthering administration of the Estates and the bankruptcy process.

TRAVEL (15.40 HOURS VALUED AT \$5,390.00)

67. Thus far during the Application Period, Seyfarth has expended 15.40 hours, with a value of \$5,390.00, on behalf of the Committee on Travel. Exhibit 14 to Docket Number 3322

and **Exhibit 1** hereto, both of which are incorporated herein by reference, contain a detailed description of the time entries attributable to this category of services to date.

68. Seyfarth's services in this category directly benefited the Estates by, inter alia, satisfying requirements of the Bankruptcy Code and furthering administration of the Estates and the bankruptcy process.

69. Counsel kept travel to an absolute minimum. The Committee conducted all of its business by telephone and email, with a single face-to-face meeting between the Committee chair and counsel on the morning of the hearing on the Section 1114 settlement agreement. Counsel appeared at only at (1) hearings at which the Committee had a direct pecuniary interest, and, in the same connection, (2) those hearings required for the Interim Application and this Application and which are necessarily attendant to Seyfarth's Committee representation.

Expenses

70. Seyfarth has thus far advanced \$17,722.51 in Incurred Expenses on behalf of the Committee in connection with the legal services provided to the Committee, to date, during the Application Period. A detailed description of Seyfarth's Incurred Expenses are contained in Docket Number 3322, as Exhibit 6 thereto, and attached **Exhibit 2**.

71. Certain of these Expenses are more fully described, below⁷:

- A. Photocopying. Seyfarth voluntarily reduced photocopy costs to \$0.10 per page.
- B. Computer-Assisted Legal Research. Seyfarth utilized necessary computer-assisted legal research when time constraints rendered it

⁷ Seyfarth has not billed the Estates for telephone charges other than the actual expense of long-distance telephone charges.

impracticable to conduct manual research or where the use of such computer-assisted legal research was determined to be more cost-efficient.

Computer-assisted research is billed at actual cost to the Firm.

- C. Delivery. Seyfarth incurred Federal Express and other necessary delivery charges on the Committee's behalf, and billed those charges at actual cost to the Firm.

72. A chart summarizing the Incurred Expenses is, as follows:

CATEGORY	EXPENSES INCURRED
Online Research	\$1,632.96
Messenger	\$20.25
Federal Express	\$154.33
Parking/Taxi/Travel	\$1,771.47
Document Production	\$3,892.30
Copying (at \$0.10 per page)	\$6,632.35
Outside Printing	\$25.00
Facsimile	\$195.69
Long Distance Telephone	\$153.00
Postage	\$109.99
Court Fees (IRS/Private Letter Ruling)	\$2,470.00
Other	\$665.17
TOTAL:	\$17,722.51

RELIEF REQUESTED

73. Seyfarth respectfully requests that the Court: (1) allow Seyfarth on an final basis the \$409,939.00 as reasonable compensation for actual and necessary legal services provided to and \$17,722.51 as reimbursement for actual and necessary costs incurred on behalf of, the Committee from June 2, 2003, to January 31, 2004 (the "Allowed Compensation and Reimbursement"), of the Application Period; (2) allow the Allowed Compensation and

Reimbursement as an administrative expense of the Estates; (3) authorize and direct the Debtors to make prompt payment of the Allowed Compensation and Reimbursement to Seyfarth from the Estates, to the extent not previously paid to Seyfarth; and (4)(a)(i) allow the Further Fees and Expenses as further final compensation and reimbursement to Seyfarth, (ii) allow the same as administrative expenses of the Estates, (iii) authorize and direct the Debtors to make prompt payment of the Further Fees and Expense to Seyfarth from the Estates, to the extent not previously paid to Seyfarth, (b) after Seyfarth submits verification of the Further Fees and Expenses, as previously discussed herein, and to the extent that no Notice Party (as defined in the Administrative Order entered by the Court in the Cases on March 6, 2002) timely files a written objection to the Further Fees and Expenses.

74. In the last respects, Seyfarth will review the docket after the Application Hearing, and after filing and serving the verification of the Further Fees and Expenses upon the Notice Parties (the "Service"). If no written objection has been filed with the Court by a Notice Party with respect to the Further Fees and Expenses within five (5) days after the Service, then Seyfarth proposes to file a Certificate of No Objection to that effect, along with a revised proposed order (the "Revised Proposed Order") that includes the Further Fees and Expenses, with the Court. In such event, Seyfarth proposes that the Court enter the Revised Proposed Order such that the Further Fees and Expenses are allowed in full, allowed as administrative expenses, and ordered to be promptly paid by the Debtors from the Estates, but, once again, only to the extent not previously paid to Seyfarth from the Estates.

75. To the extent that a Notice Party timely files a written objection to the Further Fees and Expenses, then Seyfarth respectfully requests that the Court hold a hearing on any such objection to the Further Fees and Expenses on any date convenient to the Court.

76. A draft Order granting such relief is attached hereto, for the Court's consideration, as **Exhibit 3**.

BASIS FOR REQUESTED RELIEF
Compensation Standards and Analysis

77. Under Section 330(a)(1)(A) of the Bankruptcy Code, the Court may award a professional person employed under Section 327, such as Seyfarth, "reasonable compensation for actual, necessary services rendered[.]" 11 U.S.C. § 330(a)(1)(A).

78. With respect to the reasonableness standard, Section 330(a)(3) provides, as follows:

(3)(A) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and
- (E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

79. Additionally, this Court has also utilized the twelve factors cited in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974), in making reasonableness determinations. See In re Palladino, 267 B.R. 825, 831 (Bankr. N.D. Ill. 2001) (Squires, J.); In re McNichols, 258 B.R. 892, 904-06 (Bankr. N.D. Ill. 2001) (Squires, J.); In re Spanjer Bros., Inc., 191 B.R. 738, 748 (Bankr. N.D. Ill. 1996) (Squires, J.). The twelve Johnson factors are:

- (1) the time and labor required;
- (2) the novelty and difficulty of the questions;

- (3) the skill required to perform the legal services properly;
- (4) the preclusion of employment by the attorney due to acceptance of the case;
- (5) the customary fee;
- (6) whether the fee is fixed or contingent;
- (7) time limitations imposed by the client or the circumstances;
- (8) the amount involved and the result 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.

488 F.2d at 717-19.

The Lodestar Calculation: A Combination of Time, Labor, and Rate Factors, and Lost Opportunity Cost

80. “The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.” Hensley v. Eckerhart, 461 U.S. 424, 434, 103 S. Ct. 1933, 1939, 76 L.Ed.2d 40 (1983); accord In re Wildman, 72 B.R. 700, 712 (Bankr. N.D. Ill. 1987) (Schmetterer, J.) (“[The] ‘lodestar’ approach—that is, multiplying the number of actual and necessary hours reasonably expended by a reasonable hourly rate—. . . seems to be the appropriate method in determining the extent and value of compensation.”). In this connection, it is noteworthy that many of the Johnson factors are subsumed within this calculation. Hensley, 461 U.S. at 434 n. 9, 103 S. Ct. at 1940 n. 9.

81. With respect to determining a reasonable hourly rate, “Congress rejected the ‘spirit of economy’ notion in favor of a market approach to determining fees” in enacting Section 330(a)(1), and thereby “‘expressed its intent that compensation in bankruptcy matters be commensurate with the fees awarded for comparable services in non-bankruptcy cases.’” In re

Farley, Inc., 156 B.R. 203, 210 (Bankr. N.D. Ill. 1993) (Schmetterer, J.) (quoting In re UNR Indus., Inc., 986 F.2d 207, 208-09 (7th Cir. 1993)); see In re Palladino, 267 B.R. at 831.

82. In this regard, and as the United States Court of Appeals for the Seventh Circuit held in Gusman v. Unisys Corp., 986 F.2d 1146 (7th Cir. 1993):

The best measure of an attorney's time is what that attorney could earn from paying clients. For a busy attorney, this is the standard hourly rate. If he were not [working for] this [client], the lawyer could sell the same time to someone else. That other person's willingness to pay establishes the market's valuation of the attorney's services.

Id. at 1150; see Palladino, 267 B.R. at 831; see also Pressley v. Haeger, 977 F.2d 295, 299 (7th Cir. 1992) ("It is not the function of judges in fee litigation to determine the equivalent of the medieval just price. It is to determine what the lawyer would receive if he were selling his services in the market rather than being paid by court order.") (internal quotation marks and citation omitted).

83. Here, where Seyfarth bills the vast majority of its time at a set rate for paying clients and spends only a very limited percentage of its time on cases covered by fee-shifting statutes, "there is a strong presumption that such counsel could have billed out remaining time at the rate normally charged." In re Farley, Inc., 156 B.R. at 211.

84. For purposes of this Application, Seyfarth has computed its fees on the basis of its standard hourly rates applicable to the performance of legal services unrelated to these Cases at the time that such services were rendered.

85. During the Application Period, Seyfarth's standard hourly billing rates for professionals providing services in these Cases ranged from \$175.00 to \$390.00 for attorneys, and from \$90.00 to \$155.00 for paraprofessionals. Based upon the total number of hours that Seyfarth billed in rendering services to the Committee during the Application Period to date, Seyfarth's average hourly billing rate—that is, its "lodestar" rate—was \$240.35.

86. Based upon the Time Statement, Seyfarth respectfully submits that the fair and reasonable value of the legal services that it rendered to the Committee during the Application Period aggregates \$409,939.00, plus the Further Fees, and should be allowed. In all respects, it is the same compensation which Seyfarth would have received for providing legal services to its non-bankruptcy clients, and thus represents Seyfarth's lost opportunity cost because Seyfarth's acceptance of employment in these Cases precluded other employment that Seyfarth would otherwise have obtained.

The Compensation Requested by Seyfarth is Reasonable Based on the Rates Charged By, and Compensation Awarded to, Comparable Practitioners in This or Other Bankruptcy Cases, or by Comparable Practitioners in Non-Bankruptcy Cases

87. As stated, during the Application Period, Seyfarth's standard hourly billing rates for professionals providing services in these Chapter 7 cases ranged from \$175.00 to \$390.00 for attorneys, and from \$90.00 to \$155.00 for paraprofessionals.

88. These hourly rates are well within, if not below, the range of those charged by comparable professionals, or the range of those charged for the services of comparable paraprofessionals, at comparable law firms in Chicago.

89. Seyfarth respectfully submits that the compensation which it has requested for rendering legal services to the Committee during the Application Period is commensurate with the fees charged by and awarded to professionals of comparable experience and expertise in these Cases or similar bankruptcy cases.

90. Further, Seyfarth respectfully submits that the compensation which it has requested is reasonable based upon the customary fees charged by comparably-skilled practitioners in non-bankruptcy cases.

91. For all of these reasons, Seyfarth respectfully submits that the compensation which it has requested should be allowed.

Result Obtained: The Services Provided by Seyfarth were Necessary to the Administration of, and/or Beneficial to, the Estates

92. It has been generally held that if the services of an attorney employed under Section 327 or 1103 are reasonably likely to benefit the bankruptcy estate, they should be compensable. See In re Pro-Snax Distributors, Inc., 157 F.3d 414, 421 (5th Cir. 1998); In re Amco Dep't Stores, Inc., 76 F.3d 66, 71 (2d Cir. 1996); 2 Lawrence P. King, Collier on Bankruptcy ¶ 330.04 at 330-43 (15th ed. rev. 1999); cf. 11 U.S.C. § 330(a)(4)(A)(ii)(I).

93. The determination of benefit to the Estates is not constrained to a dollar-for-dollar measurement, such that each dollar's worth of legal services must bring a cash dollar into the Estates in order to justify equivalent compensation to counsel. See In re Spanjer Bros., Inc., 191 B.R. at 748; In re Lifschultz Fast Freight, Inc., 140 B.R. 482, 488 (Bankr. N.D. Ill. 1992) (Barliant, J.). Instead, other factors, such as "whether the services rendered promoted the bankruptcy process or administration of the estate in accordance with the practice and procedures provided under the Bankruptcy Code and Rules for the orderly and prompt disposition of bankruptcy cases and related adversary proceedings," also support awards of compensation. In re Spanjer Bros., Inc., 191 B.R. at 748.

94. The Committee requested that Seyfarth represent its interests and those of its more than 8,000 constituents in these Cases. Seyfarth's legal services in this respect promoted and carried out essential aspects of the bankruptcy process in these Cases. In the same respect, Seyfarth's legal services were, and are, necessary to the administration of the Estates.

95. Ordinarily, in a liquidating bankruptcy, benefits are terminated with little or no COBRA coverage. In some cases, the result is worse, such as in instances where benefit plans

are canceled before the bankruptcy petition is filed. Virtually every benefit plan (including National Steel's) drafted after 1986 gives the employer the right to terminate, modify, or amend benefits without notice to retirees. National Steel's plans contained this right. At the time the Committee was formed, the Debtors had sold their assets and were paying approximately \$3 million per month to provide benefits to the Retirees. Once the assets were sold, however, it became clear that National Steel could no longer pay for retiree benefits.

96. Knowing that National Steel's coverage would stop, the Committee negotiated for National Steel to sponsor a second medical coverage option, which is referred to as "COBRA Option B." The Committee sought to implement a medical coverage option that (1) guaranteed acceptance, (2) imposed no pre-existing condition limitations, (3) provided prescription drug coverage, (4) allowed for more affordable monthly payments, and (5) was positioned to take advantage of the health coverage tax credit. By working with National Steel to sponsor COBRA Option B, the Committee achieved these goals. To our knowledge, this is the first time that a bankrupt company has agreed to sponsor a second medical coverage option. Instead of leaving Retirees entirely on their own to find replacement coverage, COBRA Option B provides a continuing coverage option which minimizes the risk of a lapse in coverage and gives Retirees guaranteed acceptance.

97. By structuring a solution that fit both the Retirees' need for ongoing, guaranteed medical coverage, and the Debtors' need to discontinue paying an onerous administrative expense, Seyfarth's services clearly benefited the Estates.

The Services Provided by Seyfarth were Performed within a Reasonable Amount of Time as Compared with the Skill Required to Perform the Services Properly and the Nature of the Matters

98. Seyfarth's legal services in these cases have been rendered within a reasonable amount of time commensurate with the complexity, importance, and nature of the matters which they concerned.

99. Seyfarth respectfully submits that its legal services were promptly and efficiently provided by seasoned bankruptcy and ERISA professionals, the experience, reputation, and ability of whom is further developed in their respective, previously-referenced biographies.

100. Seyfarth brought an uncommon combination of experience and knowledge in the fields of both bankruptcy and ERISA law to this case and put these skills to work in crafting a unique solution to a vexing problem.

Time Limits and Exigent Circumstances

101. Seyfarth's representation of the Committee in these Cases was undertaken with both time limits and exigent circumstances involved.

102. On April 21, 2003, the Bankruptcy Court entered an order approving the sale of substantially all of National Steel's assets to United States Steel Corporation ("US Steel"). On May 20, 2003, National Steel and US Steel completed the sale.

103. At the time Seyfarth commenced providing legal services to the Committee, the Committee faced the imminent termination of benefits to its constituents. In this respect, National Steel's lawyers contacted the Committee on May 29, 2003, in order to discuss termination. On June 2, 2003, Seyfarth lawyers had initial discussions with National Steel's lawyers regarding these Cases. At the same time, Seyfarth met with the Committee and discussed its goals. The Committee's initial goals were to keep existing coverage to the extent

possible and obtain replacement coverage. Knowing that termination of its constituents' benefits was imminent, the Committee sought alternatives immediately.

104. Within two weeks of meeting with the Committee, on June 16, 2003, National Steel issued its formal request to terminate medical benefits and life insurance. National Steel's initial request called for the termination of benefits on June 30, 2003 and for three months of COBRA coverage. Two days after National Steel's formal demand, the Committee requested an extension of time for paid benefits so that it could conclude its negotiations with National Steel. National Steel gave the extension and continued negotiations.

105. The Debtors were under tremendous pressure to reduce their burn rate and the Committee faced imminent discontinuation of its benefits. Without an alternative in place, many Retirees would be unable to afford traditional COBRA coverage and were facing a lapse in coverage which would make it difficult, if not impossible, to obtain replacement coverage.

106. In addition to the usual wrangling over Section 1114 issues, the Committee and Seyfarth worked together to design a second medical coverage—a process which often takes months—in a matter of weeks. Working around and over the July 4th holidays and in the midst of summer vacations, Seyfarth and the Committee put a plan in place and Seyfarth arrived at a settlement with the Debtors, which was approved on July 28, 2003, two days prior to its effective date.

107. Since its retention in these Cases, Seyfarth has endeavored to efficiently provide legal services to the Committee and to advance the interests of its constituents towards favorable resolution. This endeavor is reflected by results: over 2,200 retirees have availed themselves of the low cost alternative designed by the Committee and implemented by Seyfarth.

***Seyfarth has Exercised its Good Faith
Billing Judgment in Making this Application***

108. In rendering legal services to the Committee, and in making this Application, Seyfarth respectfully submits that it has exercised its good faith billing judgment, and has not sought compensation for “excessive, redundant, or otherwise unnecessary” time. Hensley, 461 U.S. at 434, 103 S. Ct. at 1939-40; see McNichols, 258 B.R. at 905.

109. In these respects, Seyfarth has made every reasonable effort to have the legal services rendered to the Committee performed by those qualified attorneys and paraprofessionals charging the lowest hourly rates consistent with the level of service, experience, and efficiency required of a given task.

110. Relatedly, and as previously stated, Seyfarth has voluntarily reduced, limited, and, in many instances, waived, certain of the costs it incurred in providing services the Committee.

Reimbursement Standard and Analysis

111. With respect to reimbursing expenses, the Court may award a professional person “reimbursement for actual, necessary expenses.” 11 U.S.C. § 330(a)(1)(B).

112. “An expense is necessary if it was incurred because it was required to accomplish the proper representation of the client.” In re Spanjer Bros., Inc., 191 B.R. at 749; see In re Wildman, 72 B.R. at 731.

113. In this connection, Seyfarth has requested reimbursement only for actual and necessary expenses incurred on the Committee’s behalf. Seyfarth respectfully submits that these expenses were incurred because they were required to accomplish the proper representation of the Committee and the further of its interests in these Cases. As previously indicated, Seyfarth voluntarily reduced and limited its costs for photocopy expenses.

Administrative Expense Priority

114. Sections 503(a) and (b), in conjunction with Section 507(a)(1), of the Bankruptcy Code permit the allowance and payment of administrative expenses. 11 U.S.C. §§ 503(a) & (b), & 507(a)(1).

115. In In re DeMert & Dougherty, Inc., 227 B.R. 508, 512 (Bankr. N.D. Ill. 1998) (Squires, J.), the bankruptcy court described the requirements imposed upon an administrative expense claimant, as follows:

To be afforded administrative status, [an administrative expense claimant] must prove that the expenses claimed were both actual and necessary. Patch Graphics, 58 B.R. at 745-746; Mark IV Properties, Inc. v. Club Dev. & Management Corp. (In re Club Dev. & Management Corp.), 27 B.R. 610, 612 (9th Cir. BAP 1982); In re Rhymes, Inc., 14 B.R. 807, 808 (Bankr. D. Conn. 1981). Expenditures must benefit the estate as a whole and not just the creditor claimant to qualify as actual and necessary expenses. Fruchauf Corp. v. Jartran, Inc. (In re Jartran, Inc.), 886 F.2d 859, 871 (7th Cir. 1989); Woodstock Assocs., 120 B.R. at 451; Patch Graphics, 58 B.R. at 746. [The claimant] also must prove that the expenses for which it seeks administrative priority arose out of a transaction with the Debtor or the Trustee. In re Jartran, Inc., 732 F.2d 584, 586-587 (7th Cir. 1984); Cramer v. Mammoth Mart, Inc. (In re Mammoth Mart, Inc.), 536 F.2d 950, 954 (1st Cir. 1976); Employee Transfer Corp. v. Grigsby (In re White Motor Corp.), 831 F.2d 106, 110 (6th Cir. 1987); Dynacircuits, 143 B.R. at 176.

A claim is not rendered a post-petition administrative priority claim merely by the fact that the time for payment is triggered by an event that happens after the filing of the petition. Chiasson v. J. Louis Matherne and Assocs. (In re Oxford Management, Inc.), 4 F.3d 1329, 1335 n. 7 (5th Cir. 1993). . . . Claims under § 503(b)(1)(A) are judged by the actual value received by the estate and not the cost incurred by the creditor. In re California Steel Co., 24 B.R. 185, 188 (Bankr. N.D. Ill. 1982); Patch Graphics, 58 B.R. at 746; Rhymes, 14 B.R. at 808.

227 B.R. at 512.

116. In reference to the foregoing standards, the Final Compensation and Reimbursement: (1) arose out of Seyfarth's postpetition and duly-authorized retention by the Committee; (2) is both actual and necessary; and (3) provided a commensurate benefit to the Committee, its constituents, and the Estates as a whole. Thus, under the instant facts, Seyfarth

respectfully submits that its request that the Final Compensation and Reimbursement be allowed as an administrative expense should be granted.

CONCLUSION

117. The fees and expenses for which Seyfarth requests compensation and reimbursement all arose in connection with these Cases, and in the discharge of Seyfarth's professional responsibilities as counsel to the Committee, during the Application Period. Seyfarth respectfully submits that its legal services to the Committee, and the fees charged therefor, are in all respects reasonable, necessary, and of benefit to the Estates and their administration, and that the expenses that Seyfarth incurred in rendering such legal services were actual and necessary.

118. For all of the foregoing reasons, Seyfarth respectfully submits that the relief requested by this Application should be granted in full.

NOTICE

119. Notice of this Application has been provided to: (1) the Notice Parties, as defined in the Administrative Order under 11 U.S.C. §§ 105(a) and 331 Establishing Procedures for Periodic Compensation and Reimbursement of Expenses of Professionals that was entered by the Court in these Cases, and (2) those other parties listed on the attached General Service List.

120. Pursuant to Federal Rule of Bankruptcy Procedure 2002(a)(2), and due to the significant expense that would be associated with serving this Application upon all creditors in these cases, Seyfarth respectfully submits that sufficient cause exists to limit such notice to the aforementioned parties.

121. Pursuant to Rules 2002(a)(2) and (a)(3), and 9006(c)(1), Seyfarth respectfully requests that such notice be deemed adequate and that the Court find that no other or further notice is necessary.

NO PRIOR REQUEST

122. No prior request for the final relief requested by this Application has been made to this Court or to any other court.

WHEREFORE, Seyfarth Shaw LLP respectfully requests that the Court enter an Order:

- A. Allowing and awarding Seyfarth Shaw LLP the Final Compensation and Reimbursement on an final basis and as discussed herein;
- B. Allowing the Final Compensation and Reimbursement as an administrative expense of the Estates;
- C. Authorizing and directing the Debtors to make prompt payment from the Estates of such Final Compensation and Reimbursement to Seyfarth to the extent not previously paid to Seyfarth and as discussed herein;
- D. Finding notice of the Application as given sufficient and excusing all further notice for good cause shown; and
- E. Granting such other and further relief as the Court may deem just and appropriate.

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Dated: February 2, 2004

Respectfully submitted,

SEYFARTH SHAW LLP

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Counsel to the Official Committee
of Retired Employees

10 CASE ADMINISTRATION AND NON-COMMITTEE COMMUNICATIONS

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/08/03	Telephone conference with M. Berkoff and S. Towbin regarding status of transition of Cobra B Plans.	W. Hanlon	.50	175.00
12/23/03	Attention to declaration of effective date.	W. Hanlon	.10	35.00
	TOTAL		.60	\$ 210.00

20 COMMITTEE MEETINGS, MINUTES AND COMMITTEE COMMUNICATION

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/01/03	Email Committee regarding meeting and agenda.	W. Hanlon	.30	105.00
12/01/03	Review of email correspondence regarding Committee meetings and other outstanding matters (.4); compilation of file materials (.2).	J. Crawford	.60	120.00
12/01/03	Revise October 27, 2003 Meeting Minutes (.1); revise October 20, 2003 Meeting Minutes (.1); revise October 10, 2003 Meeting Minutes (.1).	S. Fortier	.30	37.50
12/02/03	Conference call with Retiree Committee.	L. Rosenzweig	.50	150.00
12/02/03	Attend Committee Meeting.	F. Singerman	.30	117.00
12/02/03	Prepare for and conduct Committee meeting.	W. Hanlon	1.00	350.00
12/08/03	Conference with S. Fortier regarding Judge Squire's referral of retiree question and terms of Great West Program.	W. Hanlon	.50	175.00
12/09/03	Review notes from 10/31/03 Retiree Committee meeting (.2); draft Meeting Minutes regarding same (.9); revise same (.3); e-mail to W. Hanlon attaching Meeting Minutes (.1); e-mails from/to F. Singerman regarding claim denials (.2); conference with W. Hanlon regarding claim denials (.2).	S. Fortier	1.90	237.50
12/18/03	Email from R. Coffee regarding meeting.	W. Hanlon	.30	105.00
12/18/03	Prepare for and conduct Committee meeting.	W. Hanlon	1.00	350.00
12/18/03	E-mails from W. Hanlon with information for Retiree Committee conference call (.2); telephone conference with Retiree Committee regarding status (.9).	S. Fortier	1.10	137.50
12/24/03	Attention to notifying Committee on effective date.	W. Hanlon	.40	<u>140.00</u>
	TOTAL		8.20	\$2,024.50

30 BENEFIT PLAN ANALYSIS/LEGAL RESEARCH

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/08/03	Telephone call to F. Perlman regarding proof of claim issues	W. Hanlon	.10	<u>35.00</u>
12/18/03	Telephone conference with F. Perlman regarding claims resolution.	W. Hanlon	.10	<u>35.00</u>
	TOTAL		0.20	\$70.00

40 BENEFIT CLAIM ANALYSIS

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/09/03	Attention to claim detail	F. Singerman	.20	<u>78.00</u>
	TOTAL		0.20	\$78.00

50 1114 PROPOSAL/NEGOTIATION

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/11/03	Attention to IRS letter.	W. Hanlon	.10	<u>35.00</u>
	TOTAL		0.10	\$35.00

60 SETTLEMENT IMPLEMENTATION

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/01/03	Telephone conference with S. Sisti regarding fees as part of cost structure, post enrollment.	W. Hanlon	.20	70.00
12/01/03	Telephone conference with D. Trudeau regarding insurance.	W. Hanlon	.20	70.00
12/01/03	Attention to DOL advisory opinion communication.	W. Hanlon	.20	70.00
12/02/03	Review e-mails from W. Hanlon regarding status (.1); telephone conference with Retiree Committee regarding status (.4).	S. Fortier	.50	62.50
12/02/03	Review draft minutes for October meeting.	L. Rosenzweig	.20	60.00
12/08/03	Review letters from retirees forwarded by court and U.S. Trustee regarding insurance claims (.3); telephone conference with P. Ferrar, retiree, regarding rejection of insurance claim (.3); telephone conference with M. Little, retiree, regarding rejection of insurance claim (.2); office conferences with W. Hanlon regarding same (.5); telephone conference with Tonya of Great West/National Steel regarding claims of P. Ferrar and M. Little (.4); review National Steel Retiree SPD regarding claims filing language (.8); email to F. Singerman and L. Rosenzweig regarding claims filing language (.2).	S. Fortier	2.70	337.50
12/17/03	Telephone conference with F. Singerman regarding tasks remaining.	W. Hanlon	.10	35.00
12/17/03	Review proposed amendment to NSC plan.	W. Hanlon	.40	140.00
12/18/03	Telephone conference with S. Sisti regarding reporting, plan fees and open enrollment amounts and participants.	W. Hanlon	.60	210.00
12/18/03	Telephone conference with F. Singerman and L. Rosenzweig regarding PTE-77-9, fiduciary insurance and plan administration.	W. Hanlon	.50	175.00
12/18/03	Telephone conference with W. Hanlon and L. Rosenzweig regarding status of employee benefit issues.	F. Singerman	.50	195.00
12/18/03	Attention to correspondence from NEBCO and Benistar regarding plan amendments, fee schedules, reporting, PNC administration, PTE-77-9 disclosures, fiduciary insurance and plan administration.	W. Hanlon	1.30	455.00
12/18/03	Conference call with Retiree Committee regarding outstanding matters.	L. Rosenzweig	.80	240.00

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/18/03	Email D. Trudeau and J. Reid regarding PTE-77-9, fiduciary insurance, reporting and administration.	W. Hanlon	.60	210.00
12/18/03	Conference call with B. Hanlon and F. Singerman regarding outstanding matters.	L. Rosenzweig	.40	120.00
12/18/03	Review emails from B. Hanlon regarding outstanding matters.	L. Rosenzweig	.40	120.00
12/19/03	Attention to email regarding T. Freeman and Board of Trustees.	W. Hanlon	.20	70.00
12/19/03	Telephone conference with C. King at PNC Bank(Corporate Trustee) - one signed copy of documents.	W. Hanlon	.20	70.00
12/24/03	Email F. Singerman regarding PTE 77-9 issue.	W. Hanlon	.20	70.00
12/24/03	Telephone conference with D. Trudeau regarding fiduciary insurance and November 1st effective date.	W. Hanlon	1.60	560.00
12/24/03	Letter to Board members regarding amendment execution, fiduciary insurance and consent in lieu of meeting, drafting same.	W. Hanlon	2.30	805.00
12/30/03	Attention to plan administrative agreement issues.	W. Hanlon	.40	140.00
12/30/03	Attention to fiduciary liability insurance issues.	W. Hanlon	.60	210.00
01/14/04	Telephone conference with Retiree Committee regarding status	S. Fortier	1.00	135.00
01/15/04	Review correspondence regarding commission compensation and PTE 77-9; e-memo to W. Hanlon regarding same.	F. Singerman	1.00	390.00
01/17/04	Review notes from 11/4/03 Retiree Committee meeting and draft Meeting Minutes for amc (1.0).	S. Fortier	1.00	<u>135.00</u>
	TOTAL		18.10	\$5,155.00

70 ENGAGEMENT/FEE APPLICATION

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
11/17/03	Follow-up with J. McManus regarding monthly fee application.	C. Riecke	.10	23.50
11/24/03	Office conference with J. McManus regarding monthly fee statement (.1); review monthly fee statement (.2); memo to B. Hanlon regarding monthly fee statement (.1).	C. Riecke	.40	94.00
12/02/03	Telephone conference with M. Berkoff regarding fee application, letter to M. Berkoff regarding same.	W. Hanlon	1.00	350.00
12/10/03	Office conference with B. Hanlon regarding fee application (.2); review and revise fee application (2.0).	C. Riecke	2.20	517.00
12/10/03	Review fee application and work on narrative.	W. Hanlon	.90	315.00
12/10/03	Telephone conference with C. Riecke regarding fee application.	W. Hanlon	.40	140.00
12/12/03	Work on Interim Fee Application (.80); conferences with C. Riecke regarding same (.20).	J. McManus	1.00	140.00
12/12/03	Draft sixth monthly statement (.8); communicate with L. Fama regarding same (.10); conference with C. Riecke regarding same (.10).	J. McManus	1.00	140.00
12/15/03	Review fee application.	W. Hanlon	.40	140.00
12/15/03	Prepare monthly statement.	J. McManus	.80	112.00
12/16/03	Review and revise monthly fee statement (.20); email to B. Hanlon regarding monthly fee statement (.10).	C. Riecke	.30	70.50
12/17/03	Revise November monthly statement (.80) telephone conference with B. Hanlon regarding same (.10); final edits to Exhibit A per B. Hanlon (.40); cause monthly statement to be filed with the Court (.20).	J. McManus	1.50	210.00
12/17/03	Review time entries for November.	W. Hanlon	.40	140.00
12/18/03	Memo to B. Hanlon with enclosure.	C. Riecke	.10	23.50
12/19/03	Work on first interim fee application.	J. McManus	1.00	140.00
12/22/03	Work on interim fee application, telephone conference with C. Riecke regarding same.	W. Hanlon	1.60	560.00
12/22/03	Revise pleading portion of fee application and submit same to C. Riecke for his revisions.	J. McManus	.50	70.00
12/22/03	Telephone conference with B. Hanlon regarding fee application (.10); office conference with J. McManus regarding fee application (.10).	C. Riecke	.20	47.00

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
12/23/03	Work on first interim fee application with C. Riecke (1.2); draft and revise charts for interim fee application (3.0); prepare exhibits, including Time Statement (2.0); retrieve from PACER and assemble additional exhibits (.80).	J. McManus	7.00	980.00
12/23/03	Work on interim fee application, particularly narrative of services, draft inserts describing work.	W. Hanlon	2.80	980.00
12/23/03	Office conferences (6x) with J. McManus regarding fee application (.50)(.20)(.10); telephone conference with B. Hanlon regarding fee application inserts (.10); review and revise fee application (2.40)(1.30); CM/ECF search regarding fee application (.20).	C. Riecke	4.80	1,128.00
12/23/03	Communications with C. Riecke and J. McManus regarding content and filing.	W. Hanlon	.40	140.00
12/24/03	Finalize fee application, telephone conference with C. Riecke regarding same and expense and personal issues, background information.	W. Hanlon	2.80	980.00
12/29/03	Retrieve additional copies of fee application for duplication (.20); letter to Judge Squires' chambers enclosing courtesy copies fee application (.20).	J. McManus	.40	56.00
12/29/03	Memo to J. McManus regarding fee application (.20); office conference with J. McManus regarding same (.10); cover letter to Althea with enclosures (.20).	C. Riecke	.50	117.50
01/02/04	Begin preparation of Final Fee application (.60); communications with L. Fama regarding same (.20)	J. McManus	.80	124.00
01/06/04	Communications with B. Hanlon and L. Fama regarding preparation of Final Fee Application (.20); conference with J. Daley regarding same (.20).	J. McManus	.40	62.00
01/06/04	Attention to fee application matters regarding final fee application.	W. Hanlon	.40	140.00
01/12/04	Travel to Chicago.	W. Hanlon	6.00	2,100.00

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
01/12/04	Telephone conferences (2x) with B. Hanlon regarding fee application (.20); telephone conference with Steve Wolfe regarding same (.10); follow-up (2x) with court regarding getting fee application on court's call (.10); email (2x) to B. Hanlon regarding fee application (.10); office conference with J. McManus regarding same (.10); prepare for hearing (.30)(.10)	C. Riecke	1.00	255.00
01/12/04	Telephone conference with J. McManus and C. Riecke regarding court calendar, scheduling of interim fee application.	W. Hanlon	.30	105.00
01/13/04	Prepare for hearing on fee application (.30); to/attend/from court regarding same (1.20); prepare correspondence to N. Taylor at Piper regarding same (.10).	C. Riecke	1.60	408.00
01/13/04	Travel to Boston.	W. Hanlon	6.00	2,100.00
01/13/04	Attend interim fee hearing.	W. Hanlon	1.50	525.00
01/14/04	Review time detail (.20); office conferences (2x) with J. McManua regarding same (.10).	C. Riecke	.30	76.50
01/15/04	Communications with finance dpeartment regarding preparation of feeapplication (.30); work on fee application (1.2).	J. McManus	1.50	232.50
01/16/04	Office conference with J. McManus regarding final fee application (.10); follow-up with B. Hanlon regarding same (.10).	C. Riecke	.20	51.00
01/16/04	Work on final fee application narrative (1.0); revise Dccember time detail (.80); incorporate same into final fee application detail (.70).	J. McManus	2.50	387.50
01/16/04	Emails with J. McManus regarding final fee application.	W. Hanlon	.20	70.00
01/23/04	Telephone conference with B. Hanlon regarding final fee application.	C. Riecke	.30	76.50
01/29/04	Office conferences (4x) with J. McManus regarding final fee application (.20); prepare final fee application (5.20); Lexis research regarding same (.10).	C. Riecke	5.50	1,402.50
01/30/04	Work on final fee app (1.3); conferences with C. Riecke regarding same (.20); assemble new time detail (1.0).	J. McManus	2.50	387.50

<u>Date</u>	<u>Description</u>	<u>Attorney</u>	<u>Hours</u>	<u>Value</u>
1/30/04	Review final fee application, coments to C. Riecke regarding same and mechanism for bringing charges up to date.	W. Hanlon	1.50	525.00
1/30/04	Prepare fcc application	C. Riecke	4.20	<u>1071.00</u>
	TOTAL		69.20	17,713.00

<u>Date</u>	<u>Expense Code</u>	<u>Description</u>	<u>Value</u>
12/01/03	D106	Online Research - PACER SERVICE CENTER	36.40
12/01/03	D106	Online Research - PACER SERVICE CENTER	7.21
12/02/03	E108	Postage Boston Oct 2003	13.85
12/02/03	E108	Postage Boston Oct 2003	9.03
12/05/03	E101	Copying	4.00
12/10/03	E101	Copying	6.00
12/13/03	E106	Online Research November, 2003 Westlaw	14.74
12/17/03	E101	Copying	129.20
12/19/03	E104	Facsimile	60.36
12/19/03	E101	Copying	8.80
12/23/03	E101	Copying	1.80
12/23/03	E104	Facsimile	21.45
12/24/03	E101	Copying	38.00
12/24/03	E101	Copying	2,722.00
12/30/03	E101	Copying	3.00
01/21/04	E110	Out-of-Town Travel - American Express 1/04 Travel Bos/Chi/Bos 1/12/04	734.70
01/26/04	D109A	Taxi 1/12/04-1/13/04 - William J. Hanlon 1/12/04	<u>120.00</u>
			25,285.50
Total Disbursements			3,930.54
Total Fees and Disbursements			\$27,919.54