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U.S. BANKRUPTCY COURT
PATRICIA GRAY, CLERK

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re: **PEGASUS GOLD CORPORATION**, a Nevada corporation; and related entities, Debtors.	**Case Nos. BK-N-98-30088-GWZ through BK-N-98-30105-GWZ (Jointly Administered)** Chapter 11 **FINAL APPLICATION OF CADWALADER, WICKERSHAM & TAFT FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES** Date of Hearing: May 17, 1999 Time of Hearing: 10:00 a.m.

TO THE DEBTORS, THE OFFICE OF THE UNITED STATES TRUSTEE, AND OTHER PARTIES ENTITLED TO NOTICE

Pursuant to Section 331 of the Bankruptcy Code, Cadwalader, Wickersham & Taft ("Cadwalader"), special counsel to Debtors Pegasus Gold Corporation and related entities ("Debtors") makes this final application for compensation and reimbursement of expenses for professional services rendered to Debtors ("Final Application").[1] This Application seeks allowance of $390,939.45 in fees and $38,745.47 in disbursements for the period of August 6, 1998 (the date of Cadwalader's retention) through April 5, 1999 (the date this Final Application was filed with the Court), amounting to a total award of $429,684.92, including $82,734.30 in

[1] The statutory predicates for the relief sought herein are Sections 330 and 331 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure 2002(a) and 2016, and Local Rule 2016.

fees and $18,323.67 in disbursements for the period December 1, 1998 through April 5, 1999 not covered by previous interim fee applications, amounting to a total of $101,057.97 for this third and final period.

The one issue that arose in previous hearings with respect to Cadwalader's interim fee applications concerns the blended hourly rate for the Cadwalader attorneys working on this matter. For Cadwalader's first interim fee application, the blended hourly rate was $348.63, and for Cadwalader's second interim fee application (representing the bulk of all of Cadwalader's time), the blended hourly rate was $329.41. These numbers were higher than the $310 per hour blended rate this Court did not wish to exceed. In Cadwalader's last interim fee application and at the hearing held on Cadwalader's second interim fee application on January 25, 1999, Cadwalader explained that the tasks performed by Cadwalader — primarily strategic planning and high level negotiations with government officials and other parties — required the use of more senior attorneys and did not permit leveraging of work by more junior personnel, resulting in the higher blended rate. Robert Lonergan, the Debtors' then-Senior Vice President and General Counsel, confirmed in the January 25, 1999 hearing that in bringing Cadwalader into these proceedings and in the assignment of tasks to Cadwalader, Mr. Lonergan had understood Cadwalader would be using primarily partner-level personnel billing at hourly rates higher than $310, and that the tasks actually performed by Cadwalader required the partner-level personnel used.

This Court accepted Cadwalader's and Debtors' explanation of the higher blended rates and approved the interim fee application, subject to review in this Final Application. Nonetheless, the Court suggested that Cadwalader revisit this issue in its final fee application and consider making some voluntary adjustment to reduce the blended rate further.

Cadwalader has heeded the Court's suggestion and has made additional voluntary fee reductions in the amount of $17,935 in this final fee application. These reductions, relating

to time spent in the final period of the Chapter 11 proceedings, reduce Cadwalader's blended rate to $266.45 for the period from December 1, 1998 through February 5, 1999. Further, these voluntary reductions reduce Cadwalader's *overall* hourly blended rate for the entire Chapter 11 proceeding to $314.69. This further reduction brings Cadwalader's blended rate very close to the $310 level and is reasonable in light of the high-level tasks assigned to Cadwalader.

I. INTRODUCTION

Cadwalader notes at the onset that the bulk of its work on these cases was completed before the filing on Cadwalader's second interim fee application on December 22, 1998. Therefore, the descriptions of the nature and backdrop of Cadwalader's representation set forth in its second interim fee application apply to this Final Application as well. For the sake of completeness of the record, the descriptions of Cadwalader's work is also included in this Final Application.

When Cadwalader was first brought into these bankruptcy cases, the prospects for a successful reorganization were not encouraging. Debtors were embroiled in significant multi-party controversies involving years of dispute associated with the Zortman Mine and other mines, and, lacking resolution of these disputes, reorganization could not proceed. The disputes concerning the Zortman mine related to (1) the appropriate nature of the reclamation activities to be undertaken; (2) the funding of those reclamation activities in the context of these bankruptcy proceedings; (3) the adequacy of the bonding posted pre-petition by Zortman to cover those reclamation activities; (4) the party to be performing the reclamation; (5) the applicability of the automatic stay to, and claim status to be accorded, certain "Supplemental

Environmental Projects" or "SEPs" by Debtors for the benefit of the Gros Ventre and Assiniboine Tribes and Fort Belknap Community Council ("Tribes"); and (6) objections by various parties to Debtors' plans of reorganization.

In addition, the sureties at the mine sites to become part of Apollo Gold, Inc. ("Apollo") were asserting the right to cancel their surety bonds and thereby unlawfully nullify their effectiveness with respect to mining disturbances predating the notices of cancellation. These sureties, National Fire Insurance Company of Hartford ("CNA") and Safeco Insurance Company of America ("Safeco") took the position, which they continue to maintain, that continued mining at the Florida Canyon, Montana Tunnels and Diamond Hill mine sites would preclude recovery on the surety bonds despite the bonds' express provisions to the contrary. Without surety bonds in place, the future of these operations — and, in turn, the reorganizations — was placed in jeopardy.

Although Debtors had highly competent bankruptcy (Simpson Thacher and Bartlett ("Simpson Thacher")) and environmental counsel (Parsons Behle & Latimer), the Debtors' relationships with the federal and state government agencies and Tribes were rancorous, negotiations were not leading to resolution, an increasing number of environmental disputes were being brought before this Court, and the barriers to reorganization seemed almost insurmountable.

Litigation was spinning out of control not only in this Court but in an increasing number of forums. Debtors were enmeshed in judicial and administrative proceedings in the Interior Board of Land Appeals, in Montana state administrative proceedings, in federal District

Court in Montana, Montana state court and elsewhere. It appeared that Debtors were going to be swallowed up in an endless sea of litigation and contentiousness. Debtors were so concerned about the state of their deteriorating relationships with the federal and state governments that they believed the governments were intent on treating Debtors particularly harshly so as to make them (unjustifiably) a "poster child" — an example of how the governments would treat "bad actors" in the mining industry.

It is for these reasons that Cadwalader was brought in — late in the bankruptcy process — to try to rejuvenate negotiations concerning environmental matters and advise on the interrelationship between bankruptcy and environmental law, an area in which Cadwalader has particular expertise.

Debtors (a) sought Cadwalader's advice on the regulatory, administrative and political climate in Washington, the federal regulatory agencies, and the Department of Justice, (b) asked Cadwalader to develop and implement a strategy for reversing the negative relationships and resolving the environmental issues playing such a significant detrimental role in these proceedings, and (c) further asked Cadwalader to engage in specific litigation tasks involving the myriad environmental-bankruptcy issues pending before this Court and in the District Court in Montana (including the State of Montana's request for an increase in reclamation bonding, the United States' and Tribes' motions in Montana styled "Motion to Enforce Consent Decree" and the United States' companion motion seeking a legal determination that the automatic stay did not apply to its other motion, and the resulting