

11 U.S.C. § 329  
11 U.S.C. § 330  
attorney fees

In re Willamette Central Corp. Case No. 390-33946-P7  
3/24/92 Judge Perris unpublished

Judge Perris, in applying the "lodestar" analysis, found excessive the hourly rates and number of hours charged by the attorneys for the debtor and debtor in possession. Counsel are required to exercise billing judgment, balancing the effort required against the results which might be achieved.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In Re: ) Case No. 390-33946-P7  
 )  
WILLAMETTE CENTRAL CORP., ) MEMORANDUM OPINION  
an Oregon corporation, )  
 )  
Debtor. )

Burt, Vetterlein and Bushnell (BVB) filed a final application for allowance of attorney fees and expenses totalling \$218,459 for representing Willamette Central Corp., the debtor in possession, for the period from July 25, 1990 through February 4, 1991. The United States Trustee, the Internal Revenue Service, and the Trustees of the Oregon and Southwest Washington Painters' Pension Trust (collectively "the objecting parties") objected to the postpetition fees, and also requested that the court reexamine, under § 329<sup>1</sup>, the reasonableness of the prepetition fees charged the debtor by BVB.

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<sup>1</sup> All statutory references are to the Bankruptcy Code (11 U.S.C.) unless otherwise indicated.

At the hearing, BVB amended its fee request, indicating that the debtor and debtor in possession incurred bankruptcy-related fees and costs of \$264,060. BVB, acknowledging that the bankruptcy fees were excessive, reduced the amount of the request to \$180,627. Neither the \$264,060 nor the \$180,627 figure include prepetition tax and corporate work for which BVB charged the debtor, and was paid, \$19,602. Because BVB received prepetition payments for bankruptcy services and a bankruptcy retainer totaling \$60,998, it seeks allowance of an administrative claim in the amount of \$119,629 (\$180,627 less \$60,998). The objecting parties contend that the reasonable amount of the fees and costs for the bankruptcy, tax and corporate work should not exceed the \$80,500 already paid by the debtor.

#### I. FACTUAL BACKGROUND

Willamette Central Corporation (the debtor) was a painting contractor whose business grew rapidly in the years prior to its bankruptcy. In early June, 1990, Willamette Central consulted with BVB regarding the debtor's legal problems arising from unpaid withholding and other tax liabilities. BVB had previously assisted the debtor with a similar problem in 1985 and had successfully negotiated a payment arrangement with the taxing authorities. Initially, BVB attempted to work out such an arrangement to solve the 1990 problems. Very quickly, BVB

realized that the debtor would not be able to propose an informal payment arrangement which would satisfy the IRS because the debtor's tax liability exceeded \$1 million and the IRS generally required repayment within one year, which the debtor could not afford. Consequently, BVB began preparations for a chapter 11 case for the debtor.

BVB, though experienced in tax law, had very little prior bankruptcy experience. None of its attorneys had previously represented a Chapter 11 debtor or debtor in possession. Recognizing the limits of its bankruptcy expertise, BVB caused the debtor to associate Miller, Nash, Weiner, Hager & Carlsen ("Miller, Nash") as special bankruptcy counsel. After the debtor filed its Chapter 11, the Court approved employment of Miller, Nash as special counsel to assist BVB. (Ex. 39). Miller, Nash provided services to the debtor in possession which resulted in an allowed administrative claim of \$4,091.24. The services consisted primarily of answering BVB's questions regarding bankruptcy law and procedure, providing sample pleadings and attending meetings regarding development of the plan of reorganization.

BVB determined that the debtor needed the services of accounting professionals and referred the debtor to Moss, Adams. At the beginning of the bankruptcy case the debtor in possession employed Moss, Adams, with court approval, to "render general

accounting and consulting services ... including, but not limited to, ... (a) [a]udit and update Willamette's financial statements; (b) [a]ssist Willamette and Willamette's employees in preparing monthly financial statements and monthly financial reports required by [the] Court and the Bankruptcy Rules, ...." (Ex. 37, 38). The evidence at the hearing on BVB's fee application established that Moss, Adams had extensive involvement in helping the debtor bring its books up to date, preparing Bankruptcy Rule 2015 reports, preparing financial statements and projections relevant to the debtor's motions for use of cash collateral and the development of a reorganization proposal, reconciling the proof of claim filed by the IRS with the debtor's records, and preparing tax returns. I allowed the fee and expense reimbursement application of Moss, Adams in the amount of \$60,328.75 for services provided to the debtor.

At the time the debtor hired BVB to help it with its tax problems, Weiss, Jensen, Ellis & Botteri, P.C. ("Weiss, Jensen") represented the debtor in connection with collection of its accounts receivable. Because of the on-going nature of the disputes and the fact Weiss, Jensen had construction law expertise which BVB did not possess, the debtor in possession employed Weiss, Jensen to: "(i) pursue all collection claims and projects in litigation currently pending and hereafter arising (excluding any claims arising out of this bankruptcy proceeding);

(ii) advise [debtor] regarding construction contract and commercial code issues (inclusive of advice on all lien and bond claims); and (iii) continue its representation of debtor in various lawsuits, ..." (Application for Employment of Special Counsel, Docket No. 25; Order Approving Employment of Special Counsel, Docket No. 31). Weiss, Jensen charged \$17,572 for its services during the Chapter 11.

The debtor in possession also hired an appraiser, National Appraisal Company, Inc. to assist it in valuing its tangible assets. National indicated in its employment application that it would charge \$4,200 for its services. BVB relied on National's appraisal in preparing a liquidation analysis for the debtor. See Ex. 144 and 154.

The debtor filed its petition on July 25, 1990. However, the schedules filed with the petition reflected the debtor's financial condition as of May 30, 1990. On September 6, 1990, the debtor filed amended schedules which reflected its financial condition as of the date it filed bankruptcy. The most substantial creditor was the IRS, whose original \$1,409,094 claim was partially secured by federal tax liens, with most of the balance entitled to priority under § 507(a)(7). Although there were some initial disagreements, the IRS and the debtor amicably resolved the debtor's initial motions for use of cash collateral. However, several months later when the debtor's inability to meet

projections and continuing losses from operations became apparent, the IRS filed motions to convert and to terminate use of cash collateral. By the time the motions were heard by the court there was little factual controversy, and the motions were resolved after short hearings.

There was relatively little other creditor-initiated litigation during the case. The debtor defended motions for relief from stay filed by Ford Motor Credit Corporation and Colonial Pacific Leasing. Neither motion was complex. There were periodic short hearings on the Painters' District Council No. 55 and the Painters' Trust motions to compel payment of administrative expenses.

The only additional debtor-initiated litigation was a motion for approval of assumption of executory contracts and a motion to obtain credit from paint suppliers on a superpriority basis. Although creditors objected to both motions, neither required lengthy court hearings to resolve.

## II. DISCUSSION

### A. Applicable Law.

Section 330, which provides the statutory framework for determining the reasonableness of fees and costs requested by BVB<sup>2</sup>, states:

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<sup>2</sup> The method for determining what constitutes an excessive fee under § 329 is essentially the same as the method for  
(continued...)

...the court may award ... to a professional person employed under section ... 1103 of the title ....

- (1) reasonable compensation for actual, necessary services rendered ... based on the nature, the extent, and the value of such services, the time spent on such services and the cost of comparable services other than in a [bankruptcy] case...; and
- (2) reimbursement for actual, necessary expenses.

The Ninth Circuit Court of Appeals has stated that "lodestar" is the primary method of determining attorney fees in a bankruptcy case. Unsecured Creditors' Comm. v. Puget Sound Plywood, 924 F.2d 995, 960 (9th Cir. 1991). "A compensation award based on a reasonable hourly rate multiplied by the number of hours actually and reasonably expended is presumptively a reasonable fee." In re Manoa Finance Co., 853 F.2d 687, 691 (9th Cir. 1988). Bankruptcy counsel may not, however, mindlessly bill hours; they are required to exercise billing judgment. Counsel has "an obligation to consider the potential for recovery and balance the effort required against the results that might be achieved. Absent unusual circumstances, an attorney must scale his or her fee at least to the reasonably expected recovery." Puget Sound at 961. If factors exist which make it difficult for the court to quantify with numerical precision the "lodestar" calculation, courts may employ alternative approaches. Id.

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<sup>2</sup>(...continued)  
determining whether a fee is excessive under § 330. In re Saturley, 131 B.R. 509, 520 (Bankr. D. Me. 1991). Therefore, the prepetition and the postpetition fees and costs will not be separately analyzed.



B. Reasonable Hourly Rates.

The "lodestar" requires that the court determine whether the hourly rates charged by counsel are reasonable. The fee application lists the following rates for the three BVB attorneys involved in the case: Burt- \$195; Bushnell- \$100; Fraser- \$80. The experts who testified at the fee hearing expressed the following opinions regarding reasonable hourly rates for the three attorneys:

	<u>Mills</u>	<u>Walker</u>	<u>Foraker</u>
Burt	\$195-tax matters \$125-other	\$195-tax matters \$125-other OR \$150-blended rate	\$195-tax \$125-other
Bushnell	\$90	\$100	\$80
Fraser	\$80	\$80	\$80

BVB's application for employment stated that BVB would "charge its standard hourly rates for its services." (Ex. 42). At the time the case was commenced Ms. Bushnell charged all of her clients \$80 per hour. She increased her rate to \$100 per hour for this case based upon Mr. Mill's advice that \$100 per hour for someone with Ms. Bushnell's experience was consistent with prevailing bankruptcy hourly rates. The only bankruptcy matter Ms. Bushnell handled during the period at issue was representing the debtor in this case.

I conclude that the reasonable hourly rates should be

limited to the following:

Burt	\$195 - tax matters \$125 - all other matters
Bushnell	\$80
Fraser	\$80
Paralegals	\$50 <sup>3</sup>

Ms. Bushnell's hourly rate should be limited to \$80 per hour because she should not be allowed to charge a debtor in possession more than she charged all her other clients, especially after her firm represented to the court that it was charging its standard hourly rates for its services. The above rates result in a blended hourly rate of \$95.75<sup>4</sup>.

C. Reasonable Number of Hours.

The next matter which the court must analyze to complete the "lodestar" calculation is the number of hours reasonably spent by BVB in providing legal services to the debtor and debtor in possession. I have been generous in the number of hours allowed for the services provided by BVB because of the relatively low blended hourly rate. Attorneys who charge lower rates are generally less experienced, and therefore less

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<sup>3</sup> BVB charged \$50 per hour for paralegal time and none of the experts questioned the reasonableness of that rate.

<sup>4</sup> The blended rate results from dividing \$192,117.55 (the total fee request adjusted to reflect reasonable hourly rates) by 2,006.4 hours (the number of hours BVB billed for work other than prepetition tax and corporate work).

efficient, than those who charge at the high end. That inefficiency cannot, however, justify a higher bill than would result if more experienced counsel with higher hourly rates provided the services. Even after liberally determining reasonable hours, the hours spent in representing the debtor and debtor in possession cannot be justified.

The objecting parties urge that BVB should have realized no later than October, 1990 that a successful reorganization was not possible, and therefore most of the chapter 11 services after that date were unnecessary. However, the issue is not what services hindsight shows were unnecessary. The question is what services reasonably appeared necessary at the time. Looking at the facts as they appeared in October, 1990, the evidence did not establish that the case was necessarily doomed. Accordingly, this analysis assumes that BVB acted reasonably in continuing the Chapter 11 case after October, 1990.

In analyzing the number of hours reasonably spent by BVB, I have relied upon Exhibit 181 for a summary of the hours spent by BVB on discrete categories of services provided in the case. Attached hereto is a revision of Exhibit 181 in which the hourly rates have been changed to be consistent with my finding regarding reasonable hourly rates. Exhibit 182, a copy of which is attached hereto, describes the job codes contained on Exhibit 181 and the court revision thereof. The itemized billings

introduced as exhibits 178 to 180 include a detailed description of services by job category.

Among the most striking aspects of BVB's itemization are the number and length of interoffice conferences between attorneys. Also of note is BVB's frequent and unnecessary practice of sending two or more BVB attorneys to hearings and meetings. BVB charged approximately \$20,000 at the adjusted billing rates for interoffice conferences. Ms. Walker testified that charges for interoffice conferences should not exceed \$4,250. She did not separately address the reasonableness of charges for multiple attorneys attending meetings and hearings. Mr. Mills testified that all the charges for interoffice conferences are excessive because the charges for the large number of meetings attended by multiple BVB lawyers with third parties were sufficient to compensate BVB for time reasonably spent on coordination. Mr. Foraker excluded all charges for interoffice conferences and more than one attorney attending a meeting or hearing, and then added 5% to the bill for time reasonably spent for attorney coordination.

I agree with the experts that interoffice conference time and charges for multiple attorneys attending meetings with third parties and hearings are excessive. With respect to the billings for those job codes I discuss in detail, reasonable hours for attorney coordination are included in the time allowed. As to

the billings for the job codes I do not discuss in detail, I will use Mr. Mills' approach of eliminating all interoffice conference charges but allowing charges for multiple attorneys attending meetings and hearings.

In preparing the schedules filed with the petition (job category 1(a)) and the amended schedules filed six weeks later (job category 1(b)), BVB spent 360.75 hours, which resulted in charges totalling \$32,066.36 at the court allowed rates. All of the experts agreed that the charges were excessive. Ms. Walker testified that a reasonable fee for the schedules in this case would be \$10,000 to \$15,000. Mr. Foraker testified that charges for more than 75.8 hours and \$6,383.50 were excessive.<sup>5</sup>

I find that 104.5 hours should have been sufficient time to prepare the schedules and a reasonable fee for those services is \$10,000. BVB's charges for preparing schedules greatly exceeded that amount for several reasons. As a result of a

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<sup>5</sup> I find Mr. Mills' opinion regarding the schedules of limited validity because of his methodology for analyzing prepetition work. While Mr. Mills performed a task by task review of the postpetition billings, he did not do so for prepetition work. Instead, Mr. Mills determined the percentage by which he reduced each attorney's postpetition fees, and applied the same percentage reductions to the prepetition bills of each attorney.

A more appropriate approach in this case would have been to determine the percentage reduction for postpetition work in each job category, and apply that to the prepetition services. Mr. Mills discounted the postpetition charges for work on the schedules by 70%. However, he discounted the prepetition work by less than half that figure. If Mr. Mills' postpetition discount rate of 70% on schedules were applied to all the work done on the schedules, the charges would be \$9,620.80.

judgment error by BVB, they had to amend the schedules originally filed with the petition. The original schedules reflected the debtor's financial condition as of May 31, 1990, rather than the July 25, 1990 petition date. I do not find credible BVB's explanation that it believed that the debtor's financial affairs would remain essentially unchanged between the two dates. Mr. Burt admitted in his deposition that he knew that the debtor's financial records were not accurate (Ex. 184, pages 34-35, 37, 62-64). Because the debtor had substantial financial activity it was inevitable that its lists of assets and liabilities would change over a two month period. BVB charged \$10,110.11 for preparing the amended schedules to reflect those changes.

Preparing two different sets of schedules was wholly unnecessary. If the debtor could not provide sufficient information to file accurate schedules with the petition, the documents could have been filed up to 15 days after the petition or at such later date as the court might allow for cause shown. Bankr. R. 1007(c).

A second reason why BVB's charges for preparing schedules is excessive is BVB's practice of spending substantial time verifying information provided by the debtor and otherwise developing information for the schedules which the client should have provided. See, In re Saturley, 131 B.R. 509, 519 (Bankr. D. Me. 1991). Third, many of the services performed by attorneys

could have been competently performed by paralegals at lower hourly rates.

BVB spent an excessive number of hours providing services which the debtor had hired other professionals to provide. Job code 1(c) reflects that BVB spent 212.4 hours on "administrative period reports," primarily Bankruptcy Rule 2015 reports and financial projections. The accountants had primary responsibility for both the 2015 reports and the financial projections (job codes 1(c) and 6). It should not have taken more than 80 hours<sup>6</sup> to provide the services included in job code 1(c). At a blended hourly rate of \$95.75, the fees for job code 1(c) should not have exceeded \$7,660. Job code 6 consists of "hours spent coordinating with and assisting WCC [debtor] and Attorney Gray concerning ongoing claims litigation involving WCC." Ex.182. One-half of the hours spent were redundant and therefore unnecessary. Consequently, the allowed fees will be reduced by \$1,741.75.

BVB spent an excessive number of hours on employment of professionals (job code 2(a)) and efforts to obtain monthly and

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<sup>6</sup> The 80 hour figure was calculated as follows: 25 hours for review of and assistance in preparing financial projections for the administrative period, 25 hours for review of and assistance in preparing long term financial projections, 15 hours (3 hours per month) for reviewing and transmitting 2015 reports, and 15 hours for the other tasks.

interim compensation for the professionals (job code 2d<sup>7</sup>). I agree with Mr. Mills that one hour per professional is the amount of time reasonably spent on employment applications and orders, absent extraordinary circumstances not present in this case. Since the debtor hired five professionals, 5 hours rather than 41.9 hours should be allowed for job category 2(a). Almost all the time spent regarding monthly compensation was excessive. Given the size of the estate and the lack of complexity<sup>8</sup>, monthly compensation would not be warranted. See In re Knudsen, 84 B.R. 668 (BAP 9th Cir. 1988). Excessive time was spent pursuing interim compensation which probably could not have been collected because of the debtor's lack of cash and inability to pay its postpetition operating expenses. Services in job category 2(d) will be limited to 15 hours, which is the amount of time it would have reasonably taken BVB to research monthly compensation criteria and the amount of time reasonably spent on the interim compensation applications.

BVB spent 41.3 hours on a motion for assumption of executory contracts pursuant to which debtor was providing painting services. The motion which BVB filed and served (Ex.

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<sup>7</sup> Both job code 2d and 5 indicate that they include services related to interim fee applications. In reviewing Ex. 180 it appears that the services were actually included in job code 2d.

<sup>8</sup> According to the amended schedules the debtor had assets totalling \$2,443,424 and liabilities totalling \$2,443,497.88 on the date of filing. (Ex. 75).



57) did not identify the specific contracts to be assumed or analyze why assumption economically benefitted the estate. After several parties in interest objected because of the lack of specificity, BVB filed a memorandum (Ex. 79) which identified the contracts to be assumed, but did not analyze economic benefit on a contract by contract basis. The hearing had to be continued to allow the debtor to supply the information necessary to analyze whether the debtor's motion should be granted. BVB's lack of understanding of the information necessary to analyze the assumption request caused it to file extra pleadings and to respond to information requests that it should have anticipated and answered in its original motion. The court finds that it should not have taken more than 20 hours to handle the motion to assume executory contracts. At the blended hourly rate of \$95.75, fees for these services, which are included in job code 2(f), will be limited to \$1,915.

BVB spent approximately 364 hours<sup>9</sup> developing, drafting and informally presenting a plan of reorganization to the creditors. Efficient counsel could have reasonably completed the claims review<sup>10</sup> and liquidation analysis<sup>11</sup> for a plan in 5 hours

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<sup>9</sup> The 364 hours consists of 307.2 hours in job code 7 plus 25 hours spent on long term financial projections (included in job code 1(c)) and 32 hours spent on claims review (included in job code 5).

<sup>10</sup> The claims review process of BVB is a good example of the inefficiency of BVB. Mr. Fraser spent 9.8 hours researching  
(continued...)

each. Once the long term financial projections, claims review and liquidation analyses were completed, it should not have taken more than 100 hours to develop, present and negotiate the plan with creditors under the facts in this case.

By December, 1990 it should have been clear that under any plan, the debtor would be unable to pay the large amount of administrative claims in full on the effective date as required by § 1129(a)(9). It should have been equally obvious to BVB that absent consent by the administrative claimants to deferred payments, the debtor could not confirm a plan. There was no reason to create a full-blown plan and disclosure statement (as

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<sup>10</sup>(...continued)

and preparing an internal memorandum regarding proofs of claim procedures, although BVB never filed any objections to claims. Mr. Mills, who was special counsel to the debtor, testified that he could have provided the information in the memorandum "off the top of his head" in five minutes, although he would have to look up the specific rule and local form numbers. Mr. Fraser prepared an elaborate claims chart which was updated approximately monthly by checking to see what claims had been filed in the preceding month and how those claims varied from the scheduled claims. Ex. 107 and 134. Experienced counsel would have compared the claims register against the schedules prior to development of the plan, a process which should not take more than a few hours given the volume of claims filed in this case. Experienced counsel would then analyze variations only on those claims which had economic significance, i.e. those claims which would make a meaningful difference in whether a plan could be confirmed, proposed treatment of creditors under the plan and what creditors would receive under the plan.

Fees allowed for job code 5 will be reduced by \$2,160 because of the excessive time spent on claims review. Because Mr. Fraser performed most of the work on the claims analysis, the \$2,160 reduction was calculated by multiplying the 32 hours spent on the project times Mr. Fraser's \$80 hourly rate and then subtracting the 5 hours of claims analysis allowed.

<sup>11</sup> BVB spent 30 hours preparing the liquidation analysis.

BVB did) until the administrative creditors indicated they would consent to the type of deferred payments which any confirmable plan would require. When BVB finally presented the proposed treatment to the creditors in late December, it was obvious after one meeting that the creditors and the debtor would not agree upon a proposal. Accordingly, fees for job category 7 will be limited to \$10,053.75<sup>12</sup>.

The following additional adjustments need to be made to the billings for the services not discussed above.

(a) Interoffice conferences. The following reductions will be made to eliminate charges for interoffice conferences:

Job Category	Amount of Reduction
004 (prepetition tax) <sup>13</sup>	\$ 951.25
2 (b), 2 (c), 2 (m)	\$ 842
2 (g)	\$ 177.50
2 (i)	\$ 16
2 (o)	\$ 95.50
3	\$1,679.50
4	\$3,120.50
5	\$6,153.25

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<sup>12</sup> 100 hours for reorganization plan development and presentation plus five hours for the liquidation analysis times the blended rate of \$95.75 equals \$10,053.75.

<sup>13</sup> I do not accept BVB's attempt to insulate certain prepetition fees from review by characterizing them as unrelated to the bankruptcy.

(b) Excessive time. In addition to the reductions for excessive time discussed in detail above, adjustments must be made in other categories of services. By utilizing Mr. Mills' line by line review, with which Mr. Foraker agreed, and making the additional adjustments noted, I have determined that the following reductions should be made:

Job Code	Adjustment Amount	Explanation for Variance from Mills' Analysis
2(b), 2(c), 2(m)	\$ 1,185.50	Added \$240 adjustment for excessive prepetition charges
2(g)	516.00	Added \$500 for services related to responding to the Rule 2004 exam. The number of hours spent by BVB was unreasonable.
2(o)	133.00	
3	875.00	
4	556.00	
5	741.50	Does not include reductions for review of proofs of claim which is separately discussed in footnote 10.

(c) Overhead. BVB billed \$837.50 for typing services. I agree with Mr. Mills that such services are part of overhead which is compensated though the allowed hourly rates.

D. Costs.

The objecting parties challenge the reasonableness of the

facsimile and photocopy charges. I agree with Ms. Walker that BVB's facsimile charges are double the usual amount charged in the Portland, Oregon legal community. The allowed claim for facsimile reimbursement will be 50% of the amount requested. Whenever BVB sent a letter which included an enclosure it attached to its file copy a photocopy of the complete enclosure, even though it had a copy of the enclosure elsewhere in its files. This resulted in voluminous and excessive photocopying. BVB bears the burden of demonstrating that its expense reimbursement requests are reasonable. The photocopy bill is substantially greater than I usually see in a case of this size and complexity. The objecting parties have shown that at least some of the copy charges were unreasonable, and BVB has failed to explain which charges were reasonable and which were not. Therefore, only 75% of the copy reimbursement request will be allowed.

E. Summary of Adjustments.

The above adjustments are summarized as follows:

Fee and Cost Request plus 004 Charges	\$283,662.00
less adjustments for:	
Hourly Rates	<53,523.50>
Excessive Hours	<81,106.59>
Overhead Charges	<837.50>
Facsimile Charges	<2,003.00>
Photocopy Charges	<1,532.50>
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TOTAL ALLOWED FEES AND COSTS	\$ 144,658.91
LESS PAYMENTS	<80,500.00>
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TOTAL UNPAID ALLOWED CLAIM	\$ 64,158.91

## CONCLUSION

This case was a relatively straightforward one with a minimum of difficult litigation or complex legal issues. The fees and expenses charged by BVB are grossly out of proportion to the size of the case and its complexity. BVB devoted massive amounts of resources to any and all issues or potential issues with little regard to the practicalities involved. The lack of experience by any BVB attorney in handling chapter 11 reorganization cases no doubt contributed to its lack of perspective in handling the case. However, the estate should not be required to bear the costs of unnecessary work.

An order will be entered allowing BVB's administrative claim for fees and costs in the reduced amount of \$144,658.91. This Memorandum Opinion shall constitute Findings of Fact and Conclusions of Law, and pursuant to Bankruptcy Rules 7052 and 9014, they will not be separately stated.

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ELIZABETH L. PERRIS  
Bankruptcy Judge

cc: Jerome Buckley  
Andrea Bushnell  
Pamela Griffith  
Jeffrey Wong  
Michael B. Batlan