

**United States Bankruptcy Court  
District of New Mexico**

**Document Verification**

**Case Title:** Union Home and Industrial, Inc.  
**Case Number:** 04-15755  
**Chapter :** 11  
**Judge Code:** SR  
**First Meeting Location:** Roswell  
**Reference Number:** 11 - 04-15755 - SR

**Document Information**

**Number:** 87  
**Description:** Memorandum Opinion in Support of [85-1] Order on Debtor in Possession's Motion to Employ Counsel.  
**Size:** 45 pages (79k)

<b>Date Received:</b> 04/01/2005 02:21:44 PM	<b>Date Filed:</b> 04/01/2005	<b>Date Entered On Docket:</b> 04/02/2005
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UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW MEXICO

In re:  
UNION HOME AND INDUSTRIAL,  
Debtor.

NO. 11-04-15755 SR

**MEMORANDUM OPINION  
IN SUPPORT OF ORDER  
ON DEBTOR IN POSSESSION'S  
MOTION TO EMPLOY COUNSEL**

The debtor in possession ("Debtor") has filed its Motion to Employ Counsel ("Application") to employ the Behles Law Firm, P.C. ("Firm") as its chapter 11 counsel at specified rates (doc 5). The Application seeks employment of the Firm under the terms of the retainer and at the rate of \$250 per hour for the services of its senior attorney ("Senior Counsel"). It is that proposed rate of compensation that is the primary focus of the decision to be made, although this decision also addresses the lack of a Rule 2014(a) statement and certain terms of the employment agreement. The Court will set aside the employment order already entered (doc 38), and will partly grant the Application, effective upon the immediate filing by the Firm of a Rule 2014(a) statement but retroactive to March 1, 2005, and partly deny the Application.

**Facts:**

The Debtor filed its voluntary chapter 11 petition on August 9, 2004 (doc 1). The Application was filed August 10,

2004 (doc 5)<sup>1</sup>. The Firm also filed the compensation disclosure statement required by § 329(a) and Rule 2016,<sup>2</sup> to which is attached a copy of the Firm's proposed employment agreement with the Debtor (doc 4)<sup>3</sup>. However, a review of the docket discloses that the Firm has not filed the verified Rule 2014(a) statement. At the Court's request for a response or comment from the office of the United States Trustee ("UST"), the UST filed the United States Trustee's Limited Objection to Debtors' [sic] Motion to Employ Counsel (doc 17). On November 17, 2004, following a preliminary hearing on the Application, the Court entered an order approving the Firm's employment effective August 10, 2004, permitting the Firm to bill for Senior Counsel's services at the rate of \$200 per hour,

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<sup>1</sup> The Application contains no prayer for relief as such, but that it immaterial.

<sup>2</sup> Unless otherwise specified, all references are to Title 11 of the United States Code and to the Federal Rules of Bankruptcy Procedure. This memorandum opinion constitutes findings of fact and conclusions of law as may be required by Rule 7052.

<sup>3</sup> A copy of the retainer or employment agreement is also attached to the Application. The last page of the employment agreement is an Exhibit A, setting out the rates for the services of counsel and paralegals, including the \$250 per hour for Senior Counsel. Although Exhibit A has approval lines for signatures of counsel and client, neither counsel nor the Debtor have initialed or signed. The Court assumes that the Debtor is fully aware of this litigation and so the Court does not take the lack of initials or signatures on the rate sheet as a material omission.

allowing the Debtor to pay the Firm 75% of its monthly fees and 100% of its costs on an interim basis (standard practice in the District of New Mexico), and taking under advisement the request for an hourly rate of \$250 per hour for Senior Counsel. Doc 38.

In support of the Application, the Firm submitted the affidavit of Senior Counsel describing her experience and explaining the characteristics and pitfalls of bankruptcy practice. The Firm also submitted affidavits from a variety of local counsel about hourly rates of compensation.<sup>4</sup> The Court has prepared a summary of chapter 11 counsel rates taken from the ACE docket<sup>5</sup> for all cases filed from calendar year

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<sup>4</sup> The bulk of the affidavits and related charts had been submitted previously in support of the application of Law Office of George (Dave) Giddens, P.C. to be paid \$225 per hour in another case. In re Mach 2 Machining and Manufacturing, Inc., No. 11-04-13983 SA. The Court agreed that those affidavits could be re-used in this case. The affidavits in the Giddens materials were from Mr. Giddens, William F. Davis, William J. Arland, III, Paul M. Fish, David H. Kelsey, Senior Counsel, Charles A. Pharris, Robert A. Johnson, and Ranne Miller. Additional affidavits were submitted from Messrs Davis, Arland and Louis Puccini, Jr., and directly addressed Senior Counsel's experience and abilities for this case. The latter three affidavits were filed (docs 31, 32 and 40); the Giddens materials have been treated as exhibits submitted at a hearing.

<sup>5</sup> ACE (Advanced Court Engineering) is the program of the United States District/Bankruptcy Court for the District of New Mexico which is the District's equivalent of the ECF system of the Administrative Office of the United States Courts. It is the system which the court staff and all others

2002 through March 30, 2005.<sup>6</sup> And the Court has taken into account published decisions that address the Firm's or Senior Counsel's fees in other cases and the Firm's performance so far in this case.

Senior Counsel has been licensed to practice law since 1970. The affidavits established that a number of commercial litigation and bankruptcy attorneys engaged in this district with twenty and more years of experience charge rates of approximately \$225 to \$275 per hour.<sup>7</sup> And the three affidavits that specifically addressed Senior counsel's employment in this case said that Senior Counsel's skills are "excellent" and "above average", including in complex bankruptcy and non-bankruptcy cases.

The ACE docket table shows hourly rates that, with the exception of the Furrs case<sup>8</sup>, range from a low of \$90 to a

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use to access case files and to file to those cases. Thus, the table is based on publicly available documents, of which the Court takes notice pursuant to Fed. R. Evid. 201, and the data and the conclusions drawn can be verified by anyone.

<sup>6</sup> A copy of that table, with comments, is attached to this memorandum as Appendix 1.

<sup>7</sup> Mr. Kelsey practices family law, but at a level that constitutes in good part commercial litigation.

<sup>8</sup> In In re Furr's Supermarkets, Inc., No. 11-01-10779 SA (since converted to a chapter 7 case), the Court allowed hourly rates for up to \$275 per hour for local counsel and up to \$675 per hour for counsel who have a national (or

high of \$250 per hour as allowed by Judge McFeeley and \$225 per hour as allowed by this judge in one case.

The Firm or Senior Counsel has engaged in a number of litigated matters concerning its or her fees or related matters that appear in published or otherwise available decisions. These include the following:

Miller v. United States Trustee, 288 B.R. 879 (10<sup>th</sup> Cir. BAP 2003) (in Chapter 12 case, affirming hourly rate of no more than \$200 and affirming award for fees for total number of hours spent confirming the plan); In re Bennett, 283 B.R.

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international) practice, such as Skadden, Arps, Slate, Meagher and Flom, and Pepper Hamilton. Furr's was a so-called "megacase" (and not so "mega" at that), with assets of about \$120 million, liabilities of about \$500 million and about 19,000 creditors. There were serious questions what the relevant market was for professional fees and whether any single firm in this District had the capacity and expertise to handle that case. Nevertheless, one might question whether those rates, far above the local norm, were proper. See Ramos v. Lamm, 713 F.2d 546, 555 (10<sup>th</sup> Cir. 1983) (in a civil rights case, the fee rates of the local area should be applied to lawyers from other areas seeking fees except in unusual circumstances), cited in Miller v. United States Trustee, 288 B.R. 879, 882 (10<sup>th</sup> Cir. BAP 2003); Garb v. Marshall (In re Narragansett Clothing Company), 210 B.R. 493, 498 (1<sup>st</sup> Cir. BAP 1997) ("The bankruptcy court is required to consider prevailing market rates in determining the lodestar, based on usual and customary rates in the jurisdiction", citing Blum v. Stenson, 465 U.S. 886, 895 (1984) for the proposition that "reasonable fees" in federal civil rights cases are to be calculated according to the prevailing market rates in the relevant community). In any event, the Court considers Furrs to have been sui generis in this District, and will not consider it as a precedent.

308 (10<sup>th</sup> Cir. BAP 2002) (setting out the drawn out conduct of the chapter 12 case and denying the petition for mandamus seeking to disqualify the judge on the grounds, among others, of permitting no more than a \$200 hourly rate and of raising sua sponte Debtors' failure to file chapter 12 plan or obtain an extension of time to do so timely); Behles-Giddens, P.A. v. Raft (In re K.D. Company, Inc.), 254 B.R. 480 (10<sup>th</sup> Cir. BAP 2000) (affirming requirement that Behles-Giddens, P.A. disgorge approximately \$40,000); In re Love, 163 B.R. 164 (Bankr. D. Montana 1993) (second DIP attorney fee application for \$71,000 in fees and \$20,000 in costs denied in full for lack of full disclosure in Rule 2014 statement, actual charge for services exceeded estimate and services benefitted DIP personally rather than estate); and In re Ewing, 167 B.R. 233 (Bankr. D. N.M. 1994) (chapter 7 case in which Senior Counsel represented the debtor; fees of \$40,000 sought and \$6,500 awarded).

Finally, two components of this chapter 11 case provide a further basis for a ruling. The Firm's handling of motions to extend exclusivity and to employ an accountant have resulted in a denial of the relief sought in one instance and the unnecessary expenditure of resources by the Firm, the Court, the United States Trustee and a creditor in both instances.

The petition was filed on August 9, 2004 (doc 1). The Debtor's exclusive right to file a plan would therefore expire on December 7, 2004.<sup>9</sup> On December 3, the Firm filed a motion to extend exclusivity through January 8, 2005, and to extend the deadline to confirm a plan through March 7 ("First Exclusivity Motion") (doc 41). By mistake, the Firm failed to file a certificate of service that it had noticed the creditors of the deadline to object to the requested relief and instead filed the First Exclusivity Motion again on December 7 (doc 43). After the deadline for objections to the first extension of exclusivity had expired, the Firm submitted a proposed order extending exclusivity, which order recited that notice had been given. The Court, taking at face value the recitation in the order, did not check the docket, and entered the order on February 9 (doc 53).<sup>10</sup> But before the proposed order approving the First Exclusivity Motion was submitted to the Court, the Firm on January 6, 2005 filed a

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<sup>9</sup> The Debtor erroneously calculated the exclusive period for filing a plan to end on December 8, 2004, but this error turned out to be immaterial.

<sup>10</sup> To be clear, the Court is not saying that the notice had not been sent, but only that the docket did not reflect that the notice had been sent because the Firm had failed to file a certification of the mailing of the notice. Nevertheless, the Court would not have entered the order until the record had been corrected.



second motion seeking to further extend exclusivity through March 8, 2005, with a confirmation deadline of July 7 (doc 46, complete image at doc 55) ("Second Exclusivity Motion"). On February 15, the Court, having reviewed the docket in connection with the Second Exclusivity Motion and noticing the lack of certification of service for the First Exclusivity Motion, entered an order withdrawing approval of the First Exclusivity Motion for the apparent lack of notice and also therefore denying the Second Exclusivity Motion (doc 58). On February 17, the Firm promptly filed a motion to set aside the order denying exclusivity (doc 60) and a supporting affidavit (doc 61). The motion and affidavit stated that notice had been sent to creditors but that by mistake the First Exclusivity Motion had been refiled instead of the certification of service to creditors. That motion was scheduled for a preliminary hearing for March 7. Senior Counsel failed to appear at that hearing and later graciously explained that the non-appearance occurred because of a calendaring mistake in her office (doc 75). In the meantime, March 8 passed without the filing of a plan; on March 9, the Firm filed a third motion for the extension of exclusivity (doc 71). At a preliminary hearing conducted on March 29 (continued from March 7 to March 21 because of the failure to

appear and then to March 29 at the request of the Debtor (docs 70 and 76)), the Court denied the Third Exclusivity Motion because the exclusivity period for filing a plan had already passed by the time the motion was filed. By implication the motion to set aside the order denying the First Exclusivity Motion was also denied as moot. A written order to that effect has now been entered.

On September 27, 2004, the Debtor filed an application to employ Charles R. Jones as accountant for the estate (doc 27).<sup>11</sup> Attached to the application was the proposed employment agreement between the Debtor in Possession and Mr. Jones' firm. The application recites in part in paragraph 6 that "None of the compensation previously received or to be received for services rendered by the applicant in or in connection with this case has been shared with any professional...", but does not describe any specific payments or debts between the Debtor and Mr. Jones or his firm. Mr. Jones filed no verified statement pursuant to Rule 2014 at that time. The notice of the application filed September 27, 2004 (doc 28) recites in part that "Pre-petition fees will not be collected." There is no mention of any pre-petition fees

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<sup>11</sup> The application was signed by Mr. Jones, the proposed accountant, instead of by the Debtor. Given the disposition of the application, this anomaly is also immaterial.

(debt) incurred by the Debtor to Mr. Jones or his firm in schedule F or in the Statement of Financial Affairs or the amended Statement of Financial Affairs (although a party such as a creditor or the United States Trustee should not be expected to have to look there to find out about payments like this). On November 10, 2004 the Debtor filed an amended notice, with the same language about pre-petition fees not being collected (doc 36). On November 12, 2004 an "amended" Rule 2014(a) statement was filed, generically asserting no conflicts of interest and that the firm was disinterested (doc 37). There was no mention in the statement of any prepetition payment. It does not appear that Mr. Jones or his firm filed a Rule 2016(a) statement. At some point the deadline for objections passed with none being filed, and on February 10, 2005 Senior counsel submitted a proposed form of order approving the employment that recited as part of the relief ordered that "[t]he accountant shall not collect any pre-petition fee owed by the Debtor as set forth in the application." By e-mail on February 11, 2005 (doc 56)<sup>12</sup>, to

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<sup>12</sup> The date of this e-mail to Senior Counsel does not appear on the copy that was docketed; the Court has obtained it from consulting its e-mail records which are not available generally to the public. The source of the specific date of the e-mail is relatively unimportant since the specific date is itself immaterial for purposes of this decision.

which Senior Counsel responded the same day (doc 57), the Court rejected the proposed order on the ground that there had been insufficient disclosure for the employment. The Court also offered the Debtor the opportunity to employ Mr. Jones or his firm by starting the process over again with the filing of an application, a complete verified statement that would provide the full disclosure necessary, and notice to the parties on the mailing matrix. The Court scheduled a preliminary hearing at the request of the Debtor (doc 63), to take place on March 7. That hearing also was rescheduled to March 21 and then March 29, 2005. At the March 29 hearing the Court ordered that Mr. Jones file an amended verified statement that addressed the existence of a prepetition \$150 claim against the estate and Mr. Jones' prepetition or postpetition agreement to waive the claim. Upon the filing of the statement and of any amended schedule or statements, the employment of Mr. Jones would be approved. A written order to that effect has now been entered.

**Discussion:**

Failure to file verified Rule 2014(a) statement:

To begin with, the Court has already entered an order employing the Firm at the rates sought in the Application with the exception of the \$250 for Senior Counsel. Doc 38. A

problem arises from the fact that, although the Firm appears to have filed no Rule 2014 statement<sup>13</sup>, the form of order submitted by Senior Counsel and signed by the Court recites that the Court "finds" that a Rule 2014 statement had been filed. In approving the order the Court relied on Senior Counsel's representation in the proposed order without independently confirming the representation. Compare order withdrawing approval of first motion for extension of exclusivity, the motion to set aside that order, and the supporting affidavit (docs 58, 60 and 61 respectively).<sup>14</sup> Thus

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<sup>13</sup> The last sentence of Fed. R. Bank. P. 2014(a) states: "The [employment] application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States Trustee." (Emphasis added.)

<sup>14</sup> The United States Trustee appears not to have independently confirmed the (non)existence and contents of the Rule 2014 statement before filing the limited objection (doc 17). The Court considers it the duty of the United States Trustee to check for Rule 2014/2016 statements in all non-trusted chapter 11 cases (although a quick check of recent chapter 11 filings shows that counsel in every other case but one has complied with Rules 2014 and 2016). To be fair to that office, the United States Trustee's limited objection was filed in response to the Court's specific request for a comment from that office about the requested rate of compensation. And obviously the Court itself did not check the docket before entering the employment order (doc 38), or indeed until shortly before preparing the final draft of this memorandum opinion. Nevertheless, filing a verified Rule

the Court finds itself having entered an employment order when one of the most basic disclosure requirements of employment has not been met. See, e.g., In re Love, 163 B.R. at 170 (failure to make Rule 2014 disclosure may result in disqualification of counsel altogether). The lack of the Rule 2014 statement is all the more serious because of the consequences of setting aside the initial employment order (doc 38); unlike the order setting aside the approval of the First Exclusivity Motion, which was entered while it appeared that there was little danger of any other entity filing a plan, setting aside the employment order could have the effect of depriving the Firm of its employment status throughout this case at least until a Rule 2014 statement is filed. The Court is fully aware, and regrets, that the financial consequences to the Firm could be severe.

It may be that everyone, including the Firm, was inadvertently lulled into thinking that a verified Rule 2014 statement had been filed because of the recitations in the Application that closely resemble a Rule 2014(a) statement.

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2014(a) statement remains fundamentally and unquestionably the obligation of the professional and no one else. And accurately representing the status of the filing of such a statement in any order submitted to opposing counsel and the Court remains fundamentally and unquestionably the obligation of the person submitting the order.

And in fact Rule 2014 requires that the professional and the Debtor each certify that no disqualifying connections exist. Fed. R. Bank. P. 2014(a); In re 245 Associates, LLC, 188 B.R. 743, 750 (Bankr. S.D.N.Y. 1995). However, the employment application, whether signed directly by the debtor or through the debtor's counsel, is signed and filed subject to Rule 9011(b). That certification of good faith is not the equivalent of a "verification". Rule 9011(e) states that "[w]hensoever verification is required by these rules, an unsworn declaration as provided in 28 U.S.C. § 1746 satisfies the requirement of verification." Section 1746 provides language that satisfies the requirement: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct." Whereas violating Rule 9011(b) may lead to court-imposed sanctions, a false verification could lead to a criminal prosecution for perjury. The difference is not a minor one, and thus the Rule 9011(b) representations in the Application signed by Senior Counsel on behalf of the Debtor cannot substitute for a verified statement from Senior Counsel on behalf of the Firm.

Rule 2014(a) requires that a debtor in possession apply to the court to hire counsel, Land v. First National Bank of Alamosa (In re Land), 943 F.2d 1265, 1266 (10<sup>th</sup> Cir. 1991), and

failure to do so may result in the attorney being required to return all compensation. Id. at 1267. The disclosure requirements of Rule 2014 are not discretionary, Winship v. Cook (In re Cook), 223 B.R. 782, 790 (10<sup>th</sup> Cir. BAP 1998), and “[a]bsent the spontaneous, timely and complete disclosure required by §327(a) and Rule 2014, court-approved counsel proceed at their own risk. Id. at 794. (Citation omitted.) “At their own risk” can mean disqualification and disgorgement of all fees. Id. See also Jensen v. United States Trustee (In re Smitty’s Truck Stop, Inc.), 210 B.R. 844, 848, 850 (10<sup>th</sup> Cir. BAP 1997) (same holding for counsel who failed to fully disclose as required by Rules 2016(b) and 2014(a)). Even a negligent or inadvertent failure to disclose is sufficient to deny fees. Id. at 849.

The failure to file the requisite disclosure along with the employment application means that the application process, so to speak, is incomplete. That can reasonably be compared with a failure to file an application altogether. Although other courts, especially outside the Tenth Circuit, may take a more relaxed approach to defects in the application process, the Court believes that using the analogy of the failure to file an application provides a bright line test for parties to assess the status of the employment process and to predict the



consequences. There is a substantial body of law that predicts what happens when no employment application has been filed, even when, as here, the failure to file is a mere oversight. E.g., In re Land, 943 F.2d at 1268-69 (“[N]unc pro tunc employment of professionals is only appropriate in the most extraordinary circumstances. Simple neglect will not justify nunc pro tunc approval of a debtor’s application for the employment of a professional.”) (Citations omitted.)

In consequence, the Court is regretfully compelled to set aside the order employing the Firm (doc 38). See Michel v. Federated Dep’t Stores, Inc. (In re Federated Dep’t Stores, Inc.), 44 F.3d 1310, 1320 (6<sup>th</sup> Cir. 1995) (professional could not continue to be employed when it was an interested person from the beginning of the case and thus never validly employed to begin with); Kravit, Gass & Weber, S.C. v. Michel (In re Crivello), 134 F.3d 831, 837 (7<sup>th</sup> Cir. 1998) (same); In re EWC, Inc., 138 B.R. 276, 281 (Bankr. W.D. Okla. 1992) (employment of person with conflict of interest is void ab initio). Therefore the Firm’s employment application will be denied until the Firm files a sufficient Rule 2014(a) statement. Upon the filing of the statement, the Firm may submit an order on behalf of the Debtor employing the Firm.

The effect of the withdrawal of the employment order

could be to allow the bankruptcy court to weigh the equities in determining what the sanction should be. In re Crivello, 134 F.3d at 837-38 (bankruptcy court had discretion but not obligation to deny all compensation); In re Tomczak, 283 B.R. 730, 736 (Bankr. E.D. Wisc. 2002) ("flexible approach of balancing the needs for sanctions with the inequity which would otherwise result from a complete denial of all fees and disbursements"); In re Combe Farms, Inc., 257 B.R. 48, 55, 56 (Bankr. D. Idaho 2001) (inadequate Rule 2014 disclosure and untimely Rule 2016 filing resulted in two discretionary 10% reductions in the fees requested); In re Glenn Electric Sales Corp., 99 B.R. 596, 599-600, 602 (D. N.J. 1988) ("purely technical" failure to comply with Rule 2014 required revocation of order employing counsel since subjective good faith to comply is irrelevant; equities tipped in favor of disqualification of firm). The Tenth Circuit rule is apparently stricter or more punitive. In re Smitty's Truck Stop, Inc., 210 B.R. at 850 (failure to disclose all potential conflicts warrants a denial of all fees; Tenth Circuit has taken a stricter view of conflicts of interest). However, it is not necessary to decide at this time what exactly the consequences will be of setting aside the order; e.g., whether there should be disgorgement of fees or some other sanction.

What is critical to decide now is whether the Firm can or should be (re)employed, and the Court has decided that it can and should, upon compliance with Rule 2014.<sup>15</sup>

Deficiencies of attorney-client agreement:

Portions of the employment agreement between the Debtor and the Firm, attached to the Application, should be stricken as contrary to common bankruptcy practice, as follows:

"Additional deposits may be required from time to time. The failure of Client to pay any additional deposit within fourteen (14) days of a request for such a deposit shall constitute a breach of this agreement.

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<sup>15</sup> The parties agreed that the matter would be considered submitted when William Arland filed his affidavit. Doc 38. That happened on November 29, 2004. Doc 40. Since the Court had already entered an order employing the Firm and the only issue was whether Senior Counsel would be receiving the additional \$50 per hour, the Court did not perceive an unusual urgency to decide this matter, although of course any decision ought to be made promptly. In addition to reviewing and considering the affidavits from counsel, personnel from the Court's staff and the Clerk's office were assembling the information that makes up Appendix 1. Upon discovering and then confirming the lack of a Rule 2014 statement, the Court speeded up its work on this decision and has issued it as soon as reasonably possible after discovering the lack of the Rule 2014 statement. Nevertheless, upon discovering and verifying the lack of a Rule 2014 statement, the Court inadvertently did not notify the Firm of the deficiency immediately. Although the Court had no obligation to do so, the Court is still frustrated that had it immediately notified the Firm, the Firm might have filed the Rule 2014 statement and thereby reduced the time during which it was not qualified to be employed. Since the Court discovered the deficiency some time in March (to the best of its recollection), the Court will permit the re-employment of the Firm effective March 1, 2005, if it promptly cures the lack of the Rule 2014 statement.

"The hourly rates may change from time to time upon twenty (20) days written notice to Client.

"The failure of the Client to give such a notice to Attorneys [of any part of a monthly bill which the Client thinks is unreasonable or in error within twenty days of the date of the bill] shall be deemed an admission of the reasonableness of the charge.

"All fees, gross receipts tax, and costs are due in full within twenty (20) days of the date Client is billed. Failure of Client to pay all sums owing within twenty (20) days after billing constitutes a breach of this agreement. Balances unpaid after thirty (30) days are charged interest at a rate of twelve percent (12%) per annum, compounded monthly.

"Client's...breach of this Agreement [entitles] Attorneys...to terminate the representation...subject only to the Rules of Professional Conduct.

"Attorneys' Charging Lien [in its entirety].

"Disputes [concerning the agreement or billing shall be submitted to court-annexed arbitration in the Second Judicial District Court for the State of New Mexico, County of Bernalillo]."

Hourly rate for Senior Counsel:

Concerning the rates of compensation, 11 U.S.C. §§ 328(a) and 330(a)(3)(A)(E) [sic] respectively provide in relevant parts as follows:

"The trustee, ... with the court's approval, may employ ... a professional person under section 327 ..., on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment,

if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions."

"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 - whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title."

One of the values of the last sentence of § 328(a) is that it allows a professional to more reliably estimate what its income will be, knowing that the rate of compensation will almost certainly not be changed. That is a value and prerequisite for the operation of any business, including one that provides professional services. Another value is that it allows the Debtor, the creditors and others to better account for professional fees in making determinations about how to reorganize the debtor's business. See, e.g., In re Love, 163 B.R. at 171 (excess fees denied which considerably exceeded the amount estimated as part of the prepackaged chapter 11 plan which creditors accepted). Thus the Court intends that the rate of compensation approved at the beginning of the employment will ordinarily continue in effect throughout the case with the exception of annual increases that a firm

applies to all of its clients.<sup>16</sup>

Concerning the rates of compensation, the Court does not dispute the affidavits which describe hourly rates exceeding \$200 for counsel of twenty or more years of experience. What the affidavits do not include is information from other counsel who do bankruptcy work representing secured creditors who work for flat fees that effectively are far less than \$200 per hour. But because those rates are not part of the evidence of record in this matter, the Court will not consider them. However, the Court may rely on the data taken from the case files as set out in Appendix 1, which show a range of rates for bankruptcy counsel in this district that seldom exceed \$200 and frequently are less than that. See Miller, 288 B.R. at 883 (trial court properly considered hourly rates of bankruptcy attorneys in its jurisdiction). What the rates are for comparably skilled counsel performing nonbankruptcy work is only one part of the calculation, id. at 882, and not the only or even the primary factor to be considered. Houlihan Lokey Howard & Zukin Capital v. Unsecured Creditors' Liquidating Trust (In re Commercial Financial Services, Inc.), 298 B.R. 733, 751 (10<sup>th</sup>

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<sup>16</sup> Such increases may only be applied in the bankruptcy case pursuant to Court order following the filing and notice of a supplemental employment application.

Cir. BAP 2003).

A critical part of the calculation is whether the professional is "comparably skilled", or at least exercises skills comparable to nonbankruptcy practitioners. Years of experience per se are not determinative; after all, one attorney can have twenty years of consistently becoming more skilled and another can repeat the first year of practice twenty times.<sup>17</sup> What has happened so far in this case does not demonstrate the skills or case management of an attorney entitled to more than \$200 per hour. In fact, the failure to file a Rule 2014(a) statement, an attorney-client employment agreement rife with provisions that run contrary to bankruptcy practice, a record of published cases that demonstrate a number of billing disputes, a months-long brouhaha in this case over exclusivity that ultimately must be denied for failure to meet the Debtor's own deadlines, and the drawn-out process to hire the accountant because of a simple failure of disclosure, coupled with the extra work that those missteps cause other parties and the Court, strongly suggest that \$200 per hour is too high. Whether the work has been done by Senior Counsel or by someone under her supervision (or perhaps

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<sup>17</sup> Again to be clear, the Court is not saying that Senior Counsel is the functional equivalent of a first-year attorney; indeed, far from it.

not), the management of the case so far is more characteristic of a less experienced lawyer in the \$150 per hour range. Nevertheless, given that the Court initially allowed the Firm to bill \$200 per hour for Senior Counsel's time, the Court will now not reduce the rate for Senior Counsel below the \$200 level.<sup>18</sup>

Finally, the Firm and other counsel, through the Giddens materials, argue that the collection rate in bankruptcy cases is so consistently low - 72% and 61% respectively for Puccini & Meagle, P.A. and Mr. Giddens -- that the Court should award higher rates of compensation so that collections are higher. Of course the Court as a former attorney recalls a number of

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<sup>18</sup> Ordinarily upon the expiration of the deadline for objections and no objections having been filed, proposed counsel promptly submits a proposed order for employment setting out the rates of compensation. When that order (pursuant to the application) proposes an hourly rate in excess of \$200, the Court will approve the order at \$200 per hour without a further hearing, and provide that counsel may seek a specific hearing on the issue of a higher rate. See, e.g., In re Bennett, 283 B.R. at 312. And the Court usually also inserts a provision that if Counsel seeks a higher rate, the result could in fact be a rate lower than \$200 per hour. See, e.g., In re Gilliland, no. 11-05-10492 SA, Order Authorizing Debtors to Employ Counsel (doc 17) and In re Silver Bird, LLC, no. 11-05-10618 SA, Order Authorizing Debtor to Employ Counsel (doc 30). Because the Application in this case was handled differently (counsel did not submit an employment order but instead requested a preliminary hearing followed by another preliminary hearing in turn followed by the entry of the employment order prepared by counsel), the Firm received no such "warning" in this particular case of the possibility of a lower hourly rate.



such instances of low or no collections (one of which is summarized in In re Bennett, 283 B.R. at 311-12) and thus sympathizes with counsels' position. And indisputably a fact of life about representing the estate or a debtor in possession is that the rate sometimes turns out to be a "contingent hourly" rate; i.e., payment on an hourly basis that may or may not get paid.

Nevertheless, there are problems with the collection-rate argument. First, no data are presented that show that the collection rates outside of bankruptcy are any higher. Indeed, the Court assumes that relatively few attorneys collect 100% of their fees in every case or engagement, whether in or out of bankruptcy. Second, no data was presented showing what the collection percentage was for counsel generally in bankruptcy cases, as opposed to for those two firms. Third, the allegedly relatively low collection rates in bankruptcy may depend on a number of factors, including whether counsel overbilled in various cases and thus was not able to collect on fees because they were not allowed or because the bills were simply too high and the client refused to pay. And finally, allowing higher rates of compensation may not per se increase the gross revenue received from any given case if there are simply not enough

resources to pay the higher fees. In other words, it is this judge's observation that the primary reason attorneys and other professionals do not receive more compensation on the whole from bankruptcy practice is simply that a number of cases can't bear the fees that result from the professionals' efforts regardless of how useful the work is.

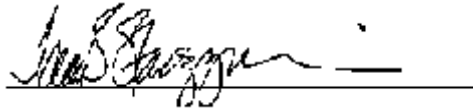
**Conclusion:**

For the foregoing reasons, the Firm's application to be paid more than \$200 per hour for Senior Counsel's work is denied, although the rate of \$200 is allowed. The previous order approving the Application and allowing the employment (doc 38) is set aside. Once the Firm has filed the requisite Rule 2014(a) statement and served it on the United States Trustee, and assuming it does so within five business days of the entry of this memorandum opinion and order, the Firm may submit an order, approved by the United States Trustee<sup>19</sup>, employing it effective March 1, 2005, pursuant to footnote 15 above. If the Rule 2014 statement is filed later than the five days, any employment will be effective retroactive to the date of the filing of the Rule 2014 statement. The order to be submitted by counsel may incorporate the remainder of the

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<sup>19</sup> If the United States Trustee will not approve the Order, the Court will conduct a hearing on extremely short notice.

provisions of the first employment order such as monthly interim payments (doc 38), but it must include the changes to the attorney-client employment agreement as specified in this Memorandum Opinion. An order will enter.



Honorable James S. Starzynski  
United States Bankruptcy Judge

I hereby certify that on April 1, 2005, a true and correct copy of the foregoing was electronically transmitted, faxed, delivered, or mailed to the listed counsel and/or parties.

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**APPENDIX 1.**

**Chapter 11 cases in the District of New Mexico, Jan. 1, 2002 through Mar. 30, 2005**

This table lists all cases filed under or converted to Chapter 11 in the District of New Mexico from January 1, 2002 through March 30, 2005. The "Rate" column is the rate approved, either in the Order itself, or by reference to the Motion to Employ Attorney. Approval of the Rate does not necessarily mean the Court will award that rate for all work done. Furthermore, in several cases no fee applications were ever filed and/or no fees were ever awarded.

Case Number		Case Title	Assets <sup>1</sup>	Liabs <sup>1</sup>	Status <sup>2</sup>	Attorney(s)	Rate <sup>3</sup>
02-10035	SS	Francisco Leon Rios	1-10	1-10	F	M. Chappell	175
02-10188	MA	Salvador R. Guzman and Patricia A. Guzman	1-10	NS	CV	B. Davis C. Pierce C. Tessman M. Garcia Associates	225 175 150 125 125
02-10475	MA	Independent Utility Company	1-10	.1-.5	P	G. Velarde	175
02-10476	SA	Randy C. Lykins	.1-.5	1-10	P	Pro Se	-

<sup>1</sup> Assets and Liabilities are stated in millions. "NS" indicates no amount stated on petition.

<sup>2</sup> Case status: F - final decree entered, P - pending, not confirmed, C - confirmed, D - dismissed, CV - converted.

<sup>3</sup> Rate: \* indicates no Order entered setting rates, † indicates no motion to employ filed, X indicates that employment was denied (and no other attorney entered appearance).

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
02-10592	MA	Waltice Benjamin Ham III and Shari Linn Ham	.5-1	1-10	F	B. Davis C. Pierce C. Tessman M. Garcia Associates	200 175 150 125 120
02-10667	MA	Calmar, Inc.	.5-1	1-10	F	R. Jacobvitz D. Thuma T. Walker	190 170 170
02-10678	MA	Hoffmantown Body Shop, Inc.	.1-.5	.1-.5	F	B. Gordon S. Long Associates	180 180 165
02-10752	SA	Moonlight Enterprises, LLC	NS	NS	D	G. Moore A. Berkson	175 90
02-10927	SR	Burton S. Gammill	NS	1-10	CV	G. Moore A. Berkson	175 90
02-10970	MA	Archies Lounge, Inc.	0-.05	.5-1	CV	J. Rocha de Gandara H. Payne	125 125
02-11070	SS	Price's Ilfield Hardware Co., Inc.	NS	NS	CV	L. Fields	200
02-11481	MA	Monarch Broadcast Services, Inc.	NS	.5-1	P	W. Reardon	150

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
02-11659	MA	Hillary P. Paul and Mary B. Paul	.05-.1	.1-.5	CV	P. Becht	175
02-11660	SA	John T. Fox	.1-.5	.5-1	D	P. Becht	175
02-11826	SR	Smith Enterprises, Inc.	0-.05	0-.05	D	P. Montoya	*
02-11831	MA	Rural Housing, Inc.	1-10	1-10	D	D. Becker	175
02-11881	MA	General Waste Corporation	.05-.1	.5-1	CV	B. Gordon S. Long Associates	180 180 165
02-11882	MA	Bruce F. Glaspell	NS	0-.05	CV	B. Davis C. Pierce C. Tessman M. Garcia	200 175 150 125
02-11883	MA	Viviana E. Cloninger	NS	.1-.5	CV	B. Davis C. Pierce C. Tessman M. Garcia	200 175 150 125
02-11970	SS	Oliver C De Baca	.5-1	1-10	D	Pro se	-

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
02-12182	SA	Septien & Assoc., Inc.	0-.05	.1-.5	D	S. Turpen	*
02-12274	SS	Carolyn Still Takhar	1-10	NS	C	G. Moore A. Berkson	175 90
02-12552	SL	Rio Grande Mills, Inc.	0-.05	.5-1	CV	D. Giddens Associates	200 110
02-12925	SA	Loraca International, Inc.	1-10	1-10	CV	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	200 175 175 150 150 125
02-12926	MA	Lexus Companies, Inc.	0-.05	1-10	D	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	×

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
02-12927	SA	Calumet Securities Corp.	0-.05	1-10	D	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	×
02-12928	MA	HomeLoan.com, Inc.	0-.05	1-10	CV	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	×
02-12968	MA	PINS Stillwater, Inc.	.1-.5	.1-.5	CV	R. Jacobvitz D. Thuma T. Walker	190 170 170
02-13758	MA	PMR Construction Services, Inc.	1-10	1-10	CV	R. Jacobvitz D. Thuma T. Walker	190 170 170
02-13809	SA	Assist/Care New Mexico, Inc.	0-.05	.1-.5	D	S. McIlwain	175
02-14214	MR	Dewey M. Runnels and Judy C. Runnels	.1-.5	.05-.1	P	S. Diamond	200



Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
02-14217	MR	Runnels Broadcasting Systems, LLC	0-.05	.1-.5	P	J. Behles	200
02-14552	SA	Filandro R Anaya and Odette Chavez-Anaya	1-10	.5-1	P	D. Giddens Associates	200 120
02-14553	SL	Meteor Stores, Inc.	.1-.5	.5-1	D	L. Ramirez	*
02-15145	MS	Phase-1 Molecular Toxicology, Inc.	.1-.5	.1-.5	F	R. Jacobvitz D. Thuma T. Walker	190 170 170
02-15335	SR	Ali M. Ghaffari Sr. and Linda Ghaffari	0-.05	.1-.5	D	D. Webb	200
02-15336	SR	Buena Vista Retirement Center, Inc.	0-.05	.05-.1	D	M. Daniels	*
02-15485	SA	Tingley's Grill, LLC	0-.05	.1-.5	D	Pro se	-
02-15740	MS	Thomas N. White Jr.	1-10	1-10	D	Pro se	-
02-16342	MR	MDP, Inc.	.1-.5	.1-.5	D	D. Giddens	200

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
02-16431	MA	Advantage Printing Specialists Corp.	.1-.5	.1-.5	CV	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	200 175 175 150 125 125
02-16432	SA	TEWA Techonology Corporation	0-.05	.1-.5	D	G. Velarde	175
02-16567	SL	Rodney S. Pino and Janet L. Pino	.1-.5	.1-.5	CV	R. Holmes	145
02-16868	ML	Adventure Aviation, Inc.	.1-.5	1-10	D	S. Mazer	175
02-17007	MA	Equity Holding Corporation	1-10	1-10	D	E. Kanter	*
02-17127	SA	Central Park Limited	NS	NS	D	D. Behles	175
02-17828	SA	Brisket House, Inc.	0-.05	0-.05	C	S. McIlwain	175
02-17878	SA	Investment Company of the Southwest, Inc	1-10	1-10	C	D. Behles	195

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
02-17903	MR	Hemmingsway Hotel, LLC	1-10	1-10	D	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	225 175 175 150 125 125
02-17934	SS	David Weckerly, Inc., a New Mexico Corp.	NS	1-10	D	G. Moore	*
02-18034	MA	Rudolfo Joseph Sandoval and Eufelia Sandoval	NS	NS	D	G. Moore A. Berkson	175 90
02-18752	MA	R.B. French Fire & Sound, Inc.	.5-1	1-10	C	W. Reardon	175
02-18779	SA	Virginia S. Silva and Bradford H. Zeikus	NS	.1-.5	F	D. Behles	195
03-10082	SL	Tomlin Farms, L.L.C.	1-10	10-50	C	R. Jacobvitz D. Thuma T. Walker	190 170 170
03-10083	ML	Seven L Bar, L.L.C.	1-10	1-10	C	B. Given	205
03-10524	SR	High Energy Access Tools, Inc.	NS	NS	P	G. Moore A. Berkson	195 110

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
03-11161	MA	Colony Information Technology Corp.	1-10	1-10	CV	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	200 175 175 150 125 125
03-11238	ML	Star Concrete, Inc.	NS	.1-.5	D	J. Bartholomew	*
03-11510	SA	R.G. Cantina Ltd. Co.	.1-.5	.5-1	CV	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	200 175 175 150 150 125
03-11697	SA	Allied Discount Corporation	.1-.5	.1-.5	P	G. Moore A. Berkson	195 110
03-11772	MR	Jack Leroy Muse	1-10	1-10	D	L. Bloom	190
03-11787	SF	NewCo Aggregate Company, L.L.C.	0-.05	.5-1	CV	M. Daniels	150
03-11984	SS	D IV Designs, Inc.	NS	NS	P	G. Moore	*

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
03-12228	SA	Superior Pest Control, Inc.	0-.05	1-10	P	G. Velarde	175
03-12274	SA	Smith-Everett Homes, Inc.	1-10	1-10	CV	D. Behles	195
03-12715	ML	Reginald Nease	1-10	.1-.5	F	D. Giddens Associates	200 150
03-12960	MR	The Melodie Corporation	.5-1	1-10	P	R. Jacobvitz D. Thuma T. Walker	195 175 175
03-12990	MA	Pavement Maintenance Co. Inc.	.1-.5	.1-.5	CV	A. Chisholm	‡
03-13879	SA	Felix Gomez	.1-.5	1-10	CV	R. Holmes	145
03-13944	MA	Colony Information Services Corp.	.1-.5	1-10	CV	R. Lowe	*
03-14485	SA	B & B Management, Inc.	.05-.1	.5-1	C	G. Velarde	175
03-14646	ML	James Alford	1-10	.1-.5	P	W. Reardon	175
03-14717	SA	DB Kelly De Vargas, Inc.	NS	NS	D	G. Moore A. Berkson	195 119

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
03-14871	SA	Donna M. Smith and Bruce R. Smith	.5-1	1-10	P	G. Velarde	175
03-15163	SA	Tito's Tavern, Inc.	.1-.5	.1-.5	D	R. Lowe	*
03-15314	SL	Sun Products, Inc.	NS	NS	F	D. Behles	195
03-15868	MR	AST West, Inc.	.5-1	.5-1	CV	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	200 200 175 150 150 125
03-15930	MS	Fine Fare and Fowl, Inc.	.05-.1	.1-.5	D	B. Gordon S. Long A. Yarrington	175 190 165
03-16263	SA	Tao Te, Inc.	.1-.5	.1-.5	D	R. Lowe	*
03-16402	MA	Dale S. Stull and Charlotte F. Stull	.5-1	1-10	C	B. Gordon S. Long A. Yarrington	175 190 165

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
03-16462	SS	The Inn, LLC.	1-10	1-10	C	J. Thomason	150
03-18437	MA	CAD Drafting & Design, LLC	.1-.5	.1-.5	P	L. Puccini S. Meagle	250 140
03-18462	SA	Brock B. Parker	.1-.5	.05-.1	C	E. Thunberg	125
03-18842	MA	Pioneer Mobile Homes Service, LLC	0-.05	.05-.1	D	S. Mazer	180
03-19023	MS	Juan Ramon Gonzales and Rosemary Gonzales	.5-1	.1-.5	D	G. Ottinger	175
03-19457	MA	Gregory M. Dotson and Mary J. Dotson	1-10	1-10	CV	B. Davis C. Pierce A. Goodman C. Tessman M. Garcia Associates	200 200 175 150 150 125
04-10050	SS	Russell Wolfe and Vivian B. Wolfe	.1-.5	.1-.5	P	D. Becker	175
04-10100	MA	Donnie R. Owens	1-10	1-10	P	R. Jacobvitz D. Thuma T. Walker	190 170 170

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
04-10194	MA	Djahangir Davoudzadeh	.1-.5	.5-1	D	S. Mazer	*
04-10341	MA	Rocky Mountain Brewing Co., Ltd.	NS	NS	P	D. Behles	195
04-10461	SR	William C. Davis and Sandra M. Davis	1-10	1-10	P	R. Jacobvitz D. Thuma T. Walker S. Schaeffer	190 170 170 110
04-10711	SA	Uniflex Southwest, LLC	1-10	10-50	D	R. Jacobvitz D. Thuma T. Walker S. Schaeffer	195 175 175 110
04-11048	SS	John Henry Rippe	0-.05	0-.05	D	L. King	*
04-11150	SR	Thomas Ace Appling and Mary Helen Appling	.5-1	1-10	P	B. Gordon S. Long	175 190
04-11226	MA	Gaim-Ko, Inc.	10-50	1-10	P	G. Moore A. Berkson	200 125
04-11243	MA	Ray A. Gallegos and Charlotte Gallegos	.1-.5	.1-.5	P	D. Giddens Associates	225 120



Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
04-11283	MA	Edward B. Madrid	.05-.1	.1-.5	P	G. Velarde	185
04-11495	MS	Thomas Neil Perez Sr. and Sandra Laurie Perez	.5-1	1-10	C	B. Davis C. Pierce A. Goodman P. Barber C. Tessman M. Garcia	200 200 175 175 150 150
04-11562	MA	Recognition Plus Corp.	0-.05	.1-.5	P	G. Ottinger	175
04-11649	SA	Chemmet Laboratory and Refinery Corp.	0-.05	0-.05	CV	S. Mazer	180
04-11971	MA	Beta Corporation International, Inc.	.1-.5	1-10	P	B. Davis C. Pierce A. Goodman P. Barber C. Tessman M. Garcia	225 200 175 175 150 150
04-12155	SA	Albuquerque Chemical Company, Inc.	1-10	1-10	CV	W. Reardon	175
04-12175	MA	Equus Albuquerque Airport LLC	0-.05	0-.05	D	J. Behles L. Higgins	? 150

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
04-12390	SR	Lorenzo A. Ramirez and Ramona G. Ramirez	0-.05	0-.05	P	T. Arvizu	140
04-13152	SA	System One Satellite, Inc.	0-.05	.1-.5	D	S. Mazer	180
04-13371	SL	Star Concrete Inc.	.05-.1	.1-.5	P	J. Bartholomew	*
04-13378	SL	Joel T. Danley	.1-.5	1-10	P	R. Lowe	200
04-13379	ML	J.D. Materials, Inc.	1-10	1-10	D	R. Lowe	*
04-13983	SA	Mach 2 Machining & Manufacturing Inc.	0-.05	1-10	P	D. Giddens Associates	225 150
04-13998	MR	Buena Vista Retirement Center	.1-.5	.5-1	P	S. Mazer	180
04-14417	MA	Gary George Spatta and Linda Kathaleen Spatta	1-10	1-10	P	G. Moore A. Berkson	200 125
04-15468	SA	Old Abe Company	0-.05	0-.05	P	M. Daniels	*
04-15469	SA	Lincoln Gold & Tungsten, Inc.	.5-1	.1-.5	P	M. Daniels	*

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
04-15755	SR	Union Home and Industrial, Inc.	0-.05	.1-.5	P	J. Behles H. Meade	____ 125
04-15914	ML	The Flashing Company, Inc.	0-.05	.1-.5	P	T. Arvizu	*
04-15974	MA	New Mexico Golf Academy, LLC	0-.05	1-10	P	D. Giddens Associates	225 150
04-15995	MS	Texas Reds, Inc.	.5-1	.5-1	P	D. Becker	175
04-16394	MA	Academy Printers, Inc.	1-10	1-10	P	R. Lowe	*
04-16431	MA	Murell Hogan and June E. Hogan	.1-.5	.1-.5	P	G. Moore A. Berkson	200 125
04-16866	SF	Double P Investments, Inc.	.1-.5	.1-.5	P	S. Long	200
04-16879	SL	Alco Fabricators, Inc.	0-.05	.5-1	P	T. Arvizu	*
04-17080	SA	Kenneco Custom Roofing, Inc.	.5-1	.5-1	P	J. Bartholomew	150

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
04-17376	SA	Escala, LLC	NS	NS	P	R. Jacobvitz D. Thuma T. Walker	195 195 195
04-17520	MA	Gary Edward Martinez and Mary Jo Martinez	.1-.5	.1-.5	P	G. Moore A. Berkson	200 125
04-17555	SA	Robert F. Belfon and Teresa I. Belfon	0-.05	.05- .1	P	D. Webb	200
04-17704	SA	Daniel William Cook and Yolanda T. Cook	1-10	1-10	P	Pro se	-
04-17848	SA	Sutro-Sandia Corporation	0-.05	.05- .1	P	T. Rice	*
04-17960	MS	Hendrickson Consulting, Inc.	.05-.1	.1-.5	P	A. Schimmel	*
04-18146	ML	Zia Shadows, LLC, a New Mexico Limited	1-10	1-10	P	S. Mazer	180
04-18302	ML	David Holguin and Maria Holguin	.05-.1	1-10	P	D. Giddens Associates	225 120
04-18786	SA	Iniquities LLC	.1-.5	.1-.5	P	J. Bartholomew	150

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
04-19427	SL	Villages At Ranchers Club, Inc.	1-10	.1-.5	P	T. Arvizu	*
05-10034	MS	Guadalupe Station, LLC	.1-.5	.1-.5	P	B. Davis C. Pierce A. Goodman M. Garcia Associates	200 175 175 150 125
05-10262	SS	Lobo Land, LLC	1-10	1-10	P	G. Moore A. Berkson	*
05-10321	MS	Brenda C. Price	1-10	1-10	P	M. Chappel	*
05-10323	MA	James Coplan Williams III and Sandra Gail Williams	.5-1	.5-1	P	D. Becker	175
05-10492	SA	Alvie D. Gilliland and Sharon Ann Gilliland	.1-.5	.1-.5	P	G. Moore A. Berkson B. Gandarilla	200 145 145
05-10618	SA	Silver Bird, LLC	NS	NS	P	G. Moore A. Berkson B. Gandarilla	200 145 145

Case Number		Case Title	Assets	Liabs	Status	Attorney	Rate
05-10678	SA	Scott G. Smith	.1-.5	.1-.5	P	G. Moore A. Berkson	*
05-10788	ML	TNM Services Company, LLC	1-10	1-10	P	L. Puccinni S. Meagle	250 175
05-10903	MA	The Zoo Animal Hospital, Inc.	.05-.1	.1-.5	P	D. Webb	200
05-11126	MA	ABC Cake, Inc.	.1-.5	.1-.5	P	L. Puccinni S. Meagle	*
05-11248	MS	George Espinosa and Mary Espinosa	1-10	.5-1	P	G. Moore A. Berkson B. Gandarilla	*
05-11276	MA	Ronald W. Ziemann	.5-1	.5-1	P	L. Puccinni S. Meagle	*
05-11304	MA	Fox	.1-.5	.5-1	P	P. Becht	‡
05-11876	SF	San Juan River Tank, Inc.	.1-.5	.1-.5	P	B. Davis C. Pierce A. Goodman Associates	*