

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

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|--------------------------------------|---|-------------------------|
| IN RE: | * | CASE NO. 12-51127 |
| | * | |
| PICCADILLY RESTAURANTS, LLC, et al., | * | (JOINTLY ADMINISTERED) |
| | * | |
| DEBTORS | * | CHAPTER 11 |
| | * | |
| ***** | | JUDGE ROBERT SUMMERHAYS |

**FIRST INTERIM AND FINAL APPLICATION OF THE DERBES LAW FIRM, LLC
FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES WITH
INCORPORATED MEMORANDUM FOR THE PERIOD
NOVEMBER 1, 2012 THROUGH JUNE 2, 2014**

The application of Albert J. Derbes, IV, Frederick L. Bunol, and The Derbes Law Firm, L.L.C. (“Applicants” or “DLF”) respectfully represents:

1.

This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1334 and 157. This proceeding involves the administration of the respective estates and is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (B).

2.

The statutory predicates for the relief requested herein are 11 U.S.C. §§ 105(a), 330, 331, and Fed. R. Bankr. P. 9013.

3.

A Voluntary Petition for relief was filed under Chapter 11 of Title 11 of the United States Code in the above numbered and entitled bankruptcy proceeding on September 11, 2012 [P-1].

4.

An Order consolidating the case was signed and filed on September 14, 2012 [P-43]. Since the petition was filed, the Debtors have managed their assets as a Debtors-in-Possession pursuant to § 1107(a) of the Bankruptcy Code.

5.

An Official Committee of Unsecured Creditors (the “Unsecured Creditors’ Committee” or “Committee”) was appointed in this Chapter 11 Case on October 23, 2012. On November 20, 2012, Debtors filed an Application for Order Authorizing the Official Unsecured Creditors Committee to Employ Attorneys on an Hourly Fee Basis *Nunc Pro Tunc* to November 1, 2012 (“Application”) [P-338].

6.

On November 27, 2012, the Court entered an interim order approving the Application [P-346].

7.

On December 19, 2012, the Court entered a Final Order authoring the employment of The Derbes Law Firm, LLC *nunc pro tunc* to November 1, 2012 [P-413].

8.

This Application is filed pursuant to the *Order Granting Motion for an Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Committee Members* (the “Administrative Order”) [P-231], entered on October 22, 2012.

9.

Pursuant to the terms of the Administrative Order, on or before the fifteenth (15th) day of each month, retained professional may submit invoices for payment (the "Fee Statement") to those parties who make up the Service Parties (as defined in the Administrative Order). Thereafter, if no objection is made within ten (10) days to the Fee Statement, the Debtors are authorized to pay eighty percent (80%) of the requested fees and one hundred percent (100%) of the expenses in the Fee Statement.

10.

The Administrative Order also provides that professionals retained in these cases shall file applications for interim court approval and allowance of the compensation and reimbursement of expenses for the prior four (4) month period.

11.

This is the first interim and final Application filed by DLF. On August 14, 2013, DLF served its first Fee Statement on the Service Parties seeking compensation for services rendered in the amount of Three Thousand Nine Hundred Ninety-Four and 25/100 (\$3,994.25) Dollars and reimbursement of expenses in the amount of Five Hundred Eighteen and 56/100 (\$518.56) Dollars. There have been no objections to the first Fee Statement. As of the date of filing this Application, DLF has received no payments related to the first Fee Statement.

12.

On May 13, 2014, DLF served its second Fee Statement on the Service Parties seeking compensation for services rendered in the amount of Four Thousand Four Hundred Sixty-Three and 50/100 (\$4,463.50) Dollars and reimbursement of expenses in the amount of Two Hundred Seventy-Five and 50/100 (\$275.50). There have been no objections to the second Fee Statement.

As of the date of filing this Application, DLF has received no payments related to the second Fee Statement.

13.

Through this Application, DLF seeks approval of fees in the amount of Nine Thousand Two Hundred Ninety-Three and 75/100 (\$9,293.75) Dollars and expenses in the amount of One Thousand Four Hundred Seventy-Three and 87/100 (\$1,473.87) Dollars, for the period November 1, 2012 through June 2, 2014. During this period, Applicant rendered the following necessary professional services to the Committee:

- (1) Telephone conferences with members of the Committee regarding the Chapter 11 case.
- (2) Preparation of correspondence (especially e-mails) to and from members of the Committee.
- (3) Prepare for and attend 341 Meeting of Creditors.
- (4) Attended court hearings on behalf of the Committee including, but not limited to, the Motion to for Relief from Stay [157] and Debtor's Motion for an Order establishing Procedures for the Assertion, Resolution, and Satisfaction of the Claims Asserted Pursuant to Bankruptcy Code Section 503(b)(9) [165], as well as the preparation therefore.
- (5) Prepare for and attend Committee meetings.
- (6) Preparation of and filing of Application for Order Authorizing the Official Unsecured Creditors Committee to Employ Attorneys on an Hourly Fee Basis *Nunc Pro Tunc* to November 1, 2012 ("Application") [P-338].
- (7) Preparation of Subpoena to Debtor requesting documents.

(8) Act as a resource to the Committee and general counsel of the Committee.

14.

Attached as **Exhibit “A”** *in globo* and made a part hereof are The Derbes Law Firm, L.L.C. Invoice Nos. 114640, 118789, and 118823, as well as a Recap (*Compensation & Expenses Summary*) Sheet showing with more detail and particularity the services rendered by the applicant, extracted from applicants’ time records.

15.

All the services for which compensation is requested were performed for and on behalf of the Committee.

16.

In rendering the services for which compensation is sought herein, applicant, Albert J. Derbes, IV, spent 16.90 hours; his partner, Eric J. Derbes, spent 1.00 hours; his partner, Frederick L. Bunol, spent 31.50 hours; his associate, Daniel J. Poolson, Jr., spent 19.70 hours, his paralegal, Ellen Chiasson, spent 4.50 hours. Expenses incurred include \$33.20 for online records, \$55.00 for parking, \$374.50 for photocopies (in-house), \$802.30 for photocopies (outsourced), \$61.41 for postage, and \$147.46 for travel/mileage.

17.

Applicant is to be compensated for services on an hourly basis under the firm’s published annual rates which for the calendar year 2013 are as follows:

| | |
|-----------------------------|-------------------|
| Albert J. Derbes, IV | \$295.00 per hour |
| Eric J. Derbes | \$295.00 per hour |
| Albert J. Derbes, III | \$350.00 per hour |
| Wilbur J. “Bill” Babin, Jr. | \$325.00 per hour |
| Beau P. Sagona | \$295.00 per hour |
| Melanie M. Mulcahy | \$250.00 per hour |
| Frederick L. Bunol | \$225.00 per hour |
| Daniel J. Poolson, Jr. | \$190.00 per hour |

| | |
|---------------------|-------------------|
| Hugh J. Posner, CPA | \$175.00 per hour |
| Notary Public | \$ 75.00 per hour |
| Paralegal(s) | \$ 75.00 per hour |
| Legal Assistant(s) | \$ 60.00 per hour |

18.

Applicant avers that the reasonable value of the services rendered by the applicant for the Committee equals or exceeds the compensation sought.

19.

Certain factors are to be considered in the awarding of attorney's fees. These factors are listed in *In re First Colonial Corporation of America*, 544 F.2d 1291, 1998-99 (5th Cir.), *reh'g denied*, 547 F.2d 573, *cert. denied*, 431 U.S. 904 (1977). The analysis of these factors is as follows.

A. The Time and Labor Required. The professional services rendered by The Derbes Law Firm, L.L.C. ("DLF") on behalf of the Committee have required the expenditure of time and effort, as well as a high degree of professional competence and expertise, in order to deal with legal issues encountered by the Committee with skill and dispatch. It is respectfully submitted that services rendered by DLF were performed efficiently, effectively and economically.

B. The Novelty and Difficulty of Questions. The work involved a chapter 11 bankruptcy whose issues were not unusual.

C. The Skill Requisite to Perform the Legal Services Properly. DLF believes that its recognized experience in the area of bankruptcy and its consensual approach to the resolution of issues have contributed to the results obtained thus far in this case and the speed within which items have been resolved.

D. The Preclusion of Other Employment by Applicant Due to Acceptance of the Case. This case has not precluded other employment by Applicant.

E. The Customary Fee. DLF respectfully submits that the fee sought is not unusual given the complexity of bankruptcy law, and especially considering the difficulties for a commercial Chapter 11. The attorney's fees are consistent with or less than those customarily charged in similar bankruptcies in the Western District of Louisiana.

F. Whether the Fee is Fixed or Contingent. Pursuant to Sections 330 and 331 of the Bankruptcy Code, all fees sought by professionals employed under section 1103 of the Bankruptcy Code are contingent pending final approval by this Court, and are subject to adjustment depending upon the services rendered.

G. Time Limitations Imposed by Client or Other Circumstances. As applicant was hired and consulted for Chapter 11 bankruptcy, time limitations were imposed based on the intricacies of the Chapter 11 bankruptcy.

H. The Amount Involved and Results obtained. DLF has thus far answered questions of the creditors and the Committee, as well as act a resource for general counsel of the Committee.

I. The Experience, Reputation and Ability of the Attorneys. DLF has significant experience in bankruptcy, as well as other areas. The attorneys involved herein have experience in bankruptcies including without limitation the Ormond Country Club, the New Orleans Paddlewheels, Service Marine Industries, Inc., the Alliance Operating Corporation Bankruptcy, W. J. Hoyt & Sons Ranch Properties, L.P. (in Oregon), and Schwegmann Giant Super Markets. The experience of DLF and its attorney enables it to perform the services described herein competently and expeditiously.

J. The "Undesirability" of the Case. This case is not an undesirable case.

K. Nature and Length of Professional Relationship. DLF was selected as counsel to the Committee pursuant to an Order of this Court and has been rendering services to the Committee

as necessary and appropriate since the commencement of the case. There is no connection between Albert J. Derbes, IV, Frederick L. Bunol, and The Derbes Law Firm, L.L.C., and the Committee, or any other party in interest in this bankruptcy; except as may be set forth in the application to employ and the affidavit(s) in connection therewith; nor do Albert J. Derbes, IV, Frederick L. Bunol, and The Derbes Law Firm, L.L.C. possess any interest adverse to this estate, except as noted in the Application or Affidavits in support thereof.

WHEREFORE, Albert J. Derbes, IV, Frederick L. Bunol, and The Derbes Law Firm, L.L.C. pray that (1) compensation be allowed in the sum of Nine Thousand Two Hundred Ninety-Three and 75/100 (\$9,293.75) Dollars for services rendered herein by Applicant as attorney for the Unsecured Creditors Committee, and reimbursement for expenses incurred by the Applicant in the sum of One Thousand Four Hundred Seventy-Three and 87/100 (\$1,473.87) Dollars in connection with this first interim and final Application, for a total payment of Ten Thousand Seven Hundred Sixty-Seven and 62/100 (\$10,767.62) Dollars; (2) that this award for compensation be given final approval; and (3) for all just and equitable relief.

Date: June 3, 2014

THE DERBES LAW FIRM, L.L.C.

/s/ Albert J. Derbes, IV

ALBERT J. DERBES, IV, T.A. (20,164)

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