

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

<i>In re</i>	:	Chapter 11
	:	
FLEMING COMPANIES, INC., <i>et al.</i> ,	:	
	:	
Debtors.	:	Case Number 03-10945 (MFW)
	:	Jointly Administered

**OBJECTION OF THE ACTING UNITED STATES TRUSTEE TO THE FIRST
APPLICATION OF THE BLACKSTONE GROUP, L.P., AS FINANCIAL ADVISOR TO
THE DEBTORS AND DEBTORS IN POSSESSION FOR AN ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR ACTUAL AND
NECESSARY SERVICES RENDERED AND FOR THE REIMBURSEMENT OF ALL
ACTUAL AND NECESSARY EXPENSES INCURRED DURING THE PERIOD APRIL
28, 2003 THROUGH JUNE 30, 2003
(DOCKET ENTRY # 3369)**

In support of her objection to the first application of the Blackstone Group, L.P., as financial advisor to the Debtors and Debtors in possession for an allowance of compensation for actual and necessary services rendered and for the reimbursement of expenses incurred during the period April 28, 2003 through June 30, 2003, Roberta A. DeAngelis, Acting United States Trustee for Region 3 (“UST”), by and through her counsel, avers:

INTRODUCTION

1. This Court has jurisdiction to hear and determine this objection.
2. Under 28 U.S.C. § 586(a)(3)(A), the UST is charged with reviewing fee applications submitted under section 330 and “filing with the court comments with respect to such application[s] and, if the United States Trustee considers it to be appropriate, objections to such application[s].” *See In re Busy Beaver Building Ctrs.*, 19 F.3d 833, 842 (3d Cir. 1994) (section 586(a)(3) gives

United States trustee “discretion” to review fee applications).

3. Under 11 U.S.C. § 307, the UST has standing to be heard on the issues raised in this objection.

GROUND FOR RELIEF

4. One Blackstone employee (Genereux) claims to have worked 80 hours in 3 days at the end of April. As we all know, there are 72 hours in three days.

5. Given that the UST retains the right to review Blackstone’s entitlement to certain back-end fees (specifically, the Transaction and Restructuring Fees referenced in the Blackstone retention application (Docket Entry # 926) and the initial/supplemental orders related to Blackstone’s retention (Docket Entry #s 1692, 3260)) under 11 U.S.C. §§ 328(a) and 330(a), respectively, the Genereux time entries raise serious concerns regarding the integrity of Blackstone’s time records, which were verified as accurate by Paul P. Huffard, Senior Managing Partner of Blackstone. To the extent that the number of hours worked is a factor to be considered in the “reasonableness” inquiry under 11 U.S.C. § 330(a)(3), this Court and the UST rely on the integrity of Blackstone’s time records in order to evaluate Blackstone’s entitlement to those fees.

6. Unreliable time records are grounds for disallowance/disgorgement of compensation and reimbursement. The UST intends to explore the reliability of Blackstone’s time records through discovery.

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CONCLUSION

WHEREFORE the UST requests that this Court issue an order denying the application.

Respectfully submitted,

ROBERTA A. DeANGELIS
ACTING UNITED STATES TRUSTEE

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Date: September 15, 2003