

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

<b>In Re:</b>	)	<b>Chapter 11</b>
	)	
<b>SEA CONTAINERS LTD. <u>et al.</u>,</b>	)	<b>Case No. 06-11156 (KJC)</b>
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>

**FEE AUDITOR'S FINAL REPORT REGARDING  
INTERIM FEE APPLICATION OF REED SMITH RICHARDS BUTLER LLP  
FOR THE SEVENTH INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Fee Application of Reed Smith Richards Butler LLP for the Seventh Interim Period (the "Application").

**BACKGROUND**

1. Reed Smith Richards Butler LLP ("Reed") was retained as special counsel for general foreign legal matters to the debtors. In the Application, Reed seeks approval of fees totaling \$105,413.06<sup>1</sup> and costs totaling \$24,502.06<sup>2</sup> for its services from April 1, 2008 through June 30, 2008 (the "Application Period").

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with Local Rule 2016-2 of the

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<sup>1</sup>We note that the Application shows billings in British Pound Sterling. We further note that Reed used the exchange rate of \$1.975 for the compensation and expenses sought in its April, 2008 application; \$1.992 for the compensation and expenses sought in its May, 2008 application; and \$1.989 for the compensation and expenses sought in its June, 2008 application.

<sup>2</sup>See FN 1 *supra*.

Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2008, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330, Issued January 30, 1996 (the “Guidelines”), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served on Reed an initial report based on our review, and received a response from Reed, portions of which response are quoted herein.

### **DISCUSSION**

3. We noted that Reed billed a total of 191.00 hours and total fees of \$105,413.06 during the Application Period. We further note, that Reed billed 23.7 hours and total fees of \$11,560.02 during the Application Period to the “Fee Applications in Chapter 11 cases” category. Thus, it appears that approximately 11% of the fees requested were due to fee application preparation. Normally, 5% of the total fee application is considered an acceptable benchmark for preparation of fee applications. We asked Reed to provide further explanation regarding these fees, and it responded as follows:

Paragraph 3 in your Report calculated that approximately 11% of our requested fees were incurred preparing Applications. Your calculation divided the fees incurred when making Applications during the Period by the total fees requested during the Period ( $\$11,560.02 / \$105,413.06 = 10.97\%$ ). We think that the calculation ought to take total fees incurred preparing Applications during the Period and instead divide that figure by the total fees requested in those Applications (i.e. fees requested for the months of March, April and May rather than April, May and June). This calculation provides a different answer:  $\$11,560.02 / \$319,960.98 = 3.61\%$ .

We appreciate Reed’s response and further note that Reed has billed a total of \$2,066,313.53 in fees since the inception of the case (October, 2006 through June, 2008). Also, during this same time frame, Reed has billed a total of \$109,974.34 in fees for its fee application preparation, which is

5.0% of its total fees billed. Although we would caution Reed that it is best to keep its fee application preparation under 5% for each interim period, we note that the fee application preparation fees do not, at this time, appear to be excessive on a cumulative basis. Thus, we have no objection to these fees.

4. We noted a travel charge as follows:

22 Apr 2008	0.60	£156.00	\$308.10
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Travel - travel to/from Minerva House for meeting with C. Cavin

Local Rule 2016-2(d)(viii), states “[t]ravel time during which no work is performed shall be separately described and may be billed at no more than 50% of regular hourly rates.” We asked Reed to provide further explanation regarding this time entry and it responded:

Paragraph 4 of your Report queries a time entry relating to travel on 22 April 2008. We concede that this time should be billed at 50% of the regular hourly rate and that the fee should be reduced accordingly.

We appreciate Reed’s response and thus, recommend a reduction of \$154.05 in fees.

5. We noted total CHAPS Fees/Bank Charges for the Application Period in the amount of \$22,845.51. We asked Reed to provide further explanation regarding these charges and it responded:

Paragraph 5 in your Report queries certain bank charges incurred during the Period, itemised here in sterling:

**Bill: 1704355 Exchange rate: 1.975**

1	02/04/2008	£ 144.00	CHAPS Fees / Bank Charges - 12 x £8, 2 x £17, £14
2	02/04/2008	£1,733.00	CHAPS Fees / Bank Charges - Goldman Sachs - Overseas delivery charge £1,725.00 + £8.00 Barclays
3	02/04/2008	£9,401.46	CHAPS Fees / Bank charges - Intesa Sanpaolo Spa - Overseas delivery charge £9,393.46 + £8.00 Barclays
4	04/04/2008	£ 206.00	CHAPS Fees / Bank Charges - 2 x £103.00
5	14/04/2008	£ 8.00	Chaps Fees Bank Charges

**Bill: 1729877 Exchange rate: 1.989**

- 6 17/06/2008 £ 24.76 CHAPS Fees / Bank Charges in relation to payment of Labruna Mazziotti's legal fees
- 7 17/06/2008 £ 24.76 CHAPS Fees / Bank Charges in relation to payment B&B Partners re: Maurizio Orione's legal fees
- 8 25/06/2008 £ 24.84 CHAPS Fees / Bank Charges in relation to payment of MGP Studio Tributario's legal fees.

In relation to these charges.

- i) We have made representations to Barclays Bank as to the excessive level of the overseas delivery charge of £1,725.00, forming part of item 2 above. We have now recovered that sum.
- ii) We have made representations to Intesa Bank as to the excessive level of the overseas delivery charge of £9,393.46, forming part of item 3 above. Those representations were unsuccessful. Nevertheless, this was a transaction we were obliged to effect on our client's behalf and the charge is reasonably and properly payable by the client.
- iii) We request payment of every other charge itemised above, including the remainder of item 2 after the overseas delivery charge has been deducted. These remaining charges are identifiable, non-overhead expenses reasonably incurred when representing our client.
- iv) Total bank charges for the Period should therefore total GBP 9,833.82.


We appreciate Reed's response and thus, recommend a reduction of \$3,406.88 (£1,725.00 times exchange rate of 1.975) in expenses.

## **CONCLUSION**

6. Thus we recommend approval of fees totaling \$105,259.01 (\$105,413.06 minus \$154.05) and expenses in the amount of \$21,095.18 (\$24,502.06 minus \$3,406.88) for Reed's services from April 1, 2008 through June 30, 2008.

Respectfully submitted,

**WARREN H. SMITH & ASSOCIATES, P.C.**


By:   
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**FEE AUDITOR**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served via First-Class United States mail to the attached service list on this 11<sup>th</sup> day of December, 2008.

  
Warren H. Smith

## **SERVICE LIST**

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