

**CHAMBERS PROCEDURES: JUDGE ELIZABETH E. BROWN
UNITED STATES BANKRUPTCY COURT, DISTRICT OF COLORADO**

**ATTORNEYS AND OTHER PROFESSIONALS:
FEE APPLICATIONS**

I. INTERIM FEE PROCEDURES.

Upon a motion made in compliance with L.B.R. 2016-2, Judge Brown may allow Chapter 11 professionals to be compensated on an interim basis, in accordance with the guidelines set forth in L.B.R. 2016-2App. Professionals receiving monthly interim compensation pursuant to this procedure must file formal interim fee applications with the Court at least once every 120 days. If timely interim fee applications are not filed, the order allowing interim compensation may be vacated without notice or hearing. Interim fees may not be paid on a monthly basis unless the debtor has sufficient cash reserves to pay the professional and the debtor is otherwise current and not in arrears with other post-petition administrative expenses under 11 U.S.C. §503, and the proposed orders approving interim fee applications must specifically so provide.

II. FEE APPLICATIONS.

Counsel and other professionals are urged to review Fed. R. Bankr. P. 2016(a) and L.B.R. 2016-1 and ensure that any fee application they file is fully in compliance with these rules and, if the amount of fees and expenses requested exceeds \$1,000, that notice of the application is given in accordance with Fed. R. Bankr. P. 2002(a)(6), L.B.R. 9013-1, and any order entered by the Court in the case.

The United States Trustee Program's guidelines for fee applications and other pertinent information can be found at http://www.justice.gov/ust/Prof_Comp.

III. CHAMBERS FEE REVIEW CHECKLIST.

The Court reviews all fee applications for compliance with the rules set forth above, as well as orders entered in the particular case. Common issues and problems include the failure of an application to meet one or more of the following requirements:

1. Notice has been properly given to the debtor, trustee, all creditors, parties requesting notice, and other parties in interest, unless notice has been limited by prior Court Order.
2. Notice is in proper L.B.R. 9013-1 form, with a 21-day objection period. Amounts of fees and expenses must match those in fee application.
3. A cover sheet is filed. The amount of fees and expenses in the cover sheet must match those in fee application and notice. Dates and amounts of prior fee applications and orders approving them must be included. The total amount of fees paid to date must be disclosed.
4. Fee application must be served on the debtor, trustee, United States Trustee, creditors' committee counsel, or 20 largest unsecured creditors if there is no committee, creditors requesting notice, and other parties as required by prior Court order in the case.

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5. The application must contain all matters specified in Fed. R. Bankr. P. 2016(a) and L.B.R. 2016-1.
6. Hourly rates and retainer amounts must match those disclosed in the professional's application for employment or fee disclosure.
7. No fees are sought for a time period prior to the Court's approval of the professional's employment.
8. The application must include a meaningful narrative for each subcategory of work done which specifically describes the necessity of the services performed and benefit to the estate.
9. Time records must be included. Time records must account for time by the tenth of an hour and professionals should allocate time to each task performed on a specific day, rather than "lumping" many separate tasks together into one time entry. The amount of fees shown on time records must match the application.
10. Interim applications must include a certification by the professional that the debtor has sufficient funds on hand to pay all current administrative expenses.
11. The proposed order must match the application in amount of fees and expenses requested and the time period covered by interim applications. All proposed orders for interim applications should provide that amounts paid pursuant to interim applications are subject to disgorgement.
12. Interim applications must be filed at least once every 120 days.
13. A Certificate of Non-Contested or Contested Matter should be filed no sooner than three court days after objection period has passed.

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO**
Bankruptcy Judge Elizabeth E. Brown

In re:

@,
@,

Debtor(s).

Bankruptcy Case No. @ EEB
Chapter 11

**ORDER REGARDING ADVANCE PAYMENTS OF INTERIM COMPENSATION TO
PROFESSIONALS**

THIS MATTER comes before the Court on @, seeking to establish interim compensation procedures for professionals. It is hereby ORDERED that any professionals required to be employed under § 327 of the Bankruptcy Code (the “**Professionals**”) and *who seek to be paid* from this chapter 11 estate *in advance of a fee application* shall comply with the following procedures:

1. **Request for Advance Payments.** Subject to all of the conditions contained herein, Professionals may request payment of 75% of their fees and 100% of their expenses without awaiting court order (the “**Advance Payments**”). A holdback of 25% of the fees requested will remain in effect until further court order.
2. **Authorization of Payment.** The estate’s representative shall be authorized to make Advance Payments *only to the extent* that (a) funds are available to pay all professionals and other known administrative priority claimants as required by Local Bankruptcy Rule 2016-2(a)(2) and (b) the Professional has fully complied with the requirements of this Order.
3. **Description of Services and Charges in Monthly Statements.** For each month for which Professionals seek to receive Advance Payments, they shall prepare an itemized statement of services rendered and associated charges (the “**Monthly Statements**”). These statements must detail the dates and nature of the services rendered and the time expended. Professionals shall not “lump” time entries, which means they may not enter one time entry for multiple tasks performed on a single day, without a breakdown of the time expended on each task.
4. **Redaction of Confidential Information.** The description of any services that are confidential in nature may be redacted from the Monthly Statements, but Professionals must endeavor to use descriptions that allow adequate review of their services without compromising a client’s sensitive commercial information, attorney work product, or other privileges. In the event that a redacted entry is questioned, the Professionals shall move to submit unredacted Monthly Statements to the Court under seal as part of their fee application and the question raised as to these entries will be treated as an Informal Objection subject to paragraph 7(d).

5. **Requests for Reimbursement of Expenses.** Monthly Statements seeking the reimbursement of expenses shall include a summary of expenses by category. Whenever a person pays expenses for others, the other person shall be identified. It is not necessary to attach supporting documentation for expenses incurred, unless and until the expense is challenged or questioned.

6. **Submission of Monthly Statements.**

a. **Notice.** Whenever Professionals seek to receive an Advance Payment, they must give notice and attach a copy of the applicable Monthly Statement to the Debtor(s), counsel for the Debtor(s), the U.S. Trustee, and, *if applicable*, to the chapter 11 trustee, counsel for the Creditors' Committee (or if there is no committee counsel, to all members of the committee), and any party in interest who has specifically requested copies of the Monthly Statements. Collectively, these parties shall be referred to as the "**Noticed Parties.**"

b. **Deadline for Requests.** A Professional shall give notice of a request for an Advance Payment no more often than once per month and *no later than fourteen days from the end of the month for which an Advance Payment is sought*. If the Professional fails to meet this deadline, then the Professional must await the fee application process to obtain payment.

7. **Objections to Monthly Statements.**

a. **Deadline.** Objections to Monthly Statements shall be referred to as "**Informal Objections.**" Informal Objections must be submitted no later than fourteen days after receiving notice of the Monthly Statement.

b. **Notice.** Informal Objections should *not* be filed with the Court. (The only objections that shall be filed with the Court are objections to formal fee applications filed with the Court.) Informal Objections must be submitted to the Professional and the estate representative.

c. **Content.** Informal Objections must specify the nature of the objection and the associated specific amount(s) within the Monthly Statement considered objectionable.

d. **Effect.** If a Professional receives an Informal Objection, then the Professional may not seek or receive an Advance Payment of any amount to which an Informal Objection has been lodged. Instead the Professional must wait to obtain payment through the formal interim or final fee application process or seek further order of the Court.

8. **Duty to File Interim Fee Applications.** Every Professional receiving Advance Payments must file interim fee applications *every 120 days*.

9. **No Waiver of Objections to Fee Applications.** Failure to object to a Monthly Statement does not constitute a waiver of the right to object to a formal interim or final fee application.

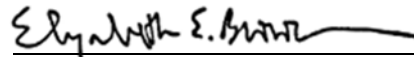
10. **Notice of Proposed Rate Increases.** Notice of any proposed increase in an individual Professional's billing rate must be filed with the Court and notice given to the Noticed Parties who shall have thirty days to file objections to the proposed increase.

11. **Payment of Holdback Amounts.** Professionals may apply to receive the 25% holdback of their fees in their final fee application. Any professional seeking payment of the 25% holdback prior to the final fee application must show good cause and obtain a court order authorizing early payment.

12. **Potential Disgorgement.** Advance Payments, like any form of interim payment, are not finally approved and remain subject to disgorgement to the extent the fees and expenses are not finally approved by the Court or as otherwise required by court order.

Dated this @ day of @, 20@.

BY THE COURT:



Elizabeth E. Brown, Bankruptcy Judge