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& 17 min. A.M.
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE
SOUTHERN DISTRICT OF GEORGIA
Statesboro Division

IN RE:)	Chapter 7 Case
)	Number <u>92-60200</u>
ADAM FURNITURE INDUSTRIES, INC.,)	
A GEORGIA CORPORATION;)	
)	
ADAM FURNITURE INDUSTRIES, INC.,)	
A NEW JERSEY CORPORATION)	
)	
Debtors)	
<hr/>)	

ORDER

Lignacon Holzoberflächen, Anlagen und Lacktechnik GmbH ("Lignacon"), a creditor in the above captioned case, seeks reimbursement pursuant to 11 U.S.C. § 503(b)(3)(A) for attorney fees and costs incurred in bringing and prosecuting an involuntary Chapter 7 petition against the debtor. Having considered Lignacon's application and reviewed the applicable authorities, I grant Lignacon an administrative expense claim for part of the attorney fees and costs requested in the application.

On April 15, 1992 Lignacon filed separate involuntary petitions against debtors Adam Furniture, Inc., a Georgia Corporation, and Adam Furniture, Inc., a New Jersey Corporation,

requesting orders for relief under Chapter 7 of Title 11 of the United States Code.¹ Adam Furniture answered and challenged the petition on grounds that Lignacon had not met the requirements for filing an involuntary petition under 11 U.S.C. § 303 and that this court lacked jurisdiction to hear and retain the case.² Debtor alleged that (1) Lignacon was not a valid petitioning creditor because Lignacon's claim was contingent and subject to a bona fide dispute, and (2) because debtor had 12 or more creditors, a petition could only be properly brought against it by three or more entities whose claim was not contingent or subject to a bona fide dispute.

¹The two cases were later consolidated by order dated May 26, 1992 under case number 92-60200. Hereinafter all references will be to "Adam Furniture" or "debtor."

²11 U.S.C. § 303 provides in pertinent part:

(a) An involuntary case may be commenced only under Chapter 7 or 11 of this title, and only against a person, except a farmer, family farmer or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced.

(b) An involuntary case against a person is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title-

(1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or the subject of a bona fide dispute . . . if such claims aggregate at least \$5,000 more than the value of any lien on property of the debtor securing such claims held by the holders of such claims;

(2) if there are fewer than 12 such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by one or more of such holders that hold in the aggregate at least \$5,000 of such claims. . . .

Debtor also sought punitive damages against Lignacon under § 303(i) for bringing the petition in bad faith.³ Subsequently, Sidex International Furniture Corporation ("Sidex"), Consolidated Freightway Corporation ("Consolidated"), and Buddy's Truck Repair were allowed to intervene as petitioning creditors.⁴

³11 U.S.C. § 303(i) provides in pertinent part:

(i) If the court dismisses a petition under this section other than on consent of all petitioners and the debtor, and if the debtor does not waive the right to judgment under this subsection, the court may grant judgment-

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- (A) any damages proximately caused by such filing; or
- (B) punitive damages

Debtor alleged that Lignacon brought the petition with the purpose of obtaining leverage in litigation which was then and remains pending between the parties in United States District Court for the Southern District of New York.

⁴The joinder motions were allowed by orders dated as follows:
May 1, 1992 - Sidex
May 15, 1992 - Consolidated
July 30, 1992 - Buddy's Truck Repair

Joinder of additional creditors in an involuntary petition is allowed by 11 U.S.C. § 303(c) which provides:

The trial of the involuntary proceeding was held on January 12-15, 1993. By pre-trial order, the parties stipulated that Sidex was a qualified petitioning creditor. At trial I determined that the petition was valid based on my findings that in addition to Sidex, Buddy's Truck Repair was also a qualified petitioning creditor and that debtor had only 11 qualified creditors. I also determined that Consolidated and Lignacon were not qualified petitioning creditors with the claim of Lignacon in the amount of \$627,215.93 subject to a bona fide dispute. I also found that Lignacon had not brought the petition in bad faith. Immediately at the close of the trial, debtor moved to convert the

(c) After the filing of a petition under this section, but before the case is dismissed or relief is ordered, a creditor holding an unsecured claim that is not contingent, other than a creditor filing under subsection (b) of this section, may join in the petition with the same effect as if such joining creditor were a petitioning creditor under subsection (b) of this section.

Federal Rule of Bankruptcy Procedure 1003 also provides in pertinent part:

(b) Joinder of Petitioners After Filing. If the answer to an involuntary petition filed by fewer than three creditors avers the existence of 12 or more creditors, the debtor shall file with the answer a list of all creditors with their addresses, a brief statement of the nature of their claims, and the amounts thereof. If it appears that there are 12 or more creditors as provided in §303(b) of the Code, the court shall afford a reasonable opportunity for other creditors to join in the petition before a hearing is held thereon.

case to Chapter 11 and that motion was granted by order dated January 21, 1993.

On June 4, 1993 Lignaon filed an application pursuant to 11 U.S.C. § 503(b) (3) (A) seeking an administrative expense claim for attorney fees of \$70,812.60 and costs of \$9,429.41 or a total amount of \$80,242.01 advanced in connection with filing and prosecuting the involuntary petition. Objections to the application were filed by the United States trustee, the debtor, and Norson Industries, a creditor in the case. After hearing, but before the entry of this order, the consolidated case was converted to a Chapter 7 case by order dated October 19, 1993.

Section 503(b) of the Bankruptcy Code allows the court to award administrative expense claims to a creditor who files an involuntary petition against the debtor under § 303 for the actual, necessary expenses incurred by that creditor and any reasonable attorney fees and expenses incurred by the attorney for that creditor. 11 U.S.C. §§ 503(b) (3) (A), (b) (4).⁵ The expenses

⁵11 U.S.C. § 503 provides in pertinent part:

(a) An entity may file a request for payment of an administrative expense.

(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including-

. . .

(3) the actual, necessary expenses,

reimbursable to a petitioning creditor under § 503(b) (3) (A) differ from those allowed under § 503(b) (4). Section 503(b) (3) (A) limits an award under that subsection to any actual necessary expenses incurred by a petitioning creditor, other than those specified in § 503(b) (4). See § 503(b) (3) (A) footnote 5 supra. Section 503(b) (4) provides an administrative expense award for any reasonable fees and expenses incurred by an attorney for that petitioning creditor. See § 503(b) (4) footnote 5 supra. Therefore, while a petitioning creditor can recover attorney related fees and expenses under § 503(b) (4), only non-attorney related expenses such as filing fees or expenses associated with service of the involuntary petition can be recovered under § 503(b) (3) (A). 3 Collier on Bankruptcy ¶ 503.04[3] at 503-41 (L. King 15th ed. 1993).⁶

other than compensation and reimbursement specified in paragraph (4) of this subsection, incurred by-

(a) a creditor that files a petition under section 303 of this title;

. . .

(4) reasonable compensation for professional services rendered by an attorney or an accountant of an entity whose expense is allowable under paragraph (3) of this subsection, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title, and reimbursement for actual, necessary expenses incurred by such attorney or accountant. . . .

⁶The cases interpreting these Code provisions do not make a distinction between attorney related fees and expenses available under § 503(b) (4) and non-attorney related expenses available under § 503(b) (3) (A). Instead, the two sections are usually construed together without separate determinations being made. See, e.g., In

Under the award scheme set out in §§ 503(b)(3)(A) and (b)(4), an initial determination must be made that the creditor seeking reimbursement is one whose expense is allowable under § 503(b)(3)(A). Only then will that creditor be entitled to an administrative expense award under §503(b)(4) for any reasonable fees paid to its attorney and any actual costs expended. See §§ 503(b)(3)(A), (b)(4) footnote 5 supra. In this case, Lignaon initially filed the involuntary petition against the debtor. However, Lignaon was determined to be a nonqualifying creditor at trial. The petition succeeded only because other qualifying creditors joined in. Whether a creditor in these circumstances should be entitled to an administrative expense award under § 503(b)(3)(A) appears to be a case of first impression.

As a threshold determination for my §503 analysis I find that Lignaon is a "creditor" under the Bankruptcy Code, even though its claim was determined to be subject to a bona fide dispute at trial. Section 101(10)(A), in part pertinent to this case, defines creditor to mean an "entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the

re Stoecker, 128 B.R. 205 (Bankr. N.D. Ill. 1991); In re J.V. Knitting Service, Inc., 22 B.R. 543 (Bankr. S.D. Fla. 1982). But see In re Crazy Eddie, Inc., 120 B.R. 273, 279 (Bankr. S.D.N.Y. 1990) (awarding attorney fees under § 503(b)(4), but awarding attorney-related expenses under § 503(b)(3)(A)). Although Lignaon did not specify § 503(b)(4) as a ground for the approval of its application, as Lignaon seeks reimbursement for attorney fees and costs expended in litigating the involuntary petition, its application will be treated as invoking § 503(b)(4).

debtor." The Code further defines claim as a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured." 11 U.S.C. § 101(5) (A).

Section 503(b) (3) (A) allows for an administrative expense claim to be granted to "a creditor that files a petition under section 303 of this title." This language suggests that Lignacon's act as a creditor of filing - submitting the involuntary petitions to the bankruptcy court clerk⁷ - entitles it to an award under § 503(b) (3) (A) provided an order for relief is eventually granted in the case.⁸ However, § 303(b) provides that an involuntary case is commenced only when certain qualified creditors file the petition. See § 303(b) footnote 2 supra. When read in light of § 303(b), the language in § 503(b) (3) (A) can be interpreted to mean that only a qualified petitioning creditor is a "creditor that files a petition under section 303" and entitled to an administrative expense award. I conclude that the former interpretation is the proper one and that

⁷See Fed. R. Bankr. P. 1002, 9002.

⁸Obviously, if the petition is dismissed, there will be no estate from which to grant an administrative expense claim. However, the order for relief entitling a petitioning creditor to an administrative expense under § 503(b) (3) (A) need not arise from the involuntary petition. An award is still appropriate when the debtor moots the involuntary petition by subsequently filing his own voluntary petition. In re Crazy Eddie, Inc. 120 B.R. 273 (Bankr. S.D.N.Y. 1990).

Lignaon is a creditor whose expense is allowable under § 503(b)(3)(A).

Important in my determination is Lignaon's full compliance with the scheme outlined in § 303 for bringing such petitions. Under § 303, one or more creditors can file an involuntary petition with the court and the debtor may contest that petition. 11 U.S.C. § 303; Fed. R. Bankr. P. 1002, 1003, 1010, 1011, 1013; see generally, 2 Collier on Bankruptcy ¶¶ 303.01-.45 (L. King 15th ed. 1993). In this case, Lignaon initially filed the petition alone. The debtor then challenged the petition on the ground that Lignaon was an ineligible petitioning creditor and that it had twelve or more creditors thereby requiring three or more qualified petitioning creditors. See Fed. R. Bankr. P. 1003(b), 1011. In response, Lignaon was properly allowed to solicit additional creditors in order to secure the requisite number of qualified petitioning creditors. See 11 U.S.C. § 303(c); Fed. R. Bankr. P. 1003(b).

In choosing between competing statutory interpretations I must determine which interpretation more accords with the purpose of the statute, § 503, in awarding administrative expense claims to creditors who file involuntary petitions. In re Stoecker, 128 B.R. 205, 209 (Bankr. N.D. Ill. 1991) (citing In re Jartran, Inc., 732 F.2d 584 (7th Cir. 1984)). Awards are given to petitioning creditors under §§ 503(b)(3)(A) and (b)(4) "to encourage them to successfully bring the debtor into court so that there may be

equitable marshalling and distribution of its assets before they are squandered by the debtor." In re Hanson Industries, Inc., 90 B.R. 405, 410 (Bankr. D. Minn. 1988); In re J.V. Knitting Service, Inc., 22 B.R. 543, 545 (Bankr. S.D. Fla. 1982). Accordingly, the controlling criteria for judging any particular interpretation of § 503(b)(3)(A) is whether that interpretation will render the creditor whole in the sense of the expense it incurred in successfully bringing the debtor into the bankruptcy court. See In re Crazy Eddie, Inc., 120 B.R. 273, 277 (Bankr. S.D.N.Y. 1990) (where it was held that petitioning creditors are entitled to an award of compensation when the trial on the merits of an involuntary petition is mooted by the debtor's voluntary filing for relief.) The court in Crazy Eddie, Inc. found that a debtor should not be able to deprive a creditor of reimbursement by filing a voluntary petition because "'the only risk of nonpayment should be failure to prevail at a trial on the merits of the petition.'" Id. at 276-77 (quoting S. Bernstein & L. King, Collier Bankruptcy Compensation Guide ¶ 7.04[2] at 7-15 (1990)); See also In re Paramount Publix Corp., 85 F.2d 596 (2d Cir. 1936); In re Arcadia Print Works, 1 F.2d 463 (D. Mass. 1923); 1 W. Norton, Norton Bankruptcy Law and Practice 2d, § 12.29 at 12-44 (1992).

In this case, Lignacon prosecuted the petition to a successful conclusion. As the purpose of § 503 in part is to render the petitioning creditor whole as to expenses and attorney fees incurred in prosecuting the involuntary petition to the extent

possible under the bankruptcy scheme of distribution under § 507, an interpretation of § 503 which would deny Lignaon reimbursement for filing expenses, attorney fees and costs because it was not adjudicated a qualified petitioning creditor at trial would be counter to the purpose of the statute, especially as § 303 specifically contemplates that a petitioning creditor may need to join additional parties in order to meet the § 303(b) eligibility requirements.

Furthermore, § 503 should not be construed in such a way that it imposes a deterrent to a creditor filing an involuntary petition when Congress has already established a deterrent to abusive and unwarranted filings in §§ 303(e) and (i). In re Baldwin-United Corp., 79 B.R. 321, 337 (Bankr. S.D. Ohio 1987). The court in Baldwin United recognized that in the earliest cases construing § 503(b) (3) (A) and (b) (4) courts had allowed petitioning creditors reimbursement only for those services actually rendered in preparing, filing, and prosecuting the petition. Id. at 337 (citing J.V. Knitting Service, Inc., supra). This rule was determined to be too narrow in limiting attorney fees solely to the time spent writing and filing the petition and the court allowed compensation for a reasonable amount of pre-filing research and investigation.⁹

⁹Whether the time spent prosecuting the involuntary petition was reimbursable was not at issue in Baldwin United as the debtor filed a voluntary Chapter 11 cases only 3 minutes after the involuntary petitions were filed. However, Baldwin United does recognize that expenses in prosecuting an involuntary petition are reimbursable under § 503(b) (4). See also, Hanson Industries, Inc.,

Id. According to the Baldwin United court the narrow rule followed the view taken under the Bankruptcy Act of 1898 and did not take into account § 303(i) which had no prior counterpart. Id. In cases where the petition is dismissed other than by consent, § 303(i) gives the court discretion to award costs, attorney fees, and damages against petitioners and/or to grant an award of punitive damages against any petitioner that filed in bad faith. See 11 U.S.C. § 303(i) footnote 3 supra.¹⁰ Because of this deterrent to abusive or improper filing, the Baldwin United court recognized that no reasonable person holding a claim would file a petition without first undertaking some legal and factual pre-filing research. 79 B.R. at 337. Accordingly, to interpret § 503(b)(3)(A) and (b)(4) so narrowly as to deny compensation for this research would act as an additional deterrent to filing and should not be done absent some clear indication of this intent by the drafters of the Code. Id. Similarly, in this case if § 503 were to be interpreted to tie reimbursement to a creditor's individual success in qualifying as a petitioning creditor rather than to the ultimate success on the

90 B.R. at 410; Crazy Eddie, Inc., 120 B.R. 278; Stoecker, 128 B.R. at 209.

¹⁰Abusive filings are also deterred by the bond requirements of 11 U.S.C. § 303(e), which provides:

(e) After notice and a hearing, and for cause, the court may require the petitioners under this section to file a bond to indemnify the debtor for such amounts as the court may allow under subsection (i) of this section.

merits of the petition, creditors would be faced with yet an additional deterrent to filing besides the imposition of damages already specifically outlined in the Bankruptcy Code. Section 303(i) already provides a sufficient deterrent to prevent creditors from filing in bad faith. Creditors who file in good faith believing they meet the § 303(b) petitioning requirements should not be punished by denying reimbursement for their expenses when the petition is successful due to their efforts and the joining of additional creditors.

I find that § 503(b) (3) (A) allows for an administrative expense claim to be awarded to any petitioning in good faith creditor, whether or not ultimately deemed qualified, as long as an order for relief is granted in the case, whether by failure of the debtor to contest the involuntary, by adjudication of the involuntary by trial, or by a debtor's voluntary filing mooted the involuntary petition.¹¹ Therefore, as the involuntary petition in this case succeeded, Lignaon is a creditor whose expense is allowable under § 503(b) (3) (A).

I must determine the amount of the fee and expense award Lignaon is entitled under §§ 503(b) (3) (A) and (b) (4) based on the application filed. Under § 503(b) (3) (A) Lignaon is allowed to recover any non-attorney related expenses incurred in bringing the

¹¹By limiting recovery to creditors petitioning in good faith the possible rewarding of a creditor for a bad faith filing is eliminated. At trial I determined Lignaon did not file its petition in bad faith.

petition. Lignaon filed two chapter 7 involuntary petitions, the cost of which was \$240.00. See 28 U.S.C. § 1930(a)(1). However, Lignaon's proof of claim filed in the case under which Ligancon's application requests recovery, fails to list any such filing fee expense.¹² Likewise, no expense for service of the petitions or other possible expense compensable under § 503(b)(3)(A) is listed in the proof of claim. Lignaon has no claim under § 503(b)(3)(A).

Although Lignaon is not granted an award under § 503(b)(3)(A) due to its failure to request reimbursement for expenses recoverable under that section, as a creditor whose expense is allowable under § 503(b)(3), Lignaon is entitled to recover under § 503(b)(4) reasonable compensation for professional services rendered by its attorney in prosecuting this case based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a bankruptcy case, and reimbursement for actual, necessary expenses incurred by the attorney. See 11 U.S.C. §503(b)(4) footnote 5 supra. The fees and expenses allowable under this section are those related directly to preparation and filing of the petition, including a reasonable amount of pre-filing research, and to prosecution of the petition to successful conclusion. See Baldwin United, 79 B.R. at 337; Hanson Industries, Inc., 90 B.R. at 410; Crazy Eddie, Inc., 120 B.R. at

¹²Lignaon filed two proofs of claim. One is for attorney fees and costs. The other, which asserts a claim of \$627,215.93 for goods had and received.

278. The standard for determining whether the fees and expenses listed in the application are properly allowable under § 503(b)(4) is identical to the standard for attorney compensation and reimbursement of expenses set forth in 11 U.S.C. § 330.¹³ Compare footnote 5 supra.

In its application Lignaon requests reimbursement for attorney fees in the amount of \$70,812.60 and costs in the amount of \$9,429.41 totaling \$80,242.01. A review of the documentation of fees and costs attached to Lignaon's proof of claim reveals that the attorney fee amount requested represents 566.5 hours of work spent by Lignaon's attorney from April 13, 1992, two days prior to the involuntary filing, through the end of trial on January 15, 1993. Simple division of 566.5 into \$70,812.60 reveals that Lignaon's attorney is requesting an award of fees at the billing rate of \$125.00 per hour.

In determining whether the compensation requested is reasonable, this court must look at the nature, the extent, and the

¹³11 U.S.C. § 330(a), provides in pertinent part:

(a) After notice . . . and hearing . . . the court may award to a trustee, to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney-

(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be . . . based on the nature, the extent, and the value of such services, the time spent on such services and the cost of compensable services other than in a case under this title; and

(2) reimbursement for actual, necessary

value of the legal services rendered, the time spent by counsel in rendering such services, and the cost of comparable services in other than a bankruptcy proceeding. 11 U.S.C. § 503(b)(4); 11 U.S.C. § 330(a). Proper compensation is determined under the lodestar method which requires multiplying the reasonable time expended by counsel in performing the reasonably required services by a reasonable hourly rate. Norman v. Housing Authority for the City of Montgomery, 836 F.2d 1292 (11th Cir. 1988).

In this case, the application requests approval of an hourly attorney fee rate of \$125.00. A reasonable hourly rate is determined by the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation. Norman, 836 F.2d at 1229. In setting the hourly rate, a court may also consider the twelve factors set forth in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974).¹⁴ I have previously determined that the

¹⁴The Johnson factors relevant to fee allowance are:

- (1) The time and labor required;
- (2) The novelty and difficulty of the legal questions;
- (3) The skill required to perform the legal service properly;
- (4) The preclusion of other employment by the attorney due to the acceptance of the case;
- (5) The customary fee for similar work in the community;
- (6) Whether the fee is fixed or contingent;
- (7) Time limitation imposed by the client or the circumstances;
- (8) The amount involved and the results obtained;
- (9) The experience, reputation, and ability of the attorney;

relevant legal community used in determining the prevailing market rate by this court is generally the legal community within the Southern District of Georgia and that \$100.00 per hour represents a reasonable hourly rate for legal services in that community. In re Georgian Arms Properties and Windover Properties, Chapter 11 consolidated case no. 89-10313, slip op. at 6 (Bankr. S.D. Ga. April 20, 1990) (Dalis, B. J.). However, in numerous decisions this court, through the Honorable Lamar W. Davis, Jr., Chief Judge and me, has approved rates of \$125.00 per hour for counsel representing Chapter 11 debtors. In re Concrete Products, Inc., Chapter 11 case no. 88-20540, slip op. at 23 (Bankr. S.D. Ga. February 2, 1992) (Davis, B.J.). I have previously allowed such an award to Lignaon's attorney in another case based on his over 10 years of experience and because the complexity of Chapter 11 cases require more than a basic level of competency in bankruptcy law. In re Burke Manufacturing Co., Chapter 11 Case No. 91-10468, slip op. at 4-5 (Bankr. S.D. Ga. September 10, 1991) (Dalis, B. J.). As with Chapter 11 cases, the bringing of an involuntary proceeding raises many complex issues of law which the average practitioner is unlikely to be familiar. An attorney filing an involuntary petition

(10) The undesirability of the case;
(11) The nature and length of the professional relationship with the client; and (12) Awards in similar cases.

488 F.2d at 717-19.

must be more than basically competent in bankruptcy law.

In addition, this court may allow for higher rates when the relevant legal community extends beyond the bounds of the Southern District of Georgia due to the expanded scope of the case and when the prevailing market rate for legal services establishes a higher rate. Georgian Arms, supra, slip op. at 7 & n.3; see also In re S.T.N. Enterprises, Inc., 70 B.R. 823, 843 (Bankr. D. Vt. 1987). In this case, debtor corporations were both New Jersey and Georgia companies. Litigation between debtor and Ligancon remains pending in the Southern District of New York. Depositions were taken in various locations from coast to coast. Lignacon is a German corporation with its principal place of business in the United States in New York City. Based on these factors I find the scope of this case is nationwide and therefore the relevant legal community extends nationwide. Lignacon's attorney has put forth no evidence that \$125.00 an hour is the nationwide prevailing market rate for this type of legal service. However, courts in approving compensation under § 503(b)(4) have allowed hourly rates as high as \$250.00. See Hanson Industries, Inc., 90 B.R. at 410-12 (\$145.00 and \$150.00); Stoecker, 128 B.R. at 213 (from \$115.00 to \$250.00). Accordingly, based upon the expertise of counsel, complexity of the issues raised, the extent of the legal community providing a comparative basis and awards in similar cases, I find the requested hourly rate of \$125.00 reasonable.

The next step in determining the amount of a fee award is

to determine the number of hours reasonably expended by counsel in performing the reasonably required services. See Norman, 836 F.2d at 1301. Three objections to Lignaçon's application were filed. Norson Industries, a creditor in the case, filed a general objection which did not address any specific deficiencies in the application. The United States trustee objects only to the general lack of detail in the application. The debtor, however, raised numerous specific objections to Lignaçon's application. Several of the objections raised by debtor as to deficiencies in the entries I find to be without merit. Debtor objects to the lack of explanation of telephone conferences or calls. A typical example of such entries is "TC Peter Jacobs." Only occasionally do the telephone entries include an indication of their purpose. While in any fee request analysis the greater the explanation the better, this requirement for explanation must not become a "slavish and burdensome" record keeping exercise. In re: Frontier Airlines, Inc. 74 B.R. 973 (Bankr. D. Colo. 1987). I do not require attorneys to list the reason for every telephone call made during a case. The entries are sufficient. Similarly, debtor objects to the billing of travel time at the full hourly rate. This is allowed. A lawyer's time is his stock in trade. An attorney who is required to travel long distances in his client's interest may be effectively prohibited from utilizing that time in any other productive manner and should not be penalized when the reason for such travel is the business of his client and the attorney is unable to devote the time to other

business. See In re Cano, 122 B.R. 812, 814 (Bankr. N.D. Ga. 1991). Finally, debtor objects to the allowance of \$1,140.00 cost for an interpreter's fee because the interpreter's employment was never approved by the court. I find counsel's hiring of an interpreter in conjunction with the deposition of an individual who spoke little English to be both provident and reasonably necessary. Lignaon was not required to obtain prior approval from the court in order to employ a professional persons. See 11 U.S.C. § 327.

Debtor's objections to vagueness and lumping time entries are valid. Debtor contends that several of the entries include general and vague references such as "review file" or "review law" without any indication of the nature or purpose of such review or research. For fee records to support compensation, the documentation must identify, describe and explain the services with enough specificity that an evaluation of the reasonableness of the amount of hours spent on the task and its necessity can be made. S.T.N. Enterprises, Inc., 70 B.R. at 836; Georgian Arms, supra, slip op. at 8-9 (Bankr. S.D. Georgia April 20, 1990) (Dalis, B.J.). In some instances the context in which the review was made may be sufficient to find the charge was reasonable. However, I find that the following entries objected to by debtor are too vague and insufficient to make the required determination and to justify the claimed charges:

Date	Hours
4-14-92	2.0
4-16-92	.5

4-27-92	5.0
5-24-92	1.5
6-2-92	.5
6-12-92	1.0
6-23-92	.25
6-24-92	1.0
9-9-92	4.0
10-6-92	1.5
12-6-92	2.0
12-14-92	6.0
12-21-92	8.0
1-9-93	5.0

The "review file" and "review law" entries described above which total 38.25 hours are only those in which the entry stands alone.

Next I must consider the reasonableness of the services performed when those same defective vague entries are listed together with other services under a single block of time. Debtor objects to these lumped entries as deficient in that they do not specify the time spent on each service. Although listing various services rendered under a single time entry is not per se disallowed, the listing must not preclude meaningful review of the reasonableness of the services rendered. In re Key Airlines, Inc., Chapter 11 Case No. 93-40226, slip op. at 10-11 (Bankr. S.D. Ga. June 7, 1993) (Davis, B.J.) (citing In re Beverly Manufacturing Corp., 841 F.2d 365 (11th Cir. 1988) & Johnson, 488 F.2d at 717, 720). Although there is no simple formula for determining when lumping is objectionable, it is clear that in cases when one of the lumped services is vaguely or insufficiently described, the court's inability to determine the reasonableness of that one entry will often prevent a determination of the reasonableness of the other

services listed under the single time entry. In this case, the following lumped entries contain the vague "review file" or "review law" or similar entries not clarified by context or which this court is otherwise unable to assess the time charged as reasonable:

<u>Date</u>	<u>Hours</u>	<u>Date</u>	<u>Hours</u>
4-15-92	2.0	6-20-92	.5
4-15-92	5.0	6-23-92	1.5
4-19-92	3.0	6-26-92	2.0
4-20-92	4.25	7-17-92	2.5
4-23-92	2.0	9-8-92	3.0
4-24-92	2.0	9-15-92	4.5
4-29-92	4.5	10-5-92	3.0
4-29-92	1.0	10-13-92	4.5
5-1-92	1.5	10-20-92	4.0
5-1-92	2.5	12-2-92	2.0
5-4-92	4.0	12-11-92	6.0
5-5-92	2.75	12-15-92	3.0
5-6-92	5.0	12-21-92	2.0
5-12-92	9.0	12-28-92	9.0
5-13-92	5.0	12-29-92	6.0
5-14-92	4.0	1-5-93	5.0
5-21-92	3.5	1-6-93	13.0
6-8-92	2.5	1-7-93	10.0
6-9-92	4.0	1-8-93	10.0
6-17-92	1.25	1-10-93	13.5

These entries account for 173.75 hours. When combined with the 38.25 hours noted previously, Lignaçon's attorney has insufficiently documented 212 claimed hours. I do not suggest that the time was not devoted to this case. Rather, because of the lack of adequate description for the entries and the listing together of these entries with various other services under a single time entry, I am unable to assess the necessity of particular tasks or the reasonableness of the time spent on those tasks. Accordingly, as the burden of proving the reasonableness of a fee request rests upon the applicant, and as this burden has not been carried by Lignaçon

with regard to these hours, they are disallowed. See Beverly Manufacturing Corp., supra; Georgian Arms, supra, slip op. at 8-9. At the rate of \$125.00 per hour the amount disallowed is \$26,500.00 from a total fee request of \$70,812.60, leaving Lignaon entitled to an administrative claim for reimbursement of \$44,312.60 in attorney fees.

Debtor has also raised objections to Lignaon's application based on the merit and necessity of some of the work performed by Lignaon's attorney. Specifically, debtor contends that the following actions by Lignaon's attorney were unnecessary, ineffectual and unreasonable:

- (a) attempting to have a trustee appointed;
- (b) objecting to debtor's discovery motions;
- (c) preparing and filing a summary judgment motion;
- (d) bringing repetitive 2004 examinations;
- (e) pursuing a "fraud exception" to the filing requirements;
- (f) compiling useless exhibits; and
- (g) unsuccessfully litigating the issue of whether Lignaon and Consolidated claims were subject to a bona fide dispute.

I disagree. In undertaking many of the actions described by debtor, Lignaon's attorney was simply carrying out his role as advocate for his client with effective results. Bringing 2004 examinations, filing summary judgment motions, and pursuit of a fraud exception cannot be deemed unreasonable in light of the vigorous nature of the contest over the involuntary petition displayed in this case. Moreover, whether certain petitioning creditors have claims subject to a bona fide dispute is central to making the required § 303

determination and cannot be deemed unnecessary or unreasonable.

The efforts of Lignaçon's attorney were effective. The debtor has now been brought within the jurisdiction of the bankruptcy court where its assets can be collected and distributed to creditors. Although Lignaçon's attorney cannot point to any benefit to the estate through recovery of assets or preferences, Lignaçon has placed debtor in the proper forum from which such potential causes of action can be analyzed. Having brought a debtor which admittedly was not able to meet its financial obligations as they matured under the jurisdiction of this court, further benefits need not be shown in order to merit reimbursement of the fees and costs associated with that undertaking. No further reduction in Lignaçon's fee request is warranted.

Lignaçon has also requested to be reimbursed for costs expended in the amount of \$9,429.41. No specific objections have been made to reimbursement of these expenses with the exception of the reasonableness of the interpreter's fee discussed previously. The application seeks reimbursement for various long distance phone calls, copy costs, postal service charges, deposition costs and computerized legal research. These type expenses are compensable under § 330(a)(2). See S.T.N. Enterprises, 70 B.R. at 844; In re Wizard Enterprises, Inc., 109 B.R. 708 (Bankr. W.D. La. 1990). However, upon review of the application, I find one entry dated May 21, 1992 totalling \$93.31 for "research costs" too vague to support reimbursement. The balance of expenses advanced \$9,429.41, less \$93.31 are allowed.

Accordingly, it is hereby ORDERED that Lignaon is granted an administrative expense claim under § 503(b) for attorney fees incurred in the amount of \$44,312.60 and costs in the amount of \$9,336.10 totalling \$53,648.70.

JOHN S. DALIS
UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia
this 10th day of December, 1993.