



1           The UST objects to fees for efforts under the headings "case  
2 administration" and "fee/employment application," arguing that  
3 they are elemental bankruptcy issues which should have been  
4 addressed at the outset of the case and should not take Debtor's  
5 counsel an inordinate amount of time. The UST also objects to  
6 compensation for compliance issues such as *nunc pro tunc* approval  
7 of employment of professionals, insider compensation and post-  
8 petition borrowing. Finally, the UST complains of lumping in  
9 VDA's billing statements.

10           As VDA explained, however, the bulk of that work was done in  
11 direct response to requests and demands made by the UST. VDA  
12 provides the example of the motion to approve postpetition  
13 borrowing which was done at the behest of the UST, the Debtor  
14 being of the mind that it was ordinary course, not needing Court  
15 approval. While the Court agrees with the UST that the borrowing  
16 required Court approval, the Court does not see that any  
17 unnecessary effort was expended by VDA in seeking approval after  
18 being prompted by the UST. The Court has reviewed all of the  
19 services provided by VDA and agrees with them that there is no  
20 indication that had the services been provided earlier in the  
21 case, as the UST suggests they ought to have, they would have  
22 cost the estate any less. That is, the services had to be  
23 accomplished early or late and the estate properly bears the  
24 expense.

25           The SAT Noteholders object in general to the amount of fees  
26 generated, explaining that it was their understanding that

1 counsel for the Debtor would take a limited role and defer to  
2 counsel for the OCC to take over a majority of matters of the  
3 estate. They complain that Debtor's counsel's fees failed to  
4 decrease dramatically as expected. They also add the standard  
5 objection of overbilling, double billing for office meetings,  
6 excessive time spent on various tasks, insufficient detail and  
7 lumping. The SAT Noteholders suggest that the amount sought  
8 should be reduced by 50%.

9       There is no indication in the record of where the  
10 Noteholders got the notion that Debtor's counsel would ride the  
11 coattails of counsel for the OCC. The OCC did indeed have an  
12 enhanced role. However, so far as the Court is aware, there was  
13 no agreement that the Debtor would not remain obligated to comply  
14 with the requirements of a debtor-in-possession. Also, Debtor  
15 was not substituted out of the various litigation in which it was  
16 involved. There is neither argument nor evidence that counsel  
17 for the Debtor duplicated the efforts of other counsel in the  
18 case.

19       The Noteholders also complain that VDA's relative  
20 inexperience in bankruptcy matters (relative to the other  
21 professionals involved in the case) resulted in inefficiencies.  
22 However, this relative inexperience is offset by the relatively  
23 low hourly rate charged by VDA.

24       The Court has reviewed the time spent by VDA on the Debtor's  
25 operating reports, and finds it reasonable. The Court has also

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1 reviewed the small amount of time billed by VDA for interoffice  
2 meetings, and finds nothing unreasonable.

3 As to the "clerical" services provided by counsel, the Court  
4 finds VDA's explanation convincing. For example, the SAT  
5 Noteholders complain that counsel billed for serving process on a  
6 adversary defendant in Poway. However, Under the circumstances,  
7 the Court finds it was reasonable when, as counsel explained,  
8 time was limited and other, more typical efforts had been  
9 bootless. The same is true of the items to which Mr. Van Dyke  
10 attended while in Orange County for court and other matters.

11 Finally, the Court has reviewed the description of services  
12 in the billing statements of VDA and finds that they are  
13 sufficiently detailed. Greater detail could of course be  
14 provided, but it would also take more time and cost more.

15 However, the Court did find substantial "lumping." The UST  
16 Guidelines provide:

17 Services should be noted in detail and not combined or  
18 "lumped" together, with each service showing a separate  
19 time entry; however, tasks performed in a project which  
20 total a de minimis amount of time can be combined or  
lumped together if they do not exceed .5 hours on a  
daily aggregate.

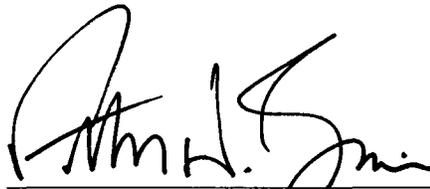
21 Several of the entries in VDA's billing statement provide a  
22 string of services with a single time entry which exceeds .5  
23 hours. Three examples of this can be found on the first page of  
24 VDA's May 22, 2008 Statement No. 1868. It is counsel's burden to  
25 set forth the services provided in a manner which the parties and  
26 the Court can meaningfully review. The lumping in VDA's billing

1 statements does not meet this standard. Notwithstanding the  
2 lumping, the Court is able to discern that the majority of the  
3 services provided by VDA were reasonable and necessary and  
4 properly priced. Accordingly, rather than disallow all of the  
5 fees for lumped services, the Court has decided to reduce the  
6 fees sought by VDA by \$7,300 or roughly 10%.

7 For the foregoing reasons, as well as those previously set  
8 out on the record, attorneys fees and costs for VDA are allowed  
9 on the Second Interim Application as follows:

10	Attorneys fees:	\$66,097.00
11	Costs:	\$ 2,226.38.

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13 IT IS SO ORDERED.  
14 DATED: SEP 25 2009

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17 PETER W. BOWIE, Chief Judge  
18 United States Bankruptcy Court  
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