

APPENDIX 6

SAMPLE CASE MANAGEMENT PROCEDURES

- (a) Omnibus Hearing Dates and Notices of Agenda
- (1) Unless the Court otherwise orders, the Court will conduct omnibus hearings in this case on a (weekly) (bimonthly) (monthly) basis ("Omnibus Hearing Dates").
 - (2) All matters requiring a hearing shall be set for and be heard on one of the Omnibus Hearing Dates unless alternative hearing dates are approved by the Court for good cause shown.
 - (3) In order for a pleading to be heard on an Omnibus Hearing Date, a party must first contact the Court's courtroom deputy and request the scheduling of the hearing. The courtroom deputy shall set the pleading for the first available Omnibus Hearing Date, taking into account the time required for notice to other parties and the remaining time available on the Omnibus Hearing Date and shall set an objection deadline, if any. No motion or application shall be set for hearing absent compliance with Fed. R. Bankr. P. 2002(a) nor shall the hearing be set for less than 7 days from service of that motion or application, unless the Court has allowed a request for emergency or expedited determination. The requesting party must file and serve the pleading no later than forty eight (48) hours after the courtroom deputy has set the pleading for an Omnibus Hearing Date and must indicate on the first page of the pleading the time of the hearing and the deadline for objections, if any.
 - (4) The provisions of MLBR 9013-1 shall continue to govern, except insofar as they may specifically conflict with the procedures set forth above.
 - (5) Counsel to the estate representative shall maintain, file and serve a Notice of Agenda for each Omnibus Hearing Date as follows:
 - (A) A proposed Notice of Agenda shall be filed before 12:00 noon on the day that is three (3) days before the Omnibus Hearing Date.
 - (B) Resolved or continued matters shall be listed ahead of unresolved matters.
 - (C) The Notice of Agenda shall be promptly amended as necessary and served on all parties in interest. All amended Notices of Agenda shall list matters as listed in the original Notice of Agenda with all edits and additional information being listed in boldface type.
 - (D) For each motion or application, the Notice of Agenda shall indicate:

- (i) the name of the movant or the applicant, the nature of the motion or application, and the docket number. (Supporting papers of the movant or applicant shall be similarly denoted);
 - (ii) the objection deadline, any objection filed and its docket number, if available; and
 - (iii) whether the matter is going forward, whether a continuance is requested (and any opposition to the continuance, if known), whether any or all of the objections have been resolved, and any other pertinent status information.
 - (E) When a matter in an adversary proceeding is scheduled to be heard, the Notice of Agenda shall indicate the adversary proceeding number and the corresponding docket number for pleadings filed in the adversary proceeding, together with the information contained in subparagraph (D) above, insofar as applicable.
- (b) Procedures Governing Payment of Interim Compensation and Reimbursement of Expenses to Professionals Pursuant to 11 U.S.C. § 105(a) and § 331:
 - (1) Scope of Applicability

All professionals retained in a chapter 11 case pursuant to 11 U.S.C. § 327 and § 1103 (each, a "Professional") may seek post-petition interim compensation pursuant to these procedures (the "Administrative Fee Order").
 - (2) Submission and Monthly Statements

On or before the twenty fifth (25th) day of each month following the month for which compensation is sought, each Professional seeking compensation pursuant to the Administrative Fee Order shall serve a monthly fee and expense statement (the "Monthly Fee Statement") upon the following persons:

 - (A) the officer designated by the debtor to be responsible for such matters;
 - (B) counsel to the debtor;
 - (C) any chapter 7 or 11 trustee;
 - (D) counsel to all official committees;
 - (E) the Office of the United States Trustee;
 - (F) counsel to all post-petition lenders or their agents; and
 - (G) any other party the Court may so designate.
 - (3) Content of Monthly Fee Statement

Each Monthly Fee Statement shall contain an itemization of time spent and the applicable hourly rate. All timekeepers must maintain contemporaneous time entries in increments of one tenth (1/10th) of an hour.

(4) Review Period

Each person receiving a Monthly Fee Statement shall have twenty-one (21) days after service of the Monthly Fee Statement to review it and serve an objection (the "Objection Period").

(5) Payment

In the absence of a timely served objection, the estate representative will promptly pay each Professional an amount (the "Interim Payment") equal to the lesser of (i) ninety percent (90%) of the fees and 100 percent (100%) of the expenses requested in the Monthly Fee Statement, or (ii) ninety percent (90%) of the fees and 100 percent (100%) of the expenses not subject to any partial objection.

(6) Objections

(A) If any party objects to a Monthly Fee Statement, it must serve a written objection (the "Notice of Objection to Monthly Fee Statement") and serve it upon the Professional and each of the parties served with the Monthly Fee Statement as set forth above, so that the Notice of Objection to Monthly Fee Statement is received on or before the last day of the Objection Period.

(B) The Notice of Objection to Monthly Fee Statement must set forth the nature of the objection and the amount of fees and/or expenses at issue.

(C) If an estate representative receives an objection to a particular Monthly Fee Statement, the estate representative shall withhold payment of that portion of the Monthly Fee Statement to which the objection is directed, and shall promptly pay the remainder of the fees and disbursements in the percentages set forth above.

(D) If the parties to an objection are able to resolve their respective dispute(s) following the service of a Notice of Objection to Monthly Fee Statement, and the Professional and the objecting party serve upon each of the parties served with the Monthly Fee Statement as set forth above a statement indicating that the objection is withdrawn, in whole or in part, describing in detail the terms of the resolution, then the estate representative shall promptly pay in accordance with the percentages

listed above that portion of the Monthly Fee Statement which is no longer subject to an objection.

- (E) If the parties are unable to reach a resolution to the objection within twenty-one (21) days after service of the objection, the affected Professional may either (a) move to compel the payment with the Court, together with a request for payment of the difference, if any, between the total amount of the Interim Payment sought and the portion of the Interim Payment as to which there is an objection (the "Incremental Amount"); or (b) forgo payment of the Incremental Amount until the next interim or final fee application, or any other date and time so directed by the Court, at which time it will consider and dispose of the objection, if so requested.
 - (F) Neither an objection to a Monthly Fee Statement nor the failure to object thereto shall prejudice a party's right to object to any fee application on any ground.
 - (G) Failure of a Professional to timely serve a Monthly Fee Statement shall not prejudice such Professional in seeking interim or final allowance of fees or expenses. Further, any Monthly Fee Statement served after the deadline for such Monthly Fee Statement shall be deemed served at the time that such Professional serves a Monthly Fee Statement for the next subsequent period and shall be subject to the Objection Deadline for the Monthly Fee Statement for such subsequent period.
- (7) Fee Applications
- (A) Parties seeking compensation pursuant to an Administrative Fee Order shall file at four (4) month intervals or such other intervals directed by the Court ("Interim Period") an interim fee application. Each Professional seeking approval of its interim fee application shall file with the Court an interim application for allowance of compensation and reimbursement of expenses, pursuant to 11 U.S.C. § 331, of the amounts sought in the Monthly Fee Statements issued during such period (the "Interim Fee Application").
 - (B) The Interim Fee Application shall comply with the mandates of the Bankruptcy Code, Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the District of Massachusetts.

- (C) The Interim Fee Application must be filed within forty five (45) days after the conclusion of the Interim Period.
 - (D) In the event any Professional fails to file an Interim Fee Application when due, such Professional will be ineligible to receive further interim payments or fees or expenses under the Administrative Fee Order until such time as the Interim Fee Application is submitted.
 - (E) The pendency of a fee application, or a court order that payment of compensation or reimbursement of expenses was improper as to a particular Monthly Fee Statement, shall not disqualify a Professional from the further payment of compensation or reimbursement of expenses as set forth above, unless otherwise ordered by the Court. Additionally, the pendency of an objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from future payment of compensation or reimbursement of expenses, unless the Court orders otherwise.
 - (F) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on the Court's interim or final allowance of compensation and reimbursement of expenses of any Professionals. All compensation is subject to final approval by the Court.
 - (G) Counsel for each official committee may, in accordance with the foregoing procedure for monthly compensation and reimbursement to Professionals, collect and submit statements of actual expenses incurred, with supporting vouchers, from members of the committee such counsel represents, provided, however, that such committee counsel ensures that these reimbursement requests comply with the applicable Rules and those guidelines.
- (8) Miscellaneous
- (A) Any party may object to requests for payments made pursuant to the Administrative Fee Order for good cause, including, without limitation, that the estate representative has not timely filed monthly operating reports or remained current with its administrative expenses and 28 U.S.C. § 1930 fees.
 - (B) The estate representative shall include all payments to Professionals on its monthly operating reports, including details of the amount paid to each Professional.

- (C) All fees and expenses paid to Professionals are subject to disgorgement until final allowance by the Court.