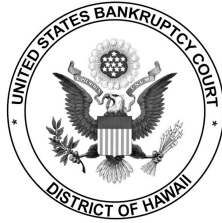


Date Signed:
December 31, 2013



SO ORDERED.

A handwritten signature in black ink, appearing to read "R. Faris", written over a horizontal line.

Robert J. Faris
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re:

LOCAL BANKRUPTCY RULES.

GENERAL ORDER

Dated: December 31, 2013

ORDER ADOPTING AMENDMENTS
TO LOCAL BANKRUPTCY RULES, EFFECTIVE JANUARY 1, 2014

As authorized by Rule 9029(a) of the Federal Rules of Bankruptcy Procedure and LR1070.1(e) of the United States District Court for the District of Hawaii, the court adopts the attached amendments to the local bankruptcy rules. Amended LBR 2016-1 and new LBR 3002-1 are effective January 1, 2014.

END OF ORDER

LBR 2016-1. Compensation of Professionals.

- (a) **Application Requirements.** Unless these rules provide otherwise, an application for compensation for services or reimbursement of expenses under § 330, 331, or 503(b)(4) must include the following:
- (1) the information about the applicant and the application, case status, project billing, and actual, necessary expenses as set forth in the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330*, contained in:
 - (A) Appendix A – Guidelines for Reviewing Applications for Compensation filed under 11 U.S.C. § 330 in (1) larger chapter 11 cases by those seeking compensation who are not attorneys, (2) all chapter 11 cases below the larger case thresholds, and (3) cases under other chapters of the Bankruptcy Code (except that the project billing format is required only if the professional’s compensation is anticipated to exceed \$10,000); and
 - (B) Appendix B – Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 for Attorneys in Larger Chapter 11 Cases (including Exhibits A – E).
 - (2) a summary sheet substantially conforming to the local form (Compensation Summary Sheet [[hib 2016-1a](#)]);
 - (3) detailed time records unless the professional is an auctioneer, real estate agent, or other professional whose compensation is based on a commission percentage; and
 - (4) a certification by the applicant that:
 - (A) the applicant has reviewed the application;
 - (B) the amounts being requested are billed at rates no less favorable than those customarily employed by the applicant and generally accepted by the applicant’s nonbankruptcy clients; and
 - (C) to the best of the applicant’s knowledge, information, and belief, the application conforms to the U.S. Trustee’s Guidelines – Appendix A and Appendix B, this rule, and any order of the court, except as specifically noted in the certification.
- (b) **Client Review of Application.** A debtor in possession, trustee, or official committee must exercise reasonable business judgment in monitoring the fees and expenses of the estate’s professionals. If a professional’s total fees are anticipated to exceed \$10,000 in a case, billing statements must be sent monthly to the client and include a cover letter with the following statement: “The court requires that a debtor in possession, trustee, or an official committee exercise reasonable business judgment in monitoring the fees and expenses of the estate’s professionals. Any objections, concerns, or questions about the services or amounts in this billing statement should be communicated promptly to the professional and may be shared with the Office of the United States Trustee.”

- (c) **Foreign Currency Amounts.** Amounts requested in an application for compensation must be stated in United States currency. The application may request approval of compensation and expenses in a foreign currency amount as converted to United States dollars in an approximate amount in effect at the time the application is filed, e.g. ¥1,500,000 (*approx. US\$13,800*). Unless the court orders otherwise, the actual payment amount may be calculated using the conversion rate in effect at the time of payment.
- (d) **Standards for Reasonableness.**
- (1) **Compensation for Services.** In addition to the factors identified in the U.S. Trustee's Guidelines, the court generally will apply the following in determining the reasonableness of an application for compensation.
- (A) **Multiple Professionals.** Professionals must explain time spent in meetings and conferences or at hearings or depositions with other professionals or paraprofessionals in the same firm. Failure to justify this time may result in the allowance of fees limited to those requested at the lowest billing rate.
- (B) **Multiple Cases.** Time claimed for periods of attendance at hearings, meetings of creditors, or other services involving more than one case must be prorated.
- (C) **Administrative and Clerical Tasks.** Administrative and clerical services, such as photocopying, scanning, or faxing documents, filing papers with the court, or supervising such tasks performed by another, are not compensable.
- (D) **Travel Time.** "Travel time" means time spent while traveling and not actually performing professional services for a client. A reasonable amount of travel time, not to exceed 8 hours per day, may be allowed for actual, necessary travel. If the travel also involves another case or client, the travel time must be prorated.
- (E) **Privilege or Excise Taxes on Compensation.** Amounts attributable to privilege or excise taxes, but not income taxes, such as the State of Hawaii General Excise Tax, payable on receipts for compensation may be included in requests for compensation if customarily charged to nonbankruptcy clients and to the extent that such taxes will actually be paid to a taxing authority.
- (2) **Reimbursement for Expenses.** In addition to the factors identified in the U.S. Trustee's Guidelines, the court generally will apply the following in determining the reasonableness of an application for reimbursement for expenses.
- (A) **Professional or Paraprofessional Services.** A professional employed under § 327 may not charge as an expense any fee payable to another professional or paraprofessional (e.g., an expert witness) unless the employment of the other professional or paraprofessional has been approved by the court prior to performance of the services.
- (B) **Meals.**

- (i) **While Traveling.** Reimbursement may be sought for the reasonable cost of meals while away from the island (inside Hawaii) or state (outside Hawaii) of the professional's office or principal place of business.
 - (ii) **While Working.** Working meals at a restaurant or private club are not reimbursable. Reimbursement may be sought for working meals only where food is catered to the professional's office in the course of a meeting with clients, such as a creditors committee, for the purpose of allowing the meeting to continue through a normal meal period.
 - (C) **Transportation.** Air travel may be reimbursable using the actual cost or the amount of the economy class fare, whichever is lower. Automotive travel expense is limited to the actual cost of rental of an appropriate vehicle, together with insurance and fuel costs associated with the rental.
 - (D) **Parking.** The actual cost of parking expenses may be reimbursable except for parking at the applicant's principal place of business and, for applicants whose principal place of business is on the island of Oahu, parking while attending a court hearing or a meeting of creditors.
 - (E) **Amenities.** Amenities, including, but not limited to, charges for entertainment, alcoholic beverages, newspapers, dry cleaning and laundry, are not reimbursable.
 - (F) **Privilege or Excise Taxes on Expenses.** Amounts attributable to privilege or excise taxes, but not income taxes, such as the State of Hawaii General Excise Tax, payable on expenses may be included in requests for expenses if customarily charged to nonbankruptcy clients and to the extent that such taxes will actually be paid to a taxing authority.
 - (G) **Objection Ceilings for In-House Expenses.** The U.S. Trustee's Guidelines provide for the establishment of objection ceilings for in-house expenses that are routinely incurred and for which the actual cost cannot easily be determined. The court generally will apply the following objection ceilings.
 - (i) Photocopies: \$.20 per page.
 - (ii) Faxes: \$.20 per paper page for outgoing and incoming transmissions, except that \$1.00 may be charged for the first paper page of an outgoing transmission.
- (e) **Chapter 7 Trustees.**
- (1) **Compensation Request in Final Report.** A chapter 7 trustee may seek court approval of a final application for compensation by including the request in the trustee's final report.
 - (2) **Calculation under § 326(a).**
 - (A) **Cases Filed Before October 17, 2005.** In cases filed before October 17, 2005, the chapter 7 trustee's request for approval of compensation must include a calculation of the limitation under § 326(a), the total amount of

compensation being sought, and the effective hourly rate of the trustee's compensation, i.e. the amount requested for compensation divided by the actual hours for services performed. The request for compensation must be supported with detailed time records.

(B) Cases Filed on or After October 17, 2005. In cases filed on or after October 17, 2005, the chapter 7 trustee may seek approval of compensation in the amount calculated under § 326(a) with no requirement to file with the court detailed time records. This provision does not excuse a trustee from the responsibility to maintain contemporaneous time records or compliance with requirements that may be imposed by the Office of the United States Trustee.

(C) Privilege or Excise Taxes. The trustee may include in a compensation request an amount attributable to liability for privilege or excise taxes, such as the State of Hawaii General Excise Tax, to the extent that the total compensation request does not exceed the statutory limitation of § 326(a).

(f) Chapter 7 Trustee's Professionals. A professional employed by a chapter 7 trustee may file an application for final compensation substantially conforming to the local form (Final Application for Compensation by Professional Employed by Chapter 7 Trustee [[hib 2016-1f](#)]) in lieu of an application conforming to the requirements of subdivision (a) of this rule.

(g) Chapter 13 Debtor's Attorney Fees. Except as provided for in paragraphs (2) and (3), an attorney for a debtor in a chapter 13 case must seek the allowance of compensation under § 330(a)(4)(B) by filing an application in accordance with subdivision (a) of this rule.

(1) Chapter 13 Attorney Fee Guidelines. The court may issue guidelines determining presumptively reasonable fees for normal and customary services to be performed by attorneys for chapter 13 debtors. Use of the guidelines may require the filing of an agreement substantially conforming to the local form (Rights and Responsibilities of Chapter 13 Debtors and Attorneys [[hib 2016-1g1](#)]). An attorney electing to follow the guidelines may seek the allowance of compensation and reimbursement of expenses through expedited procedures provided by this rule.

(2) Allowance of Compensation as Part of Plan Confirmation. An attorney electing to follow the [Chapter 13 Attorney Fee Guidelines](#) may seek the allowance of initial fees as part of the plan confirmation process without filing a separate application. The order allowing the compensation may be included in the order confirming the plan unless the debtor's attorney has failed to file the agreement describing the rights and responsibilities of Chapter 13 debtors and attorneys or if the agreement provides for compensation inconsistent with the compensation disclosed by the attorney under Bankruptcy Rule 2016(b).

- (3) **Allowance of Compensation for Post-Confirmation Services.** An attorney who elected to follow the [Chapter 13 Attorney Fee Guidelines](#) for the initial allowance of fees may seek the allowance of additional fees for certain post-confirmation services as follows.
- (A) **Fees Not Exceeding Amounts in Guidelines.** No application for additional compensation under LBR 2016-1(a) is required if the fee amounts do not exceed the amounts specified in the [Chapter 13 Attorney Fee Guidelines](#) and:
- (i) no later than 14 days after payment or an agreement to pay the fees directly to the attorney by the debtor or a third party, the attorney files a supplemental disclosure statement substantially conforming to the local form (Supplemental Disclosure of Compensation by Attorney for Chapter 13 Debtor [[hib 2016-1g3A](#)]), disclosing the amount of additional compensation paid or to be paid and certifying that the fees requested do not exceed the maximum amounts in the guidelines; or
 - (ii) the attorney requests payment through plan distributions by filing a request for payment of an administrative expense substantially conforming to the local form (Request for Payment of Administrative Expense: Compensation for Debtor's Attorney in Chapter 13 Case [[hib 3070-2a2](#)]), including a certification that the fees requested do not exceed the maximum amounts in the guidelines.
- (B) **Fees Exceeding Amounts in Guidelines.** If the fees being requested exceed the amounts in the guidelines, or if the particular services are not addressed by the guidelines, an attorney whose initial fees were allowed by the plan confirmation order may request the allowance of additional compensation by filing and serving on the Trustee, the Office of the United States Trustee, and all creditors, an application substantially conforming to the local form (Application for Additional Fees in Chapter 13 Case; Notice of Hearing [[hib 2016-1g3B](#)]), attaching detailed billing records for the subject services, and arranging for a hearing in accordance with LBR 9013-1(c).
- (4) **Payment of Compensation.** Unless the court orders otherwise, a debtor's attorney in a chapter 13 case may accept postpetition payments for compensation only:
- (A) through plan distributions;
 - (B) as provided in item (g)(3)(A)(i) of this rule; or
 - (C) from funds deposited in a client trust account as authorized by a court order.

LBR 2016-1 Related Local Forms:

- USTP Guidelines Appendix A: Guidelines for Reviewing Applications for Compensation filed under 11 U.S.C. § 330 in (1) larger chapter 11 cases by those seeking compensation who are not attorneys, (2) all chapter 11 cases below the larger case thresholds, and (3) cases under other chapters of the Bankruptcy Code
- USTP Guidelines Appendix B: Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 for Attorneys in Larger Chapter 11 Cases
- Instructions for Appendix B Guidelines Forms
- Exhibit A – Customary and Comparable Compensation Disclosure With Fee Applications
- Exhibit B – Summary of Timekeepers Included in this Fee Application
- Exhibit C – Budget and Staffing Plan
- Exhibit D – Summary of Compensation Requested by Project Category
- Exhibit E – Summary Cover Sheet of Fee Application
- Compensation Summary Sheet [[hib 2016-1a](#)]
- Final Application for Compensation by Professional Employed by Chapter 7 Trustee [[hib 2016-1f](#)]
- [Chapter 13 Attorney Fee Guidelines](#)
- Rights and Responsibilities of Chapter 13 Debtors and Attorneys [[hib 2016-1g1](#)]
- Supplemental Disclosure of Compensation by Attorney for Chapter 13 Debtor [[hib 2016-1g3A](#)]
- Request for Payment of Administrative Expense: Compensation for Debtor's Attorney in Chapter 13 Case [[hib 3070-2a2](#)]
- Application for Additional Fees in Chapter 13 Case; Notice of Hearing [[hib 2016-1g3B](#)]

LBR 3002-1. Electronic Filing of Proof of Claim.

A proof of claim submitted under Bankruptcy Rule 3002 and documents submitted in compliance with Bankruptcy Rule 3002.1 may be filed electronically using the electronic proof of claim application at the court's website. Documents submitted using this system and in compliance with all instructions and procedural requirements issued by the clerk shall have the same force and effect as if the submitting individual had signed a paper copy of the document.