

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	Case No. 10-50494 MSS
)	
Fair Finance Company)	Chapter 7
)	
Debtor)	Chief Judge Marilyn Shea-Stonum

**STATUS REPORT OF THE UNITED STATES TRUSTEE
FOR THE JULY 26, 2011 STATUS CONFERENCE**

Now comes Daniel M. McDermott, the United States Trustee for Region 9, and offers the following report pursuant to the direction of this Court at the status conference on July 12, 2011. Specifically, the United States Trustee provides his written statement with respect to the issue of how to address interim fees of professionals employed by the Trustee in this chapter 7 bankruptcy.

1. Daniel M. McDermott is the United States Trustee for Region 9. Pursuant to 28 U.S.C. § 586, the United States Trustee is statutorily obligated to monitor the administration of cases commenced pursuant to the Bankruptcy Code, 11 U.S.C. § 101 et. seq. Pursuant to 11 U.S.C. § 307, the United States Trustee has standing to appear and be heard on any issue in any case or proceeding under title 11 of the Bankruptcy Code. Pursuant to 28 U.S.C. § 586(a)(1), the United States Trustee shall “establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11.” Additionally, the United States Trustee is obligated to review fee applications filed under section 330 of title 11 and file comments with the Bankruptcy Court with respect to such applications. 28 U.S.C. § 586(a)(3)(A) and (B).

2. An involuntary bankruptcy case was filed against Fair Finance Company (“Fair”) on February 8, 2010. On February 19, 2010, this Court entered an order directing the United States



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Trustee to appoint an interim trustee and Brian A. Bash (“Mr. Bash” or “Trustee”) was appointed on March 2, 2010. The order for relief was entered on March 2, 2010, *nunc pro tunc* to February 24, 2010. Pursuant to 11 U.S.C. § 704, the Trustee has specific duties regarding the administration of the bankruptcy estate, including, but not limited to the following tasks: collect and reduce to money the property of the estate for which such trustee serves; be accountable for all property received; liquidate assets for the benefit of creditors; investigate the financial affairs of the debtor; and pursue actions against parties for inappropriate activities. *See* 11 U.S.C. §§ 704(a)(1) - (a)(12). For more than one and one-half years, the Trustee has performed these duties. In accordance with 11 U.S.C. § 327(a), Mr. Bash has retained professionals to assist him in carrying out the responsibilities assigned to the trustee.

3. Section 331 of title 11 authorizes professionals retained under 11 U.S.C. § 327 to file interim applications seeking compensation for services rendered and reimbursement for expenses incurred not more than “once every 120 days.” To date, none of the professionals retained in this case has filed a fee application for services rendered or expenses incurred.

4. Throughout the pendency of this chapter 7 bankruptcy representatives of the United States Trustee have spoken and met with Mr. Bash and Kelly Burgan, his counsel, regarding case administration. The Trustee has been diligent in keeping the United States Trustee informed of his activities. Recently, during a meeting with the Trustee and his counsel, the United States Trustee asked about the total amount of fees for services rendered and expenses incurred by professionals of the estate through the period ending June 30, 2011. The United States Trustee also inquired as to the amount of funds available in the bankruptcy estate of the Debtor to date. With this information, the United States Trustee is able to suggest a procedure for addressing interim compensation requests to the Court and the parties.

5. The United States Trustee suggests that the professionals employed by the Trustee file interim fee applications from the date of their retention through and including December 31, 2010.

6. After notice and a hearing, including an opportunity for parties to object, the United States Trustee suggests the Court impose a 20% hold-back on payment of allowed fees for services rendered, but permit full (100%) reimbursement for allowed expenses. The 20% hold-back will protect the bankruptcy estate from depletion and potential administrative insolvency. Such hold-back should not prejudice any party from commenting on or objecting to the interim fee applications and the requests for allowance of fees and reimbursement of expenses embodied therein. Further, the United States Trustee recognizes that professionals will be able to seek payment of the hold-back through final fee applications at the conclusion of the bankruptcy, or at an earlier date upon notice and a hearing, and a showing of good cause.

7. It is the understanding of the United States Trustee that the Trustee has sufficient funds on hand to pay these first interim fee applications consistent with the United States Trustee's suggested procedure in paragraphs five and six.

WHEREFORE, the United States Trustee respectfully submits his report for this Court's consideration in the within case.

Respectfully submitted,

DANIEL M. McDERMOTT
United States Trustee Region 9

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Certificate of Service

A copy of the foregoing Status Report was sent electronically via the Court's electronic CM/ECF filing system this 21th day of July, 2011, parties currently on the e-mail notice/service list and to:

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