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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:
**SONICBLUE INCORPORATED,
DIAMOND MULTIMEDIA SYSTEMS,
INC., REPLAYTV, INC., and SENSORY
SCIENCE CORPORATION,**

Debtors.

Cases No. 03-51775, 03-51776,
03-51777, and 03-51778-MM

Chapter 11 cases
Jointly administered

**MEMORANDUM DECISION AND
ORDER ON FIRST INTERIM
APPLICATION OF PILLSBURY
WINTHROP LLP FOR
COMPENSATION AND EXPENSE
REIMBURSEMENT**

INTRODUCTION

This matter is before the court on the first interim application of Pillsbury Winthrop LLP for compensation and reimbursement of expenses as general bankruptcy counsel for SonicBlue Incorporated, Diamond Multimedia Systems, Inc., ReplayTV, Inc., and Sensory Science Corporation, the Chapter 11 debtors in these jointly administered cases. Pursuant to § 330, Pillsbury requests approval of professional fees in the amount of \$1,523,988.05 and expense reimbursement in the amount of \$150,952.09. Having considered the application, the objections thereto, and the argument of counsel, the court allows compensation in the amount of \$1,216,310.28 and expense reimbursement of \$30,042.44. Of the amounts disallowed, \$153,846.10 in fees and \$115,995.26 in expense reimbursement are disallowed without prejudice to resubmission in conformity with the court’s guidelines.

1 BACKGROUND

2 The debtors designed and marketed consumer electronic products, including portable digital
3 audio players, digital video recorders, integrated DVD/VCR's, dual deck VCR's, and digital home
4 theater systems. Unable to meet their maturing financial obligations, they commenced these Chapter
5 11 cases on March 21, 2003. Projecting that their cash reserves would be exhausted by April 30, 2003,
6 the debtors immediately sought court approval of the sales of their three primary operating business
7 lines. They brought a number of emergency "first day" motions requesting approval of sales procedures,
8 joint administration of the cases, limitation of notice, the employment of professionals, an employee
9 retention plan, post-petition financing, and the terms of continued utility service. They also sought
10 authority to pay taxes, pre-petition wages and critical vendors, to maintain existing bank accounts and
11 cash management system, and to reject certain leases.

12 On April 9, 2003, the court approved at auction a sale of the debtors' Go Video product line to
13 Opta Systems for \$6.2 million after purchase price adjustments. On April 24, 2003, the court approved
14 a sale of the ReplayTV and Rio product lines to Digital Networks North America, Inc. ("DNNA") for
15 \$36.2 million. The debtors requested authority to assume and assign or reject executory contracts and
16 unexpired leases that were not previously dealt with in connection with the sales. In addition to the sales
17 of the three primary operating business lines, the debtors have also auctioned their modem product line,
18 graphics patents, and computer component inventory. Other significant events during this phase include
19 litigation with Intel over the termination of a patent cross-license agreement, a post-closing accounting
20 dispute with Opta Systems, opposition to the administrative claim of the debtors' former landlord, and
21 the liquidation of shares of UMC stock. An Official Committee of Unsecured Creditors is active and
22 is monitoring the cases closely.

23 Pillsbury, as counsel for the debtors, filed its first interim application for compensation and
24 expense reimbursement for the period from March 21, 2003 through June 30, 2003, requesting approval
25 of fees in the amount of \$1,523,988.05 and expenses of \$150,952.09. The Committee and the Office
26 of the United States Trustee filed objections to the application as excessive. Hearings on the application
27 were held on August 7, 2003 and September 25, 2003, at which time the court authorized payments
28 totaling \$1,545,423.68, but reserved ruling on the allowance of fees and costs until a fee examiner could

1 review the billing records. On November 25, 2003, the court appointed Stuart, Maue, Mitchell & James
2 as fee auditor. Stuart, Maue filed a report of its review of Pillsbury's first interim application on
3 December 22, 2003 (the "Fee Report"). Pillsbury filed its written response to the Fee Report on January
4 16, 2004, after which time the court took the matter under advisement.

5 6 LEGAL DISCUSSION

7 Section 330 of the Bankruptcy Code provides that the court may award to a trustee, an examiner,
8 or a professional person employed under §§ 327 or 1103 reasonable compensation for actual, necessary
9 services rendered and reimbursement of actual, necessary expenses. In determining the amount of
10 reasonable compensation, the court considers the nature, the extent, and the value of the professional's
11 services, taking into account all relevant factors, including whether the services were necessary to the
12 administration of, or beneficial at the time at which the service was rendered toward the completion of,
13 a case and whether the services were performed within a reasonable amount of time commensurate with
14 the complexity, importance, and nature of the problem, issue, or task addressed. 11 U.S.C. § 330(a)(3).
15 The applicant bears the burden of establishing entitlement to an award and demonstrating that the fees
16 are reasonable. Hensley v. Eckerhart, 461 U.S. 424, 437 (1983).

17 18 **A. Fees for Services That Are Unnecessary and Do Not Benefit the Estate May Not be Allowed**

19 To establish its entitlement to compensation, counsel must demonstrate that the services were
20 necessary or reasonably likely to benefit the estate at the time they were rendered. In re Mednet, 251
21 B.R. 103, 108 (B.A.P. 9th Cir. 2000). The necessity of the services is dictated in part by the
22 reasonableness of the request in view of the governing law and the probability of success. See
23 Unsecured Creditors' Comm. v. Puget Sound, Plywood, Inc., 924 F.2d 955, 959 (9th Cir. 1991). In the
24 categories outlined below, the applicant has failed to establish the necessity of the services.

25 26 **1. Motion to Advance Claims Bar Date**

27 After the commencement of the cases, the court issued a notice on March 27, 2003 establishing
28 a bar date of July 22, 2003 for filing proofs of claim. Five professionals spent a total of 28.2 hours and

1 billed the estate \$8,405.00 to prepare a motion to advance the claims bar date and an application to
2 shorten the notice period for a hearing on the motion. (See Exhibit R-1 to the Fee Report). The motion
3 sought to advance the claims bar date by approximately six weeks so as to expedite the preparation of
4 the disclosure statement and plan. The debtors' proposal would have allowed only about four weeks'
5 notice of the new bar date. Because multiple notices create confusion and because creditors would have
6 been prejudiced by advancing the claims bar date, coupled with short notice thereof, the debtors' motion
7 was not well taken. Finding that the applicant had not established good cause for the requested relief,
8 the court denied the application to shorten time for a hearing. Thereafter, the applicant withdrew the
9 motion to advance the bar date. Since these services were unnecessary and did not benefit the estates,
10 the court disallows \$8,405.00.

11

12 **2. Indemnification of Houlihan Lokey**

13 The debtors requested authority to retain the services of Houlihan Lokey Howard & Zukin as
14 their financial advisors. The Office of the United States Trustee objected to a provision in the
15 employment agreement that provided the estates would indemnify Houlihan Lokey for liability other
16 than for wilful misconduct or gross negligence. Houlihan Lokey subsequently withdrew its request for
17 approval of the indemnification provision. Because the applicant's services relating to the
18 indemnification of Houlihan Lokey were neither likely to benefit the estates nor necessary to their
19 administration, compensation is disallowed. The time entries for these services are set forth in paragraph
20 14 to the Declaration of Nancy G. Dennison in Support of Recommendation of United States Trustee
21 Regarding First Interim Fee Application of Pillsbury Winthrop, LLP (March 21, 2003 through June 30,
22 2003) filed September 15, 2003 (the "Dennison Declaration"), and the fees attributable to these services
23 total \$646.50.

24

25 **B. Fees for Time That is Excessive May Not be Allowed**

26 When applying for fees, attorneys have a duty to exercise good billing discretion. Hensley v.
27 Eckerhart, 461 U.S. 424, 436 (1983). Hours that are excessive, redundant, or unnecessary should be
28 excluded from fee applications. To determine whether the hours are excessive, the court considers

1 whether the services were performed within a reasonable amount of time commensurate with the
2 complexity, importance, and nature of the problem, issue, or task addressed. § 330(a)(3)(D).

3 The court recognizes that these are unusual cases involving four separate debtors, three major
4 business product lines, and other significant assets. The cases were filed and authority for the sales
5 sought with some urgency given the debtors' cash constraints. Since the value to the estates could be
6 maximized only if the businesses were sold as going concerns, the applicant proceeded with expediency,
7 frequently assigning teams of professionals. Under the circumstances, some duplication of effort and
8 billing excesses were unavoidable and, in fact, anticipated. Notwithstanding, certain routine tasks
9 consumed fees in excess of a reasonable amount.

10
11 **1. Omnibus Motion to Assume or Reject Executory Contracts**

12 After the sale of the ReplayTV and Rio product lines to DNNA closed, the debtors discovered
13 additional executory contracts and unexpired leases that DNNA wanted the debtors to assume and assign
14 to it and that the debtors wanted to reject. The applicant prepared and filed an omnibus motion to
15 assume or reject these contracts and leases. In addition, the applicant sought the court's approval of a
16 unique procedure that would allow assumption or rejection on an expedited basis. A motion to assume
17 or to assign executory contracts and leases is routine in Chapter 11 cases. While the motion involved
18 multiple contracts and leases, it was not complex or particularly difficult. In pursuit of this relief,
19 however, seven different professionals employed by the applicant expended a total of 75.05 hours and
20 incurred \$21,773.25 in fees for which it requests payment from the estates. (See Exhibit P to the Fee
21 Report). The multiple professionals involved in this task likely contributed to some inefficiencies in
22 completing the motion. In addition, the request for an expedited procedure was unnecessary given that
23 Bankruptcy Local Rule 9006-1 permits a party to request that a notice period be shortened as
24 appropriate. In fact, the court denied approval of the proposed expedited procedure. For these reasons,
25 the fees incurred in this category are reduced by fifty percent (50%), or \$10,886.63.

26
27 **2. Motion to File Unredacted Schedules Under Seal**

28 The debtors were parties to a number of agreements with non-debtor entities that contained

1 confidentiality provisions limiting the disclosure of, among other things, the mere existence of the
2 agreements. During the pendency of these cases, after the debtors had filed their schedules and
3 statements pursuant to B.R. 1007, they requested authority from the court to file unredacted versions of
4 certain schedules under seal so as not to disclose publicly the existence of these confidential agreements.
5 However, the applicant failed to furnish *in camera* the unredacted schedules for which the debtors
6 sought leave to file under seal or the redacted versions to provide a basis for comparison. As a result,
7 the court was unable to assess whether cause existed to grant the motion, necessitating a supplement to
8 the motion. Moreover, at the time of debtors' request was made, some of these agreements already had
9 been listed in the schedules publicly on file with the court. The applicant expended a total of 32.15
10 hours and incurred \$8,353.25 in fees in connection with preparing this motion. (See Exhibit M-1 to the
11 Fee Report). The fees in this category are reduced by fifty percent (50%), or \$4,176.63.

12 13 **3. Motion to Sell Modem Assets**

14 Following the sale of the debtors' three primary operating business product lines, the debtors
15 continued liquidating the remaining assets, including the modem business assets. The debtors auctioned
16 their modem assets, and Best Data Products was the successful bidder at a purchase price of
17 \$655,408.22. The sale of the modem assets was a minor transaction in relation to the sale of the three
18 product lines. However, nine different professionals employed by the applicant expended a total of
19 106.25 hours and incurred \$38,998.75 in legal fees to obtain approval of the sale of the modem assets.
20 (See Exhibit N-4 to the Fee Report). The fees attributable to this transaction are excessive in light of
21 the task accomplished.

22 Additionally, the applicant failed to address a letter objection by Thought Communications,
23 which had licensed certain copyrighted and trademarked materials that were bundled with the modems
24 subject to the sale. The professional who attended the hearing was unaware of the objection, which
25 presented a practical problem and threatened to disrupt the sale. Although multiple professionals
26 expended a substantial amount in fees, the applicant failed to demonstrate skillful handling of the
27 transaction at the sale hearing. For these reasons, the amount of the applicant's request related to these
28 services is disallowed by twenty-five percent (25%), or \$9,749.69.

1 **4. Employment of Houlihan Lokey**

2 The applicant handled all aspects of the employment of Houlihan Lokey as financial advisors for
3 the debtors other than the objection raised by the proposed indemnification provision. For this objection,
4 Houlihan Lokey retained its own counsel. Counsel for Houlihan Lokey, not the applicant, prepared a
5 written reply to the objection that addressed the contested aspects of the retention, including the
6 indemnification provision. The applicant expended 19.20 hours and incurred \$7,661.00 in fees to
7 prepare an otherwise non-controversial retention application. (See Exhibit Q to the Dennison
8 Declaration). This amount is excessive and is reduced by fifty percent (50%), or \$3,830.50.

9
10 **C. Time Devoted to Clerical Services Is Not Compensable by the Estate**

11 Section 330 contemplates compensation only for professional services. Services that are clerical
12 in nature are properly chargeable to the firm as an overhead expense and not to bankruptcy estates.
13 Services such as filing, assembling or compiling documents, organizing files, calendaring dates, making
14 copies, faxing or transmitting, serving pleadings, or oversight of the same, are inherently clerical. Fees
15 for services that are purely clerical, ministerial, or administrative should be disallowed. Missouri v.
16 Jenkins, 491 U.S. 274, 288 fn.10 (1989); Sousa v. Miguel, 32 F.3d 1370, 13 (9th Cir. 1994). Paragraph
17 18 of the Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees for
18 the United States Bankruptcy Court, Northern District of California (“Fee Guidelines”) expressly
19 provides that fees incurred for administrative tasks is not compensable. This maxim applies without
20 regard to whether an attorney or a paralegal performs the tasks. The time entries for services that are
21 primarily clerical or ministerial in nature are set forth in Exhibits H-1 and H-2 to the Fee Report. Those
22 time entries total \$51,225.45 and are disallowed.

23
24 **D. The Court May Disallow Compensation for Participation by Multiple Attorneys in**
25 **Attendance at the Same Hearings**

26 Unnecessary duplication of services results in excessive time that cannot be justified and is not
27 compensable. § 330(a)(4). Normally, it is appropriate for only one attorney from a firm to attend a
28 hearing. Absent an explanation, participation by multiple attorneys in the same hearing constitutes non-

1 compensable duplicative services. Paragraph 16 of the court's Fee Guidelines provides that the court
2 may allow compensation only for the professional with the lowest billing rate. However, as discussed
3 above, the participation of multiple attorneys in certain hearings facilitated the quick pace of these cases.

4 The applicant has requested compensation for the services of more than one professional who
5 participated in the hearings on the debtors' first day motions and the sale of the ReplayTV and Rio
6 product lines. The time entries for these services are set forth in Exhibit M to the Dennison Declaration.
7 Four partners with hourly billing rates ranging from \$455 to \$500 attended a six and one-half hour
8 hearing held March 25, 2003 on the debtors' first day motions. The total amount of fees incurred in
9 attendance of the hearing on the first day motions is \$12,090.50. The United States Trustee recommends
10 a fifty percent (50%) reduction of \$6,045.25. Three partners, two senior associates, and one associate
11 attended the day-long hearing held April 25, 2003 on the sale of the ReplayTV and Rio product lines,
12 incurring total fees of \$15,496.50. The United States Trustee recommends a reduction of two-thirds of
13 the total amount billed for that hearing, or \$10,331.52.

14 While the participation of more than one attorney in a hearing may be reasonable under the
15 circumstances, the attendance by four or six attorneys is not. Neither the time entries themselves or the
16 narrative in the application explains the respective roles of the multiple attorneys in the hearings or the
17 need for their participation. Moreover, the applicant's response to the Fee Report fails to satisfy the
18 court's concerns as to the necessity of four or six professionals at these hearings. Adopting the
19 recommendation of the United States Trustee, \$16,376.77 in fees attributable to attendance at hearings
20 by multiple attorneys is disallowed.

21
22 **E. Time Spent Performing Conflicts Check Is Not Compensable**

23 Time expended by counsel in performing the firm's conflicts check, including obtaining client
24 waivers, is not chargeable to the bankruptcy estate. In re Act Manufacturing, Inc., 281 B.R. 468, 490
25 (Bankr. D. Mass. 2002). As a result, compensation for the time entries set forth in Exhibit I to the
26 Dennison Declaration, which totals \$26,150.25, is disallowed.

1 **F. Duplicate Time Entries May Not be Allowed**

2 The applicant inadvertently included numerous duplicative time entries that total \$5,140.00 in
3 fees. (See Exhibit A to the Fee Report). These duplicative entries are not appropriately compensable
4 and are disallowed.

5
6 **G. Time Entries Maintained in Minimum Increments in Excess of One-Tenth Hour May Not
be Allowed**

7
8 Paragraph 12 of the court's Fee Guidelines provides that professionals must maintain their time
9 records in minimum increments of one-tenth of an hour. Numerous time entries in the application were
10 maintained in increments of one-quarter of an hour. (See Exhibit B to the Fee Report). These entries
11 are reduced to the nearest one-tenth of an hour, disallowing \$4,653.75.

12
13 **H. Airplane Travel Time is Not Compensable**

14 Paragraph 17 of the Fee Guidelines provides that a professional may not be compensated from
15 the estate for airplane travel time that is not spent actually working on the matter. The applicant billed
16 the estate \$25,181.00 for airplane travel time for which no substantive professional services were also
17 billed. (See Exhibit G to the Fee Report). Presuming that the professional spent the time on the inbound
18 flight preparing for the hearing or other matter that the professional would be attending, one-half of the
19 airplane travel time is allowed. The balance of \$12,590.50 is disallowed.

20
21 **I. Compensation for Services That Are Not Adequately Described is Disallowed Without
Prejudice**

22
23 The applicant bears the burden of describing the services performed in sufficient detail to enable
24 the court to make a meaningful assessment whether those services were actual, necessary, and beneficial
25 to the estate and whether they were performed within a reasonable amount of time. Paragraph 13 of the
26 Fee Guidelines provides that the timekeeper must include in each time entry, at a minimum, descriptions
27 of the services performed and the subject matter involved. To enable the court to determine whether the
28 services are compensable, the timekeeper is also expected to identify the other party to the conference,

1 meeting, telephone call, or correspondence. Where the time entry omits some critical element
2 describing the services performed, it is not compensable. Of particular concern to the court is the
3 applicant's practice of using vague characterizations of the services performed, such as "attention to,"
4 "attend to," "work on," "work regarding," "address," "coordinate," or "handle matters." Time entries
5 containing such vague characterizations connote some activity other than professional services, although
6 it is not entirely clear what the timekeeper is actually doing. They fail to identify a specific task that the
7 timekeeper is performing. Consequently, the court is unable to determine whether the task is necessary
8 and whether the compensation sought is reasonable. The time entries for which the descriptions are
9 inadequate are set forth in Exhibits C-1, C-2, and C-3 to the Fee Report. The fees attributable to these
10 entries total \$146,266.60 and are disallowed without prejudice.

11
12 **J. Time Entries That Are Clumped Are Disallowed Without Prejudice**

13 The clumping of disparate services in a single time entry renders problematic the court's review
14 of the application. See In re Dutta, 175 B.R. 41, 46-47 (B.A.P. 9th Cir. 1994). It impedes the court's
15 ability to determine whether each task was completed within a reasonable amount of time. Each
16 discrete task should be separately described in its own time entry. See id. Paragraph 14 of the Fee
17 Guidelines provides that if a number of separate tasks are performed in a single day, the application
18 should disclose the time spent for each separate task. Numerous time entries in the application are not
19 in conformity with Paragraph 14 of the Fee Guidelines. (See Exhibit D to the Fee Report). These
20 clumped time entries, which total \$7,579.50, are disallowed without prejudice.

21
22 **K. Remaining Objections Are Overruled**

23 The Office of the United States Trustee raised several other objections to the applicant's first
24 interim application that have not been addressed above. The court concludes that further reductions are
25 unwarranted for the reasons that follow.

26
27 **1. Services Benefitting Debtors' Officers and Directors**

28 The time entries in this category, which total \$3,396.00 and are set forth in Exhibit G to the

1 Dennison Declaration, appear to relate to the debtors' operational and corporate governance issues,
2 including the resignation of board members. The services did not benefit the officers and directors
3 exclusively but addressed issues of concern to the debtors and the Committee and were rendered in the
4 ordinary course of counseling the debtors.

5
6 **2. Services That May Have Been Billed to the Estate in Error**

7 The applicant performed services relating to the corporate status of Frontpath, Inc., Micronics
8 Computers, Inc., and Binar Graphics, Inc. The time entries are set forth in Exhibit H to the Dennison
9 Declaration and total \$2,697.50. These entities are wholly-owned subsidiaries of the debtors and owned
10 assets that potentially benefitted the estates. The services were necessary to the sale of the debtors'
11 graphics patents portfolio and were specifically authorized by the court in connection with the sale.

12
13 **3. Excessive Time Spent on One Task**

14 The applicant expended \$750.75 revising an 8-K SEC filing. The time entries are set forth in
15 Exhibit K to the Dennison Declaration. The applicant has sufficiently explained that the services pertain
16 to six separate 8-K filings necessitated by the debtors' changing operations while in Chapter 11.

17
18 **4. Days in Which Individuals Billed More Than Twelve Hours**

19 The Office of the United States Trustee recommends a fifty percent (50%) reduction for any
20 portion of a day in which a professional billed in excess of twelve hours to adjust for declining
21 efficiency. The time entries are set forth in Exhibit L of the Dennison Declaration, and the
22 recommended reduction is \$11,881.38. A reduction is unwarranted. The expedited nature of the
23 services was made necessary by the debtors' cash constraints. The services billed were actual and
24 necessary to the administration of the cases, particularly during the inception of the cases as the debtors
25 marketed their assets, negotiated the terms of sales, documented the transactions, and closed the escrows.

1 **L. Certain Expense Items Are Disallowed**

2 **1. Billing Discrepancies**

3 The applicant made a computational error that resulted in an overcharge of \$625.78 to the estate.
4 It also included a duplicate expense entry in the amount of \$150.00. (See Exhibit S to the Fee Report).
5 These charges totaling \$775.78, which resulted from billing discrepancies, are disallowed.

6
7 **2. Westlaw Charges**

8 Paragraph 24 of the Fee Guidelines provides that computerized research should be billed to the
9 estate at the actual cost to the applicant. The applicant bills clients for Westlaw research on a per search
10 basis but offers clients a fifteen percent (15%) discount from standard Westlaw search charges. It pays
11 Westlaw a monthly flat subscription rate for computerized research services, so it submits that it is
12 impossible to charge clients its actual cost. Without explanation, it contends that it believes the amount
13 charged for Westlaw research is less than the amount that would result from an allocation of the monthly
14 flat fee. The applicant has billed the estate \$9,591.58 for Westlaw computerized research. Absent
15 clarification of how the amount of the charges is determined and further explanation how this constitutes
16 an appropriate manner to calculate these charges, this amount is disallowed without prejudice.

17
18 **3. Express Courier Services**

19 Paragraph 30 of the Fee Guidelines provides that overnight delivery and messenger services are
20 reimbursable at cost where the services are shown to be necessary. The applicant incurred \$37,321.96
21 for express courier services without explanation for the necessity. The application includes 3,347 entries
22 for express courier services. It appears that the applicant utilized express courier service as a matter of
23 course for the delivery of correspondence and service of pleadings. Absent an explanation justifying the
24 charges, reimbursement of the amount incurred for express courier service is disallowed without
25 prejudice.

26
27 **4. Photocopying Expense**

28 The applicant failed to disclose the per page cost for its reimbursement request for photocopying

1 expenses as is required by Paragraph 27 of the Fee Guidelines. It has also failed to disclose the
2 aggregate number of copies to enable the court to calculate the per page cost. The applicant bears the
3 burden of establishing that the photocopying service is not a profit center. The requested reimbursement
4 for photocopies in the amount of \$69,081.72 is disallowed without prejudice.

5
6 **5. Payments to Foreign Associates**

7 The applicant seeks reimbursement for charges in the amount of \$2,076.34 incurred in
8 connection with the employment of other professionals. However, reimbursement for fees payable to
9 another professional for services is not permissible unless the employment of the professional has been
10 approved by the court. (See Paragraph 26 of the Fee Guidelines). Allowance of these expense items,
11 identified in Exhibit U to the Fee Report, is denied.

12
13 **6. Meals**

14 The Fee Guidelines provide that working meals are not reimbursable unless the food is catered
15 to the professional's office in the course of a meeting with clients for the purpose of allowing the
16 meeting to continue through a normal meal period. This provision for reimbursement for meals is
17 intended to be very limited in its application. The applicant seeks reimbursement for twenty-seven
18 expense entries for working meals totaling \$2,062.27. The application does not specify that these
19 working meals facilitated client meetings and, in fact, the charges appear to be for staff only. The meal
20 charges are disallowed.

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CONCLUSION

For the reasons set forth above, the court denies \$153,811.67 of the fees requested by the first interim application by Pillsbury. It denies without prejudice an additional \$153,846.10 in fees requested. The court allows compensation in the amount of \$1,216,310.28 pursuant to the first interim application. It denies \$120,909.65 of the reimbursement request, \$115,995.26 of which is denied without prejudice. The court allows expense reimbursement in the amount of \$30,042.44.

Good cause appearing, IT IS SO ORDERED.

DATED: _____

UNITED STATES BANKRUPTCY JUDGE

1 Case No. 03-51775-MM

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3
4 **UNITED STATES BANKRUPTCY COURT**
5 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
6 **CERTIFICATE OF SERVICE**

7 I, the undersigned, a regularly appointed and qualified Clerk in the office of the
8 Bankruptcy Judges of the United States Bankruptcy Court for the Northern District of California, San
9 Jose, California hereby certify:

10 That I am familiar with the method by which items to be dispatched in official mail from the
11 Clerk's Office of the United States Bankruptcy Court in San Jose, California processed on a daily basis:
12 all such items are placed in a designated bin in the Clerk's office in a sealed envelope bearing the address
13 of the addressee, from which they are collected at least daily, franked, and deposited in the United States
14 Mail, postage pre-paid, by the staff of the Clerk's Office of the Court;

15 That, in the performance of my duties, on the date set forth below, I served the
16 **MEMORANDUM DECISION AND ORDER ON FIRST INTERIM APPLICATION OF**
17 **PILLSBURY WINTHROP LLP FOR COMPENSATION AND EXPENSE REIMBURSEMENT**
18 in the above case on each party listed below by depositing a copy of that document in a sealed envelope,
19 addressed as set forth, in the designated collection bin for franking, and mailing:

20 **CRAIG A BARBAROSH**
21 **PILLSBURY WINTHROP LLP**
22 **650 TOWN CENTER DRIVE 7TH FLOOR**
23 **COSTA MESA CA 92626-7122**

24 **RON BENDER**
25 **LEVENE NEALE BENDER RANKIN &**
26 **BRILL LLP**
27 **1801 AVENUE OF THE STARS STE 1120**
28 **LOS ANGELES CA 90067**

29 **JAMES P QUINN**
30 **LINDA K COOPER**
31 **STUART MAUE MITCHELL & JAMES**
32 **3840 MCKELVEY ROAD**
33 **ST LOUIS MO 63044**

34 In addition, I am familiar with the Court's agreed procedure for service on the United States
35 Trustee, by which a copy of any document to be served on that agency is left in a designated bin in the
36 Office of the Clerk, which bin is collected on a daily basis by the United States Trustee's representative.
37 In addition to placing the above envelopes in the distribution bin for mailing, I placed a copy of the
38 **MEMORANDUM DECISION AND ORDER ON FIRST INTERIM APPLICATION OF**
39 **PILLSBURY WINTHROP LLP FOR COMPENSATION AND EXPENSE REIMBURSEMENT**
40 in the United States Trustee's collection bin on the below date.

41 I declare under penalty of perjury under the laws of the United States of America that the
42 foregoing is true and correct.

43 Executed on:

44 _____
45 Clerk