

UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of :
SCOTTISH LINKS, INC. : Case No. 91-1160-W H

Debtor : Chapter 11

ORDER--MOTION FOR RECONSIDERATION
OF ORDER GRANTING INTERIM FEES

This order pends upon the August 27, 1991 motion of Donald L. Swanson, Debtor's counsel, for Reconsideration of Order Approving Interim Application. Counsel for Debtor filed their joint interim application for allowance of compensation and reimbursement of expenses on July 3, 1991. The U. S. Trustee's objection to the application and Debtor's amendment to the application were both filed on July 8, 1991. Debtor's amendment described some services more specifically and reduced fees for travel time. The U.S. Trustee's objection also pertained to the amount prayed for prepetition fees and expenses. The Debtor filed a response to U.S. Trustee's objection on July 22, 1991 providing more detail for the items to which the U.S. Trustee objected.

Originally, the firm of Koley, Jessen, Daubman & Rupiper, P.C., (hereinafter "The Koley-Jessen Firm") calculated fees for services in the amount of \$13,545.00 and \$648.41 as disbursements for expenses, for a total of \$14,193.41. Co-counsel John M. Burns, Attorney at Law, filed for interim compensation in the amount of \$152.00 for services rendered. When totaling the \$14,193.41 in fees and expenses for Koley-Jessen and the \$152.00 in fees for Burns, the application added a reimbursement of expenses in the amount of \$648.41 again for a grand total fee-expenses application of \$14,993.82.

Not to be outdone, the Court set about on its own miscalculation of the fees and expenses. The Court determined that the following amounts should be deducted from the application:

\$1,624.00 Koley-Jessen prepetition fees

187.00	travel time
96.00	J. Burns' prepetition fees
51.45	Koley-Jessen prepetition expenses
648.41	Koley-Jessen expenses that were added twice

Then the Court made a computation error and arrived at the amount of \$11,921.00 contained in the order of July 25, 1991. That figure is in error.

The following is the corrected computation of the Court:

\$13,545.00	Koley-Jessen original statement of fees
648.41	Koley-Jessen original statement of expenses
<u>152.00</u>	J. Burns' original statement of fees
\$14,345.41	Total of fee-expense application

The following amounts should be deducted from the application:

96.00	J. Burns' prepetition fees removed by amendment
54.45	Koley-Jessen prepetition expenses not specifying that they relate to preparation of bankruptcy
	4/19 \$ 2.70
	4/19 20.70
	4/19 5.25
	4/19 19.80
	4/19 1.00
	4/19 <u>5.00</u>
	\$ 54.45

231.00	1/2 travel time
	4/25 1.0
	5/17 .8
	5/23 .8
	5/25 .8
	5/30 <u>.8</u>
	4.2 x \$110/hr = \$462÷2 = \$231

\$ 381.45 Total deductions

Thus, the total fees and expenses allowed are \$13,963.96. The major discrepancy between this corrected approved total and the amount requested in the Motion for Reconsideration of Order Approving Interim Application is \$648.41 attributable to the fact that \$648.41 was added in twice to arrive at counsels' \$14,993.82 figure for "total amount of application."

Note also that, upon reconsideration and review, Counsels' prepetition fees in this case will also be allowed. 11 U.S.C. Sec329(a) provides a debtor's attorney shall file a statement of compensation for services rendered or to be rendered in contemplation of or in connection with a case under the Bankruptcy Code. Subsection 330(a) provides a court may award reasonable compensation for actual, necessary services rendered in a bankruptcy case.

Counsel may be allowed prepetition fees for:

1. a reasonable amount of background research concerning the debtor's financial condition to determine whether the client should be advised to file a petition;
2. a reasonable amount of meetings with the client to obtain the necessary information to draft the petition, statements, and schedules; and,
3. a reasonable amount of time for drafting the petition, statements, and schedules.

In re Four Star Terminals, 42 B.R. 419, 432 (Bankr. D. Alaska 1984).

To the extent any language in In re Rose Way, No. 89-1273-C (Bankr. S.D. Iowa March 21, 1990) (#125 in Judge Hill's Decision Book) may be to the contrary, this decision shall control.

IT IS ACCORDINGLY ORDERED, as follows:

- (1) The order of July 25, 1991, is set aside and voided; and
- (2) the Joint Interim Application of Debtor's Attorneys for Allowance of Compensation and Reimbursement of Expenses is approved in the amount of \$13,963.96, and that said fees and expenses may be paid from assets of the estate.

Dated this 26th day of September, 1991.

RUSSELL J. HILL
U.S. BANKRUPTCY JUDGE