UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

BUFFALO PLATE & WINDOW
GLASS CORP. Case No. 88-10661 K

Debtor

ORDER DENYING FEE APPLICATION AS "PREMATURE"
AND GRANTING MOTION TO WITHDRAW AS COUNSEL

The firm's Reply to the U.S. Trustee's objection is needlessly shrill, overwrought, and peculiarly "snitty," verging on unprofessional. The U.S. Trustee's objection is not unusual in any regard, but the following replies thereto are:

- "...[We] find absolutely no merit in the objection."
- "Your deponent takes exception to this statement as well as the bald allegations set forth thereafter."
- "...[B]ased upon the United States Trustee's failure to recognize the unique skills and talents possessed (and previously displayed) by this Firm ... the Firm declines to represent the Trustee further."

The firm demonstrates ignorance of the work of the U.S. Trustee and this Court in the matter of compensation of professionals, and it does so despite its vast institutional experience before this Court as bankruptcy counsel as well as special counsel in labor law and other specialties.

Despite the firm's protestations, there is merit to the U.S. Trustee's objections. Some time entries are vague, even with

benefit of the "key to abbreviations" provided by the Reply. (The firm is encouraged to look at any typical page of any typical fee application in this Court, for comparison. One such page is attached hereto.) To be sure, it must be noted that here the firm was retained only on the pension fund matter, so we may treat every entry as if it noted "re: pension fund dispute." Nonetheless, what is to be made of entries such as:

"12/12/90	Telephone Conference	LCB	.20[hrs.]"
"8/30/91	Review Correspondence	LCB	.50"

and the numerous intra-office conferences and memos such as

"1/18/91	Review to dictate memo to LCB	MLS	1.50"
"1/21/91	Revise memo to LCB	MLS	.60"
"6/12/91	Office conference w/MLS	JJG	.20"
"6/12/91	Office conference w/LCB	JJG	.10"

It is true that such deficient entries do not number in the "dozens" that the U.S. Trustee complains of. But the firm would have done well to have taken the objections to heart and to have addressed them productively, rather than to challenge their substance and veracity. (See this Court's decision of September 27, 1994 in Sun Fresh Juices, Case No. 93-11158 (Doc. #109)).

This is particularly so in light of the fact that the firm does admit that the hourly rate billed was in excess of the agreed rate. In that regard alone, the U.S. Trustee's watchfulness preserved over $3000 (reducing a $19,515.00 request to $16,262.50) for other claimants.

Also distressing is the firm's complaints about having to wait for compensation and its complaints regarding the case trustee. For any counsel to a Chapter 7 Trustee -- particularly counsel who practices regularly in this Court -- to suggest that it should be paid ahead of other Chapter 7 expenses and even before assets are at hand in an amount sufficient to pay all Chapter 7 administrative claimants in full, is nonsense. And its flamboyant filing of a Motion to Withdraw as counsel -- to take its ball and go home -- is a pathetic contrivance.

> "Lipsitz-Green chooses not to continue to render legal services of a highly specialized and technical nature without adequate, fair and regular compensation."
>
> "Lipsitz-Green does not wish to continue to represent a Trustee who declines to freely share accurate information about the estate with it in a prompt manner."

This Court has for decades been rightly proud of the civility and mutual respect that characterizes the Bar that practices before it, and the Court has boasted of this far and wide. The present extreme posturing is a shameful exception, and will not be rewarded. The application will await the hearing on all other Chapter 7 administrative claims.

As to its Motion to Withdraw as Counsel, the Court needs no hearing. In light of the firm's posturing, the Trustee will not be required to deal with this firm. The Motion to withdraw is granted, and all losses the estate suffers as a result of the firm's failure to complete its undertaking will be surcharged to

the firm.

SO ORDERED.

Dated: Buffalo, New York
November 8, 1994

/s/Michael J. Kaplan

U.S.B.J.