UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 09-50026-reg

- -x

In the Matter of:

MOTORS LIQUIDATION COMPANY, et al.

f/k/a General Motors Corporation, et al.,

Debtors.

- -x

United States Bankruptcy Court

One Bowling Green

New York, New York

June 29, 2010

9:50 AM

B E F O R E:

HON. ROBERT E. GERBER

U.S. BANKRUPTCY JUDGE

HEARING Second Application of Weil, Gotshal & Manges LLP, as Attorneys for the Debtors, for Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from October 1 2009 through January 31, 2010

HEARING re Second Interim Application of FTI Consulting, Inc. for Allowance of Compensation and for Reimbursement of Expenses for Services Rendered in the Case for the Period October 1, 2009 through January 31, 2010

HEARING re Second Application of Butzel Long, a Professional Corporation, as Special Counsel to the Official Committee of Unsecured Creditors of Motors Liquidation Company, f/k/a General Motors Corporation, for Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from October 1, 2009 through January 31, 2010

HEARING re Second Interim Application of Kramer, Levin Naftalis & Frankel LLP, as Counsel for the Official Committee of Unsecured Creditors, for Allowance of Compensation for Professional Services Rendered and for Reimbursement of Actual and Necessary Expenses Incurred from the Period from October 1, 2009 through January 31, 2010

HEARING re First Interim Application of LFR Inc. for Allowance of Compensation and for Reimbursement of Expenses for Services Rendered in the Case for the Period June 1, 2009 through September 30, 2009

HEARING re First Interim Application of Baker & McKenzie for Compensation and Reimbursement of Expenses for Services Rendered as Special Counsel for the Debtors for the Period June 1, 2009 Through September 30, 2009

HEARING re Application for Interim Professional Compensation and Reimbursement of Expenses for the Analysis of the First Interim Fee Applications of the Selected Case Professionals, the First Interim Fee Application of Weil Gotshal & Manges LLP, and Expenses Requested in the First Interim Fee Application of FTI Consulting, Inc. for Stuart Maue, Consultant

HEARING re Fee Examiner's Application to Authorize the Extended Retention and Employment of the Stuart Maue Firm as Consultant to the Fee Examiner

HEARING re Second Interim Fee Application of Jenner & Block LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses

HEARING re Second Interim Application of Jones Day, Special Counsel to the Debtors and Debtors-in-Possession, Seeking Allowance of Compensation for Professional Services Rendered and for Reimbursement of Actual and Necessary Expenses for the Period from October 1, 2009 through January 31, 2010

HEARING re Second Interim Application of The Claro Group, LLC for Allowance of Compensation and Reimbursement of Expenses for the Period October 1, 2009 through January 31, 2010

HEARING re First Interim Fee Application of Brownfield Partners, LLC as Environmental Consultants to the Debtors for Allowance of Compensation and Reimbursement of Expenses for the Period from June 1, 2009 Through September 30, 2009

HEARING re Second Interim Fee Application of Brownfield Partners, LLC as Environmental Consultants to the Debtors for Allowance of Compensation and Reimbursement of Expenses for the Period from October 1, 2009 through January 31, 2010

HEARING re First Application of Plante & Moran, PLLC, as Accountants for the Debtors, for Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from October 9, 2009 through January 31, 2010

HEARING re Motion of Debtors Pursuant to Sections 105, 363, and 365 of the Bankruptcy Code and Bankruptcy Rule 9019 for an Order Authorizing (I) the Sale of Wilmington Assembly Plant to Fisker Automotive, Inc. Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with the Sale, and (III) Motors Liquidation Company's Entry into a Settlement Agreement in Connection with the Sale

HEARING re Debtors' Thirteenth Omnibus Objection to Claims (Workers' Compensation Claims) as to Claim Nos. 69600 and 69597 Only

HEARING re Debtors' Fourteenth Omnibus Objection to Claims (Workers' Compensation Claims) as to Claim Nos. 69594, 69595, 69596, 69598, and 69599 Only

HEARING re Debtors' Fifteenth Omnibus Objection to Claims (Amended and Superseded Claims)

HEARING re Debtors' Sixteenth Omnibus Objection to Claims (Satisfied Tax Claims)

HEARING re Debtors' Seventeenth Omnibus Objection to Claims (Tax Claims Assumed by General Motors, LLC)

HEARING re Debtors' Eighteenth Omnibus Objection to Claims (Tax Claims Assumed by General Motors, LLC)

HEARING re Debtors' Nineteenth Omnibus Objection to Claims (Tax Claims Assumed by General Motors, LLC)

HEARING re Debtors' Twentieth Omnibus Objection to Claims (Tax Claims Assumed by General Motors, LLC)

HEARING re Debtors' Twenty-First Omnibus Objection to Claims (Tax Claims Assumed by General Motors, LLC)

HEARING re Debtors' Twenty-Second Omnibus Objection to Claims (Amended and Superseded Claims)

HEARING re Motion of Debtors for Entry of Supplemental Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 3007 Establishing Supplemental Rules and Authority for Filing Omnibus Objections to Certain Debt Claims

HEARING re Debtors' Third Omnibus Objection to Claims (Duplicate Claims)

Transcribed by: Lisa Bar-Leib

A P P E A R A N C E S :

WEIL, GOTSHAL & MANGES LLP

Attorneys for Debtor

767 Fifth Avenue

New York, NY 10153

BY: STEPHEN KAROTKIN, ESQ.

JOSEPH H. SMOLINSKY, ESQ.

JENNER & BLOCK LLP

Attorneys for Motors Liquidation Co.

919 Third Avenue

37th Floor

New York, NY 10022

BY: PATRICK J. TROSTLE, ESQ.

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Attorneys for the Official Committee of Unsecured Creditors

1177 Avenue of the Americas

New York, NY 10036

BY: ROBERT T. SCHMIDT, ESQ.

BUTZEL LONG P.C.

Special Counsel to the Official Committee of Unsecured Creditors

22nd Floor

380 Madison Avenue

New York, NY 10017

BY: ERIC B. FISHER, ESQ.

UNITED STATES DEPARTMENT OF JUSTICE

Office of the United States Trustee

33 Whitehall Street

Suite 2100

New York, NY 10004

BY: LINDA A. RIFFKIN, AUSA

BRIAN MASUMOTO, ESQ.

UNITED STATES DEPARTMENT OF JUSTICE

U.S. Attorney's Office

86 Chambers Street

3rd Floor

New York, NY 10007

BY: JOSEPH N. CORDARO, DEPUTY CHIEF, AUSA

GODFREY & KAHN, S.C.
Attorneys for the Fee Examiner, Brady C. Williamson
One East Main Street
Suite 500
Madison, WI 53701

BY: BRADY C. WILLIAMSON, ESQ.
KATHERINE STADLER, ESQ.
CARLA O. ANDRES, ESQ.
ERIC J. WILSON, ESQ.

BAKER & MCKENZIE LLP
Attorneys for Baker & McKenzie LLP
One Prudential Plaza
Suite 3500
130 East Randolph Drive
Chicago, IL 60601

BY: ANDREW MCDERMOTT, ESQ.

DICONZA LAW, PC
Attorneys for LFR, Inc.
630 Third Avenue
New York, NY 10017

BY: GERARD DICONZA, ESQ.

ORRICK, HERRINGTON & SUTCLIFFE LLP
Columbia Center
1152 15th Street, NW
Washington, DC 20005

BY: RICHARD H. WYRON, ESQ.
ROBERT F. LAWRENCE, ESQ.

MCCARTER & ENGLISH, LLP
Attorneys to Brownfield Partners
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

BY: JEFF T. TESTA, ESQ.
(TELEPHONICALLY)

LAW OFFICE OF EDWARD S. DONINI

Attorneys for Creditors, Richard & Elise Birdsall

P.O. Box 605

New Smyrna Beach, FL 32170

BY: EDWARD S. DONINI, ESQ.

(TELEPHONICALLY)

ALSO PRESENT:

MICHAEL EISENBAND, CPA, FTI Consulting

MAUREEN F. LEARY, New York State Department of Law

(TELEPHONICALLY)

P R O C E E D I N G S

THE COURT: Good morning. Have seats, please. Okay. We're here on Motors Liquidation Company formerly known as GM. Another round of fee applications.

Here's how we're going to proceed, folks. First, I would like somebody, either the fee examiner or his counsel or a representative of the applicants, to tell me what has been consensually resolved since the filing of all of the briefs that I got and the issues that remain. Then, as we did last time, I'm going to deal with the issues conceptually. And I'm not going to micromanage the process by getting down to individual time charges or dinner bills, but instead will focus on the underlying principles for that which is compensable and that which isn't; how to deal with noncompliance; and how to deal with uniquely factual matters such as the prevalence of half hour billing increments that's difficult for anyone with a knowledge of statistics to understand.

I do have some tentatives on the issues, the underlying principles, the ground rules, based on my reading of the briefs which I'll announce after knowing what issues have been consensually resolved and which issues remain. So may I first get a report on that? And then I'll ask everybody to sit down. I think at this point, I know practically everybody. And I'm going to deal with the tentatives which are -- tentatives, California style, which are inclinations I have

based on my reading of the briefs but which, of course, are subject to your assistance in oral argument and which are substantially less than rulings at this point in time.

Mr. Karotkin and Mr. Williams -- and you're both rising. Either one yield to the other guy?

MR. KAROTKIN: Stephen Karotkin, Weil Gotshal & Manges for the debtors. If I can impose, Your Honor, there is one matter -- or a couple of matters on the calendar unrelated to fees which are uncontested, one of which is the motion seeking authority for the sale of a former operating plan of GM in Wilmington, Delaware to Fisker. That is uncontested. There were no objections filed, no other bids filed. And I know that there are a few people in the room who are here on that in support of it. And if we could dispose of it -- if I could impose on Your Honor to dispose of that before we get to the fee applications, I think that would be in the interest of economy.

THE COURT: Forgive me, Mr. Karotkin. I had concentrated on the disputed matters. That's been duly noticed. No objections were filed. And the time for filing objections has passed. Am I correct?

MR. KAROTKIN: That is correct, Your Honor. There were no other bids for the property. We do have a proposed order. I don't know if you would like me to make a quick offer of proof.

THE COURT: No. Under my case management order, we'll save you the expense especially on a fee app day of running up more expense on something that's undisputed.

MR. KAROTKIN: I thought of that myself, Your Honor.

THE COURT: Motion granted.

MR. KAROTKIN: All right. We will present an order.

THE COURT: Anything else of that character, Mr. Karotkin?

MR. KAROTKIN: I think Mr. Smolinsky --

THE COURT: Mr. Smolinsky?

MR. KAROTKIN: -- may have some matters. Can the people here on Fisker be dismissed, sir?

THE COURT: Absolutely.

MR. KAROTKIN: Okay.

THE COURT: Anybody who's here solely on that matter is excused if he or she wants to leave.

MR. KAROTKIN: Thank you, sir.

MR. SMOLINSKY: Good morning, Your Honor. Joseph Smolinsky of Weil Gotshal & Manges for the debtors. We have a number of uncontested matters that I think I could run through quickly.

THE COURT: Yes, sir.

MR. SMOLINSKY: I'm starting with item I on the agenda. Mississippi Workers' Comp Individual Self-Insured Guaranty Association had filed several objections on behalf of

individual workers' comp claimants to the thirteenth and fourteenth omnibus objections. They have received some documents and have withdrawn their objection. So we're ready to go forward and submit an order with respect to omnibus motions 13 and 14.

THE COURT: Very well. That's approved.

MR. SMOLINSKY: Next, we have the fifteenth omnibus objection to claims amended and superseded. We received two objections. We've carved those out of the order, adjourned them to July 14th. We'd like to --

THE COURT: Okay.

MR. SMOLINSKY: -- move forward with the balance. Then we have omnibus objections number 16 through 21, tax claims either satisfied or assumed by new GM. As you can see from the agenda, there have been a number of taxing authorities who have filed requests for additional information. We're working through those. Again, we'd like to enter orders with respect to the nonobjectors and adjourn the balance to July 14th.

THE COURT: The standard drill. Granted.

MR. SMOLINSKY: Your Honor, there's a matter of the third omnibus objection to claims. We're now ready to close out that motion. ALCO Remediation Group was the last objector. We've entered into a stipulation with them withdrawing that claim. So we can submit that to chambers. And that would

close out the balance of that motion.

THE COURT: That's fine.

MR. SMOLINSKY: The last thing, Your Honor, is a motion to establish supplemental rules and authorities for filing omnibus objections. I know that's uncontested but I know Your Honor has a lot to say on that topic. If you want me to run through it now, we can.

THE COURT: Take a couple of seconds to do it, Mr. Smolinsky, and focus, in particular, on my concerns. I want to find that sweet spot between saving the estate money and not running up a lot of either mailing para or lawyer time as part of the process. But I want each person or entity who gets an objection to understand in baby talk that the reason he, she or it is getting it is because their ox can be gored if they don't agree with what you're proposing to do. And I've come up with some language in other cases to try to find that sweet spot and that's what I want to accomplish again.

MR. SMOLINSKY: Your Honor, in view of your prior comments rather than seek omnibus authority to change the procedures with respect to large groups, we've decided to tackle it on a case by case basis. This involves debt claims that are covered under proofs of claim that are filed by indenture trustee, in this case, Wilmington Trust Company. In the next few days, we'll be filing a stipulation which will be fixing Wilmington Trust's claims in an amount in excess of

twenty-three billion dollars. As part of that process, as soon as we file the stipulation, the indenture trustee will be sending out to all bondholders a several page letter which we've reviewed and commented on which advise those bondholders, all bondholders, of what the stip does, what the impact of that stip is and how that impacts their claims and informs them that for those 18,000 bondholders that filed claims that there will be an objection to their claim because it is duplicative of the indenture trustee's claim.

THE COURT: Fine. And conversely, unless some individual bondholder thought that his or her indenture trustee wasn't appropriately carrying the ball, that bondholder's ox wouldn't be gored because Wilmington Trust would have taken care of it on behalf of the individual bondholder, if I heard you right.

MR. SMOLINSKY: That's right, Your Honor.

THE COURT: Yeah. Very good.

MR. SMOLINSKY: So now the next step is to come up with an efficient procedure to resolve and expunge those 18,000 claims. We will be setting up a separate website --

THE COURT: Time out, Mr. Smolinsky. Did I hear you right that there are 18,000 individual claims on bonds even though the indenture trustee is carrying the ball for those folks?

MR. SMOLINSKY: That's correct, Your Honor.

THE COURT: Okay.

MR. SMOLINSKY: So we will be setting up a separate website for debtholders that will contain the Wilmington Trust stip, the Wilmington Trust proofs of claim, all of the motions objecting to the debtholders' claims as well as other documents. And we propose in our procedures to send a notice which is attached to our motion which is an individualized motion to each -- individualized notice to each noteholder that says what the claim is, explains who the indenture trustee is, refers them to the website so that they could look up the stipulation, the motions and could get all the information. And it really renders the motion itself superfluous. And we think that it's a much better and much more efficient and will provide more information to an individual bondholder than sending out a twenty-page motion and schedule.

THE COURT: I hear you. Well done. Certainly.

MR. SMOLINSKY: If you review the notice -- and we did, actually, get some comments from the indenture trustee, some minor comments, which we've incorporated in a blackline which I have which will be attached to the order. It does follow many of your -- the language that you used in your previous cases dealing with this type of matter. And we think that the notice is really designed to be in plain language and inform them of what they need to know. We've also simplified the procedures for responding so that they don't have to send

their response to twenty different parties. And in addition to that, we propose that on the envelope that goes to them with the notice, we would stamp it "Official court document" so that they would know that it's not spam or junk mail.

THE COURT: Okay. I'll need to check out the specifics, but nothing you said troubles me. And if I need to revise it in any way, subject to anybody's right or claim or desire or reservation of rights to object, I would detail a law clerk to express any concerns I have so that your firm can tell us if what we're inclined to do doesn't make sense in any way.

MR. SMOLINSKY: And, Your Honor, we're not in any immediate rush because, as I said, we wouldn't intend to go out with this notice until after the Wilmington stip is approved. So you have some days to sit and review the notice.

What I'd like to do is hand up a blackline notice that reflects the indenture trustee's comments.

THE COURT: Sure. And, Your Honor, of course we're available if you have any questions --

THE COURT: Okay.

MR. SMOLINSKY: -- during your review. Your Honor, I forgot to just mention the twenty-second omnibus objection to claims. That's amended and superseded claims. We received no objections to that motion and we'd like to go forward and enter that order.

THE COURT: Granted.

MR. SMOLINSKY: Thank you, Your Honor.

THE COURT: Okay. Are we --

MR. DONINI (TELEPHONICALLY): (Indiscernible)

THE COURT: You may be heard but you're not audible. Can I ask you to speak up? It's very hot in the courtroom and we need to keep our hundred year old air conditioning going at full speed.

MR. DONINI: Thank you, Your Honor. Judge, I am the debtors' attorney in the fifteenth omnibus objection to claims.

THE COURT: A debtor's attorney?

MR. DONINI: Yes. For (indiscernible) day one on the amended agenda filed yesterday. And I didn't want to interrupt Mr. Smolinsky when you referred to us. But my claim, (indiscernible) the Birdsalls, is based on product liability and (indiscernible) my client. And we're creditors of this (indiscernible). The matter was adjourned to July 14th, as Your Honor can see, but I had plans to be away with my family on that week. I haven't had vacation in two years. But the great amount of my response is not only that but I believe, based on my conversations with debtors' counsel after filing our response, that they are going to consent to our response. It was a misnomer actually where the debtor has thought we had submitted subsequent claims. And actually my filing on November 24th and November 27th of 2009 were just medical records in support of the original proofs of claim which have

been filed on behalf of Mr. and Mrs. Birdsall on October 9, 2009. So I believe that my conversations with debtors' counsel yesterday, they were going to object to my motion to (indiscernible) those misnomered claim numbers into the original claim numbers stemming from the October 9th filing. And if that's correct then there's probably no need for us to be scheduled for July 14th if we're going to do a (indiscernible) order or stipulation to our (indiscernible).

THE COURT: All right. Mr. Smolinsky?

MR. SMOLINSKY: Your Honor, there are two claims. One of the claims has certain documents attached. The other one has others. He wants to make sure that all of the documents are -- continue to be relevant to the continuing surviving claim. We will work out the matter. What I propose is to adjourn that claim to August 6th. And I'm sure that in the meantime, we'll finalize that agreement.

THE COURT: All right. Does that skin the cat for you, sir?

MR. DONINI: Yes, sir. Thank you, sir.

THE COURT: Very good. You're excused from the call if you wish to be.

MR. DONINI: Yes, Your Honor. Thank you.

MR. SMOLINSKY: Your Honor, one more matter -- and I know we need to get on to important issues. In my haste to go through the omnibus response motion for debtholder claims, I

failed to mention one of the changes is that we seek to increase the number of claims subject to objections from one hundred to five hundred. In a perfect world, we would just file one motion for all because we don't think that there's a need for debtholders. If they do want to go back to the website to look at the whole motion to look for their name in thirty-six motions as opposed to one, certainly better than 180 motions, but, Your Honor, we'll defer to your view on that. We --

THE COURT: Well, whether that'll work or not will depend on how much the piece of paper that the creditor gets helps them understand. I'm going to talk gender neutral when I use him -- helps him understand his ox may be gored. If it does that then the incremental change from one hundred to five hundred, although it seems like a lot, wouldn't be material. I want to see what the particularized disclosure is like. And if I'm comfortable that the creditor gets a sufficient due process, it won't trouble me, Mr. Smolinsky. But I can't decide it just this second.

MR. SMOLINSKY: That's absolutely fine, Your Honor. We want you to be comfortable with the procedures we've outlined.

THE COURT: Okay.

MR. SMOLINSKY: Thank you.

THE COURT: All righty. Mr. Williamson, were you

going to help me understand what I still have on my plate on fee apps and those matters that have been consensually resolved?

MR. WILLIAMSON: Good morning, Your Honor. And the answer is yes, I am. Brady Williamson, Godfrey & Kahn, as the fee examiner. Your Honor, this is the second round of applications, generally covering the period October through January. We started with thirteen applications. We have, for the Court's consideration this morning, disagreements over only four of those. That would be Weil Gotshal, Kramer Levin, Butzel, FTI and perhaps, although we haven't heard from, Baker & McKenzie. But that would be four, perhaps five, depending on whether a representative of Baker is here this morning.

THE COURT: Okay. Thank you. Mr. Williamson, I have no memory of getting a Baker & McKenzie written reply. Did you?

MR. WILLIAMSON: We did not, Your Honor.

THE COURT: Okay. I said reply; I meant response. But you knew what I was talking about.

MR. WILLIAMSON: Yes.

THE COURT: Okay. Sir, are you from Baker & McKenzie?

MR. MCDERMOTT: I am.

THE COURT: You want to come up, please? I know most of the people in the case but I don't know you. May I get your

name, please?

MR. MCDERMOTT: Andrew McDermott on behalf of Baker & McKenzie.

THE COURT: Okay, Mr. McDermott. Is there a consensual resolution with the fees then?

MR. MCDERMOTT: There is --

THE COURT: There is.

MR. MCDERMOTT: There is. Baker & McKenzie does not have any objection to the reductions recommended by the fee examiner.

THE COURT: Okay. Very good. Then we're down to four issues. Thank you, Mr. McDermott. You're excused if you choose to be --

MR. MCDERMOTT: Thank you, Your Honor.

THE COURT: -- but you can stay if you prefer.

All right, Mr. Williamson, I think you answered the immediate question I have and I would invite you and everybody else to have a seat for a second while I share my thinking with you and tell you what I want you all to address.

As I indicated, I have several tentatives, California style. And I'll hear your respective arguments as to whether my sense, based on my reading of your briefs, should remain or should be revised. On several of these issues, as in the case of issues that we've dealt with before, there is little, if any, case law on it, not even scripts or transcripts of

dictated decisions. So in a very real sense, I'm talking about how I would be inclined to exercise my discretion in the absence of any case law.

One of the major bones of contention seems to be on compensation associated with getting compensated. Now we're beyond the stage where people are talking about getting retained. And we're talking about people's efforts to get paid. And as I understand it, you've got a bone of contention as to what I'll call the incremental cost of getting paid in this case. And it seems to me, subject to your rights to be heard, but only as a tentative, that the general standard for getting paid in a bankruptcy system should be to compensate the law firm or other professional for the incremental cost of complying with the hoops that we require as part of the bankruptcy system. And therefore, that if the service sought that's the subject of a request for compensation would be required to serve any client, inside or outside of bankruptcy, that would be more appropriately regarded as overhead and not compensable. Matters of that character would be making up a bill, telling the client how much is owed, providing a general description of the services and checking the time entries and totals to make sure that it's accurate.

Conversely, it seems to me that when we in the bankruptcy system impose additional hoops, such as preparing a fee application or any incremental detail that would be

required beyond that which is normally required of clients as a whole, that the prior case law considering that stuff compensatable, if that's a word -- or compensable, which is probably a better word, should remain. I will, however, hear argument on that.

Now, I sense that FTI is still a matter of some contention. My -- not just memory because in preparation for today, I read the transcript of my earlier rulings, none of which I'm of a mind to divert from, both because I think I got them right and I believe in precedent -- so for those folks, like FTI, who are compensated on a monthly fixed fee, I'm scratching my head to figure out why any services that FTI performed or didn't perform would be a subject of dispute. Putting it differently, I don't see a basis, subject to your rights to be heard, to dock FTI when it's getting a fixed monthly fee anyway. Now if, at the end of the case, we look at the totality of FTI's services to see whether it got a windfall then it would seem to me that you folks might be heard to see if that should be a basis for a distinction. But I don't see that as an issue now. So if, by way of example, FTI spent too much time doing one thing or another, performed unnecessary services or another, I don't see why this is any different than my earlier ruling.

Now, on the meal charge, my tentative is FTI can eat the extra charge on the meal charge. And if I missed other

things, you guys can tell me.

A major matter of contention seems to be vagueness in time entries. My tentative on that, subject to your rights to be heard, is that if the reason for the vague entries is sensitivity or privilege that for time periods before you knew how I would deal with this, you can give me a detailed supplementation in camera. But that after today, the entries would need to be provided in the normal detail. And if there are privilege or confidentiality issues, the applicant would have to redact them, but that the underlying source data will, from this moment on, have to be provided in the usual detail.

As a general conceptual matter, folks, subject to your rights to be heard, I would think the way to do it is by redaction rather than not giving us the appropriate information to start with.

Now, on Butzel Long, the last of my tentatives, we were dealing with a situation that Butzel is engaged, and, so far as I'm aware, it's still engaged. It's in the middle of a heavy briefing schedule, in fact, on a very major matter where the services it performed are accelerating and had not fully ramped up by the end of this time period which, if I'm not mistaken, ends around January of thereabouts. I ruled previously that the cost of Butzel Long getting retained was appropriate. And I had some related comments about if you think there ain't going to be enough work for them to do, you

should think about retaining them in the first place. And I wonder if that same principle applies to that which relates to getting yourself compensated once you've been retained. Now, folks, I have to wonder whether this is a tempest in a teapot because if, as I suspect, Butzel is spending more than minimal time on a billion and a half dollar lawsuit, or whatever the exact amount might equate to be, I have some difficulties seeing how charges in the low tens of thousands that were incurred in time period 2 couldn't be offset by the time charges that are incurred during time period 3. Subject to your rights to be heard, it would seem to me that the same legal principle should apply to the Butzel application notwithstanding that the particular types of services related to the compensation process are technically different. But I'll hear what each side has to say on that.

Finally, I have no tentative on the Maue matters. Well, my tentative on the Maue compensation is to simply say that there not having been any particularized objection, those are approved. But on the matter of Maue going forward, I have no tentative on that issue. I want to know how much Maue has cost us -- cost the estate. And I also want to know that in the context of what the fee examiner is costing the estate. So I can determine the prong of the wisdom of keeping Maue on only after I know how much it's costing us all. I will then also consider, if, as I sense, the fee examiner wants to make that

point, whether Maue is worth the money even if it doesn't save itself or save the estate, I should say, what it costs the estate to have a number cruncher assisting the fee examiner. I look to the fee examiner for the professional judgment which I've seen so far. But I don't have the same degree of confidence that I get that level of professional judgment out of Maue or whether I should be expecting it.

So with that said, I will take the respective applications. I'm shifting around the order slightly from the agenda. I want to hear Weil first, whether that's Mr. Karotkin or Mr. Smolinsky, then Kramer Levin. I see you there, Mr. Schmidt. And then, to the extent that there's anything left, I'll hear FTI and then Butzel Long.

And I think it would be helpful to me, folks, and indulge me on this, after Mr. Karotkin, you deal with the Weil issues, and then before I hear other applicants, I'm going to want to get the response of Mr. Williamson or one of his colleagues to Weil so that I can keep all of my consideration of your respective positions together per applicant even though there may well be an overlap on some of these matters from a conceptual perspective.

MR. TESTA (TELEPHONICALLY): Your Honor?

THE COURT: Yes. Who's on the phone, please?

MR. TESTA: Your Honor, this is Jeffrey Testa from McCarter & English on behalf of Brown Field Partners which is

uncontested. May I please be excused from the call?

THE COURT: Yes, sir, you may.

MR. TESTA: Thank you, Your Honor.

THE COURT: Is there anybody else who would like to similarly be excluded or excused? All righty. Go ahead, please, Mr. Karotkin.

MR. KAROTKIN: Thank you, sir. Stephen Karotkin, Weil Gotshal & Manges for my firm in connection with its second interim fee application. As the fee examiner notes in his objection to our second fee application, ninety percent of his recommended adjustments relate to one item. And that is the time dedicated to the preparation of monthly statements fee applications, reviewing time records in connection with that effort. And the fee examiner takes issue that, basically, an inordinate amount of time was spent in his view. He sets forth some big numbers to express his view. And he, essentially, compares the amount of time spent on that task in our second round of fee applications to the amount that was spent in our first round and says it's disproportionate. And we've replied to that. We don't believe it's -- it may be disproportionate but I don't think that, as we indicated, Your Honor, you can use a purely formulaic approach.

Now, addressing what you indicated in your tentative rulings, this is time expended to deal with issues unique to bankruptcy cases. The time records have to be reviewed in

order to make sure they're in compliance with the fee guidelines, to make sure they're in compliance with the rulings that you have made in connection with fee applications. And perhaps most importantly, to make sure that there is no privileged information inadvertently set forth in the time records. This is a painful time consuming task. It is not something that you would want to spend your days doing. We have tried to relegate those tasks, for the most part, to paralegals who are obviously billing at rates much lower than attorneys. Obviously, it does however require a fair amount of attorney time to make sure that we are in compliance, Your Honor, and, again, to make sure that no privileged information is contained in the time record which, of course, are public records. And a paralegal cannot do that type of review with respect to privilege.

We believe the time is appropriately spent. We believe it's appropriately catalogued. We don't think that it is misbilled. I think part of the issue that Mr. Williamson had is that one of the paralegals who billed in certain of her time and certainly not all of her time in incremental time records of either a half an hour or an hour. But we don't think a fifty percent reduction is appropriate. I don't think there's any objective basis for a fifty percent reduction. And I think that Mr. Williamson has -- I'm sorry -- the fee examiner has come up with an arbitrary number, I guess, to be

either somewhat punitive or to act as a deterrent.

THE COURT: Let me ask you something, Mr. Karotkin. You identified three things, if I heard you right, that's done: that the time records have to be reviewed for compliance with the special rules we have in bankruptcy, such as one-tenth of an hour increments and requisite specificity; my earlier rulings; and screening out the privileged stuff. My earlier rulings would be a factor for time periods 3 and on but wouldn't be, strictly speaking, relevant now because, if I recall correctly, I ruled roughly in the May time -- excuse me. April 29th was the day I issued my ruling.

MR. KAROTKIN: That's correct.

THE COURT: But I take it what we're trying to drive for is to get a clear set of ground rules for everybody in the room going forward. So you didn't say expressly but you implied that I should be thinking about implications going forward.

Privilege is important in bankruptcy but it's not important when you bill your own client because, normally, if you bill your own client, your client gets access to privileged information and/or has the ability to waive it. How do you think when I have overlapping factors, like you got to review time records to make -- timesheets to make sure that they comply with the special bankruptcy hoops. But you never want to rip off your client even outside of bankruptcy and you've

got to do some checking there. How do you think a guy in my position should deal with the overlap and how you deal with that overlap in the sense of trying to implement my tentative?

MR. KAROTKIN: Well, Your Honor, we certainly don't bill the estate for the daily preparation of time records. Like, to the extent that attorneys do time records on a daily basis, that amount of time spent is not billed to the client. The only part that is billed to the client or to these estates is the review in connection with what is submitted in the monthly fee statements and what is submitted in connection with the filing of interim fee applications. So I think that's addressed appropriately. So I don't think there's any overlap there. And I think what we have here is time totally devoted to the special circumstances imposed by the fact that we are retained professionals in the Chapter 11 cases and subject to the public disclosure of our time records and the other guidelines.

And as you indicated, of course, Your Honor, there is not an issue of privilege outside of the bankruptcy context when we're billing our client. We're not concerned about those issues. And, as I said, it is a -- and I'm sure you know. You were in practice. It is a very painful time consuming process. Now, we will endeavor to be as economic as we can. As you said, we didn't have the benefit of your thoughts on this until April 29th when you ruled on the first fee applications. Our

second fee application, as I recall, Your Honor, was filed before your ruling. We will certainly, and have been, mindful of how you have ruled, what you ruled on April 29th. And hopefully, we can try to be more efficient and more attentive to that. But we are certainly not engaged in an effort to increase the amount of time to address these tasks. It is just time consuming.

THE COURT: Mr. Karotkin, one thing I meant to say to everybody in the room when I announced my tentatives that there's one thing that I'd like people to include as part of what they address to me. And I think you just did in part. But I want to lay out the question before I forget and invite you to supplement if you choose to. And that is, I would like everybody in the room to discuss how we should be dealing with time entries and other practices that took place before I ruled on the 29th of April when people didn't have the benefit of my thinking on that subject. Now, some things for bankruptcy practitioners would have been, I think fair to say, part of the existing law. But I think some might consider that I laid out principles that were matters of first impression.

I don't know if you want to supplement what you said. You touched on that, of course, in this issue of the expense for getting yourselves paid. But if you want to supplement it now that you know something that is causing me to scratch my head, I'm going to give you that chance.

MR. KAROTKIN: Your Honor, certainly on issues of vagueness and what some people consider to be vague and others don't consider to be vague, we are certainly aware and certainly were aware of those issues of being involved in cases before bankruptcy courts for a long, long time. We don't think that the descriptions in our fee application -- and we know your views on this -- are vague. We think we have been attentive to that prior to your rulings. And we don't think that anything should change as a consequence of that. We think that with respect, for example, to taxi charges and hotels or that type of thing that that was something new to us as of April 29th. And notwithstanding the fact that, again, our fee application for the second period was filed prior to your ruling, in our response to the fee examiner, we have taken into account your ruling and suggested what we believe is an appropriate adjustment. And I think reviewing what you said on April 29th, I'm not sure that you were saying that there ought to be a wholesale disallowance of taxi charges.

Addressing what the fee examiner has asserted are vague entries, Your Honor, there has to be, as you know, some degree of practicality in what we do on a daily basis. And as we indicated in our response, in a case like this where people virtually get close to hundreds of e-mails, particularly during the first several months of these cases and have to respond to hundreds of e-mails, and it may only take a tenth of an hour,

to put a detailed description down of exactly what the e-mail was about and exactly what your response was about is silly. And I think everybody ought to recognize that that's silly. And that would encompass more expense to these estates than is appropriate. And we don't think it's appropriate to do that. Everybody knows that you get a lot of e-mails in cases like these and you have to respond. And to require a detailed description or to be penalized for not having a detailed description or for having a description in a time record, Your Honor, that says "follow-up on a previous time entry", we think that's just plainly unfair and we ought not be penalized for that.

As I said, we have to be practical about certain things. And perhaps the fee examiner doesn't agree with that. But at the end of the day, and I think Your Honor alluded to it earlier in talking about the motion to extend the retention of Stuart Maue's firm, let's do some sort of a cause benefit analysis. Let's not just willy nilly apply rules where they don't make any sense. The point of this -- I don't think the point of this exercise is to be punitive. The point of this exercise ought to be to be practical. And that's what we're trying to do and that's what we have tried to do in our time records in how we bill these estates. We think that we have -- frankly, Your Honor, we think that we have performed admirably. We think we have saved these estates enormous amounts of money

and generated enormous amounts of money in connection with this enterprise. And we think we're doing it efficiently and expeditiously. And based on what is in the objection, we think we are in full compliance with the rules. As I said, going forward, we certainly will be mindful of your rulings, obviously. We will certainly address what you said with respect to privilege matters although I think that, to a large extent, that already is addressed in the way we do our time records. Although we don't formally redact, they are appropriately addressed to make sure that privileged matters aren't disclosed.

THE COURT: Do you think it would help if I told you and the other professionals in the case that you have authority for me to redact?

MR. KAROTKIN: Yes. I think that would help.

THE COURT: Well, that's very easy for me to do. And to the extent I need to say it, I'll say it right now.

MR. KAROTKIN: But even putting that aside, the way we described those entries are perfectly descriptive of what we're doing. I mean, I think it's fair to say that anyone reading those can get an idea of the nature of the research we're doing in connection with tax matters related to the plan, in connection with how an environmental trust might work under the plan or what the issues are. There's nothing mysterious about that. And, particularly, in view, Your Honor --

THE COURT: Well, that's right, Mr. Karotkin. And let me interrupt you, because as we know from the law of evidence, while the substance of a communication is subject to the privilege, the subject matter isn't anyway. And normally you can meet the needs of the bankruptcy system by describing the subject matter of the research without disclosing the substance of it except for those relatively rare instances when disclosing subject matters can amount to disclosing substance.

MR. KAROTKIN: Yes, sir.

THE COURT: Okay.

MR. KAROTKIN: So again, I think the substance of the dispute with the fee examiner really, as again the fee examiner indicates, relates to the time spent on the fee application. And it's not just -- again, I think that the response suggests that all of that time was spent reviewing time records. But that's not the case. It was reviewing time records. It was preparing monthly statements. And it was preparing the fee applications. And again, I think we're entitled to be compensated for that. I don't think we are asking to be compensated for any amounts that, as you indicated, Your Honor, are part of the normal billing to nonbankruptcy clients. And I think our response speaks for itself and I would request that the amount we've requested be allowed.

We have agreed to certain adjustments some of which I don't think are appropriate. But in the interest of time and

expense and cost to the estate rather than arguing about it, we've agreed to them.

I will note, Your Honor, just in passing, to my issue on practicality, I was given an e-mail trail from the fee examiner to AlixPartners about a two-cent discrepancy. And this is from the attorneys for the fee examiner to AlixPartners about a two-cent discrepancy in how much was paid to a professional. Now, I don't know how much time they devoted to that but -- I mean, this is the ultimate in not being practical.

And, as I said, I think that, Your Honor, it's incumbent on everybody here to view these fee applications pragmatically. And I would request that our application be allowed.

THE COURT: All right. Thank you. Mr. Williamson or one of your colleagues?

MR. WILSON: Good morning, Your Honor. Eric Wilson from Godfrey & Kahn on behalf of the fee examiner. I will just rely on our papers for most of our submission but I want to respond to Mr. Karotkin on a couple of issues. First of all, with regard to the compensation issues, we anticipated that the Court would view it the way that, in fact, you have which is to separate out those issues that relate specifically to the hoops that must be jumped through for bankruptcy court and those issues that are common to all matters. And we think we've done

that. In fact, attached to the report are two separate exhibits. Exhibit D was the fees charged for compensation issues generally which includes fee application matters; and then Exhibit E lists only those entries relating to reviewing time entries. And respectfully, we think that there is support in the case law for viewing the review of time entries even for compliance with the UST guidelines as a separate matter and noncompensable. And that exhibit, Exhibit E --

THE COURT: To -- I must confess to you, Mr. Wilson, that I did not read the underlying cases. But to what extent do those cases analytically drill down, as I did, in trying to ascertain the extent to which the service would be necessary for any client and the service is unique to bankruptcy. For instance, I have some difficulty seeing how billing to any client outside of the bankruptcy system would have any occasion to cause review of whether you've got it down to six minute increments or have that incremental level of specificity.

Now, I'll confess to you, Mr. Wilson, that my experience is informed by the fact that in the thirty years before I was on the bench, I had nineteen years as a general purpose litigator doing bankruptcy along with other stuff. And it was only in the last eleven that I was immersed in the bankruptcy system. But unless things have changed since 1970, there is a big difference between how much detail you give to a client in the nonbankruptcy context and that which you got to

do in our tent.

MR. WILSON: Right. And the cases do not drill down like Your Honor is attempting to do to try to separate out the overlapping factors. And undoubtedly, there are. Undoubtedly, there are time entries in that exhibit that list the review of time entries that relate to simply the review of time entries generally without regard to whether or not the UST guidelines have been complied with or not. And there is -- if Your Honor goes through it, I mean, there really is no good way to separate out which of those time entries are related solely to figuring out whether the time entries are billed in one-tenths of an hour and which of those entries are related to have we described this entry with adequate specificity quite apart from the guidelines.

THE COURT: I hear you which is causing me to do my -- a little bit of head scratching in this regard. In essence, what you're doing then is that you recommend some percentage -- in your case, I think it was fifty percent --

MR. WILSON: Right.

THE COURT: -- on this contested item to try to get your arms around that overlapping type of issue.

MR. WILSON: That's right. And quite -- and it doesn't only relate to the sort of overhead nature, Your Honor, of reviewing time entries. The basis for our recommended disallowance not only related to that but also related to the

sheer excessiveness, in our view, of how much time was spent on those matters. In the first fee application, over 900 hours was spent solely reviewing time entries. And at the time, given the exigencies that existed during that first fee application period, we did not recommend any disallowance but we noted that we would expect that that process be managed more efficiently in the future. And this time around, we've pointed it out that Mr. Karotkin referred to it as hyperbole, but it's the facts, which are that even though separated out time entries amount to ten weeks worth of time over 40,000 minutes solely reviewing time entries. That doesn't include anything related to fee applications or anything else. And we just think that that's excessive to spend that much time reviewing what amounts to a few hundred pages of time entries. It's a lot of data to go through but we respectfully submit that it could have been done more efficiently. So that was the basis for the fifty percent recommended disallowance there.

With regard to the vagueness issues, Your Honor, we would respectfully disagree with Mr. Karotkin that the issues -- or the entries are sufficient. With regard to recording time on what e-mails related to, all attorneys have an obligation to record their time quite apart from the United States trustee guidelines. The United States trustee's guidelines impose an independent obligation when submitting time to, if there's correspondence, to describe the nature of that correspondence

and who it's with. That was not done here. Mr. Karotkin regards imposing some sort of requirement in this regard as silly. We did not -- we would note that this is not an issue across the entire law firm. The fee examiner took out a few examples that we regarded as egregious. These aren't examples, if Your Honor reviews the accompanying exhibit, of .1, .1, .1. These are .5, .4, .6, .3 of reviewed and responded to e-mails. Respectfully, that's not sufficient to determine whether that time spent was reasonable.

And with regard to the taxi charges, Your Honor, our interpretation of your ruling from the first interim fee period was that for charges incurred after July 10th that those would be viewed as overhead. On Friday afternoon, Weil Gotshal did send us a response to our report suggesting that any taxi charges incurred on days where the attorney spent less than six hours on a matter should not be compensated. We have checked that math and we -- a couple hundred dollars off but their suggested disallowance is accurate there. We would respectfully suggest that imposing an arbitrary bright line rule like that is not appropriate and that if you look at the examples that they themselves have cited, there are multiple cases in there, and we've done this analysis as well, where attorneys are billing .1, .2 an hour to the GM matter, yet charging the estate for a taxi ride home. And we respectfully suggest that those sorts of expenses should be disallowed. And

the best way to do it, we would recommend, is to disallow all of those expenses as overhead. Thank you.

THE COURT: Pause, please, Mr. Wilson.

MR. WILSON: Sure.

THE COURT: If you're talking about the .1, .2 and then charging the estate for the cab, that's a no-brainer. But there comes to be a gray zone where the lawyer does x hours of work. And I am uncomfortable about knowing how I draw the line in that gray zone.

MR. WILSON: Well -- are you finished? Sorry.

THE COURT: No.

MR. WILSON: I don't want to interrupt.

THE COURT: No. I --

MR. WILSON: Okay.

THE COURT: I pretty much exhausted my ability to contribute to the dialogue. Let's see what you have to suggest.

MR. WILSON: Well, as Mr. Williamson suggested the last time we were before Your Honor, the issue is not whether that attorney who works twelve hours on a day ought to, as a matter of safety or common decency, get their cab ride home paid for. I think everyone agrees that they should, that they should not have to pay for that. The question is who pays for it. And we would respectfully suggest that that should be an overhead expense borne by Weil Gotshal and not by the estate.

THE COURT: Even for a twelve hour day?

MR. WILSON: Yes.

THE COURT: In New York where people don't drive to work --

MR. WILSON: Yes.

THE COURT: -- except the fattest of the fat cats?

MR. WILSON: Yes, Your Honor. That -- if the Court is going to draw a line, that's certainly the least arbitrary line to draw.

THE COURT: Okay. Thank you, Mr. Wilson.

MR. WILSON: Thank you.

THE COURT: All right. Mr. Karotkin, do you need any time for a reply?

MR. KAROTKIN: Yes. Just one point. I really don't know what Mr. Wilson's referring to on the .1, .2 on the taxis. Those are exactly the things we eliminated in our proposal where we suggested six hours. So in our reply what's reflected in what we believe was an appropriate reduction, it takes into account exactly the items he said. And we would not charge the estate for that. And -- I mean -- Your Honor, I don't think you flatly ruled that taxis were not reimbursable.

THE COURT: No, I did not. But where I --

MR. KAROTKIN: In fact, quite the opposite.

THE COURT: -- was vague was how I draw the line. And I'm still trying to get my arms around how I draw the line.

MR. KAROTKIN: Okay. Well, we think we have made a more than appropriate suggestion in that regard. Thank you, sir.

THE COURT: Okay. Thank you. Okay. Kramer Levin. Mr. Schmidt?

MR. SCHMIDT: Good morning, Your Honor. For the record, Robert Schmidt, Kramer Levin Naftalis, committee counsel. Your Honor, I thought I had escaped the case but I guess not. And I'm happy to be back.

Your Honor, we did engage in a quite meaningful dialogue with the fee examiner, at least two rounds where we did agree to a series of concessions. We made a settlement proposal on the balance of the remaining items which the fee examiner elected to treat as a voluntary reduction as opposed to what it was, a settlement proposal. We certainly don't think that's an appropriate way to deal with settlement proposals. Having said that, as we noted in our papers, we're prepared to stand by those concessions that we offered up.

There are, as the Court is aware, a series of familiar topics that remain outstanding and I'll try not to retread over the ground that Mr. Karotkin capably handled. But we certainly do agree with his arguments with respect to the billing and fee app matters.

THE COURT: Pause, please, Mr. Schmidt. How much of the disputed matter is affected by the -- on Kramer Levin is

affected by the legal principle that I thrashed out with Mr. Karotkin and Mr. Wilson?

MR. SCHMIDT: In terms of the timing of the fee app versus the timing of your ruling?

THE COURT: Am I correct that there is a dispute that affects Kramer Levin on the same issue that I dealt with Mr. Karotkin and Mr. Wilson on?

MR. SCHMIDT: That's correct, Your Honor.

THE COURT: And what kind of money are we talking about there?

MR. SCHMIDT: On the billing and retention matters, it's approximately 7,200 dollars.

THE COURT: So you have the same concept but a much smaller amount in controversy?

MR. SCHMIDT: Absolutely the same context. We follow a very similar process that the Weil Gotshal firm follows in terms of the manner in which we review the time details for compliance with guidelines, privilege and confidentiality and the like. We believe that we've gotten it down to a pretty good process right now that's streamlined. Nonetheless, it's laborious. It takes time. And it's not something that can readily -- all aspects of which can be readily turned over to a paralegal. We believe that attorney review is required.

THE COURT: Continue, please.

MR. SCHMIDT: Certainly, Your Honor. So the other

matters that remain open are a series of objections to repetitive -- what the examiner calls a repetitive and uninformative entries. And they primarily relate to entries by my partner, Mr. Rogoff, who until recently, was the partner level traffic cop, for lack of a better word, on the case. He directed all case related activities, interacted with partners in other departments. He fielded hundreds, if not thousands, of calls and e-mails during this time pe -- 'cause he was the name on the masthead for the creditors' committee. During this time period, the bar date took place which generated a substantial number of calls and e-mails. We have a log of every call that came in that Ms. Sharret maintains and I believe it was well into the thousands.

So there were very routine tasks that took place --

THE COURT: Pause, please, Mr. Schmidt, because I assume that the log would show the caller, date and approximate time. But would it show the lawyer or para who fielded the call? And if so, would it show the amount of time that the lawyer or para has spent in dealing with it?

MR. SCHMIDT: I would have to confirm that, Your Honor. With respect to calls, we had a GM hotline number set up. Calls came into that hotline. They were monitored. The hotline -- a message box was monitored on a daily basis and the responsibility was doled out amongst various attorneys. But in terms of this category, a number of calls mean those came in

directly to Mr. Rogoff who dealt with them as expeditiously as possible on a daily basis.

THE COURT: So you're saying that some came into the hotline and some may have somehow found their way to Rogoff without going through the hotline.

MR. SCHMIDT: Precisely, Your Honor.

THE COURT: All right. Continue, please.

MR. SCHMIDT: So, Your Honor, with respect to that category of objections, and the amount is 17,355 for a fifty percent reduction being sought, we offered to -- well, what we thought in conversation was a logical approach. The fee examiner's counsel questioned why this type of task was being done by somebody at Mr. Rogoff's seniority level. What we offered to do as a compromise was to basically across the board in that category, reduce Mr. Rogoff's hourly rate to the rate of a first year partner at the firm. So we do believe it was partner level responsibility work but we reduced it down to the lowest partner level hourly rate which I believe was 680 dollars.

THE COURT: The problem that I have, Mr. Schmidt, another head scratch. If you're talking about fielding a call from a creditor, with the benefit of hindsight, you might know that this was such an easy question the creditor was asking. Let's just take an example: so what's the bar date? What's the date that I mail my proof of claim into? That you could

deal with it with a second year para. But other things might be of the level that they would require not just a lawyer but even a lawyer at the partner level. And I -- how do I deal with the situation that you don't know what level of staffing is required until you know the exact issue that the caller is raising?

MR. SCHMIDT: Well, that -- Your Honor, we can only be as practical and judicious as we can be. I know if I get a call on something similar, like how do I file a proof of claim, what do I do, I'll refer it to either a junior associate or a paralegal where possible. Sometimes it takes more time to delegate things out; it's sometimes easier to do it yourself and field the call yourself. So I don't know that there's any real --

THE COURT: Yeah. You hit on another thing. To go through the ritual of farming out an inquiry rather than dealing with it yourself has costs associated with it also.

MR. SCHMIDT: That's absolutely correct, Your Honor. So it really is incumbent on the attorney to be judicious and be practical wherever possible as Mr. Karotkin noted in his argument. There's no magical line of demarcation. You just have to do your best.

THE COURT: I hear you. Continue, please.

MR. SCHMIDT: So, Your Honor, so we thought our proposal to reduce that category of time by 7,800 dollars was

appropriate and reflective of a responsible way to deal with the matter.

Moving on, Your Honor, vague entries was obviously another topic that the fee examiner objected to. Mr. Karotkin handled that quite well. I will just note just because an entry has a word like "follow-up on" or "attention to", that seems to be a magical buzz word for the fee examiner's --

THE COURT: Well, you know, funny you said that, Mr. Schmidt because on "follow-up", I can agree with you. But I have seen "attention to" or "attention to matter" since the first bill I saw which I probably saw as an associate and not a partner. And it's always been like chalk on the blackboard to me. I really hated when people described their services that way because it doesn't tell the reviewer or even the client a blessed thing. So how much of that do we have here?

MR. SCHMIDT: I don't have a breakdown on that, Your Honor. I think the vague entry challenges were a variety of different categories. For example, Your Honor, one area of notice would be where two lawyers, to use an example, in our environmental group are having a conversation in recorded in the environmental matter, the complaint was well, they didn't say what they were talking about. Well, it's two environmental lawyers and the time is charged to the environmental matter. Most of the topics that they would be discussing would be subject to confidentiality because they religiously avoid

disclosing references to any particular sites that may have issues.

THE COURT: Why is discussing the site that has an issue so sensitive?

MR. SCHMIDT: Just for confidentiality purposes, Your Honor. There's a lot of speculation as to what's going on with different sites. People are very keenly focused on the environmental --

THE COURT: Doesn't everybody in the western world know that we've got a polluted site in upstate New York that's been the subject of loud -- not loud but forceful and articulate complaints by both the New York AG and the St. Regis Mohawk tribe?

MR. SCHMIDT: Your Honor, certainly, I think most people do know about it but most people don't know what's going to happen about it.

THE COURT: Right. But the fact that two Kramer Levin lawyers are talking about that site -- and forgive me if I forgot its exact name -- that isn't giving away the nuclear launch codes.

MR. SCHMIDT: That's correct, Your Honor. I would agree with that. Having said that, in an abundance of caution, they've been very careful with their timekeeping records. I will note, as I should have at the onset, in our first response to the fee examiner's initial letter, we did provide

substantial additional and supplemental information with respect to the time entries. The annotations of the time detail were attached to some of the letter correspondence. Having provided that supplemental information, the examiner is still intent on pressing its objection. We just don't think it's appropriate. We think we've provided the additional information with the guidance of the April ruling. The next round, I believe -- the next round of fee apps will hopefully be substantially improved that we think, with that, that the offer that we've made to reduce the vague entry category by five percent was an appropriate "penalty" for whatever flaws the fee examiner and the Court still believe exists.

THE COURT: Okay. Continue, please.

MR. SCHMIDT: Your Honor, on expenses, I won't spend too much time on this because it's so de minimis. I will note that in the entire fee period, Kramer Levin charged the estate for fourteen cars and eighteen late night meals which, I think, in the scheme of this case is de minimis, and in each case was perfectly appropriate and was as a result of pressing matters, pressing committee business that needed to take place late into the evening. And we also provided the fee examiner with specifics of each of those instances. But as I said, it is a fairly modest expense at this point in time. But we do think it's appropriate and compensable.

THE COURT: Okay.

MR. SCHMIDT: Your Honor, I guess the last item that I inadvertently skipped over was block billing which is also de minimis in the context of this case. We provided substantial supplemental information to the fee examiner. We went through the complaint of time entries and supplemented them where we can by going back and looking at things like meeting minutes and notes, e-mail and traffic and the like to assist in reconstructing the time entries that the fee examiner complained about. With that, we also offered up a five percent reduction in that time. The examiner is seeking fifteen percent.

THE COURT: I ruled on block billing last time if I recall because I seem to remember agreeing with the point -- was it Mr. Mayer? -- had made about the purpose of the block billing limitation? Do you remember the percentage that I applied to the block billing objection thing in the Kramer Levin context?

MR. SCHMIDT: I would have to double check, Your Honor. I don't remember the precise percentage even though I read the transcript this morning.

THE COURT: I'm looking at page 30 of the transcript. "I agree with Kramer Levin's contention that the purpose of the block billing rule is to correct abuse where it might appear that lawyers are running the clock fill idle hours." And then I talk about if I ever saw that, what would happen. The

discussion goes on for several pages. I may have to look at this again, Mr. Schmidt, but I'm inclined to go back and see what I said at that time and to try to be consistent.

MR. SCHMIDT: That's fair enough, Your Honor. My point on that is I believe the time was substantially in better shape than the prior application. The fee exam --

THE COURT: That would seemingly be only by reason of the fact that things were less crazed and hectic because you still didn't have my ruling at that point.

MR. SCHMIDT: That's certainly correct, Your Honor. Things obviously, after the closing, substantially -- the emergent nature of the work subsided. There was still a lot of work but it just was not at the frantic and hectic pace. So presumably, it was -- people had more time to accurately record time as opposed to when they're working twenty hours a day on an emergency.

THE COURT: Okay. Does that take care of it?

MR. SCHMIDT: I think I covered all the items, Your Honor. Unless you have any questions, I'll --

THE COURT: Okay. I'll hear from counsel for the examiner now.

MS. STADLER: Thank you, Judge. Katherine Stadler, Godfrey & Kahn, appearing for the fee examiner, Brady Williamson. We've got the transcript from April 29th and are looking for your treatments of block billing to answer that

last question. And I should have that for you by the end of my remarks.

THE COURT: Okay.

MS. STADLER: In response to Mr. Schmidt's statements, I want to first address this issue of the settlement proposal and the evidentiary question presented. The fee examiner and as his counsel, we have viewed this process as somewhat unique and different from an ordinary litigant in a bankruptcy contested matter. The fee examiner was appointed by the Court as an adjunct to the Court's own process of fee review and, as you noted in our last hearing, to assist in releasing some of the burden on the United States trustee's office. While we understand the Rules of Evidence and the purpose of Federal Rule of Evidence 408 as applied in the bankruptcy court, we view our role here as to report to the Court on the efforts the fee examiner is undergoing to both resolve issues and ensure compliance with the Code and the guidelines. To the extent that the Court believes that such offers of compromise and communications from professionals, as the one that we incorporated into our report, should be viewed as privileged and not fair fame for inclusion in a report, we can certainly abide by that ruling. That was not how we understood the fee examiner's role in preparation of this report. Specifically, we can certainly amend the report that we have filed on Kramer Levin to recharacterize the

recommendations as recommendations rather than voluntary reductions and we are happy and able to do that on very short notice. So just guidance from the Court on that point and we can remedy that problem if it is a problem.

To address the sub --

THE COURT: Well, Ms. Stadler --

MS. STADLER: Yes?

THE COURT: -- since everybody in the room and especially you folks wants to -- no. I think I should say especially you folks and me wants to save money, is there any reason why I just can't chalk it up to a misunderstanding and look at the issues afresh from my own perspective?

MS. STADLER: No reason whatsoever.

THE COURT: Okay.

MS. STADLER: On billing and retention, you asked Mr. Schmidt what the dollar amount was. And I'm not sure if there was a miscommunication but Mr. Schmidt said the billing and retention issue for Kramer Levin was a 7500 dollar issue.

THE COURT: Yeah. I heard him in the same way.

MS. STADLER: That's the percentage reduction that we're proposing for Kramer Levin. That is fifteen percent of the total charge for billing and retention.

THE COURT: Fifteen percent of the gross for that matter --

MS. STADLER: Correct.

THE COURT: -- resulting in a 7500 dollar write-off, so to speak.

MS. STADLER: Right. Right. The gross was 48,000 dollars and the details of that are in paragraph 29 of our report. Paragraph 16 of our report notes an additional 6,000 dollars in items that we flagged as clerical but that are also related to time entry and not included in the 48,000 so, in total, were over 50,000 dollars for fee application matters for Kramer Levin.

On the issue of the partner -

THE COURT: Pause, please, Ms. Stadler.

MS. STADLER: Yes.

THE COURT: The fifteen percent of the 48,000 buck gross which led to 7500, was that a -- the gross amount of the adjustment that your folks had requested or was that what Kramer Levin had proposed in the way of a write-off to consensually resolve the matter from the way Mr. Schmidt described it?

MS. STADLER: That is our recommended reduction. I am not aware that Kramer Levin agreed -- or conceded to any reduction in that category.

THE COURT: Thank you. Okay.

MS. STADLER: On the vague and repetitive communications --

THE COURT: Pause, please, Ms. Stadler.

MS. STADLER: Yes.

THE COURT: And if you need to, consult with one of your colleagues on this. If I heard it correctly, you were recommending a fifteen percent reduction on the amount claimed for post-retention getting yourself compensated services, if I can use that expression --

MS. STADLER: Correct.

THE COURT: -- is that fifteen percent the same or different than that recommended for other law firms similarly situated such as Weil and perhaps Butzel --

MS. STADLER: There's a difficulty there, talk about a head scratcher, finding two law firms that are similarly situated. The situation of Weil and the scope of the services provided there versus the creditors' committee versus a special counsel like Butzel Long, it's very hard, in the fee examiner's view, to find, as you said, the sweet spot, what the right number is without taking into consideration the nature of the engagement, the kind of work that was being performed in the fee period.

THE COURT: So basically, you were more fact specific in terms of recommending a particular reduction --

MS. STADLER: Yes.

THE COURT: -- as compared and contrasted to saying fifteen percent is always the appropriate adjustment to be made for the cost of getting yourself compensated after the filing

of a case?

MS. STADLER: That's correct. There was no bright line applied to professionals on this.

THE COURT: Okay. Continue.

MS. STADLER: The issue of the partner billing in excess of 50,000 dollars for repetitive tasks, I want to be clear on the source of the fee examiner's concern about these entries. It is not, or at least it wasn't initially, that the timekeeper was doing work that was below his pay grade. If you look at tab E to the fee examiner's report, there is a detail of 50,000 dollars in time entries that --

THE COURT: Ms. Stadler, I'm going to have to apologize to you. So that I can leave this stuff in varying places and when I can, I don't always take all of the exhibits with me. So while I read your master report, if I can call it that, plus each of the individual objections, I did it without the benefit of the attachments. So if there's something that you want me to see, I'll trust you to characterize it. But if you think I actually have to eyeball it, I need you to hand it up to me.

MS. STADLER: Okay. I don't think you actually need to eyeball it.

THE COURT: Okay.

MS. STADLER: I think I'll characterize it for you and if you disagree, I'd be happy to hand up a set for the

Court.

The descriptions that are objected to -- I can't even find an instance flipping through. Well, I guess there are calls to creditors regarding status of case. That shows up over and over again: .2, .5, .3. But it also includes "attention to staffing and project allocation", "attention to staffing and project allocation", "attention to sale", "attention to real estate issue", "attention to" -- again -- "project staffing". First of all, not all of it is fielding creditor calls. And, second of all, the nature of the fee examiner's criticism of this biller's time entries, which, incidentally, is not the first time we've seen it, is that there's no way to tell exactly what that timekeeper was doing in that time. If he was fielding a call from a creditor who saw his name on a pleading and was asking about the bar date for a proof of claim, there's no way to know that. And whether it is or isn't in his pay grade, the point is the descriptions we're getting for that timekeeper's work, which is substantial, doesn't allow us to determine whether that timekeeper is adding value to the estate at any billing rate but particularly when that billing rate is over 800 dollars an hour. And again, this is not the first time we've seen this infirmity with this particular timekeeper. And unlike the other professionals, Kramer Levin did have a chance to fix the fee application after the April 29th ruling because they specifically called the fee

examiner, asked if we had an objection to their providing a supplement. And we said no, of course we didn't. So they did fix it once. And these are the infirmities that remain after having the application reviewed and revised in light of Your Honor's April 29th ruling.

At some point, as you've been saying all day, a line has to be drawn. And we think that it is reasonable to draw a line and cut the time of a timekeeper who is failing to disclose the value they're adding to the process at fifty percent.

You also asked Mr. Schmidt how much of the time is attention to the exhibits that include those vague communications and vague tasks, those two categories there. The "attention to" appears in the "Vague Tasks" category. And flipping through, it's a substantial portion. That is something that we can easily quantify with the help of Stuart Maue. If the Court is interested, we'd be happy to provide a supplemental filing that quantifies the "attention to" entries.

On the expenses, the issue has been discussed. And I don't want to belabor it.

THE COURT: Pause, please, Ms. Stadler.

MS. STADLER: Yes.

THE COURT: What's the gross amount of the vague category and the net amount for which you're asking for a reduction?

MS. STADLER: Exclusive --

THE COURT: I mean, I assume it's in your --

MS. STADLER: -- of the repetitive entries that I just discussed, which is about 50,000, we have 23,000 dollars in "Vague Communications". That is, communications where the subject matter and the recipient of the communication isn't identified. And 70,000 dollars in "Vague Tasks". Plus an additional 50,000 in --

THE COURT: Wait. I lost you. Can you either repeat yourself or flesh out what you just said because I didn't understand the difference between the 23,000 --

MS. STADLER: Okay. "Vague" --

THE COURT: - bucks and the 70,000 bucks.

MS. STADLER: Yes. I'm sorry about that. "Vague Tasks" would be tasks that are described by timekeepers other than the specific one that we singled out, too vaguely to determine what the value provided was. That total is $70,185.50. "Vague Communications" are communications that have not identified the subject matter or the recipient of the communication. And that total is $23,237.83. And then there's a third category of "Repetitive Task Entries" which also are vague but are not included in those other numbers. This is the Rogoff problem which is a 50,000 dollar problem on this second fee application. So all told, 110,000.

THE COURT: And you were --

MS. STADLER: The reduction --

THE COURT: Yes. Forgive me.

MS. STADLER: That was the second part of your question. The reduction, we recommended for the repetitive tasks of the individual timekeeper. In other words, the staffing and allocation of work was a fifty percent reduction of the 50,000 dollar category. So approximately, 25,000.

The reduction we have recommended for the vague timekeeping -- give me a second -- is, I believe, fifteen percent. Yes. Fifteen percent of vaguely described services or a total of about 15,000 dollars. And then what --

THE COURT: That being roughly fifteen percent of 93,000 bucks?

MS. STADLER: Fifteen percent would be the proposal, yes.

THE COURT: Okay. And then what we haven't discussed is the block billing which, as Mr. Schmidt said, was a smaller problem. That was about a 30,000 dollar problem on this fee application. And we suggested a similar but maybe a little bit higher reduction for the block billing. Oh, we suggested a fifteen percent reduction of the -- on the block billing as well. So that would be another 3,000.

Now, to answer the question we started with, in the first interim fee period, Your Honor disallowed 30,000 dollars of Kramer Levin billing for vague entries and 50,000 dollars of

disallowances for block billing. And of the total fee applications --

THE COURT: Like Professor Kingsfield, every question leads to another question.

MS. STADLER: Yeah.

THE COURT: What kind of percentages was I talking about there?

MS. STADLER: I'm going to have to pull this first fee application and answer that in a moment.

THE COURT: Okay.

MS. STADLER: Something less than twenty-five and fifteen 'cause we had recommended twenty-five and fifteen last time and thirty and fifty was less than that. But I don't know what the exact percentage is.

On the expenses, I think the car services and meals have been discussed ad nauseum. I will just add that in terms of drawing lines, on behalf of the fee examiner, I am confused by how a six-hour spent on a project during the day justifies a late night cab because if a professional works six hours on one case and six hours on this case, why is the cab being billed to the estate and not the other client?

THE COURT: Well, I hear you. But the difficult part is if you do the six hours on your other client the first time and you spend six hours at night, you might get one result. But that also is a function of somebody perhaps deciding when

he or she is going to do the work. On the other hand, sometimes you can't do the work until the surrounding legal life you have permits you or requires you to do the work.

MS. STADLER: Right.

THE COURT: And anybody who's been an associate in a law firm, and I suspect there are some associates in the room, know that some partners have a knack for telling you to do the work at 4:00 in the afternoon or thereafter.

MS. STADLER: Right.

THE COURT: And again, I got a head scratcher, Ms. Stadler.

MS. STADLER: I agree with you. I think the easy answer is to, as we did with the initial phase of this case, acknowledge the exceptional nature of the time period, assume that the late night cabs that were taken and the car services and the meals that were taken in the six weeks were due to long billing days that were required by the exigencies of the case. During mis -- shall we call it a period of lower or more manageable work loads make the assumption that none of them are and perhaps when plan confirmation time comes around or some other big issue comes around where the volume of work picks up again, we can create another amnesty period and maybe hope that it washes out. It's not an easy question to answer. The fee examiner raises the issue in light of the Court's comments at the last hearing and seeks the Court's guidance on how we

should be treating those matters going forward.

THE COURT: Okay.

MS. STADLER: I'll get you an answer on the percentages on the --

THE COURT: That's fine.

MS. STADLER: Thank you.

THE COURT: Okay. Mr. Schmidt, I'll take brief reply.

MR. SCHMIDT: Your Honor, as I was sitting there listening to Ms. Stadler, she used the word professional several times. And we can't lose sight of the fact that we are professionals. Lawyers are professionals. They have ethical rules that they need to abide by. And I think it really delves into extreme micromanagement to get too concerned over whether a professional decides at 10:00 in the evening they do want to take a car home as opposed to the subway. I think we really spent --

THE COURT: Oh, I would not for half a second suggest to anybody who lives in the New York metropolitan area that he or she needs to take the subway at 10:00. But it's complicated by the fact that the issue is whether the law firm which presumably is getting more than the -- for whom the firm is getting 200, 400, 600, 800 or 1,000 bucks an hour for the lawyer's professional time absorbs the cost of that lawyer's cab ride or puts it on the estate.

MR. SCHMIDT: Fair enough, Your Honor. But I think you have to rely on the professionals to know if they're working till 9, 10 on a GM-related matter that it's an appropriate expense to bill through. Your Honor is correct, you don't always know what your schedule is. You don't always know when issues are going to arise, when you're going to have to work late. You don't always have the luxury of saying, okay, I'm going to work on Chrysler in the morning and GM in the evening, or vice versa. Sometimes out of all of our control. That's the only point there, Your Honor. And it is, as I noted in our application, a fairly minor element of the expenses sought.

Your Honor, we did spend upon getting the examiner's report, a fair bit of time supplementing the time detail and providing explanations. They seem to largely have been ignored which is somewhat frustrating. We certainly will be more vigilant in the upcoming fee applications in light of Your Honor's rulings. We do believe that the time detail is accurate and clearly shows what work was being done and why it was being done.

So, on that front, Your Honor, I can only say we just disagree with where the fee examiner is coming out. We believe the voluntary reductions that we have offered up are appropriate. And we would rest on the argument in the papers.

Oh, and on the 408 point, Your Honor, I'm happy to

chalk that up to a misunderstanding. I do think that this process should be a cooperative process. You should be able to speak freely and have a dialogue without it coming back to bite you. But we will work on that on the next go-around.

THE COURT: Well, I totally agree that people should speak freely. By the same token, I think that any offer requires an acceptance. And I assume you can live with me giving everything a fresh look and saying no hard feelings to the extent either side mischaracterized the other's position. It was just a misunderstanding.

MR. SCHMIDT: That's absolutely correct, Your Honor.

THE COURT: Very well. Okay.

MR. SCHMIDT: Thank you.

THE COURT: How much do I need to deal with on FTI? Is there somebody here on behalf of FTI?

MR. EISENBAND (TELEPHONICALLY): Your Honor, Michael Eisenband is on the phone.

THE COURT: All right. Mr. Eisenband -- frankly, Mr. Eisenband, since you were ahead on the tentative except for having to eat charges on meals, I'm going to ask the fee examiner's rep or counsel to speak first and you can respond, Mr. Eisenband.

MR. EISENBAND: Thank you, Your Honor.

THE COURT: Come on up, please.

MS. ANDRES: Thank you, Your Honor. Carla Andres of

Godfrey & Kahn. I've had the privilege of speaking with Mr. Eisenband in vigorous debate over the past few weeks. And essentially, the bottom line on this, Your Honor, is that the fee examiner is not requesting specific disallowances in connection with any of the fee applications, the interim fee applications of FTI. Instead --

THE COURT: Do you want simply a reservation of rights come final fee app time?

MS. ANDRES: Exactly, Your Honor. And we believe absent further guidance from the Court that the appropriate way in which to evaluate that is on a going forward basis as we received each fee application to make that something that we can evaluate in a manageable manner at a time when it's still fresh in the minds of FTI and their professionals as well when we have questions and concerns. As you can see from their report, there were certainly many, many issues which we were able to raise and work through a resolution of which addressed our concerns. And I believe that was necessary and appropriate as part of the process.

THE COURT: All right. In light of that, do you need to say anything, Mr. Eisenband?

MR. EISENBAND: I do not, Your Honor.

THE COURT: Okay. I can rule on this one on the spot then. You have the reservation of rights as, of course, does Mr. Eisenband and his firm. And Mr. Eisenband, you're going to

have to eat the incremental charge over the standard amount.

MR. EISENBAND: That's fine.

THE COURT: Okay. Butzel Long.

MS. ANDRES: I have Butzel Long as well, Your Honor.

THE COURT: Okay. On this one, however, I need to think for a second as to the order. Since Butzel Long is ahead on the tentative, I think I want to hear from you while you're up there, Ms. Andres.

MS. ANDRES: Thank you. I also will keep Butzel Long brief. As you're aware, it's a very narrow issue. On the first interim fee application, the fee examiner had raised concern regarding the time related to compensation. And we certainly have the Court's remarks on that and the benefit of those. And as we understand it, we've reached an agreement that it takes a certain amount of time in which to deal with retention issues regardless of how much time is or isn't billed. We do not believe, however, that the issue of billing and fee applications is necessarily something that should come out in the wash. Both the first fee application and the second interim fee application were in the approximate range of 250,000 dollars. Sixteen percent of the time billed on the second interim fee application was related to billing and fee application. We also had broken out time that was identified as administrative and clerical time much of which was reviewing invoices, communicating with the accounting department

regarding the pro formas and similar issues. We did not request a disallowance in connection with the administrative and clerical issues, which fell into two general categories, not solely invoicing, but instead identified the fact that because we were requesting a disallowance in connection with the billing and fee application process that those amounts be subsumed in the more general disallowance.

We did request a four percent across the board ceiling, if you will, on fee application, not for a particular reason but in light of the fact that we are aware in Lehman, as you are, that one percent was a suggested number looking --

THE COURT: Well, pause there, Ms. Andres.

MS. ANDRES: Sure. Absolutely.

THE COURT: I saw at page 7 of your brief "A one percent cap for compensation in ongoing billing matters has been suggested in Lehman Brothers." And when I read that, I scratched my head. Passive voice. Doesn't say who it was suggested by. It doesn't give me the statement as to whether it was a judge, on the one hand, or an advocate on the other. And it doesn't give me the transcript of the ruling or any written opinion by which the ruling was articulated. Parties quoted me early and often from the April 29th transcript. But there was no comparable quotation from a judge vis-à-vis this. Frankly, I don't know how I deal with that statement unless there was something in your submission that I missed.

MS. ANDRES: No, Your Honor. There was not anything in the submission that you missed. That recommendation or suggestion, if you will, came from the fee committee. I'm not aware -

THE COURT: From an advocate?

MS. ANDRES: Yes, absolutely, Your Honor. And we are not advocating that one percent is appropriate. We simply have provided that as a range of which has been discussed. We chose four percent looking more at what appears to be reasonable in light of the work that has been performed. As Ms. Stadler spoke earlier, each fee application we have reviewed on its own individual basis as well. And the work that has been performed by Butzel, which has been requested and has been admirably done, the billing for that work is fairly routine, fairly straightforward and not complicated. And again, sixteen percent of that time which amounted to approximately 36,000 dollars was spent reviewing the fee application, reviewing the invoices and preparing the fee application. So the four percent was proposed as an alternative. Certainly, if there are other ways -- there are certainly other ways to evaluate what an appropriate cap should be or whether simply making a disallowance for services that would have been provided to any other client for billing or invoicing matters should be disallowed.

THE COURT: Okay. Am I right that that's really the

major bone of contention --

MS. ANDRES: That is the major bone of contention --

THE COURT: -- between you and Butzel?

MS. ANDRES: -- in this particular case, yes.

THE COURT: Okay. Mr. Fisher?

MR. FISHER: Good morning, Your Honor. Eric Fisher from Butzel Long, special counsel to the creditors' committee. As Your Honor indicated in the tentative ruling, the principle here is similar to the principle that Your Honor addressed with regard to the Butzel fees at the earlier hearing. And that is, where the fees incurred for substantive work are relative to the case modest, is it appropriate to apply a percentage cap when considering fees incurred in connection with getting compensated or the earlier ruling related to fees related to getting retained? And we think, here, that the four percent cap that's been applied is arbitrary. There is a certain minimum amount of work that needs to be done in order to responsively prepare fee applications that comply with the guidelines and comply with the orders in this case. And we've done that. The amount came to, as the fee examiner indicated, approximately 35,000 dollars, fees related to getting compensated. We believe that, overwhelmingly, those fees relate to the incremental cost associated with what needs to be done to get compensated in a bankruptcy case such as this and do not relate to routine billing matters that we would not

typically pass along to a client.

The disallowance here, with regard to 35,000 dollars of fees incurred related to compensation matters, the fee examiner seeks to disallow approximately 25,000 dollars of that. And that would be the implication of the four percent cap. There's no basis for the four percent cap. There's no reason to think that the four percent cap in any way roughly approximates the distinction that Your Honor was trying to make between the costs that ordinarily would be incurred in preparing a bill for a client and the incremental cost of preparing a fee application in bankruptcy court. If the analysis were merits-based, as I indicated, overwhelmingly, the 35,000 dollars relates to fees incurred specifically because this is a bankruptcy case and there are specific tasks that need to be done in order to present our monthly fee statements and fee applications in a manner that complies with all the guidelines.

THE COURT: Mr. Fisher, I assume that you're in the middle of, for lack of a better word -- I'm sure there are a ton of better words -- combat with Mr. Callagy now on the underlying controversy for which you were hired?

MR. FISHER: Yes.

THE COURT: Am I correct in assuming that your fees for that battle with counsel for the bank or for the banks affected by your underlying adversary are likely to be

relatively substantial?

MR. FISHER: I think they are, Your Honor. I believe they'll continue to be extremely reasonable. But I don't -- but they'll likely be more than they were during this last fee application.

THE COURT: We talking about hundreds of thousands of dollars?

MR. FISHER: Your Honor, I'm not sure. I'm not sure if that's the order of magnitude.

THE COURT: Plus your point is that apart from me choosing the time period which would be the metric for applying any formula, the underlying concept that I articulated in April 29th rulings remains applicable here.

MR. FISHER: Yes, Your Honor. And to your point, I do expect that the fees for substantive work will increase as a result of work that we're doing on the JPMorgan term loan litigation and other litigation related work that we're now performing. As a result, this may not become an issue in the future.

THE COURT: Oh, you're doing work besides the JPMorgan combat?

MR. FISHER: Yes.

THE COURT: Okay. Anything else?

MR. FISHER: No, Your Honor.

THE COURT: Okay. Ms. Andres, any reply?

MS. ANDRES: Not in connection with that, Your Honor. I would, at your convenience, like to address Mr. Karotkin's concern about the two-cent e-mail as well just to keep that issue --

THE COURT: Now you're up. Why don't you do it now?

MS. ANDRES: Your Honor, rather than to leave a statement like that dangling out there and everyone wondering, we have been preparing, in anticipation of the Court's ruling, a summary of the amounts that have been paid by the debtor to the professionals and the amounts that the professionals' records show that they have received. That was a process which took a bit of time subsequent to the hearing last time simply because numbers would be off by a few dollars, many dollars, a few cents. And in any circumstance, all of the parties believe that their numbers are correct and want an opportunity to respond to that. We were able to flag one of those issues as we were preparing the fee application and simply sent an e-mail on to AlixPartners to make them aware of the discrepancy so that we could have that clarified in connection with the order. I just wanted the Court to be aware of that.

THE COURT: All right. Let's turn now, folks, to Maue -- or if I'm mispronouncing it, somebody correct me. It seems to me that the matter of Maue's compensation is, for what it's already done for which I've already retained it, doesn't require a judicial decision. But I want to hear argument on

whether I should continue to have Maue for services beyond the second fee period, the one I'm ruling on by reason of today's arguments. And for that, I need to know what kind of bang for the buck I'm getting here. I guess I need to hear from somebody from the fee examiner on that first.

MR. WILLIAMSON: Thank you, Your Honor. I will do that. But with the Court's permission, I'll take forty-five seconds to give you some of the data you requested.

THE COURT: Sure.

MR. WILLIAMSON: And several transitional matters that I think will take us from where we've been to where the Court wants to go.

First, you had asked about the percentages that the Court applied with respect to Kramer in the first period. For block billing, it was seven percent. And for vagueness, it was eighteen percent. Now, to be precise, that was not our recommendations. Those were the Court's conclusions.

I can give the Court the precise numbers but I think the Court can --

THE COURT: Mr. Schmidt, before we're done, I'm going to give you a chance to be heard even if it's a correction. But I want Mr. Williamson to continue for now.

MR. WILLIAMSON: Your Honor, Ms. Stadler has already corrected me. It was seven percent for block billing and ten percent for vagueness.

THE COURT: All right. Pause, Mr. Williamson. Is that what you were about to correct -- to say, Mr. Schmidt?

MR. SCHMIDT: A slight variation on that, Your Honor. Our numbers aren't putting on repetitive and vague. We had four and a half percent is what -- what our records show. And at this point, on repetitive, the fees that we're seeking, fifty percent and -- on repetitive and fifteen percent on vague. In each of those categories, we voluntarily offered up a five percent reduction.

THE COURT: All right. Fair enough. There is a little bit of a disconnect here. I'm not of a mind to find either side in bad faith. But as a preview of what I'm going to tell you after we deal with Maue, I'm not going to be able to dictate a decision today because of a conflict I have this afternoon that's going to cause me to want you guys to stay for a dictated in-court ruling. And we're going to have to arrange for an on-the-record conference call for me to deliver my ruling which I don't think I can do today.

So I would like you, Mr. Williamson, or one of your colleagues to put your noodle together with Mr. Schmidt or one of his folks to see if you can come up with a joint answer to me on what you apparently have a difference of. And if possible, I would like it in the next twenty-four hours.

MR. WILLIAMSON: Fine, Your Honor.

THE COURT: Okay.

MR. WILLIAMSON: I had three points to make on your three head scratchers --

THE COURT: Yes, please.

MR. WILLIAMSON: -- which are not in -- by way -- not by way of rebuttal but simply observations.

First, with respect to transportation home, it seems to me that the hours spent on General Motors during the day has to be a factor. And it seems to me that the hour of the day has to be a factor because a partner or an associate who works from 10 a.m. to 4 p.m., even straight, on this matter, one would think would not have an exigent need for either safety reasons or dignity reasons or any other reasons to charge the estate for going home. If the work is from 4 to 10 p.m., obviously, it's a different matter. That's point one.

The second, Your Honor, on this question of reviewing time records, put aside bankruptcy, my experience has been that clients generally have become far more demanding for lots of reasons about the detail of lawyers' bills, the precision of lawyers' bills and the clarity of lawyers' bills. And if I'm a responsible partner in a nonbankruptcy case and my three colleagues work on that case, and they write down their time contemporaneously and diligently, I still review their time. So it is not sufficiently nuance to say well, we're viewing time records, we're viewing billing entries, is compensable. I don't think it is because as a supervising lawyer on a matter

that goes with the territory. That's what clients expect and I would argue that's what the ethics rules generally expect. So the literal review of the record begs the question.

Third and last point. This question about vagueness. And the Court talked about the environmental matter in upstate New York. Why does it matter? Well, it matters because two weeks or two months or two years from now, it would be nice to be able to aggregate all of the work done on that environmental matter for that site to see if the lawyers, as a whole, given the amount of time they spent added value.

THE COURT: I hear you, Mr. Williamson, but wonder if it's more complicated than that because I am not an environmental lawyer but like most practitioners, and certainly as a judge, I've seen it on my watch. Certain underlying principles can cut across multiple sites. By way of example, whether claims are pre-petition or post-petition, whether they're dischargeable or not. And sometimes that kind of mathematical aggregation is going to be helpful. And sometimes it's going to be either unhelpful or misleading. So I got like a fourth or a fifth head scratcher, or whatever we're up to in our count. And you're nodding but other than saying you don't grossly disagree with me --

MR. WILLIAMSON: No. I --

THE COURT: -- you're kind of acknowledging that that's another head scratcher?

MR. WILLIAMSON: Absolutely, Your Honor. But it goes to a point the Court has made repeatedly which is the application of judgment, judgment by the professionals who are billing, judgment by the fee examiner, judgment by the U.S. trustee and by the Court. But one thing is certain. If we don't have the data to aggregate, we can't make a judgment. It's simply not possible to make a judgment. And I -- perhaps the representative of IMC but the number of sites that require environmental attention is legion. And I think we are going to spend an awful lot of time down the road on environmental issues and asbestos issues. And knowing at least the site, it strikes me, is fairly important. And that would be true both for asbestos and for environmental. The Court, I'm sure, will be delighted to know that it hasn't begun to see the applications from professionals involved in the asbestos process. But we've been getting monthly --

THE COURT: Well, my delight depends on whether the issues are going to go away or I should be thankful that I didn't have to deal with them so far.

MR. WILLIAMSON: Both. Last point, Your Honor, before we get to Stuart Maue on the question of professionalism and trust. And, of course, the people we are dealing with are professionals. Of course they are to be trusted. But at the risk of using a political analogy, it's also a trust but verify which is why the U.S. trustee has its job and why the Court has

its job and why the Court, so far at least, has chosen to ask for and receive the assistance of the fee examiner. But human nature and professionalism coexist. And as a result of that, this last group of applications, there was 18,000 dollars for pre-petition expenses. There were --

THE COURT: Which I assume was voluntarily corrected when you identified it. But you're saying the Maues of the world are needed to ascertain that.

MR. WILLIAMSON: Absolutely. We had two instances where the number of hours in a day exceeded twenty-four.

THE COURT: Which was later explained because, by error, multiple professionals had been bundled together?

MR. WILLIAMSON: Absolutely. But again, my point, as I stated in our summary, was not to --

THE COURT: But any reasonable person would ask a question once that fact became known?

MR. WILLIAMSON: Right. And any reviewing supervising attorney or, in the case of a non-law firm, a supervising partner, one hopefully would have seen 25.6 and say, wait a minute, this isn't right. And that kind of review, that kind of catch has nothing to do with bankruptcy. It has to do with making sure that a professional's fee applications are accurate and descriptive and meets the client's needs.

So those were my generic observations on head-scratchable issues.

THE COURT: All right.

MR. WILLIAMSON: We can move to Stuart Maue if the Court would like.

THE COURT: Yes. However, I thought your point about trust but verify was a Maue point.

MR. WILLIAMSON: Your Honor, it was but --

THE COURT: I understood the scratches you were commenting on to be on transportation, on clients being more demanding -- as relevant to how I compartmentalize the review process. You're saying the clients are more demanding in the non-bankruptcy context and the third issue being that more detail is required in time sheets to facilitate aggregation analysis --

MR. WILLIAMSON: Right.

THE COURT: -- and things of that sort.

MR. WILLIAMSON: Correct, using Mohawk as an example.

THE COURT: Okay. But the trust but verify point was an early comment on Maue?

MR. WILLIAMSON: Yes, Your Honor, but it also goes to the concern here, and it's across the board, in how much time is being spent on fee applications. If all that time meant we no longer saw twenty-five hour days, if it meant that we no longer saw first-class airfares, we still see that, if it meant that we no longer saw prepetition expenses, then it would be easier to say four percent is too draconian we're getting bang

for our buck because these fee applications are terrific.

But I don't think we're quite there yet, Your Honor, and maybe we will reach a point but we haven't yet, where we can deemphasize the verify because of the long shadow cast by the trust.

THE COURT: Continue please, Mr. Williamson.

MR. WILLIAMSON: Well, let me give the Court some specifics on Stuart Maue and then my co-counsel will give you some more detail.

Just to give you the balls for, the Court approved, if I understood it correctly, 197,000 in the fee application by Stuart Maue. That covered the initial 85,000 dollar cap. The Court will recall that was a condition of the initial retention of Stuart Maue. And then the additional 110 to bring us to roughly 197.

THE COURT: Which covers services through January 31st time period?

MR. WILLIAMSON: Roughly, Your Honor, but a little bit more and the reason is because of the fact that some of the initial fee applications were deferred. The Court will recall, some were deferred to today and we combined them. So we didn't quite use a linear, chronological approach to Stuart Maue. But, taking the 197 as approved, if we brought Stuart Maue's services to today, probably not counting the travel and the time here, it would be an additional 230, with an important

caveat. Mr. Karotkin asked, rhetorically, whether the fee examiner had applied the same stringent standards to Stuart Maue that it was applying to the other professionals and the answer is yes.

The 197 for which Stuart Maue has applied was a reduced amount based on a negotiation. The 230 for which Stuart Maue will apply, will be a lesser number, I suspect, because of the approach that we will take to its second round.

THE COURT: Continue, please.

MR. WILLIAMSON: So that's where we would be with Stuart Maue, as of today, in the neighborhood of 400,000 dollars. Again, assuming a ten or fifteen percent reduction, not counting hold backs or any of those other items.

Now Stuart Maue, like the fee examiner, has the same dynamic that all of these other professionals have. That is to say, the startup has increased cost at the beginning. The value of the fee examiner and Stuart Maue cannot be judged today, any more than the value of Weil Gotshal or Kramer Levin or any of the other fine firms convened, Judge, today.

What I think is indisputable, at least to me because I'm the one with the responsibility given to me by the Court, is that this job in a case of this dimension, and I think we're now at eighty million dollars in fees, can't be done without the assistance of Stuart Maue in particular or failing Stuart Maue a firm like Stuart Maue.

Now the Court made an observation about the Lehman Brothers case, we made an observation and the Court picked up on it. The fee process in Lehman Brothers has followed a different path. The bankruptcy court in Lehman Brothers has not provided on-the-record guidance in quite the same way that this Court has provided on-the-record guidance. That's obviously not a criticism, it simply --

THE COURT: He has a lot of operational and legal issues on his plate that in GM I've been spared from for a number of months, although I have a fear that it's a comma in the storm.

MR. WILLIAMSON: But there is no doubt that the fee committee, of which Ken Feinberg is only one member, has had, since the outset, a great deal of concern about the amount of money that it takes to submit fee applications.

And it's no secret that Mr. Feinberg and his staff and I talk on occasion because, for better or for worse, these two cases get a lot of attention. And I think the issues that have arisen in St. Vincent's, Lehman Brothers, Chemtura, all of which we ought to be aware of and most of us are, are informative. There has been no ruling, no imposition of a sealing on fees on fees in Lehman Brothers, but I suspect that day will come and I know the committee has a very hard position on that and it is their recommendation, it has not been a ruling.

THE COURT: Continue.

MR. WILLIAMSON: Well, I think that provides the context, Your Honor. We have a representative of Stuart Maue here. The process they use is not only useful but it's fascinating because it's not just off-the-shelf computer ware that they use to do the analysis that they do. And all of the exhibits that have been produced and provided to professionals were produced and provided by Stuart Maue.

THE COURT: Well, I'm not sure if that's necessary, Mr. Williamson because, subject to people's rights to be heard, I'm most concerned with what it gets us in terms of either savings and/or prophylactic benefits that aren't subject to quantification and what it costs.

So I don't hear there being an issue of fact relating to the technical aspects of how Maue does it's job and I'm going to assume, for the sake of the discussion, subject to your opponent's rights to be heard, that you're certainly benefitting from it and what you said in your brief is the ways by which you benefit from it.

There is one other thing I need to know, though. You mentioned that there had been approximately eighty million dollars in fees and I guess the record will reflect, although I don't know it off the top of my head, how much has been secured by reason of either consensual reductions and requested fees or me ruling on the fact that there had to be reductions by reason

of your folks' efforts.

In the context of that eighty million dollars in fees, do you have, in rough terms, what the fee examiner's costs have been? You and your firm?

MR. WILLIAMSON: Through -- I made that inquiry, Your Honor, and the amount, again subject to adjustment, reduction --

THE COURT: Of course.

MR. WILLIAMSON: -- through the end of May, is about 700,000.

THE COURT: All righty. Thank you. Anything else before I give Mr. Karotkin and/or others a chance to reply?

MR. WILLIAMSON: No, except that Mr. Wilson will probably do any rebuttal based on the observations of the debtors' counsel.

THE COURT:

Okay. Thank you. Mr. Karotkin.

MR. KAROTKIN: Stephen Karotkin, Weil Gotshal, for the debtors.

A couple of observations on Mr. Williamson's observations about transportation.

THE COURT: Sure.

MR. KAROTKIN: I suppose now he's saying that in addition to normal time, my colleague should be tracking the exact time of day when they're doing the work on behalf of GM

in order for transportation to be reimbursable.

Again, Your Honor, let's have pragmatics. It, kind of, evens out at the end of the day. Sometimes, as you indicated, it might be charged to General Motors when that much time is spent, sometimes it would be charged to another client. And let's just not get lost in the forest over this type of issue; we've proposed a reasonable --

THE COURT: Well pause please, Mr. Karotkin. I mean, on the one hand we have to be practical and we have to use common sense but on the other hand, doesn't it make a ton of difference between whether the -- and I recognize you can't put Humpty Dumpty back together again for time records that have already been maintained and disbursements that have already been recorded, but it would, at least seemingly, make a huge difference between, take his example, between whether the services are performed between 10 and 4 on the one hand and are performed between 4 and 10 on the other.

MR. KAROTKIN: Well first of all, Your Honor, services could be performed at various times during the day. There could be two hours in the morning, there could be an hour in the afternoon and there could be three hours in the evening. It's not always a block of time, as you know, you were involved in the practice of law.

Again, Your Honor, we can spend more money in doing the time records to address these issues then it's all worth at

the end of the day. What we've done is we have submitted a pragmatic solution and we would ask the Court to accept that as a reasonable way to proceed. And I think, Your Honor, frankly we spent enough time on this issue, perhaps more than it's worth at the end of the day.

As to the reviewing of time records, as I indicated with normal non-bankruptcy clients the review is completely different. Not all clients, in fact most clients do not expect the same type of detail that we are required to do in connection with cases. And in some instances, Your Honor, some clients don't require time records at all, as you know.

With respect to the vagueness issue and how it's important for the fee examiner and Mr. Maue to know how much time relates to an individual environmental site, frankly Your Honor, that escapes me. There are probably seventy sites we're going to have to deal with in the environmental owned property issues that will be dealt with under a plan. All of these issues are related, as has been reported in the newspapers. We are hopeful and it is our current expectation that there should largely be a global resolution and we are hopeful we get a global resolution of the environmental issues and that parade of horribles that Mr. Williamson is alluding to will not be before Your Honor.

Frankly, from my perspective, I expect the same thing if people are rational with respect to the asbestos liability

and how that will be addressed in the context of the aggregate amount of claims that have to be addressed in these case.

It is certainly my hope, and based on conversations I've had, that people will be pragmatic on how we deal with those issues, of course I can't guarantee that.

Now turning to Mr. Maue and what the fee examiner says he needs with respect to Mr. Maue, and he alluded to this 18,000 dollar disbursement which was prepetition. And in fact that was our disbursement. That was a mistake.

I don't know that you need Mr. Maue to find that mistake. Mr. Williamson's firm is deeply involved in this process and I am sure is perfectly capable of reviewing a fee application and determining whether there are inadvertent errors.

Now I will note, Your Honor, that Mr. Williamson alluded to startup costs for Mr. Maue and that there are more startup costs involved and certainly -- I guess what he is saying is that Mr. Maue's initial fees, I guess for the first fee application which you just approved, will be higher than his fees on an ongoing basis. Well, that's just not the case. In fact his initial fee application covered January 22nd through April 22nd, which was for 200,000 dollars. And the amount that Mr. Williamson said that he would be charging for April 23rd to today is 230,000 dollars. So it's frankly a lot more. It's, I think, a third more than the first period. So I

really don't understand that analysis.

I would also say, Your Honor, this case, and again as the fee examiner alludes to in either his statement, his overarching statement about what's going on here as to fees or in connection with Mr. Maue's -- with the application to extend the employment of Mr. Maue, these cases are not really complex anymore. They're not really that difficult. They're, kind of, normal.

This, Your Honor, is kind of a normal liquidating Chapter 11 case now. To compare this to Lehman Brothers, as you alluded to, is completely inappropriate. This is not Lehman Brothers. We do not have the same issues as Lehman Brothers. We have a rather normal liquidating Chapter 11 case moving forward.

Now as we indicated in our reply and as you also mentioned, it's necessary to do a cost benefit analysis of what's going on here. We don't have the facts to do that. For the first time today, we heard how much the fee examiner and his firm are expected to charge the estate for the services rendered. And again, that's not withstanding the fact that each of the fee examiner and his attorneys and Mr. Maue have an obligation to submit monthly statements, none of which, since their retention and the retention of each of them have been filed. So this is the first information we have today about what the fee examiner has incurred in connection with these

cases. And we think it's appropriate to have time to look at that, to analyze that, to get figures, as you indicated, as to how much has been saved in these cases on account of these services.

So we think it's appropriate to set this down for another hearing so that we can have an appropriate time to look at that. And I'd also note that, Your Honor, we haven't seen any time records from the fee examiner or his law firm to determine --

THE COURT: Pause, Mr. Karotkin. This may be the biggest case on my watch but it's not the only case on my watch. And I have, maybe, as many as another ten cases which also have a billion or more in debt. Do I really need another hearing on this issue, given the other things I have on my plate?

MR. KAROTKIN: I think, Your Honor, we're entitled to analyze that information. We can make a submission. It's obviously up to you. I don't think another hearing on this would take very long but if Your Honor doesn't believe that we're entitled to that, that's fine.

I will point out, Your Honor; again, we haven't seen the time records from the fee examiner. We don't know if there's duplication of effort between what his firm is doing and what Mr. Maue's firm is doing. We have no idea of knowing that. And I also noted that when I looked at the fee

application of Mr. Maue, that of the 712 hours expended by his firm for the period January 22nd to April 22nd, eighty-five percent of that, nearly 600 hours, was attorney time, attorney time. The balance was, I think, one accountant. And I question, why is he having attorneys when we have three or four or five or half a dozen attorneys from the fee examiner doing work and I think we're entitled to look at that before we go ahead and extend Mr. Maue's retention.

Frankly, Your Honor, these cases have reached a stage where number one we question the need for a fee examiner altogether. I think that the professionals here are cognizant of your rulings, certainly now. They're cognizant of the way they ought to be proceeding with the fee applications. We think the Office of the United States Trustee and Your Honor are more than capable of reviewing these fee applications, as they do in other cases. And certainly to extend Mr. Maue's retention under the circumstances today, based on the facts we know today, we don't believe that that is an appropriate expenditure of these estate's assets.

THE COURT: All right. Thank you. I'll take reply. Mr. Wilson?

MR. WILSON: Thank you, Your Honor. Eric Wilson on behalf of the fee examiner.

Just to address some of the points that Mr. Karotkin made. First of all, with respect to the monthly statements the

requirement to file monthly statements is something provided and required by the interim compensation order for those professionals who voluntarily submit to the procedures, whereby they get paid eighty percent on a monthly basis. Neither Stuart Maue nor the fee examiner have voluntarily submitted to that. And so we would submit that neither the fee examiner nor Stuart Maue are required to file monthly statements as required by the interim compensation order.

Should the Court feel that those would be helpful, certainly the fee examiner nor Stuart Maue has any objection to do so. But I just wanted to address Mr. Karotkin's point in that regard.

With regard to the dollars expended and comparing the dollars spent in assessing and analyzing the first compensation period versus the second compensation period, I just wanted to draw the Court's attention to a couple of factors. And that as the Court is aware from the fee application on file, Stuart Maue is seeking 197,000 dollars in fees associated with its -- and expenses associated with its review of the first compensation period.

As Mr. Williamson stated, the fees and expenses not subject to that fee application are approximately 230,000 dollars. However, that amount includes approximately 30,000 dollars spent by Stuart Maue analyzing Backer McKenzie's first interim fee application. And it also includes the 230,000

dollar number, also includes amounts related to Stuart Maue's fee application and its retention and also travel by representatives of Stuart Maue to these hearings.

So the 230,000 dollar number isn't just related to the second interim fee period and in fact the time spent on the second interim fee period is less, as you would expect, then it was in the first interim fee period.

The other factor that I should mention is, as you'll recall -- as the Court will recall, the initial retention of Stuart Maue was limited to select case professionals to give the fee examiner an opportunity to determine whether those services would be useful and helpful and necessary. When the fee examiner made that determination it cited to direct Stuart Maue to analyze Weil Gotshal's first fee application. However, when those directions were given it was basically an abbreviated review necessitated by a short period of time that Stuart Maue had to review the first fee applications. So the amount of time spent on Weil's fee application from the first period was a disproportionately small amount of time given the abbreviated amount of time that they had to review it.

With regard to what Stuart Maue does, I heard Your Honor to suggest that you have no quarrel with the proposition that the Stuart Maue firm, it's not Mr. Maue it's the Stuart Maue firm is indispensible or is helpful to the work of the fee examiner. It's not just that, Your Honor, though. To give a

small example, but it's illustrative of how they work in the process, on Friday we were -- one of the responses to our reports included an analysis of the local transportation charges. That analysis was enabled by that firm coming to us and asking us can you please give us an Excel spreadsheet that analyzes the local transportation charges? Yes, of course we will. We went to the Stuart Maue firm to get that.

Then when that firm, Weil Gotshal, submitted their analysis cutting off at six hours, we were able to contact Stuart Maue and within an hour had an analysis back that said yes those -- the analysis that Weil Gotshal did was accurate. That is something that would have -- a fee examiner and his counsel could not have conducted that analysis nearly as efficiently as Stuart Maue did.

So the point of the example is, Your Honor, just to suggest that it is not only the fee examiner who is assisted by Stuart Maue's presence in this case. In fact the professionals and the trustee can rely on their services as well, if, albeit, indirectly.

The other point, Your Honor, that I wanted to address, based on what Mr. Karotkin suggested is he said there's no way of knowing whether there is any effort that's been duplicated. In the application we have suggested and we have said to the Court that that is in fact not the case. And we will represent to the Court again that the efforts that

Stuart Maue does do not duplicate the efforts that counsel for the fee examiner undertake.

With respect to the attorneys at Stuart Maue, those aren't attorneys providing legal advice to Stuart Maue. Those are attorneys conducting the review who happen to have law degrees and are hired because they have a legal background to do the auditing function. So they are serving an auditing role even though they have law degrees.

And then, I think, the last point, Your Honor, that's a most important point, which is that the Court has suggested previously that in order to rule on this pending application there needs to be some sort of cost benefit analysis done that surely we shouldn't charge the estate for these efforts if they're not worth the cost. And that, of course, makes perfect sense. It's certainly relevant when deciding whether or not we should continue to retain the services of Stuart Maue to see whether the value their providing the estate is worth the cost.

We would suggest that the fees that they have charged to date are certainly reasonable but apart from that, Your Honor, we would also suggest that the analysis is a bit more nuanced than that. That one can't just look at the fees and expenses disallowed and hold that up against the fees and expenses charged by the fee examiner and his consultant and determine whether or not the fee examiner and his consultant were, "worth the cost".

Just as a state trooper sitting on the highway might not write any tickets, the mere presence of that state trooper there serves, as we've pointed out in our papers, a prophylactic role that's important. And in fact, as the professionals and the fee examiner and Stuart Maue become more accustomed, in this case, to the Court's rulings, one would expect that the suggested disallowances would decline. But that doesn't necessarily mean the amount of time and resources necessary to review the applications will decline by a proportionate amount.

I think the last point worth making, Your Honor, is that one factor that sets this case apart and that makes it not a normal bankruptcy case is that tax dollars are at issue here. And so we respectfully suggest that the prophylactic role that the fee examiner and his consultant serve in this case is especially important.

THE COURT: All right. Thank you. All right, here's what we're going to do folks: There are one or two things where I need you to jointly provide me information; I've given you twenty-four hours to do it. As a practical matter, even on conceptual matters because of other obligations I have through the lunch hour and through most of the afternoon, I wouldn't be in a position to dictate a ruling now.

I don't contemplate writing on this any more than I wrote on the prior one but I'll try to give you a dictated

decision as soon as that is possible which, because of a trial I have tomorrow, may or may not be tomorrow. We'll try to get it out in the next couple of days, although sometimes I've found that with the other cases on my watch I don't always keep my promises.

I would like you to notify my law clerks and my courtroom deputy of any times that you'll be unavailable to hear a dictated ruling, which I would contemplate doing by a conference call at which you would call in, which will be transcribed initially by our electronic court recording capability and then followed by a transcript in due course.

If there's any time at which you're both unavailable and can't delegate a colleague to listen to what the ruling is, let my chambers know.

At this point I thank you for your efforts, especially on the head scratchers and we're in recess.

(Whereupon these proceedings were concluded at 12:17 p.m.)

I N D E X

R U L I N G S

C E R T I F I C A T I O N

I, Lisa Bar-Leib, certify that the foregoing transcript is a true and accurate record of the proceedings.

Lisa Bar-Leib

Digitally signed by Lisa Bar-Leib
DN: cn=Lisa Bar-Leib, o, ou, email=digital1@veritext.com, c=US
Date: 2010.07.01 15:55:48 -04'00'

LISA BAR-LEIB

AAERT Certified Electronic Transcriber (CET**D-486)

Veritext

200 Old Country Road

Suite 580

Mineola, NY 11501

Date: July 1, 2010