

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

**In re:  
LYDIA CLADEK, INC.,**

**Debtor.**

**CASE NO. : 03:10-bk-02805-PMG**

**(Consolidated by Prior Court Order  
with Case No. 10-bk-02800-PMG)**

**THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OBJECTION TO  
THE AMENDED APPLICATION OF MICHAEL P. PHELAN, CHAPTER 11 TRUSTEE  
OF LYDIA CLADEK, INC. FOR INTERIM ALLOWANCE OF COMPENSATION FOR  
SERVICES RENDERED AND FOR REIMBURSEMENT OF EXPENSES INCURRED  
DURING PERIOD APRIL 14, 2010 THROUGH AND INCLUDING AUGUST 31, 2010**

The Official Committee of Unsecured Creditors (the "Committee"), by and through its undersigned counsel, hereby objects to the Amended Application of Michael P. Phelan, Chapter 11 Trustee of Lydia Cladek, Inc., for Interim Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred During the Period April 14, 2010 through and including August 31, 2010 (Dkt. No. 243; the "Application"), and in support thereof states the following:

1. On April 7, 2010, various creditors of the bankruptcy estate of Lydia Cladek, Inc. filed an Emergency Motion to Appoint a Chapter 11 Trustee (Dkt. No. 11; the "Motion").
2. On April 12, 2010, this Court entered an Order granting the Motion (Dkt. No. 31; the "Order"), appointing Michael P. Phelan as Chapter 11 Trustee (the "Trustee") of the Debtor, Lydia Cladek, Inc.
3. The Order specifically provides that "compensation of the Chapter 11 Trustee shall be allowed by separate order pursuant to 11 U.S.C. § 326. No compensation shall be paid to the Chapter 11 Trustee in this case from any source whatsoever without prior order of the Court."

4. On September 23, 2010, the Trustee filed the Application, seeking compensation of fees in the amount of \$51,060.00 and expenses in the amount of \$3,467.42, for a total amount of \$54,527.42, for the period from April 14, 2010 through August 31, 2010 (the "Application Period").

5. The Application seeks compensation of the Trustee's fees and expenses incurred during the Application Period pursuant to 11 U.S.C. § 330. Because the Application seeks compensation in a manner other than what is permitted for under the Order, the Committee objects to the Application.

6. Additionally, compensation of the Trustee's fees and expenses sought in the Application, and any future interim compensation applications, should be subject to the statutory fee limitations under 11 U.S.C. § 326 as set forth in the Order.

7. 11 U.S.C. § 326 establishes a sliding scale for payment of trustees fees based upon all moneys disbursed by the trustee to parties in interest. The Trustee has made a total of \$893,851.02 of disbursements through August 31, 2010. *See* Debtor's Standard Monthly Operating Report for the Period from August 1, 2010 through August 31, 2010 (Dkt. No. 238). Applying the statutory fee limitations under 11 U.S.C. § 326 to the amount sought by the Trustee in the Application, the Trustee is authorized payment in the following amounts:

25% on the first \$5,000.00 of all moneys disbursed in the case by the trustee to parties in interest	\$ 1,250.00
10% on any amount in excess of \$5,000.00 but not in excess of \$50,000.00 of all moneys disbursed in the case by the trustee to parties in interest	\$ 5,000.00
5% on any amount in excess of \$50,000.00 but not in excess of \$1,000,000.00 of all moneys disbursed in the case by the trustee to parties in interest	\$ 44,692.55
<b>TOTAL AMOUNT OF PERMISSIBLE FEES COLLECTABLE PURSUANT TO 11 U.S.C. § 326</b>	<b>\$ 50,942.55</b>

8. Because the amount sought by the Trustee in the Application exceeds the amount permitted under 11 U.S.C. § 326, the Committee objects to the Application.

WHEREFORE, the Committee respectfully requests that this Court will disallow the Chapter 11 Trustee, Michael P. Phelan's request to be paid any amounts requested in the Application under 11 U.S.C. § 330.

Dated this 25th day of October 2010.

Respectfully submitted,

/s/ Jon E. Kane

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**ATTORNEYS FOR THE OFFICIAL  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the forgoing has been served on all parties on the attached Amended Official Service List as of September 20, 2010: (1) via the court's electronic CM/ECF system upon all parties and counsel registered to receive such notification on October 25, 2010; and (ii) via U.S. Mail upon all parties not using the court's electronic CM/ECF system on October 26, 2010.

/s/ Jon E. Kane

Jon E. Kane, Esq.

Lydia Cladek, Inc.  
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