

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

In re:

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

LYDIA CLADEK, INC.,

Chapter 11

Debtor.

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

**UNITED STATES TRUSTEE'S OBJECTION TO THE AMENDED
APPLICATION OF MICHAEL MOECKER & ASSOCIATES, INC. FOR INTERIM
ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED
AND FOR REIMBURSEMENT OF EXPENSES INCURRED DURING
PERIOD OF APRIL 13, 2010 THROUGH AND INCLUDING AUGUST 31, 2010**

The United States Trustee for Region 21, Donald F. Walton, by and through his undersigned counsel, files this Objection to the Amended Application of Michael Moecker & Associates for Interim Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred During the Period April 13, 2010 through and including August 31, 2010 (Dkt. No. 244; the "Application"), and in support thereof states the following:

1. On May 26, 2010, the Michael P. Phelan, the Chapter 11 Trustee, (the "Trustee") filed its Application to Employ Michael Moecker & Associates ("MMA") as accountants to the Trustee, *nunc pro tunc* to April 14, 2010 (Dkt. No. 106; the "Retention Motion").

2. The Retention Motion spells out the services to be provided by MMA, which includes, providing necessary accounting services and financial advice by assisting the Trustee in the analysis of the Debtor's books and records, assisting with the sale or disposition of property of the estate, assisting with the enforcement and collection of claims, forensic accounting, and preparation of financial reports and tax returns. The Retention Motion contains a general provision that MMA is to assist the Trustee in the performance of his duties.

3. On June 15, 2010, the Court entered an Order Authorizing the Application for Retention of MMA as accountants to the Trustee *nunc pro tunc* to April 14, 2010 (Dkt. No. 128; the "Retention Order").

4. On September 23, 2010, MMA as accountants for the Trustee submitted an Application which seeks interim compensation for services and reimbursement of expenses incurred during the period of April 13, 2010 through and including August 31, 2010 (the "Application Period").

5. MMA requests interim fees in the amount of \$115,450.00 and expenses in the amount of \$39,258.34, for a total amount of \$154,708.34.

6. On September 24, 2010, a Notice Regarding the Application for Allowance of Professional Fees and Expenses (Dkt. No. 248; the "Notice") was entered by the Court providing that any objection to the Application must be filed within 30 days from the date of the Notice and such objection shall request a hearing. The time period to object expires on October 25, 2010, because the 30th day falls on a Sunday.

7. The time entries attached to the Application contain approximately 425.50 hours, or a total of \$85,100.00 in fees, spent on overseeing operations and property supervision.¹ The description of services of "overseeing operations and property supervision" appears to be beyond the scope of the services for which MMA was employed and are services envisioned to be accomplished by the Chapter 11 Trustee and compensated within the constraints of 11 U.S.C. § 326.

¹ The time entries listed in the Application as "overseeing operations and property supervision" were often lumped in with other services without a separate time entry for the various tasks. The United States Trustee has utilized the total hours listed for the time entries which included "oversee operation" or "property supervision" if there was not a separate time entry for another task.

8. The United States Trustee's Guidelines for Fees and Disbursements for Professionals (the "UST Guidelines") set forth procedural guidelines for reviewing applications for compensation and reimbursement of expenses. The Application does not comply with the requirements as provided in the UST Guidelines but more importantly fails to provide the Court with sufficient detail to demonstrate compliance with the standards set forth in 11 U.S.C. § 330.

9. The United States Trustee requests a hearing on this Objection.

WHEREFORE, the United States Trustee respectfully requests that this Court review the Application and disallow compensation for services beyond the scope of MMA's employment and/or disallow compensation for services that should have been completed by the Chapter 11 Trustee and compensated subject to the terms of 11 U.S.C. § 326 or other relief as the court deem appropriate.

Dated: October 25, 2010

Donald F. Walton
United States Trustee, Region 21

/s/ Elena L. Escamilla
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing Objection has been served on the following parties on 10/25/2010, electronically through CM/ECF, on parties having appeared electronically in the instant matter, and on the following parties by U.S. Mail if not receiving mail electronically through CM/ECF on 10/25/2010.

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