

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	)	Chapter 11 Cases
	)	
Adelphia Communications Corp., <u>et al.</u> ,	)	Case No. 02-41729 (REG)
	)	
Debtors.	)	Jointly Administered

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**FINAL APPLICATION OF JEFFERSON WELLS INTERNATIONAL, INC.,  
AS INTERNAL AUDITORS FOR DEBTORS FOR ALLOWANCE OF  
COMPENSATION FOR SERVICES RENDERED AND  
REIMBURSEMENT OF EXPENSES INCURRED FROM  
JANUARY 1, 2004 THROUGH FEBRUARY 13, 2007**

TO THE HONORABLE ROBERT E. GERBER,  
UNITED STATES BANKRUPTCY JUDGE:

Jefferson Wells International, Inc. (“JWI”), internal auditors for the above-captioned debtors and debtors in possession in these cases (the “Debtors”), in support of its final application (the “Final Application”) for allowance of compensation for professional services rendered and reimbursement of expenses incurred from January 1, 2004 through February 13, 2007 (the “Final Application Period”)<sup>1</sup>, respectfully represents:

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<sup>1</sup> JWI was originally retained by the Debtors pursuant to the filing of a Notice of Supplement to List of Employment of Certain Accountants and Consultants, dated June 13, 2003 (the “June Notice”) under the Order Pursuant to 11 U.S.C. § 363 Authorizing the Continued Employment of Certain Accountants and Consultants dated November 15, 2002 (the “Accountants Order”). The June Notice was supplemented by a Notice of Supplement to List of Employment of Certain Accountants and Consultants, dated August 22, 2003 (the “August Notice”), to disclose an anticipated expansion of JWI’s role, as well as an increase in the anticipated fees to be paid to JWI.

Subsequent to the August Notice, the Debtors determined that it was appropriate to retain JWI pursuant to the Court’s Order under Local Rule 2016-1 and 11 U.S.C. §§105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals and Committee Members, dated August 9, 2002 (the “Compensation Order”), and the order authorizing the retention of JWI was entered on March 2, 2004 (the “Retention Order”). Because the formal application to retain JWI was filed on January 25, 2004, in consultation with the Debtors and the Fee Committee, JWI concluded it was appropriate for JWI to begin the monthly fee statement

## **PRELIMINARY STATEMENT**

1. By this Final Application and pursuant to sections 330 and 503(b)(2) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), JWI requests that this Court authorize: (a) final allowance of compensation for professional services JWI rendered to the Debtors during the Final Application Period in the amount of \$11,657,724.36; and (b) the reimbursement of actual and necessary expenses JWI incurred in connection with the rendering of such professional services in the amount of \$1,425,034.17.<sup>2</sup>

2. This Court has jurisdiction over this Final Application pursuant to 28 U.S.C. §§ 157 and 1334 and the "Standing Order of Referral of Cases to Bankruptcy Judges," dated July 10, 1984, of District Court Judge Robert T. Ward. Venue of these cases and this Final Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 330 and 503(b)(2) of the Bankruptcy Code and Rule 2016 of the Bankruptcy Rules.

## **JWI'S FEES AND EXPENSES**

3. JWI's accounting and auditing services in these cases have been substantial, necessary, and beneficial to the Debtors and to their estates, creditors, and other parties in interest. Throughout the Final Application Period, JWI devoted substantial time to the tasks requested by the Debtors, including substantial efforts relating to compliance with Sarbanes-Oxley requirements

(..continued)

process with its statements for the month of January, 2004. JWI's First Application covered January and February 2004 plus the official Final Application Period running from March 1, 2004 through June 30, 2004.

<sup>2</sup> These amounts include amounts awarded by the Court in the orders approving JWI's first four interim applications, as detailed in paragraph 4.

(documentation, testing and remediation), other internal audit and risk assessment tasks and otherwise assisting with the preparation of the Debtors' financial statements, tax returns and SEC filings.

4. By orders dated June 24, 2005, October 14, 2005, April 5, 2006, and December 7, 2006, copies of which are attached hereto as group Exhibit G, the Court approved JWI's first, second, third, and fourth requests for interim allowance of compensation for professional services rendered to the Debtors from January 1, 2004 through August 31, 2005, in the combined amount of \$5,527,523.59 and the reimbursement of actual and necessary expenses incurred by JWI in connection with rendering of such professional services in the combined amount of \$681,924.95.

5. On June 16, 2006, JWI filed its Fifth Application requesting interim allowance of compensation for professional services rendered to the Debtors for the period September 1, 2005 through February 28, 2006, in the amount of \$3,287,985.05 and reimbursement of actual and necessary expenses incurred by JWI in connection therewith in the amount of \$471,225.55. JWI has not yet received the initial audit report of the Fee Committee's consultant with respect to the Fifth Application, and thus the Fifth Application remains pending.

6. On October 12, 2006, JWI filed its Sixth Application requesting interim allowance of compensation for professional services rendered to the Debtors for the period March 1, 2006 through August 31, 2006, in the amount of \$2,313,033.22 and reimbursement of actual and necessary expenses incurred by JWI in connection therewith in the amount of \$237,169.03. JWI has not yet received the initial audit report of the Fee Committee's consultant with respect to the Sixth Application, and thus the Sixth Application remains pending.

7. Contemporaneously herewith, JWI is filing its Seventh Application requesting interim allowance of compensation for professional services rendered to the Debtors for the period September 1, 2006 through February 13, 2007 in the amount of \$529,182.50 and reimbursement of actual and necessary expenses incurred by JWI in connection therewith in the amount of \$34,714.64.

8. Pursuant to the Compensation Order, and the Court's January 4, 2007 Order Granting Motion of the Fee Committee for an Order Modifying the Monthly Fee Order to Permit Release of Fees Previously Subject to Holdback Through the Ninth Interim Period, JWI has received or is expecting \$10,431,684.19 in payments for services rendered and \$1,425,034.17 for expenses incurred in connection with the rendering of such professional services in these cases.<sup>3</sup> This amount represents 100% payment of expenses incurred and services rendered as allowed for JWI's first four interim applications, and 100% payment for expenses incurred and 80% payment for services rendered by JWI as set forth in its last three interim applications. Pursuant to the Compensation Order, 20% of the fees for professional services are subject to a "hold back." By this Final Application, JWI seeks final allowance of compensation in full for services rendered and expenses incurred (less reductions previously agreed to with the Fee Committee with respect to JWI's first four interim applications).

9. No agreement or understanding exists between JWI and any other entity for the sharing of compensation to be received for services rendered in or in connection with this case. See Affidavit of Kristine K. Best, annexed hereto as Exhibit A.

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<sup>3</sup> Due to the filing date set for the Final Application, payments for January 2007 and February 2007 services and disbursements may not have been made as of the date of this Final Application.

10. JWI maintains written records of the time expended by its Directors, Engagement Managers and Professionals in rendering professional services to the Debtors. Such time records are made contemporaneously with the rendition of services by each person rendering such services. Copies of the daily time records for the Final Application Period, listing the name of the Director, Engagement Manager and Professional, the date on which the services were performed, and the amount of time spent in performing the services were previously submitted to the Court and served on required parties with JWI's interim fee applications, and were also served on required parties with JWI's monthly fee statements.<sup>4</sup>

11. For the convenience of the Court and parties-in-interest, annexed hereto as Exhibit C is a list of the Directors, Engagement Managers and Professionals who have worked on matters during the Final Application Period, the aggregate time expended by each individual during the Final Application Period, his or her hourly billing rate(s) during the Final Application Period, and the amount of JWI's fees attributable to each individual.<sup>5</sup> The hours and fees listed on Exhibit C represent a compilation of all hours billed and included in JWI's interim fee applications; subsequent fee reductions agreed to between JWI and the Fee Committee are not reflected on Exhibit C because the reductions were not identified on a per professional basis. However, Exhibit C does take the agreed reductions into account in calculating JWI's blended hourly rate for the Final Application Period, which results in a current blended rate of \$98.58.

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<sup>4</sup> Copies of the time records will be made available to other parties in interest upon reasonable request.

<sup>5</sup> Several professionals are listed with multiple hourly rates because their rates changed during the course of the three-year engagement, in accordance with JWI's usual review and adjustment of its billing rates. Separate line items also exist for certain professionals because travel time was billed at ½ the usual hourly rate.

12. Annexed hereto as Exhibit B is a chart listing all interim fee applications submitted by JWI, with fees broken down by Billing Code category. This chart also shows the amount of voluntary fee reductions taken by JWI prior to submitting each interim application, and the additional voluntary reductions agreed to between JWI and the Fee Committee for JWI's first four interim applications (as required by paragraph 2.5 of the Fee Committee's Final Compensation Procedures). Exhibit B also includes a break down of aggregate hours and fees requested by JWI's individual Engagement Matter name and number.

13. JWI also maintains records of all actual and necessary out-of-pocket expenses incurred in connection with the rendition of professional services. A chart is annexed hereto as Exhibit D setting forth the categories of expenses and amounts for which reimbursement is requested. Copies of JWI's detailed disbursement schedules showing the precise type of expense incurred by date, employee and amount were filed and served with JWI's monthly fee statements and interim applications pursuant to the Compensation Order.<sup>6</sup> Copies of all applicable receipts were also provided to the Fee Committee's fee auditor with JWI's monthly statements for services.<sup>7</sup> Exhibit D also includes the chart of voluntary reductions required by paragraph 2.5 of the Final Compensation Procedures.

14. Pursuant to the administrative order regarding guidelines for fees and disbursements for professionals in bankruptcy cases (the "Administrative Order"), JWI recorded its services rendered and disbursements incurred on different matters reasonably expected to continue over a period of at least three months and to constitute a substantial portion of the fees sought during

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<sup>6</sup> Copies of the expense records will be made available to other parties in interest upon reasonable request.

<sup>7</sup> Starting with the monthly statement for January 2006, the Fee Committee's fee auditor, Legal Cost Control, ("LCC"), requested that JWI provide copies of its receipts to LCC rather than the Debtors.

the Final Application Period, or otherwise consistent with JWI's usual business practices. JWI used one hundred nine (109) separate engagement matters for recording services to the Debtors during the more than three-year Final Application Period, consistent with its usual practice, but JWI also identified each of these matters as falling within one of three specific billing code categories as identified by the Fee Committee and the Debtors: Billing Code Category 102—General Corporate; Billing Code Category 116—ML Media Matters; and Billing Code Category 133—SEC Matters. Ninety-eight percent (98%) of JWI's fees were recorded under Billing Codes 102 and 133.

### **SUMMARY OF SERVICES RENDERED**

15. Recitation of each and every item of professional services that JWI performed during the three-plus year Final Application Period would unduly burden the Court. Hence, the following summary highlights the major areas to which JWI devoted time and attention during the Final Application Period. The full breadth of JWI's services is reflected in JWI's time records previously submitted. Exhibit B identifies the numbers of hours expended and fees requested broken down by JWI's engagement number and matter name, as well as billing code category.

A. **General Corporate – Billing Code Category 102**

16. During the course of its employment JWI provided a number of services falling within billing code designation for general corporate work. The two largest categories of services provided by JWI under Billing Code 102 are collected under the headings of Finance Operations Staff Augmentation and Project Support—Internal Audit. JWI's services involved assistance to the Debtors' Finance Operations Staff on a wide variety of projects. During this period, JWI's services also included numerous internal audit projects, either assisting Adelphia's own internal audit department, or other projects handled primarily by JWI. These matters included

reviewing and auditing the Debtors' internal controls in offices throughout the country, auditing IT controls, day-to-day management of the Debtors' Ethics Hotline process and conducting investigations into allegations of questionable activity. [See Finance Operations Staff Augmentation and Project Support—Internal Audit Engagement Matters.] Therefore, JWI assisted in making the Debtors' operations significantly more efficient, more effective and more secure.

**B. SEC Matters – Billing Code Category 133**

17. During the course of its employment, JWI provided detailed and extensive efforts to assist with the Debtors' processes to comply with Sarbanes-Oxley requirements. These services represented the largest single category of services across JWI's entire engagement. These substantial efforts focused on performing quality control reviews of management's internal control documentation and "over-testing" of selected key control points. JWI also conducted follow up reviews to assess the adequacy of management's efforts to remediate control weaknesses JWI identified during Sarbanes-Oxley compliance testing. [See SOX 404 Testing – Internal Audit Engagement Matter.]

18. JWI also provided a detailed and extensive program of analyzing the Debtors Information Technology processes to ensure compliance with Sarbanes-Oxley requirements. These substantial efforts focused on performing quality control reviews of IT processes and "over-testing" of selected key control points. JWI also conducted follow up reviews to assess the adequacy of management's efforts to remediate control weaknesses JWI identified during compliance testing. [See Sarbanes Oxley IT Engagement Matter]

19. JWI also provided substantial assistance with the preparation of the Debtors' 10-k filing with the SEC for the year ended December 31, 2004, including preparation of financial

statements and footnotes and management's discussion and analysis. These efforts to prepare the document and the work papers that support the filing included extensive interaction with accounting personnel in Coudersport, PA, as well as with PricewaterhouseCoopers. [See SEC Reporting—Accounting Engagement Matter.]

### **EVALUATING JWI'S SERVICES**

20. As highlighted above, JWI provided extensive services to facilitate the Debtors' discharge of their duties as debtors in possession and otherwise assist the Debtors with their regulatory responsibilities. JWI has provided day-to-day assistance to the Debtors to improve internal controls and processes on a company-wide basis. JWI has also played a significant role in auditing the Debtors' compliance with Sarbanes-Oxley requirements. All of these services have helped improve the effective and efficient operation of Debtors businesses, enabled Debtors to fulfill their obligations with the requirements of the Bankruptcy Code, and have assisted the Debtors in restructuring their operations.

21. JWI's role as internal auditor and extensive knowledge of Sarbanes-Oxley requirements allowed it to meet its objectives in this case, consistent with its retention application. JWI billing rates were well within the range of \$75.00 to \$200.00 set forth in the application—its blended rate herein is under \$100.00. JWI properly coordinated its services with the Debtors' other professionals as well, including PricewaterhouseCoopers, preventing duplication of work. In short, there is no question that JWI's services were necessary to the administration of these cases and were beneficial to the Debtors. JWI also complied with all Fee Committee Memoranda.

22. The 'lodestar' method of fee calculation is used to determine a 'reasonable' professional fee. See In re Cena's Fine Furniture, Inc., 109 B.R. 575, 581 (E.D.N.Y. 1990); In re

Poseidon Pools of America, Inc., 216 B.R. 98, 100 (E.D.N.Y. 1997). Accord In re Drexel Burnham Lambert Group, Inc., 133 B.R. 13, 22 (Bankr. S.D.N.Y. 1991) (“In determining the ‘reasonableness’ of the requested compensation under § 330, Bankruptcy Courts now utilize the ‘lodestar’ method”).

23. “The lodestar amount is calculated by multiplying the number of hours reasonably expended by the hourly rate, with the ‘strong presumption’ that the lodestar product is reasonable under § 330.” Drexel, 133 B.R. at 22 (citations omitted). JWI’s hourly rates and fees charged to the Debtors are consistent with the market rate for comparable services. The hourly rates and fees charged by JWI are the same as (or less than) those generally charged to, and paid by, JWI’s other clients. Indeed, unlike fees paid by most JWI clients, due to the “holdbacks” of fees from prior monthly fee statements and the delays inherent in the fee application process, the present value of the fees paid to JWI by the Debtors is significantly less than fees paid monthly by other JWI clients.

24. The hours expended by JWI were necessary. “[T]he appropriate perspective for determining the necessity of the activity should be prospective: hours for an activity or project should be disallowed *only* where a Court is convinced it is readily apparent that no reasonable professional should have undertaken that activity or project or where the time devoted was excessive.” Drexel, 133 B.R. at 23 (emphasis added). Moreover, in passing upon the reasonableness of hours expended, courts should be mindful that professionals often make practical judgments regarding staffing, assignments, meeting and numerous related matters. Id. These judgments are presumed to be made in good faith. Id.

### **JWI’S REQUEST FOR FINAL COMPENSATION**

25. Section 330(a)(1)(A) of the Bankruptcy Code provides, in pertinent part, that the court may award to a professional person:

reasonable compensation for actual, necessary services rendered by  
the . . . professional person. . . .

11 U.S.C. § 330. The Congressional intent and policy expressed in section 330 of the Bankruptcy Code is to provide for adequate compensation to continue to attract qualified and competent practitioners to bankruptcy cases.

26. JWI submits that its request for final allowance of compensation is reasonable. The services rendered by JWI, as highlighted above, required substantial time and effort, which were necessary to assist the Debtors with re-establishing proper internal financial reporting processes and controls.

27. The services rendered by JWI were performed diligently and efficiently. When possible, JWI delegated tasks to lower cost professionals or, for discrete matters, to professionals with specialized expertise in the particular task at issue. While that approach may have required intra-office conferences or involved individual Directors or Engagement Managers who spent only a few hours on the matter at hand, the net result was enhanced cost efficiency.

28. Although duplication of effort has been avoided to the greatest extent possible, some duplication may have occurred as a result of the intensity of the matters in which JWI was engaged, the complexity of the issues that arose during these cases, and the urgent basis upon which some of these services were rendered. However, JWI believes that any duplication of effort was de minimus, and was beneficial to the estates in that thorough knowledge of the background and the history of these cases make each successive task more efficient.

## DISBURSEMENTS

29. Section 330(a)(1)(B) of the Bankruptcy Code provides that the court may award a professional person reimbursement for actual, necessary expenses incurred. JWI incurred actual and necessary out-of-pocket expenses in connection with the rendition of the professional services described above, in the amounts set forth in Exhibit D. Specific detail regarding each individual expense was included with each JWI monthly statement and interim applications, and at the time each statement was served, JWI also provided appropriate backup documents to LCC, per applicable fee guidelines.<sup>8</sup> JWI respectfully requests allowance of such reimbursement in full.

30. The disbursements for which JWI seeks reimbursement include the following:

- a. Lodging--The nature of JWI's services, especially in reviewing the Debtors' internal controls and financial data, required JWI employees to travel to the Debtors' office locations and remain overnight, in some cases for several days or more at a time.
- b. Telecommunications--While traveling, JWI employees are generally allotted a telephone expense of \$10.00 a day, recognizing that employees will use their private cell phones to conduct business and remain available to the client and colleagues as necessary. In certain circumstances, such as inordinately lengthy calls, JWI also permits employees to submit reimbursement requests exceeding the usual per diem. JWI does not charge for long distance calls made from its offices or for the sending or receipt of facsimiles.
- c. Meals While traveling, JWI employees are allotted a per diem for meals of \$40.00 per day for breakfast, lunch and dinner in the aggregate. JWI employees may also exceed this amount in circumstances where the employee incurs the charge for a working meal with other JWI or Adelphia employees on Adelphia-related business.<sup>9</sup>

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<sup>8</sup> See note 7, supra.

<sup>9</sup> In those cases, efforts are also made to ensure duplicate per diem charges from other participating JWI employees are eliminated.

- d. Travel JWI's practice is to charge airfare, car rental, mileage and cab service for traveling employees. A breakdown by travel category is attached as Exhibit D.

**PROCEDURE**

31. JWI has provided notice of this Final Application to: (i) the Office of the United States Trustee; (ii) counsel for the Debtors; (iii) counsel to the agents for the Debtors' prepetition and postpetition bank lenders; (iv) counsel to the Committees; (v) the Debtors; and (vi) the Fee Committee.

32. No previous application for the relief sought herein has been made to this or any other court, except as set forth in JWI's prior interim applications filed with this Court.

**CONCLUSION**

WHEREFORE, JWI respectfully requests that this Court enter an order awarding JWI, pursuant to 11 U.S.C. §§ 330 and 503(b)(2):

- (a) final compensation from the Debtors for services rendered from January 1, 2004 through February 13, 2007, inclusive, in the amount of \$11,657,724.36;
- (b) reimbursement of actual, necessary expenses incurred in connection with the rendition of such services, in the amount of \$1,425,034.17;
- (c) such other and further relief as may be just.

Dated: March 28, 2007.

JEFFERSON WELLS INTERNATIONAL, INC.

By:  /s Kristine K. Best  
Kristine K. Best

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