

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: :
: :
CHIYODA AMERICA, INC., : Case No. 09-15059 (AJG)
: Chapter 11 Case
Debtor. :
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**ORDER ESTABLISHING PROCEDURES FOR INTERIM COMPENSATION AND
REIMBURSEMENT OF EXPENSES FOR PROFESSIONALS**

Upon consideration of the motion (the “Motion”) of Chiyoda America, Inc. (“Chiyoda”), as debtor in possession (the “Debtor”), seeking entry of an order pursuant to title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”) establishing procedures for interim compensation and reimbursement of expenses for professionals and committee members; and upon consideration of the Affidavit of Hiroshi Mizumoto pursuant to rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York, sworn to on August 19, 2009; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided in accordance with the Order Authorizing Certain Notice and Case Management Guidelines (Docket No. 26); and it appearing that no other further notice need be provided; and the relief requested being in the best interest of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at the hearing before the Court on September 16, 2009 (the

“Hearing”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the Motion is granted as set forth herein; and it is further

ORDERED that, except as may otherwise be provided in orders of the Court, all professionals in this case may seek monthly compensation in accordance with the following procedures:

- (a) On or before the twentieth (20th) day of each month following the month for which compensation is sought, each professional seeking compensation will serve a monthly statement (the “Monthly Statement”), by hand or overnight delivery, on (i) Blank Rome LLP, The Chrysler Building, 405 Lexington Avenue, New York, NY 10174-0208 (Attn: Michael Z. Brownstein and Rocco A. Cavaliere) and One Logan Square, 130 N. 18th Street, Philadelphia, PA 19103-6998 (Attn: Joel C. Shapiro), (ii) the U.S. Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Susan Golden), (iii) Bingham McCutchen LLP, 399 Park Avenue New York, NY 10022 (Attn: Anna M. Boelitz and Mark W. DeVeno); and (iv) Counsel for any Official Committee of Unsecured Creditors (each a “Notice Party” and collectively, the “Notice Parties”).
- (b) The Monthly Statement need not be filed with the Court and a courtesy copy need not be delivered to chambers since the Motion is not intended to alter the fee application requirements outlined in sections 330 and 331 of the Bankruptcy Code and since professionals are still required to serve and file interim and final applications for approval of fees and expenses in accordance with the relevant provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules for the United States Bankruptcy Court, Southern District of New York;
- (c) Each Monthly Statement must contain a list of the individuals and their respective titles (e.g., attorney, accountant, or paralegal) who provided services during the statement period, their respective billing rates, the aggregate hours spent by each individual, a reasonably detailed breakdown

of the disbursements incurred,¹ and contemporaneously maintained time entries for each individual in increments of tenths (1/10) of an hour;

- (d) Each person receiving a Monthly Statement will have at least fifteen (15) days after its receipt to review such statement and, in the event that he or she has an objection to the compensation or reimbursement sought in a particular statement, he or she shall, by no later than the thirty-fifth (35th) day following the month for which compensation is sought, serve upon the professional whose statement is objected to and a written “Notice of Objection to Fee Statement,” setting forth the nature of the objection and the amount of fees or expenses at issue;
- (e) At the expiration of the thirty-five (35) day period, the Debtor shall promptly pay eighty percent (80%) of the fees and one hundred percent (100%) of the expenses identified in each Monthly Statement to which no objection has been served in accordance with paragraph (d);
- (f) If the Debtor receives an objection to a particular fee statement, they shall withhold payment of that portion of the fee statement to which the objection is directed and promptly pay the remainder of the fees and disbursements in the percentages set forth in paragraph (e);
- (g) Similarly, if the parties to an objection are able to resolve their dispute following the service of a Notice of Objection to Fee Statement and if the party whose statement was objected to serves on all of the parties listed in paragraph (a) a statement indicating that the objection is withdrawn and describing in detail the terms of the resolution, then the Debtor shall promptly pay, in accordance with paragraph (e), that portion of the fee statement which is no longer subject to an objection;
- (h) All objections that are not resolved by the parties shall be preserved and presented to the Court at the next interim or final fee application hearing to be heard by the Court. See paragraph (j), below;
- (i) The service of an objection in accordance with paragraph (d) shall not prejudice the objecting party’s right to object to any fee application made to the Court in accordance with the Bankruptcy Code on any ground, whether raised in the objection or not. Furthermore, the decision by any party not to object to a fee statement shall not be a waiver of any kind or prejudice that party’s right to object to any fee application subsequently made to the Court in accordance with the Bankruptcy Code;

¹ No professional should seek reimbursement of an expense which would otherwise not be allowed pursuant to the Court’s Administrative Orders dated June 24, 1991 and April 21, 1995 or the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 dated January 30, 1996.

- (j) Approximately every one hundred twenty (120) days, but no more than every one hundred fifty (150) days, each of the professionals shall serve and file with the Court, in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov), an application for interim or final Court approval and allowance, pursuant to sections 330 and 331 of the Bankruptcy Code (as the case may be), of the compensation and reimbursement of expenses requested;
- (k) Any professional who fails to file an application seeking approval of compensation and expenses previously paid under this Motion when due shall (i) be ineligible to receive further monthly payments of fees or expenses as provided herein until further order of the Court and (ii) may be required to disgorge any fees paid since retention or the last fee application, whichever is later;
- (l) The pendency of an application or a Court order that payment of compensation or reimbursement of expenses was improper as to a particular Monthly Statement shall not disqualify a professional from the future payment of compensation or reimbursement of expenses as set forth above, unless otherwise ordered by the Court;
- (m) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses of any professionals;

and it is further

ORDERED that any party may object to requests for payments made pursuant to this Order on the grounds that the Debtor has not timely filed monthly operating reports, has not remained current with their administrative expenses and 28 U.S.C. § 1930 fees, or a manifest exigency exists by seeking a further order of this Court, otherwise, this Order shall continue and shall remain in effect during the pendency of this case; and it is further

ORDERED that the amount of fees and disbursements sought be set out in U.S. dollars;

and it is further

ORDERED that the Debtor shall include all payments to professionals on its monthly operating reports, detailed so as to state the amount paid to each; and it is further

ORDERED that all time periods set forth in this Order shall be calculated in accordance with Federal Rule of Bankruptcy Procedure 9006(a); and it is further

ORDERED that all fees and expenses paid to professionals under the Compensation Procedures are subject to disgorgement until final allowance by the Court; and it is further

ORDERED that notice of any Application shall be sufficient if served on the Notice Parties (as defined in the Motion); and it is further

Dated: New York, New York
September 23, 2009

s/Arthur J. Gonzalez
UNITED STATES BANKRUPTCY JUDGE