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Guide To Applications For Retainers, And Professional And Insider Compensation ("Compensation Guide")

I. Retainers

A. General Information

The provisions of this guide allowing draw-down of retainers apply only if the professional has obtained an order authorizing employment that also authorizes the draw-down of the retainer.¹

B. Accounting For Services Covered By A Retainer

Any unearned portion of a pre-petition or post-petition retainer that is an advance against fees must be deposited in a segregated trust account upon filing of the petition. If the pre-petition retainer is earned upon receipt, the funds need not be segregated by the professional.

1. Any professional who has received a pre-petition or post-petition retainer must submit to the United States Trustee a monthly Professional Fee Statement (Form USTLA-6) no later than the 20th day after the end of the month during which professional services were rendered, together with documentation supporting the charges for the professional services and expenses in the form required for professional fee applications by applicable law. In addition, a copy of the Professional Fee Statement (without the supporting documentation) must be served on the official creditors' committee or, if no committee has been appointed, on the 20 largest unsecured creditors, and on those parties who have requested special notice. The Professional Fee Statement should include a statement that the supporting documentation can be obtained from the professional upon request.

¹ Some judges do not permit attorneys to draw down on retainers pursuant to the procedure set forth herein. Professionals with retainers should thus make certain at the time of their employment what procedures are required by the judge to whom the case is assigned.

2. The Professional Fee Statement must explicitly state that the fees and costs will be withdrawn from the trust account in the amount requested without further notice or hearing, unless an objection is filed with the clerk of the court and served upon the applicant(s) within 10 days after service of the Professional Fee Statement. If no objection is timely filed and served, the professional may withdraw the requested compensation without further notice, hearing or order. If an objection is timely filed and served, the professional should refrain from withdrawing any funds until the objection has been resolved by the court.
3. Notwithstanding the submission of the Professional Fee Statement, as long as the professional is performing services covered by a retainer, the professional must submit interim fee applications to the court as required by applicable law. Once the full amount of the retainer including an earned on receipt retainer, has been accounted for, no further Professional Fee Statements shall be filed.
4. Neither the United States Trustee nor any party in interest shall be estopped from raising objections to any charge or expense in any professional fee application filed with the court on the ground that no objection was lodged to the Professional Fee Statement.

II. Insider Compensation

Form USTLA-12 should be used for compliance with Local Rule Bankruptcy Rule 2014-1(a).