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# Bankruptcy Costs Attacked







*Attorney Guidelines to Be Overhauled, With Hotel, Other Expenses Scrutinized*

By EMILY GLAZER and JENNIFER SMITH

Federal watchdogs are preparing to exert more control over costs in big bankruptcy cases.

In the initial push, the first overhaul of guidelines intended to keep costs in check in about 17 years is expected to be unveiled by July 1. It aims to tamp down on fee and expense applications submitted by attorneys for corporate debtors and sometimes creditors.

Next in line: revisions of existing guidelines for other bankruptcy professionals, such as financial advisers and bankers. No timeline has yet been set for those efforts.

Expenses questioned by judge or U.S. Trustee	Cost	Outcome
 Roundtrip business class flight between London and New York by law firm Proskauer Rose.	\$8,675.78	Proskauer cut \$5,965.78 from request to match estimated cost of coach flight.
 Photocopying and stationery charges from law firm Slaughter and May.	\$55,144.28	Slaughter and May voluntarily reduced \$73,000 for that and other expenses.
 Blackstone Group client dinner with 17 attendees that exceeded the \$20-per-person limit by \$3,605.60.	\$4,000	The firm withdrew the request.
 Two three-night stays at the Waldorf-Astoria from restructuring firm Development Specialists.	\$3,451.41	The firm said nearby hotels were full, but agreed to take \$1,000 off the bill.
 Car-service trips from consulting firm Goldin Associates.	\$937.87	Goldin proposed to reduce travel expenses by \$305.99.
 Minibar charges at the London NYC Hotel from consultant San Marino Business Partners.	\$54.42	Charges ultimately approved.

Source: Court filings and transcripts; the firms

The Wall Street Journal

The challenges come from the U.S. Trustee Program, the wing of the Department of Justice that monitors bankruptcy cases and that is handling the guidelines, as well as some bankruptcy judges.

Bankruptcy professionals have specialized expertise—some charge as much as \$1,000 an-hour—and typically get paid before creditors who are owed money from distressed firms.

The concern animating the guidelines is that unjustified costs can give the impression that professionals are feasting off a corporate carcass that rightly belongs to the people and businesses they are serving. In large Chapter 11 cases, the corporate debtor typically foots the bill for its own lawyers and advisers and professionals retained by some creditors.

Some in the field say time and money spent scrutinizing small costs itself adds up and can distract from the bigger task of repayment and reorganization. The push on costs comes as expenses from flights and hotels to photocopies and minibar candy billed by bankruptcy professionals are under greater scrutiny than ever, according to dozens of lawyers and other advisers.

Judges ultimately decide whether to approve expense and fee requests. U.S. trustees, who are Justice Department employees, watch over the conduct of parties in large corporate bankruptcy cases, including examining fees and expenses.

The trustee program's regional office in New York, for example, flexed its muscles in the bankruptcy of failed law firm Dewey & LeBoeuf LLP filed last year. Restructuring firm Development Specialists Inc. sought to bill the estate for two stays at the Waldorf Astoria New York hotel—costing roughly \$575 a night. The U.S. trustee for the region questioned whether the firm had made "reasonable efforts" to find cheaper rooms elsewhere.

William A. Brandt Jr., Development Specialists' president and chief executive officer, said Manhattan hotel rooms were in short supply last spring and a Hilton hotel, where others were staying at a preferred rate, was full. He said the Waldorf price wasn't unreasonable, given that some midtown Manhattan hotel rooms run \$700 to \$800 a night.

"My focus was on keeping Dewey out of bankruptcy and keeping it funded," said Mr. Brandt, adding that he also put a number of people up at his Manhattan residence. "I had people doubling up. My place looked like a pit." The firm agreed to withdraw \$1,000 from the lodgings expense request.

The U.S. Trustee Program has attempted to curb fees and expenses for decades, but with the guidelines, under review for at least the last 18 months, it is refocusing its sights.

"Evidence of improper expense reimbursements, even small ones (e.g., a professional billing an estate for a pack of chewing gum), reinforces the perception of abusive billing," according to a 2011 paper on bankruptcy fees co-written by U.S. Trustee Program Director Clifford J. White III. "While such reimbursements are frequently dismissed as isolated mistakes, the picture that emerges can be one of professionals who see the bankruptcy estate as an easy source of revenue."

The proposed guidelines, which are expected to apply to attorneys in bankruptcy cases with \$50 million or more in assets or liabilities, have gone through two drafts so far. Among the proposals: Expenses should be prorated where appropriate, and applicants shouldn't request reimbursements for "overhead" such as word processing and phone calls. The updated guidelines will be posted on the program's website and published in the Federal Register, a U.S. Trustee spokeswoman said. They are expected to go into effect a few months later, she said.

Besides the program's efforts, some bankruptcy judges are also getting out the red pen more frequently, lawyers say, prompting increased back-and-forth over expense reports with lawyers and restructuring experts.

Expenses took up considerable airtime at a December hearing on [MF Global Holdings Ltd.](#), whose 2011 collapse was among the biggest corporate bankruptcies since the financial crisis.

For example, after bankruptcy professionals on the case flew business-class on a number of international trips in 2012, the judge took exception.

"There were some really big expenses for airline tickets," said Judge Martin Glenn, according to a hearing transcript. "If your firm wants to pay for business class or first class, that's fine, but don't charge to the estate for it."

London-based law firm Slaughter and May also sought reimbursement for more than \$55,000 of photocopying and stationery charges without proper documentation, Judge Glenn said, according to a hearing transcript.

Kent Jarrell, a spokesman for the MF Global Inc. liquidation trustee that retained Slaughter and May, said the firm took a voluntary reduction totaling \$73,000, reflecting that charge and additional expenses. Mr. Jarrell, speaking on the law firm's behalf, said some costs were partly due to English court-filing regulations such as the use of paper of a particular durability.

Similar objections were raised in the [Patriot Coal](#) Corp. case. The U.S. Trustee took issue with about \$5,700 of [Blackstone Group](#) LP expenses, including a roughly \$4,000 client dinner with 17 people that exceeded the \$20-a-person limit by \$3,605.60, according to a December court filing.

A spokesman for Blackstone said the firm "withdrew the request that the Trustee questioned," but declined to comment further.

Some in the bankruptcy world are pushing back on the oversight. Damian Schaible, chairman of the Committee on Bankruptcy and Corporate Reorganization for the Association of the Bar of the City of New York, said in a letter last year to the Department of Justice that in some cases, hiring fee examiners to pore over expenses can increase the total costs to the estate "without commensurate benefit."

At a March hearing for the Pinnacle Airlines Inc. case, Mr. Schaible, of Davis Polk & Wardwell LLP, pointed out that his colleague Marshall Huebner, co-head of the firm's bankruptcy practice, wasn't in court that day. The choice saved the estate money because Mr. Huebner wouldn't be billing for his time there, he said, according to a court transcript.

"We've tried to really be careful with the debtors' liquidity and cash in particular," Mr. Schaible said during the hearing. Mr. Schaible declined to comment further.

Still, some bankruptcy professionals see benefits in monitoring fees.

Focusing on relatively small expense items in multimillion-dollar bankruptcy cases can be "pennywise but pound foolish," said Mr. Brandt of Development Specialists. But "the public needs to know that nobody is having \$300 bottle of wine nights at the end of the day and charging it to the client."

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