

McCARTER & ENGLISH, LLP

Four Gateway Center

100 Mulberry Street

Newark, New Jersey 07102

(973) 622-4444 telephone

(973) 624-7070 facsimile

[dadler@mccarter.com](mailto:dadler@mccarter.com)

Proposed Attorneys to Debtor in Possession

Nathan and Miriam Barnert Memorial

Hospital Association d/b/a Barnert Hospital

David J. Adler (DA-0048)

John G. Loughnane (JL-8040)

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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In re:	:	Chapter 11
	:	Case No. 07-21631 (DHS)
NATHAN AND MIRIAM BARNERT	:	
MEMORIAL HOSPITAL ASSOCIATION	:	
d/b/a BARNERT HOSPITAL,	:	Hearing Date: September 10, 2007
	:	Hearing Time: 10:00 a.m.
Debtor.	:	

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**ORAL ARGUMENT WAIVED UNLESS  
OBJECTIONS TIMELY PRESENTED**

**NOTICE OF MOTION FOR AN ADMINISTRATIVE FEE ORDER ESTABLISHING  
PROCEDURES FOR ALLOWANCE AND PAYMENT OF INTERIM COMPENSATION  
AND REIMBURSEMENT OF EXPENSES TO PROFESSIONALS**

TO: ALL PARTIES-IN-INTEREST  
ON THE ATTACHED SERVICE LIST

**PLEASE TAKE NOTICE** that on the 10th day of September, 2007, at 10:00 a.m., or as soon thereafter as counsel may be heard, the undersigned, proposed attorneys to Nathan and Miriam Barnert Memorial Hospital Association d/b/a Barnert Hospital, the within debtor and debtor-in-possession (the "Debtor"), shall move before the Honorable Judge Steckroth, at the United States Bankruptcy Court, Martin Luther King, Jr. Federal Building, 50 Walnut Street, Third Floor, Newark, New Jersey 07102, for an Administrative Fee Order Establishing

Procedures For Allowance and Payment of Interim Compensation and Reimbursement of Expenses to Professionals (the “Motion”).

**PLEASE TAKE FURTHER NOTICE** that a proposed Order granting the requested relief is submitted herewith.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the requested relief in the Motion shall: (i) be in writing, (ii) state with particularity the basis of the objection, (iii) be filed with the Clerk of the United States Bankruptcy Court and a copy simultaneously served on counsel for the Debtor, McCarter & English, Four Gateway Plaza, 100 Mulberry Street, Newark, NJ 07102 (Attn: David J. Adler, Esq.) so that the same are received no later than seven (7) days before the hearing date set forth above.

**PLEASE TAKE FURTHER NOTICE** that unless objections are timely presented, the Motion shall be deemed uncontested in accordance with D.N.J.L BR 9013-1(a) and the requested relief may be granted without a hearing.

**PLEASE TAKE FURTHER NOTICE** that the undersigned requests oral argument on the return date of the Motion if objections are timely presented.

Dated: Newark, New Jersey  
August 21, 2007

McCARTER & ENGLISH, LLP,  
Proposed Attorneys to Nathan and  
Miriam Barnert Memorial Hospital  
Association d/b/a Barnert Hospital

By: /s/ David J. Adler  
David J. Adler  
John G. Loughnane  
Members of the Firm  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102  
(973) 622-4444  
(973) 624-7070

## SERVICE LIST

- (i) all Parties who have filed a notice of appearance in the proceeding;
- (ii) the 40 largest Unsecured Creditors;
- (iii) The United States Trustee; and
- (iv) The New Jersey Health Care Facilities Financing Authority

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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In re:	:	Chapter 11
	:	Case No. 07-21631 (DHS)
NATHAN AND MIRIAM BARNERT	:	
MEMORIAL HOSPITAL ASSOCIATION	:	
d/b/a BARNERT HOSPITAL,	:	Hearing Date: September 10, 2007
	:	Hearing Time: 10:00 a.m.
Debtor.	:	

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**APPLICATION IN SUPPORT OF MOTION FOR AN ADMINISTRATIVE FEE ORDER  
ESTABLISHING PROCEDURES FOR ALLOWANCE AND PAYMENT OF INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES TO PROFESSIONALS**

TO: HONORABLE JUDGE STECKROTH,  
UNITED STATES BANKRUPTCY JUDGE

Nathan and Miriam Barnert Memorial Hospital Association d/b/a Barnert Hospital, as debtor and debtor-in-possession herein ("Barnert Hospital" or the "Debtor"), by and through its proposed counsel, McCarter & English, LLP, respectfully represents:

## **Introduction and Jurisdiction**

1. By this Motion, the Debtor seeks the entry of an administrative fee order establishing procedures for the allowance and payment of interim compensation and reimbursement of expenses to professionals.

2. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 1334 and 157(b). This is a “core” proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (M) and (O).

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1409(a).

## **Background**

4. On August 15, 2007 (the “Petition Date”), the Debtor filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Court”).

5. The Debtor has continued in possession of its property and has continued to operate and manage its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. An Official Committee of Unsecured Creditors has not yet been appointed in this case.

7. Barnert Hospital is a 256-bed acute care hospital located at 680 Broadway, Paterson, New Jersey which serves the communities of Bergen and Passaic counties. Barnert Hospital was founded in 1908. Barnert Hospital’s dedicated and diverse staff delivers the best possible health care to a multi-cultural community treating over 6,500 in-patients and 112,000 outpatients per year.

8. The Debtor has approximately 635 full time employees and its physicians and medical staff encompass a broad range of specialties. The Barnert Occupational Health Center provides diagnosis and treatment of work-related issues related to asbestos and hazardous waste,

hearing loss, employment physicals, and injury prevention. Centers for pain management, sleep disorders, and breast health supplement the trauma facilities of the hospital. Outreach services include the Family and Child Education project operated in conjunction with the Paterson Public School District, with an eye toward prevention of health problems particularly among economically disadvantaged populations.

### **Relief Requested and Basis Therefor**

9. Section 331 of the Bankruptcy Code authorizes professional persons to submit applications for interim compensation and reimbursement of expenses every one hundred and twenty (120) days or more often, if the court permits. 11 U.S.C. §331. In addition, section 105(a) of the Bankruptcy Code authorizes the Court to issue any order “that is necessary or appropriate to carry out the provisions of the [Bankruptcy Code].” 11 U.S.C. §105(a).

10. In accordance with the Guidelines Governing Procedures For Payment of Interim Compensation and Reimbursement of Expenses to Professionals Pursuant to 11 U.S.C. §§105(a) and 331, as adopted by the United States Bankruptcy Court for the District of New Jersey by General Order dated March 31, 2003 (the “Guidelines”), the Debtor seeks entry of an order authorizing an orderly, regular process for allowance and payment of compensation and reimbursement of expenses, subject to the funds available and so authorized by the Debtor’s Cash Collateral Order, for attorneys and other professionals retained by the Debtor or any official committee that may be appointed in this case (individually, a “Professional,” and collectively, the “Professionals”) and who are required to file applications with the Court for allowance of compensation and reimbursement of expenses pursuant to 11 U.S.C. §§330 and 331.

11. The Debtor submits that the proposed procedure for compensating and reimbursing the Professionals, which is consistent and complies with the Guidelines, will enable

the Court and all parties-in-interest to monitor professional fees and costs incurred more effectively and on more current basis.

12. The Debtor proposes the following procedure:
  - (a) On or before the tenth (10th) day of each month following the month for which compensation is sought, each Professional seeking compensation shall file with the Court and serve a monthly fee and expense statement (the “Monthly Statement”) by e-mail or regular mail on: (i) counsel for the Debtor, McCarter & English, LLP, Four Gateway Center, 100 Mulberry Street, Newark, New Jersey 07102 (Attention: David J. Adler, Esq.); (ii) United States Trustee for the District of New Jersey (“UST”), one Newark Center, Suite 2100, Newark, New Jersey 07102; (iii) counsel to the Debtor’s secured lenders; (iv) counsel for the Official Committee of Unsecured Creditors (the “Committee”); and (v) all parties filing an entry of appearance and request for notices pursuant to Fed. R. Bankr. P. 2002 (collectively, the “Notice Parties”).
    - (i) Each Monthly Statement shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Federal Rules”) and the Local Rules for the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”) with the exception that the provisions of Local Rules 2016-1(a)(8) and (a)(9) are not required.
    - (ii) All timekeepers must maintain contemporaneous time entries for each individual listed in the Monthly Statement in increments of tenths of a hour.
  - (b) Each person receiving a Monthly Statement shall have fifteen (15) days after service thereof to review it (the “Objection Deadline”). Upon expiration of the Objection Deadline, each Professional may file and serve on the Notice Parties a certificate of no objection or a certificate of partial objection, whichever is applicable, after which the Debtor is authorized to pay, to the extent so authorized by its cash collateral or financing order(s), each Professional an amount (the “Actual Interim Payment”) equal to the lesser of (i) eighty percent (80%) of the fees and one hundred percent (100%) of the expenses requested in the Monthly Statement or (ii) eighty percent (80%) of the fees and one hundred percent (100%) of the expenses not subject to any objection.
  - (c) Any objection to a Monthly Statement (the “Objection”) shall be in writing and filed with the Court and simultaneously served on the Notice Parties on or before the Objection Deadline. The Objection shall set forth the nature of the objection and the amount of fees and/or expenses at issue. If the Debtor receives an Objection to a particular Monthly Statement, the Debtor shall withhold payment of that portion of the Monthly Statement to which the Objection is directed and promptly pay the remainder of the fees and expenses in the percentages set forth in Paragraph (b) above.

(d) If the parties to an Objection can resolve their respective dispute(s) following the service of the Objection and the party whose Monthly Statement was objected to serves on all the Notice Parties a statement indicating that the Objection is withdrawn and describing in detail the terms of the resolution, then the Debtor, to the extent so authorized by its cash collateral or financing order(s), shall promptly pay in accordance with Paragraph (b) above that portion of the Monthly Statement which is no longer subject to an Objection.

(e) If the parties are unable to resolve the Objection within twenty (20) days after service thereof, then the affected Professional may either (i) file a response to the Objection together with a request for payment of the difference, if any, between the Actual Interim Payment and the non-objected to portion of the Actual Interim Payment made to the affected professional (the “Incremental Amount”); or (ii) forgo payment of the Incremental Amount until the next interim or final fee application, at which time the Court will consider and dispose of the Objection, if so requested.

(f) The service of an Objection to a Monthly Statement shall not prejudice the objecting party’s right to object to any fee applications made to the Court in accordance with the Bankruptcy Code on any ground whether raised in the objection or not.

(g) The decision by any party not to object to a Monthly Statement shall not be deemed or construed as 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 and applicable rules.

(h) Parties may file at three (3) month intervals (the “Interim Period”) an interim fee application. Each Professional seeking approval of its interim fee application shall file with the Court and serve upon the Notice Parties an interim application for allowance of compensation and reimbursement of expenses, pursuant to 11 U.S.C. §331, of the amounts sought in the Monthly Statements issued during such period (the “Interim Fee Application”). An Interim Fee Application must be filed and served within forty-five (45) days of the conclusion of the Interim Period, with the first Interim Period to cover the period from the Petition Date until the end of the third month following the commencement of the case. The Debtor shall request that the Court schedule a hearing on the Interim Fee Applications.

(i) The Interim Fee Application must include a summary of the Monthly Statements that are the subject of the request and any other information requested by the Court and shall comply with the Bankruptcy Code, the Federal Rules, the Local Rules and applicable law.

(ii) Any Professional who fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under this Order until such time as the Interim Fee Application is submitted.

(iii) The pendency of an Objection as to a particular Monthly Statement or Interim Fee Application shall not disqualify a Professional from the further payment of compensation or reimbursement of expenses, unless the Court orders otherwise.

(iv) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement of expenses as provided herein, shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses to any Professionals.

(i) Any party may object to request for payments made pursuant to these procedures on the grounds that the Debtor has not timely filed monthly operating reports or remained current with its administrative expense obligations and quarterly fees due to the US Trustee, or that a manifest exigency exists.

(j) The Debtor shall include all payments to Professionals on its monthly operating reports, detailed so as to state the amount paid to Professionals.

(k) All time periods set forth in these procedures shall be determined in accordance with Fed. R. Bankr. P. 9006(a).

13. The Debtor submits that the procedures proposed herein will enable the Debtor to closely monitor the costs of administration and manage its cash more effectively. In addition, these procedures will enable the Court to ensure the reasonableness of the compensation and reimbursement sought on a regular basis.

#### **Notice**

14. Notice of this Motion has been given to: (i) the United States Trustee; (ii) counsel to the Debtor's secured lenders; (iii) the Debtor's forty (40) largest creditors; and (iv) all entities who have filed a notice of appearance and demand for service of papers. The Debtor submits that such service constitutes good and sufficient notice under the circumstances.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order granting the Motion and such other relief as the Court deems just and proper.

Dated: Newark, New Jersey  
August 21, 2007

McCARTER & ENGLISH, LLP,  
Proposed Attorneys to Nathan and  
Miriam Barnert Memorial Hospital  
Association d/b/a Barnert Hospital

By: /s/ David J. Adler  
David J. Adler (DA-0048)  
John G. Loughnane  
Members of the Firm  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102  
(973) 622-4444  
(973) 624-7070

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

**MCCARTER & ENGLISH, LLP**

Four Gateway Center

100 Mulberry Street

Newark, NJ 07102

(973) 622-4444

(973) 624-7070 Facsimile

[dadler@mccarter.com](mailto:dadler@mccarter.com)

Proposed Attorneys to Nathan and Miriam Barnert

Memorial Hospital Association d/b/a Barnert

Hospital, Debtor-in-Possession

David J. Adler (DA-0048)

John G. Loughnane (JL-8040)

In the Matter of:

NATHAN AND MIRIAM BARNERT

MEMORIAL HOSPITAL ASSOCIATION d/b/a

BARNERT HOSPITAL

Debtor-in-Possession.

Case No.: 07-21631

Judge: Steckroth

Hearing Date:

September 10, 2007

**ADMINISTRATIVE FEE ORDER ESTABLISHING  
PROCEDURES FOR ALLOWANCE AND PAYMENT OF INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES TO PROFESSIONALS**

The relief set forth on the following pages, number two(2) through seven (7), is hereby

**ORDERED.**

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Debtor: NATHAN AND MIRIAM BARNERT MEMORIAL HOSPITAL  
ASSOCIATION d/b/a BARNERT HOSPITAL  
Case No. 07-21631 (DHS)  
Caption of Order: ADMINISTRATIVE FEE ORDER ESTABLISHING PROCEDURES  
FOR ALLOWANCE AND PAYMENT OF INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES TO  
PROFESSIONALS

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THIS MATTER having been opened to the Court upon the Motion of Nathan and Miriam Barnert Memorial Hospital Association d/b/a Barnert Hospital, as debtor and debtor-in-possession herein (the “Debtor”), by and through its proposed counsel, McCarter & English, LLP, for a administrative fee Order establishing procedures for allowance and payment of interim compensation and reimbursement of expenses to professionals retained by Order of this court (the “Motion”); and good and sufficient notice of the hearing on the Motion having been given as evidenced by the Affidavit of Service filed with the Court; and the Court having held a hearing on the date hereof, and having considered the moving papers, opposition thereto, if any, and the arguments of counsel; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate and creditors; and good cause appearing for the entry of this Order;

IT IS ORDERED as follows:

Except as may otherwise be provided in an Order of this Court authorizing the retention of specific professionals, all professionals retained in this case pursuant to section 327, and to the extent applicable, sections 328(a) and 1103 of the Bankruptcy Code (the “Professionals”), may seek interim compensation, subject to the funds available and so authorized by the Debtor’s Cash Collateral Order(s), in accordance with the following procedure:

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Debtor: NATHAN AND MIRIAM BARNERT MEMORIAL HOSPITAL  
ASSOCIATION d/b/a BARNERT HOSPITAL  
Case No. 07-21631 (DHS)  
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COMPENSATION AND REIMBURSEMENT OF EXPENSES TO  
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1. On or before the tenth (10th) day of each month following the month for which compensation is sought, each Professional seeking compensation shall file with the Court and serve a monthly fee and expense statement (the “Monthly Statement”) by e-mail or regular mail on: (i) counsel for the Debtor, McCarter & English, LLP, Four Gateway Center, 100 Mulberry Street, Newark, New Jersey 07102 (Attention: David J. Adler, Esq.); (ii) the United States Trustee for the District of New Jersey (“UST”), one Newark Center, Suite 2100, Newark, New Jersey 07102; (iii) counsel to the Debtor’s secured lenders; (iv) counsel for the Official Committee of Unsecured Creditors (the “Committee”); and (v) all parties filing an entry of appearance and request for notices pursuant to Fed. R. Bankr. P. 2002 (collectively, the “Notice Parties”).

(a) Each Monthly Statement shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Federal Rules”) and the Local Rules for the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”) with the exception that the provisions of Local Rules 2016-1(a)(8) and (a)(9) are not required.

(b) All timekeepers must maintain contemporaneous time entries for each individual listed in the Monthly Statement in increments of tenths of a hour.

2. Each person receiving a Monthly Statement shall have fifteen (15) days after service thereof to review it (the “Objection Deadline”). Upon expiration of the Objection

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Debtor: NATHAN AND MIRIAM BARNERT MEMORIAL HOSPITAL  
ASSOCIATION d/b/a BARNERT HOSPITAL  
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Deadline, each Professional may file and serve on the Notice Parties a certificate of no objection or a certificate of partial objection, whichever is applicable, after which the Debtor is authorized to pay, subject to available funds and to the extent so authorized by its Cash Collateral Order, each Professional an amount (the “Actual Interim Payment”) equal to the lesser of (i) eighty percent (80%) of the fees and one hundred percent (100%) of the expenses requested in the Monthly Statement or (ii) eighty percent (80%) of the fees and one hundred percent (100%) of the expenses not subject to any objection.

3. Any objection to a Monthly Statement (the “Objection”) shall be in writing and filed with the Court and simultaneously served on the Notice Parties on or before the Objection Deadline. The Objection shall set forth the nature of the objection and the amount of fees and/or expenses at issue. If the Debtor receives an Objection to a particular Monthly Statement, the Debtor shall withhold payment of that portion of the Monthly Statement to which the Objection is directed and promptly pay the remainder of the fees and expenses in the percentages set forth in Paragraph 2 above.

4. If the parties to an Objection can resolve their respective dispute(s) following the service of the Objection and the party whose Monthly Statement was objected to serves on all the

(Page 5)

Debtor: NATHAN AND MIRIAM BARNERT MEMORIAL HOSPITAL  
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Case No. 07-21631 (DHS)  
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Notice Parties a statement indicating that the Objection is withdrawn and describing in detail the terms of the resolution, then the Debtor, subject to available funds and to the extent so authorized by its Cash Collateral Order, shall promptly pay in accordance with Paragraph 2 above that portion of the Monthly Statement which is no longer subject to an Objection.

5. If the parties are unable to resolve the Objection within twenty (20) days after service thereof, then the affected Professional may either (i) file a response to the Objection together with a request for payment of the difference, if any, between the Actual Interim Payment and the non-objected to portion of the Actual Interim Payment made to the affected professional (the “Incremental Amount”); or (ii) forgo payment of the Incremental Amount until the next interim or final fee application, at which time the Court will consider and dispose of the Objection, if so requested.

6. The service of an Objection to a Monthly Statement shall not prejudice the objecting party’s right to object to any fee applications made to the Court in accordance with the Bankruptcy Code on any ground whether raised in the objection or not.

7. The decision by any party not to object to a Monthly Statement shall not be deemed or construed as 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 and applicable rules.

(Page 6)

Debtor:

NATHAN AND MIRIAM BARNERT MEMORIAL HOSPITAL  
ASSOCIATION d/b/a BARNERT HOSPITAL

Case No.

07-21631 (DHS)

Caption of Order:

ADMINISTRATIVE FEE ORDER ESTABLISHING PROCEDURES  
FOR ALLOWANCE AND PAYMENT OF INTERIM  
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8. Parties may file at three (3) month intervals (the “Interim Period”) an interim fee application. Each Professional seeking approval of its interim fee application shall file with the Court and serve upon the Notice Parties an interim application for allowance of compensation and reimbursement of expenses, pursuant to 11 U.S.C. §331, of the amounts sought in the Monthly Statements issued during such period (the “Interim Fee Application”). An Interim Fee Application must be filed and served within forty-five (45) days of the conclusion of the Interim Period, with the first Interim Period to cover the period from the Petition Date until the end of the sixth month following the commencement of the case. The Debtor shall request that the Court schedule a hearing on the Interim Fee Applications.

(a) The Interim Fee Application must include a summary of the Monthly Statements that are the subject of the request and any other information requested by the Court and shall comply with the Bankruptcy Code, the Federal Rules, the Local Rules and applicable law.

(b) Any Professional who fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under this Order until such time as the Interim Fee Application is submitted.

(Page 7)

Debtor: NATHAN AND MIRIAM BARNERT MEMORIAL HOSPITAL  
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Case No. 07-21631 (DHS)  
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(c) The pendency of an Objection as to a particular Monthly Statement or Interim Fee Application shall not disqualify a Professional from the further payment of compensation or reimbursement of expenses, unless the Court orders otherwise.

(d) Neither the payment of, not the failure to pay, in whole or in part, monthly compensation and reimbursement of expenses as provided herein shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses to any Professionals.

9. Any party may object to request for payments made pursuant to these procedures on the grounds that the Debtor has not timely filed monthly operating reports or remained current with its administrative expense obligations and quarterly fees due to the UST, or that a manifest exigency exists.

10. The Debtor shall include all payments to Professionals on its monthly operating reports, detailed so as to state the amount paid to Professionals.

11. All time periods set forth in these procedures shall be determined in accordance with Fed. R. Bankr. P. 9006(a).

12. A true copy of this Order shall be served on the Notice Parties within seven (7) days hereof.