

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

In re: )  
)  
ADAM AIRCRAFT INDUSTRIES, INC. ) Case No. 08-11751 MER  
EIN: 161643299, ) Chapter 7  
)  
Debtor. )

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COVER SHEET FOR FIRST INTERIM APPLICATION  
FOR PROFESSIONAL COMPENSATION

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Name of Applicant: Lindquist & Vennum P.L.L.P.

Authorized to Provide Professional Services to: Jeffrey A. Weinman, Chapter 7 Trustee.

Date of Order Authorizing Employment: March 21, 2008 *nunc pro tunc* to February 15, 2008

Period for Which

Compensation is Sought: February 15, 2008 through September 30, 2008

Amount of Fees Sought: \$587,834.00

Amount of Expense

Reimbursement Sought: \$25,205.65

This is a: First Interim Application

If this is not the first application filed herein by this professional, disclose as to all prior fee applications:

<u>Date Filed</u>	<u>Period Covered</u>	<u>(Fees &amp; Expenses)</u>	<u>Total Requested</u>	<u>Total Allowed</u>
n/a				

The aggregate amount of fees and expenses paid to the Applicant to date for services rendered and expenses incurred, pursuant to the Court's April 22, 2008, Order Granting Trustee's Motion for Order Authorizing Periodic Fee Payments (Professionals), is: \$287,582.56

Dated this 16<sup>th</sup> day of October, 2008.

LINDQUIST & VENNUM P.L.L.P.

By:  /s/ Theodore J. Hartl

John C. Smiley, #16210

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Attorneys for the Chapter 7 Trustee

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In re:	)	
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ADAM AIRCRAFT INDUSTRIES, INC.	)	Case No. 08-11751 MER
EIN: 161643299,	)	Chapter 7
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**FIRST INTERIM APPLICATION OF LINDQUIST & VENNUM P.L.L.P.  
FOR ALLOWANCE OF COMPENSATION AND  
REIMBURSEMENT OF EXPENSES**

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Lindquist & Vennum P.L.L.P (“L&V” or “Applicant”), as counsel for Jeffrey A. Weinman, the Chapter 7 Trustee (the “Trustee”), in the above-captioned case, pursuant to 11 U.S.C. §§ 330 and 331, hereby submits its First Interim Application for Allowance of Compensation and Reimbursement of Expenses (this “Application”). The Application covers the period from February 15, 2008 through September 30, 2008 (the “Application Period”), and requests interim approval of \$587,834.00 in fees and \$25,205.65 in expenses. In support of this Application, L&V states:

**BACKGROUND**

1. On or about February 15, 2008 (the “Petition Date”), the Adam Aircraft Industries, Inc. (the “Debtor”), filed a voluntary Chapter 7 petition commencing the above-captioned Chapter 7 case. The Trustee is the duly appointed Chapter 7 trustee in the Debtor’s bankruptcy case.

2. On March 21, 2008, the Court entered an order authorizing the employment of L&V as the Trustee's counsel, effective *nunc pro tunc* to the Petition Date.

3. During the Application Period, the attorneys and legal assistants of L&V identified in **Exhibit A** performed legal services on behalf of the Trustee for the benefit of the Debtor's estate at the rates noted.

4. Attached to this Application as **Exhibit B** is a narrative summary of the work performed by L&V for the Debtor during the period from February 15, 2008 through September 30, 2008, along with the fees incurred, and the hours expended by each timekeeper.

5. Attached to this Application as **Exhibit C** are the daily time entries of L&V's timekeepers for the period of this Application. These time entries include the dates the services were rendered, describe in narrative form the legal service provided by task, state the time spent performing such services, and identify the individual performing the service.

6. The time entries listed in **Exhibit C** reflect that a portion of the time spent in this case was billed by legal assistants. Applicant endeavors to assign associates and legal assistants to as many tasks as possible. All work is performed under the supervision of the billing attorney for the case. Applicant believes that the use of a legal assistant in this case has benefited the estate.

7. For the Application Period, L&V timekeepers billed a total of 1,902.3 hours and incurred corresponding fees in the amount of \$587,834.00.

#### **APPLICABLE STANDARDS**

8. Section 330 of the Bankruptcy Code contemplates an award of "reasonable compensation for actual, necessary services rendered [and] reimbursement for actual, necessary

expenses.” 11 U.S.C. § 330(a)(1)(A) and (B). Assessing “reasonable compensation” in any case requires the Court to gauge “the nature, the extent, and the value” of the services rendered, mindful of the statutory factors, which include: (a) the time spent on the services; (b) the rates charged; (c) whether the services were necessary to the administration of the case or beneficial at the time the services were rendered toward the completion of the case; (d) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; (e) whether the professionals are board certified or otherwise skilled and experienced in the bankruptcy field; and (f) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code. *See* 11 U.S.C. § 330(a)(3).

9. In addition to the statutory standards for assessing a reasonable fee, the Court may consider twelve factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). The Tenth Circuit Court of Appeals “has long applied the *Johnson* lodestar factors to assess ‘reasonableness’ of attorney’s fees in a variety of contexts . . . and has also specifically determined that the test applies to attorney fee determinations under § 330(a)(1)” of the Bankruptcy Code. *Connolly v. Harris Trust Co. (In re Miniscribe Corp.)*, 309 F.3d 1234, 1244 (10th Cir. 2002); *see In re Permian Anchor Servs., Inc.*, 649 F.2d 763, 768 (10th Cir. 1981); *accord In re Recycling Indus., Inc.*, 243 B.R. 396, 400 n.2 (Bankr. D. Colo. 2000) (noting that “[t]he 1994 amendments to the Bankruptcy Code incorporated and clarified many of the judicial

standards and practices, including the *Johnson* factors regarding the allowance of professional fees”).<sup>1</sup>

10. “The so-called ‘*Johnson*’ factors are: (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation and ability of the attorneys; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.” *Recycling Indus.*, 243 B.R. at 400 n.2.

11. Attached to this Application as **Exhibit D** is a summary of the expenses for the time period covered by this Application, which expenses total \$25,340.66 (L&V is writing off \$135.01 in costs during the period of this Application, which brings the total costs incurred during the Application period to \$25,205.65). Documentation supporting L&V's expenses also is included in **Exhibit D**. The following general categories comprise L&V's expenses in this case:

- a. Postage. The vast bulk of expenses incurred by L&V for postage are for mailings required by the notice requirements of the Bankruptcy Code or Rules, or by the Court. The postage expense incurred by L&V for mailing individual correspondence is nominal.

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<sup>1</sup> The factors bearing on reasonable compensation from developed case law, including *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974) and its progeny, continue to apply under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”). See, e.g., *In re McNally*, No. 06-10073, 2006 WL 2348687 (Bankr. D. Colo. Aug. 10, 2006) (unpublished) (applying *Johnson* factors in considering Chapter 13 fee applications under BAPCPA).

- b. Duplication costs. L&V's per page cost for in-house copying is \$.20 per page.
- c. Delivery Services and Federal Express. These were fees incurred for local messenger trips and for documents sent via overnight courier.
- d. Transcripts. These fees were incurred when a deposition transcript or hearing transcript was transcribed by a court reporter in this case.
- e. Meeting and Travel Expenses. These costs were incurred for meeting facilities regarding this case and/or expenses due to travel.
- f. Legal Research/Electronic Court Filing Fees. These are fees required to be paid to the Bankruptcy Court upon filing of a bankruptcy case and the filing of an adversary case, which includes the expenses incurred to research dockets and file documents in the case electronically.
- g. Website Maintenance. L&V created and maintained a separate website in this case to allow creditors and interested parties to research upcoming hearing dates and documents filed in the case without incurring charges.
- h. Teleconference Charges. Conference call charges were incurred for multi-party calls regarding the case.
- i. Service of Subpoena. Process servers for service of subpoenas was necessary in administration of the Debtor's estate.
- j. UCC Search. The cost of a UCC search with the Secretary of State is included in this category.

- k. Certified Copies/Copies of Documents. Requests for copies of documents and/or certified copies of documents occurred at times in this case.

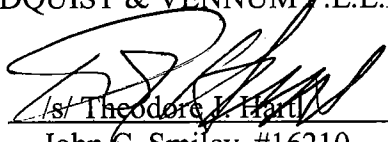
13. L&V received \$287,582.56 in payment of fees and expenses incurred in this matter in June 2008, pursuant to the Court's Order Granting Trustee's Motion for Order Authorizing Periodic Fee Payments. The amount received by Applicant was 75% of the fees and 100% of the costs incurred from February 15, 2008 through April 30, 2008 (\$267,590.62 in fees and \$19,991.94 in costs). The 25% holdback in fees through April 30, 2008, this totals \$89,196.88. Applicant incurred fees from May 1, 2008 through September 30, 2008 in the amount of \$231,046.50, which when added to the holdback amount, brings the outstanding fees balance of fees to \$320,243.38. Additional costs incurred from May, 1, 2008 through September 30, 2008, total \$5,213.71, for outstanding unpaid fees and costs of \$325,457.09.

14. As summarized in **Exhibit B**, and as set forth in more detail in the time and task records submitted with this Application as **Exhibit C**, L&V believes that the services rendered and fees and expenses are reasonable, necessary and beneficial to the estate. Thus far, Applicant has assisted the Trustee in collecting more than \$12 million for disbursement to creditors. Applicant anticipates significant services for further asset collection and estate administration going forward, as well.

WHEREFORE, for all of the foregoing reasons, Lindquist & Vennum P.L.L.P. requests interim approval of fees in the amount of \$587,834.00, and expenses in the amount of \$25,205.65, for a total interim award of \$613,039.65.

Dated this 16<sup>th</sup> day of October, 2008.

LINDQUIST & VENNUM P.L.L.P.

By:   
~~/s/ Theodore J. Hartl~~  
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Theodore J. Hartl, #32409

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Attorneys for Jeffrey A. Weinman, as Chapter 7 Trustee

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of October, 2008, a true and correct copy of the foregoing **FIRST INTERIM APPLICATION OF LINDQUIST & VENNUM P.L.L.P. FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES** was deposited in the United States mail, postage prepaid, addressed to the parties on the attached list (pursuant to the Court's May 2, 2008, Order Granting Trustee's Motion to Limit Notice Pursuant to Fed. R. Bankr. P. 2002(i)):

U.S. Trustee  
999 18<sup>th</sup> Street  
Ste. 1551  
Denver, CO 80202-2415

Jeffrey A. Weinman  
730 17<sup>th</sup> Street, Suite 240  
Denver, CO 80202-3506

  
\_\_\_\_\_  
/s/ Laura Lee Rippe