

UNITED STATES BANKRUPTCY COURT JAN 28 2010
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

VERSO TECHNOLOGIES, INC., et. al.,

Debtors.

Jointly Administered Under

CASE NO. 08-67659-JB

CHAPTER 11

JUDGE BIHARY

ORDER

This case is before the Court on the *pro se* request of Bernice Greenberg for payment of administrative expenses (Docket No. 662). Darryl S. Laddin, the Liquidating Trustee, filed a response in opposition to Ms. Greenberg's request. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (O). After carefully considering the pleadings and the record, Ms. Greenberg's request must be and hereby is DENIED.

Ms. Greenberg's request for administrative expenses is for \$1,024.50 in costs and expenses she incurred in preparing for and attending a hearing on May 27, 2009 on the Debtors' objection to her proof of claim. She contends she is entitled to payment for travel expenses, postage, phone calls and preparation for the hearing. The law does not allow payment of her expenses from the estate as an administrative claim.

The relevant history is as follows. Debtor Verso Technologies, Inc. ("Debtor" or "Debtors") filed this Chapter 11 case, and filed a list of equity security holders that included Ms. Greenberg. Ms. Greenberg filed proof of claim number 399

dated October 17, 2008 in the amount of \$16,582.00. On April 22, 2009, Debtors filed omnibus objections to equity claims requesting that they be disallowed as unsecured creditor claims. Debtors also objected that Ms. Greenberg's claim was untimely. Ms. Greenberg filed a response to Debtors' objections and appeared at a May 27, 2009 hearing. The Court ruled that Ms. Greenberg's claim was timely filed, but the claim was disallowed as an unsecured claim because it is and was based on an equity interest. The order also provided that in the event Debtors pay all unsecured creditors in full and a dividend is paid to equity holders, Ms. Greenberg's filed proof of claim sufficiently substantiates her equity interest. On October 13, 2009, Ms. Greenberg filed the subject request for payment of \$1,024.50 in administrative expenses for costs she incurred in preparing for and attending the May 27, 2009 hearing. The Liquidating Trustee opposes the request, as her expenses provided no benefit to the estate.

Section 507(a)(2) of the Bankruptcy Code grants second priority in the distribution of assets of the estate to administrative expenses allowed under Section 503(b). 11 U.S.C. § 507(a)(2). Section 503(b) contains nine categories of allowable administrative expenses. 11 U.S.C. § 503(b). Generally, an administrative expense is defined as a cost or expense incurred by the bankruptcy estate following the commencement of the bankruptcy case. 4 COLLIER ON BANKRUPTCY ¶ 503.05 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). The party requesting payment has the burden of proving that its request constitutes an administrative expense. *In re Norwalk Furniture*

Corp., 418 B.R. 631, 633 (Bankr.N.D.Ohio 2009). Courts must carefully review the legitimacy of administrative claims and narrowly construe the statutory provisions in order to preserve as much of the estate as possible for distribution to creditors. *McMillan v. Joseph Decosimo and Co. (In re Das A. Borden & Co.)*, 131 F.3d 1459, 1464 (11th Cir. 1997); *Norwalk*, 418 B.R. at 633.

Ms. Greenberg's expenses to attend a hearing on Debtors' objections to her proof of claim do not qualify as an administrative expense under Section 503(b) of the Bankruptcy Code. Her request does not reference Section 503(b) or identify any category of allowable administrative expense. Administrative expenses allowed under Section 503(b)(1)(A) are "the actual, necessary costs and expenses of preserving the estate". 11 U.S.C. § 503(b)(1)(A). The benefit of an allowable administrative expense "must run to the debtor and be fundamental to the conduct of its business." *Borden*, 131 F.3d at 1463. Expenses incurred by Ms. Greenberg in preparing for and attending the hearing on Debtor's objections to her proof of claim did not provide any benefit to the estate, nor were they necessary to preserve Debtor's estate or fundamental to the conduct of Debtor's business. Accordingly, Ms. Greenberg's request for an administrative expense claim cannot be granted and is hereby denied.

IT IS SO ORDERED, the 27th day of January, 2010.



JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

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