

Rule 2014-1

Employment of Professional Persons

(a) Application and Statement. An application of a trustee or committee to employ any professional person, including an attorney, accountant, appraiser, broker, auctioneer, consultant, or agent (hereinafter the “professional”), must include all of the information required by Fed. R. Bankr. P. 2014(a). In addition, the application must include the *curriculum vitae* of the professional to be employed. In a chapter 11 case, the trustee, debtor in possession, or committee must sign the application to employ an attorney under § 327(a). The application must be accompanied by a statement in which the professional to be employed makes the following disclosures under penalty of perjury, in accordance with subsection (b) of this LBR:

(1) Neither I nor any member of my firm holds or represents any interest adverse to the estate of the above-named debtor.

(2) My connections and my firm’s connections with the debtor, any creditor or other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed by the United States trustee are as follows: _____.

(3) I am, and each member of my firm is, a “disinterested person” as that term is defined in 11 U.S.C. § 101(14). [Not required for employment of special counsel pursuant to § 327(e)]

(4) I have not agreed to share with any person, except members of my firm, the compensation to be paid for the services rendered in this case, except as follows: _____.

(5) The terms of compensation agreed to are as follows: I have received a retainer in this case in the amount of \$_____, which sum, upon information and belief, was generated by the debtor from: _____.

(6) I will amend this statement immediately upon my learning that: (a) any of the representations made herein are incorrect, or (b) there is any change of circumstance relating thereto.

(7) I have reviewed the provisions of [LBR 2016-1](#).

(b) Clarifying Terms.

(1) Connections. For the purposes of 11 U.S.C. § 101(14) and subsection (a)(2) of this LBR, the term “connections” includes, but is not limited to:

(A) the professional’s representation at any time of the debtor or any affiliate of the debtor, as that term is defined in 11 U.S.C. § 101(2), or of any insider of the debtor, as that term is defined in 11 U.S.C. § 101(31);

(B) the professional's representation at any time of a creditor against the debtor, or any insider or affiliate of the debtor;

(C) the professional's representation of a creditor on a regular basis, or in connection with a substantial matter;

(D) the professional's representation or employment of or by another authorized professional, either specifically in connection with the case, or on a regular basis, or in connection with a substantial matter in another case; and

(E) a marital relationship or family affiliation to the third degree of consanguinity between the professional or the member of the professional's firm who will actually render services, and any party in interest (or officer, director, or shareholder of that party) or other professional authorized to be employed in the case.

(2) Source of Funds. For the purposes of subsection (a)(5) of this LBR, the professional must disclose how the funds paid were generated by the debtor – such as whether from operations, salary, wages, other income, or from a loan or capital contribution. If the source is a loan or capital contribution – other than an advance on a continuing line of credit – and the loan or capital contribution was made to the debtor within ninety (90) days prior to the filing of the petition, the professional must disclose the identity of the lender or investor/stockholder and the terms of repayment, as well as any claims by and between the debtor and the lender or investor/stockholder.

(c) Form of Statement. The statement accompanying the application to employ a professional person must be in the form of an affidavit, dated and signed under penalty of perjury by the person to be employed. Above such signature the affiant must include a sworn declaration that states: "I declare (or certify, or verify, or state) under penalty of perjury that the foregoing is true and correct," as provided in 28 U.S.C. § 1746.

(d) Certificate of Service. The application must include a certificate of service that indicates that the application and statement were transmitted to the United States trustee.

(e) Effective Date. If the court approves an application for the employment of a professional person, the approval is deemed effective as of the date of the filing of the application. However, if the application is filed within fourteen (14) days of either the commencement of the case or the date the professional first rendered services, whichever is later, court approval is deemed effective on the date that the services were first rendered.