

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

COWESETT PARTNERS, L.P., : BK No. 95-10296
Debtor Chapter 7

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ORDER ALLOWING COMPENSATION AND DENYING MOTION FOR
DISGORGEMENT

Before the Court is the Fee Application of Lane, Altman & Owens (hereinafter "Lane Altman"), seeking fees of \$90,289.75 and expenses of \$3,985.01 for services performed as Debtor's attorney. The Applicant has agreed to accept as full and final payment for all services and disbursements the sum of \$20,000, the amount of the retainer it received. LNH REIT, Inc., objects to the Application and argues that the Applicant should disgorge the retainer because the check issued by the Debtor for the retainer was cashed by Lane Altman two days after the petition was filed.

We agree with the position of the United States Trustee, see Docket # 79, that the retainer of Lane Altman remains an asset of the bankruptcy estate until such time as a proper fee application is allowed. See *In re Bread & Chocolate, Inc.*, 148 B.R. 81, 82-83 (Bankr. D.D.C. 1992). Lane Altman holds the retainer in trust for the estate until the Court has ruled on its fee request. See *In re Crimson Investment, N.V.*, 109

B.R. 397, 402 (Bankr. D. Ariz. 1989). Therefore, there is no basis to order disgorgement of the retainer because no post-petition transfer under 11 U.S.C. § 549 has occurred. Accordingly, the Motion to disgorge is DENIED.

Upon review of the Fee Application according to usual First Circuit guidelines, *see Furtado v. Bishop*, 635 F.2d 915 (1st Cir. 1980); *In re Almacs, Inc.*, 178 B.R. 598 (Bankr. D.R.I. 1995), *Reconsideration denied*, 181 B.R. 143 (Bankr. D.R.I. 1995), we find that the Applicant has performed reasonable services at least equal to the amount of its retainer. Accordingly, the fee application is approved in the amount of \$20,000 and Lane Altman is authorized to apply the retainer to this application. Any further payment to Lane Altman from the estate is DENIED.

Dated at Providence, Rhode Island, this 6th day
of
June, 1997.

/s/ Arthur N. Votolato

Arthur N. Votolato
U.S. Bankruptcy Judge