

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

)	
In re)	
)	
MODERN CONTINENTAL)	Chapter 11
CONSTRUCTION CO., INC.,)	Case No. 08-14558-WCH
)	
Debtor.)	

SECOND INTERIM APPLICATION OF JAGER SMITH P.C. FOR ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND FOR REIMBURSEMENT OF EXPENSES INCURRED AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

To the Honorable William C. Hillman, United States Bankruptcy Judge:

Pursuant to Section 331 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2016-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the District of Massachusetts (the “Local Rules”), Jager Smith P.C. (“Jager Smith”) files this *Second Interim Application of Jager Smith P.C. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Counsel to the Official Committee of Unsecured Creditors* (the “Second Application”), and respectfully requests that the Court enter an order approving the attorneys’ fees in the amount of \$15,349.00 and the expenses in the amount of \$708.21, which amounts total \$16,057.21, that Jager Smith incurred during the period from November 1, 2008 through February 28, 2009 in its capacity as counsel to the Official Committee of Unsecured Creditors (the “Committee”) of Modern

Continental Construction Co., Inc. (the “Debtor”), and allowing the payment of the unpaid balance thereof in the amount of \$236.90 as is set forth herein.

In support of the Second Application, Jager Smith respectfully states as follows:

Pertinent Procedural History

1. On June 23, 2008 (the “Petition Date”), the Debtor filed a *Voluntary Petition* for relief (the “Chapter 11 Case”) under Chapter 11 of the Bankruptcy Code. Subsequent to the Petition Date, the Debtor has continued to operate its business and manage its financial affairs as a debtor and debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2. On July 2, 2008, the United States Trustee appointed the Committee in the Chapter 11 Case pursuant to Section 1102(a)(1) of the Bankruptcy Code.

3. Also on July 2, 2008, the Committee elected to seek the authority of the Court to employ Jager Smith as its counsel in the Chapter 11 Case. On July 8, 2008, the Committee filed a motion [Docket No. 110] seeking an order approving its employment of Jager Smith *nunc pro tunc* to July 3, 2008. The motion was accompanied by the statement required pursuant to Bankruptcy Rule 2014 and Local Rule 2014-1. No objection to the motion was filed, and on July 28, 2008, the Court entered an order [Docket No. 212] approving the Committee’s employment of Jager Smith as its counsel in the Chapter 11 Case. A copy of that order is submitted herewith as Exhibit A.

Prior Payments to Jager Smith

4. On August 27, 2008, the Court entered an order [Docket No. 332] granting the *Motion by Debtor for Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* (the “Interim Compensation Order”) [Docket No. 235]. Pursuant to the Interim Compensation Order, Jager Smith was permitted to seek, on a

monthly basis and under the terms and conditions set forth therein, payment of 90% of the fees due for services rendered, and 100% of the expenses it incurred, as counsel to the Committee in the Chapter 11 Case.

5. In accordance with the Interim Compensation Order, Jager Smith received payments totaling \$46,913.00 on account of the fees and expenses it incurred as counsel to the Committee for the period from July 3, 2008 through October 31, 2008, leaving a balance due to Jager Smith in the amount of \$5,109.90 on account of the fees it incurred during that period.

6. On November 13, 2008, Jager Smith filed with this Court the *First Interim Application of Jager Smith P.C. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Counsel to the Official Committee of Unsecured Creditors* (the "First Application") [Docket No. 491], pursuant to which Jager Smith sought approval of the attorneys' fees and expenses incurred on behalf of the Committee during the period from July 3, 2008 through October 31, 2008, which totaled \$52,022.90. On December 16, 2008, the Court entered an order [Docket No. 620] allowing the First Application in its entirety, following which Jager Smith was paid the balance due.

7. Also in accordance with the Interim Compensation Order, Jager Smith received payments totaling \$15,820.31 (which amount is the sum of \$14,522.31, representing the fees and expenses requested under the Interim Compensation Order and \$1,298.00, representing payment for a portion of the fees held back thereunder, which the Debtor appears to have paid prematurely) on account of the fees and expenses it incurred as counsel to the Committee for the period from November 1, 2008 through February 28, 2009, leaving a balance due to Jager Smith in the amount of \$236.90 on account of the fees it incurred during that period.

The Second Application

8. Jager Smith makes this Second Application pursuant to Sections 330 and 331 of the Bankruptcy Code, Bankruptcy Rule 2016, and Local Rule 2016-1, and pursuant to the Interim Compensation Order. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b). This matter is a core proceeding under 28 U.S.C. § 157(b).

9. Pursuant to this Second Application, Jager Smith seeks approval of its fees in the amount of \$15,349.00 and its expenses in the amount of \$708.21, for a total amount of \$16,057.21, for the period from November 1, 2008 through February 28, 2009, and payment of the unpaid fees in the amount of \$236.90.

10. All legal services performed by Jager Smith as covered by this Second Application were performed for and on behalf of the Committee and not on behalf of any creditor or any other person or entity.

11. In accordance with Local Rule 2016-1(a)(1), submitted herewith as Exhibit B is a description of the professional background of each lawyer and paraprofessional who participated in Jager Smith's representation of the Committee.

12. In accordance with Local Rule 2016-1(a)(2), submitted herewith as Exhibit C is a summary of hours worked and fees billed for each category for which compensation is sought by this Second Application.

13. Submitted herewith as Exhibit D is a summary chart of hours worked and fees charged for each lawyer and paraprofessional with respect to whose services compensation is sought by this Second Application, which was prepared in accordance with Local Rule 2016-1(a)(2).

14. In accordance with Local Rule 2016-1, submitted herewith as Exhibit E is a narrative description of the services for which compensation is sought by this Second Application.

15. Submitted herewith as Exhibit F is a day-to-day description of services rendered by Jager Smith, which is divided into narrative sections corresponding to billing categories utilized by Jager Smith. Each such section includes for each such billing category (i) a narrative description of services rendered in accordance with Local Rule 2016-1(d); (ii) a summary chart conforming to the requirements of Local Rule 2016-1(a)(2); and (iii) a detailed, daily description of services by each attorney and paraprofessional with respect to whom compensation is sought, compiled from time records maintained by Jager Smith in the ordinary course.

Summary of Services Rendered

<i>Category No.</i>	<i>Description</i>	<i>Hours</i>	<i>Amount</i>
1	Asset Analysis and Recovery	21.10	\$6,474.00
2	Asset Disposition	1.10	\$495.00
3	Case Administration	8.00	\$2,640.00
4	Claims Administration	2.60	\$828.00
5	Employment Applications	1.70	\$555.00
6	Fee Applications	7.40	\$2,442.00
7	Financing	2.90	\$957.00
8	Meetings of Creditors	2.30	\$859.00
9	Relief from Stay Proceedings	0.30	\$99.00
	Expenses		\$708.21

16. The Debtor's estate is the source of the compensation promised to Jager Smith. No agreement or understanding exists for the sharing of compensation other than with members or associates of Jager Smith.

Conclusion

17. Based upon the foregoing, Jager Smith respectfully requests that the Court enter an order: (a) approving its fees in the amount of \$15,349.00 and expenses in the amount of \$708.21, for a total amount of \$16,057.21, for the period from November 1, 2008 through February 28, 2009; (b) authorizing payment to Jager Smith of the unpaid fees in the amount of \$236.90; and (c) granting to Jager Smith such other and further relief as the Court deems just and proper.

JAGER SMITH P.C.

/s/ Steven C. Reingold

Bruce F. Smith (BBO No. 467900)
Steven C. Reingold (BBO No. 638649)
Michael J. Fencer (BBO No. 648288)
JAGER SMITH P.C.
One Financial Center
Boston, Massachusetts 02111
telephone: (617) 951-0500
facsimile: (617) 951-2414
email: sreingold@jagersmith.com

Dated: April 3, 2009

In Re:

Case Number:

Ch:

Matter:

MOVANT/APPLICANT/PARTIES

OUTCOME:

By Agreement of the Parties

___ Granted ___ Denied ___ Approved ___ Sustained

___ Denied ___ Denied without prejudice ___ Withdrawn in open court ___ Overruled

___ OSC enforced/released

___ Continued to: _____ For: _____

___ Formal order/stipulation to be submitted by: _____ Date due: _____

___ Findings and conclusions dictated at close of hearing incorporated by reference

___ Taken under advisement: Brief(s) due _____ From _____

Response(s) due _____ From _____

___ Fees allowed in the amount of: \$ _____ Expenses of: \$ _____

___ No appearance/response by: _____

___ DECISION SET OUT MORE FULLY BY COURT AS FOLLOWS:

IT IS SO NOTED:

IT IS SO ORDERED:

Courtroom Deputy

Dated: _____
William C. Hillman, U.S. Bankruptcy Judge

EXHIBIT B

Professionals

Bruce F. Smith. Education: Cornell University (A.B., 1966; J.D., 1969). Phi Kappa Phi; Order of the Coif. Charles Evans Hughes Fellow. Associate Editor, Cornell Law Review, 1968-1969. Law Clerk to the Hon. M. Joseph Blumenfeld, Chief U.S. District Judge, Hartford, Connecticut, 1969-1970. Assistant U.S. Attorney, Civil and Criminal Divisions, Chief, Environmental Litigation Section, Eastern District of New York, 1970-1974. Admitted to practice: 1970, New York, Connecticut, United States District Court, District of Connecticut, Eastern District of New York, Southern District of New York, United States Court of Appeals, Second Circuit; 1974, Massachusetts, United States District Court, District of Massachusetts, United States Court of Appeals, First Circuit; 1998, United States Court of Appeals, Fourth Circuit; 2006, United States District Court, Western District of New York; 2008, United States District Court, Northern District of New York. Member: Massachusetts Bar Association, Boston Bar Association, American Bankruptcy Institute, Turnaround Management Association, Association for Corporate Growth, New York Institute of Credit. Practice areas: Insolvency Law, Business Litigation, Environmental Law.

Steven C. Reingold. Education: Rutgers University (B.A., 1990); Boston University School of Law (J.D., 1993). Phi Beta Kappa. Note Editor, Boston University Public Interest Law Journal. Author: *Cause and Prejudice: The Rehnquist Court, Habeas Corpus and Judicial Activism*, 3 B.U. Pub. Int. L.J. 141 (1993). Admitted to practice: 1993, New Jersey and United States District Court, District of New Jersey; 1994, New York; 1995, United States District Court, Southern and Eastern Districts of New York; 1999, Massachusetts and United States District Court, District of Massachusetts; 2004, New Hampshire and United States District Court, District of New Hampshire; 2006, United States District Court, Western District of New York; 2008, United States Court of Appeals for the First Circuit. Adjunct Professor, New England School of Law, 2000-2002. Member: American Bankruptcy Institute, Turnaround Management Association, Boston Bar Association, Massachusetts Bar Association, New Hampshire Bar Association, New York Institute of Credit. Practice areas: Bankruptcy, Commercial Litigation.

Michael J. Fencer. Education: Suffolk University College of Arts and Sciences (B.S. *magna cum laude*, 1997); Suffolk University School of Law (J.D. *cum laude*, 2000). Vice President, Moot Court Honor Board, 1999-2000; Suffolk Jurisprudence Awards, Environmental Law, Secured Transactions. Admitted to practice: 2001, Massachusetts, United States District Court, District of Massachusetts, and United States Court of Appeals, First Circuit. Law Clerk to the Hon. Joel B. Rosenthal, United States Bankruptcy Court, District of Massachusetts, 2000-2001. Member: American Bankruptcy Institute, Turnaround Management Association, Boston Bar Association, Massachusetts Bar Association. Practice areas: Bankruptcy, Commercial Litigation.

Tessa Harvey. Education: Boston University (B.A. candidate, 2009).

EXHIBIT C

Hours and Fees Billed for Each Category

<u>Category Number</u>	<u>Category Description</u>
1	Asset Analysis and Recovery
2	Asset Disposition
3	Case Administration
4	Claims Administration
5	Employment Applications
6	Fee Applications
7	Financing
8	Meetings of Creditors
9	Relief from Stay Proceedings

Bruce F. Smith (BFS)

<u>Category</u>	<u>Hours Billed</u>	<u>Fees</u>
1	0.50	\$225.00
2	1.10	495.00
8	1.00	450.00
Total BFS:		\$1,170.00

Steven C. Reingold (SCR)

<u>Category</u>	<u>Hours Billed</u>	<u>Fees</u>
1	13.50	\$4,455.00
3	8.00	2,640.00
4	1.10	363.00
5	1.40	462.00
6	7.40	2,442.00

7	2.90	957.00
8	0.30	99.00
9	0.30	99.00

Total SCR: \$11,517.00

Michael J. Fencer (MJF)

<u>Category</u>	<u>Hours Billed</u>	<u>Fees</u>
1	4.90	\$1,519.00
4	1.50	465.00
5	0.30	93.00
8	1.00	310.00

Total MJF: \$2,387.00

Tessa Harvey (TH)

<u>Category</u>	<u>Hours Billed</u>	<u>Fees</u>
1	2.20	\$275.00

Total TH: \$275.00

EXHIBIT D

Summary Fee Chart

<u>Name</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Total Amount</u>
Bruce F. Smith (BFS)	2.60	\$450.00	\$1,170.00
Steven C. Reingold (SCR)	34.90	\$330.00	\$11,517.00
Michael J. Fencer (MJF)	7.70	\$310.00	\$2,387.00
Tessa Harvey (TS)	2.20	\$125.00	\$275.00
	<hr/>		<hr/>
Totals	47.40		\$15,349.00

EXHIBIT E

Narrative Description of Services Rendered

On June 23, 2008 (the "Petition Date"), Modern Continental Construction Co., Inc. (the "Debtor") commenced this case by filing a *Voluntary Petition* for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"). On July 2, 2008, the United States Trustee formed the Official Committee of Unsecured Creditors (the "Committee"), which elected to retain the law firm of Jager Smith P.C. ("Jager Smith") to act as its counsel. On July 28, 2008, the Court entered an order allowing the Committee's motion to retain Jager Smith.

In representing the Committee, Jager Smith performed a variety of functions, which are described in detail in this *Second Interim Application of Jager Smith P.C. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Counsel to the Official Committee of Unsecured Creditors*. Amongst other things, Jager Smith spent time on behalf of the Committee reviewing documentation received from counsel to Modern Continental Construction Co., Inc. (the "Debtor") concerning the Debtor's disposition of certain assets prior to June 23, 2008 (the "Petition Date"). In addition, Jager Smith spent time reviewing, and conferring with the Debtor's counsel regarding, the Debtor's settlements of certain claims, and spent time conferring with the Committee's consultant regarding the pre-petition asset transfers. Jager Smith also spent time drafting a motion for leave to examine Fireman's Fund Insurance Company ("FFIC"), one of the Debtor's sureties, under Rule 2004 of the Federal Rules of Bankruptcy Procedure, communicating with FFIC's counsel regarding the materials sought thereby, and reviewing and analyzing the documents that FFIC produced.

Additionally, Jager Smith spent time reviewing several settlement agreements which the Debtor entered into with certain creditors as well as the motions seeking approval thereof, and spent time preparing for and attending hearings with respect thereto. Jager Smith also spent time

reviewing the Debtor's motion for leave to amend its schedules and statement of financial affairs, reviewing and analyzing certain of the claims asserted against the Debtor's estate, including those asserted by the Debtor's sureties, and conferring with counsel to a creditor seeking to file an untimely proof of claim.

In addition, Jager Smith spent time conferring with counsel for the Debtor and counsel for one of its sureties regarding the Committee's application to retain a consultant to review and analyze the transfers of certain of the Debtor's assets that occurred prior to the Petition Date, and spent time attending a hearing with respect to that application. Also, Jager Smith spent time reviewing the several motions which the Debtor filed seeking to extend its ability to obtain post-petition financing, and attending the hearings relating thereto, and spent time communicating with the Committee, by way of written reports and conference calls, about the status of the case and numerous issues raised therein as are discussed elsewhere herein.

Jager Smith respectfully submits that the services it rendered were reasonably likely to benefit the Debtor's estate or were necessary to the administration of the case.

EXHIBIT F

Category No. 1 – Asset Analysis and Recovery

Jager Smith P.C. (“Jager Smith”) has included in this category, amongst other things, time spent on behalf of the Official Committee of Unsecured Creditors (the “Committee”) reviewing documentation received from counsel to Modern Continental Construction Co., Inc. (the “Debtor”) concerning the Debtor’s disposition of certain assets prior to June 23, 2008 (the “Petition Date”). In addition, Jager Smith has included in this category time reviewing, and conferring with the Debtor’s counsel regarding, the Debtor’s settlements of certain claims, and time spent conferring with the Committee’s consultant regarding the pre-petition asset transfers. Jager Smith has also included in this category time spent drafting a motion for leave to examine Fireman’s Fund Insurance Company (“FFIC”), one of the Debtor’s sureties, under Rule 2004 of the Federal Rules of Bankruptcy Procedure, communicating with FFIC’s counsel regarding the materials sought thereby, and reviewing and analyzing the documents that FFIC produced.

In rendering the services in Category No. 1, the following attorneys and paraprofessionals expended the time represented below at the following hourly rates for a total value of charges of \$6,474.00. Time charged to this category includes:

<u>Attorney or Paraprofessional</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Bruce F. Smith (BFS)	\$450.00	0.50	\$225.00
Steven C. Reingold (SCR)	\$330.00	13.50	\$4,455.00
Michael J. Fencer (MJF)	\$310.00	4.90	\$1,519.00
Tessa Harvey (TH)	\$125.00	2.20	\$275.00

Modern Continental Construction Co., Inc.
Official Committee of Unsecured
Creditors

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12/31/2008
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Asset Analysis and Recovery

	Hours
12/01/2008 SCR Reviewed insurer's motion re: settlement	0.50
12/03/2008 TH Office conference with S. Reingold re: organizing and copying documents (.1); reviewed spreadsheet re: documents for same (.4); compiled documents (1.7)	2.20
MJF Telephone conference with E. Jeffery re: proposed settlements (.1); telephone conference with K. Kobe re: same (2x) (.2)	0.30
SCR Drafted e-mail to S. Palumbo re: beginning review of pre-petition asset disposition (.2); telephone conference with S. Palumbo re: same (.3); drafted letter to S. Palumbo re: same (.3); office conference with T. Harvey re: organizing and copying documents (.1)	0.90
12/04/2008 MJF E-mails re: proposed settlements (.3); telephone conference with R. Kremens re: committee issues with proposed settlements (.2)	0.50
SCR Reviewed documents for transmittal to consultant	0.50
12/08/2008 MJF Telephone conference with R. Kremens re: settlement issues (.2); office conference with S. Reingold re: same (.2)	0.40
SCR Reviewed and responded to e-mail from consultant re: document review (.4); office conference with M. Fencer re: settlement issues (.2)	0.60
12/09/2008 MJF E-mails with R. Kremens re: settlements (.2); review proposed language re: same (.2); e-mails with Architectural	

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Modern Continental Construction Co., Inc.

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Asset Analysis and Recovery

	Paving counsel re: same (.2)	0.60	
12/10/2008			
MJF	Telephone conference and e-mails with R. Kremens re: settlement (.3); review and revise proposed order language (.3); e-mails with committee members re: same (.2); telephone conference with E. Jeffery re: same (.2)	1.00	
12/11/2008			
MJF	Review and revise language re: settlement order (.3); e-mail to committee re: same (.3)	0.60	
12/15/2008			
MJF	Telephone conference with E. Jeffery re: settlements	0.20	
12/16/2008			
MJF	E-mails re: settlement language (.3); telephone conference with F. Shannon re: same (.2); conference with S. Reingold re: same (.2)	0.70	
SCR	Office conference with M. Fencer re: language for settlement	0.20	
12/17/2008			
MJF	Telephone conference with debtor's counsel re: settlement hearing (.2); conference with S. Reingold re: same (.2)	0.40	
SCR	Office conference with M. Fencer re: issues for settlement hearing	0.20	
12/22/2008			
SCR	Office conference with M. Fencer re: Fireman's Fund (.2); drafted and filed motion for Rule 2004 examination of Fireman's Fund (1.8)	2.00	
MJF	Conference with S. Reingold re: document requests to FFIC	0.20	
	For Current Services Rendered	12.00	3,411.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Steven C. Reingold	4.90	\$330.00	\$1,617.00
Michael J. Fencer	4.90	310.00	1,519.00
Tessa Harvey	2.20	125.00	275.00

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Modern Continental Construction Co., Inc.

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Asset Analysis and Recovery

Total Current Work 3,411.00

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Modern Continental Construction Co., Inc.
Official Committee of Unsecured
Creditors

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Asset Analysis and Recovery

	Hours
01/05/2009 SCR Reviewed and replied to e-mail from S. Palumbo re: additional documents needed (.4); exchanged e-mail with counsel for Fireman's Fund Insurance Company re: documents and distribution (.2); began preparation of list of documents for production by FFIC (.4)	1.00
01/06/2009 SCR Drafted e-mail to S. Palumbo re: document review (.2); drafted e-mail to E. Jeffery re: additional documents requested (.2); telephone conference and e-mail with FFIC counsel re: document production (.3)	0.70
01/07/2009 SCR Reviewed and replied to e-mail from counsel to FFIC re: document production	0.20
01/08/2009 SCR Exchanged e-mail with S. Palumbo re: document review	0.20
01/09/2009 SCR Drafted e-mail to S. Palumbo re: documentation (.2); drafted letter to notice parties (.2)	0.40
01/12/2009 BFS Meet with SCR re: status of investigation and status of case	0.50
SCR Office conference with B. Smith re: document production and review	0.50
01/13/2009 SCR Telephone conference with counsel for insurer re: Rule 2004 examination of FFIC	0.30

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Modern Continental Construction Co., Inc.

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Asset Analysis and Recovery

01/27/2009

SCR	Drafted e-mail to counsel for FFIC re: document production	0.20	
	For Current Services Rendered	4.00	1,380.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Bruce F. Smith	0.50	\$450.00	\$225.00
Steven C. Reingold	3.50	330.00	1,155.00

Total Current Work			1,380.00
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Modern Continental Construction Co., Inc.
 Official Committee of Unsecured
 Creditors

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Asset Analysis and Recovery

		Hours		
02/03/2009				
SCR	Drafted e-mail to FFIC counsel re: documents	0.20		
02/10/2009				
SCR	Telephone conference with FFIC counsel re: document production	0.40		
02/17/2009				
SCR	Reviewed settlement agreement with Zurich and ACE and motion to approve same	0.80		
02/18/2009				
SCR	Reviewed letter from FFIC counsel re: documents (.2); began initial review of FFIC claim documents (.9)	1.10		
02/25/2009				
SCR	Continued review of FFIC claim documents	2.60		
	For Current Services Rendered	5.10	1,683.00	
Recapitulation				
<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Steven C. Reingold		5.10	\$330.00	\$1,683.00
Total Current Work				1,683.00

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Category No. 2 – Asset Disposition

Jager Smith has included in this category time spent conferring and corresponding with the Debtor's attorneys about certain of the Debtor's pre-petition activities.

In rendering the services in Category No. 2, the following attorneys expended the time represented below at the following hourly rates for a total value of charges of \$495.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Bruce F. Smith (BFS)	\$450.00	1.10	\$495.00

Modern Continental Construction Co., Inc.
 Official Committee of Unsecured
 Creditors

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Asset Disposition

		Hours		
02/17/2009				
BFS	Telephone conference with E. Jeffery re: documents regarding equipment transactions and interview of J. Pastore re: same	0.60		
02/18/2009				
BFS	Drafted letter to E. Jeffery re: equipment disposition and interview topics	0.50		
	For Current Services Rendered	1.10	495.00	
Recapitulation				
<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Bruce F. Smith		1.10	\$450.00	\$495.00
Total Current Work				495.00

Category No. 3 – Case Administration

Jager Smith has included in this category, amongst other things, time spent reviewing several settlement agreements which the Debtor entered into with certain creditors as well as the motions seeking approval thereof, and time spent preparing for and attending hearings with respect thereto. Jager Smith has also included in this category time spent reviewing the Debtor's motion for leave to amend its schedules and statement of financial affairs.

In rendering the services in Category No. 3, the following attorneys expended the time represented below at the following hourly rates for a total value of charges of \$2,640.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Steven C. Reingold (SCR)	\$330.00	8.00	\$2,640.00

Modern Continental Construction Co., Inc.
 Official Committee of Unsecured
 Creditors

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Case Administration

		Hours		
11/04/2008				
SCR	Reviewed Commerce Insurance settlement motion	0.30		
11/17/2008				
SCR	Reviewed settlement agreements and motions to approve same	2.30		
11/25/2008				
SCR	Reviewed revised settlement motion re: Route 3	0.40		
	For Current Services Rendered	3.00	990.00	
Recapitulation				
<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Steven C. Reingold		3.00	\$330.00	\$990.00
	Total Current Work			990.00

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Modern Continental Construction Co., Inc.
Official Committee of Unsecured
Creditors

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Case Administration

			Hours	
12/02/2008	SCR	Prepared for hearing on various motions	0.40	
12/03/2008	SCR	Attended hearing on motion for authority to execute releases	0.60	
12/16/2008	SCR	Prepared for hearing on various motions	2.20	
12/17/2008	SCR	Attended hearing on settlement motions	1.50	
		For Current Services Rendered	4.70	1,551.00

		Recapitulation		
Timekeeper		Hours	Hourly Rate	Total
Steven C. Reingold		4.70	\$330.00	\$1,551.00

Total Current Work 1,551.00

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COUNSELORS AT LAW

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Category No. 4 – Claims Administration

Jager Smith has included in this category, amongst other things, time spent reviewing and analyzing certain of the claims asserted against the Debtor's estate, including those asserted by the Debtor's sureties, as well as time spent conferring with counsel to a creditor seeking to file an untimely proof of claim.

In rendering the services in Category No. 4, the following attorneys expended the time represented below at the following hourly rates for a total value of charges of \$828.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Steven C. Reingold (SCR)	\$330.00	1.10	\$363.00
Michael J. Fencer (MJF)	\$310.00	1.50	\$465.00

Modern Continental Construction Co., Inc.
 Official Committee of Unsecured
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Claims Administration

		Hours		
11/03/2008				
SCR	Office conference with M. Fencer re: insurer claims	0.50		
MJF	Conference with S. Reingold re: Fireman's Fund and Travelers claims	0.50		
11/10/2008				
MJF	Review Fireman's proof of claim (.5); drafted letter to Rosenbloom re: same (.5)	1.00		
	For Current Services Rendered	2.00	630.00	

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Steven C. Reingold	0.50	\$330.00	\$165.00
Michael J. Fencer	1.50	310.00	465.00

Total Current Work 630.00

Modern Continental Construction Co., Inc.
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Claims Administration

		Hours	
12/29/2008			
SCR	Telephone conference with J. Brown re: creditor filing motion for leave to assert untimely claim (.4); exchanged e-mail with J. Brown re: same (.2)	0.60	
	For Current Services Rendered	<u>0.60</u>	<u>198.00</u>
Recapitulation			
Timekeeper		Hours	Total
Steven C. Reingold		0.60	\$330.00
			\$198.00
	Total Current Work		198.00

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Category No. 5 – Employment Applications

Jager Smith has included in this category, amongst other things, time spent conferring with counsel for the Debtor and counsel for one of its sureties regarding the Committee's application to retain a consultant to review and analyze the transfers of certain of the Debtor's assets that occurred prior to the Petition Date, and time spent attending a hearing with respect to that application.

In rendering the services in Category No. 5, the following attorneys expended the time represented below at the following hourly rates for a total value of charges of \$555.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Steven C. Reingold (SCR)	\$330.00	1.40	\$462.00
Michael J. Fencer (MJF)	\$310.00	0.30	\$93.00

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Employment Applications

		Hours	
11/26/2008			
MJF	Conference with S. Reingold re: issue concerning consultant employment (.2); conference call with S. Reingold and R. Kremens re: same (.1)	0.30	
SCR	Telephone conference with E. Jeffery re: employment of consultant (.2); office conference with M. Fencer re: same (.2); conference call with M. Fencer and R. Kremens re: same (.1); drafted e-mail to E. Jeffery re: same (.3);	0.80	
	For Current Services Rendered	1.10	357.00

Recapitulation			
<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Steven C. Reingold	0.80	\$330.00	\$264.00
Michael J. Fencer	0.30	310.00	93.00

Total Current Work 357.00

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Employment Applications

		Hours		
12/03/2008				
SCR	Attended hearing on motion to employ consultant	0.60		
	For Current Services Rendered	0.60	198.00	
	Recapitulation			
<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Steven C. Reingold		0.60	\$330.00	\$198.00
	Total Current Work			198.00

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Category No. 6 – Fee Applications

Jager Smith has included in this category, amongst other things, time spent preparing its monthly requests for compensation for services rendered and for reimbursement of expenses incurred in accordance with the August 27, 2008 order granting the *Motion by Debtor for Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals*. Jager Smith has also included in this category time spent preparing and filing its first interim fee application.

In rendering the services in Category No. 6, the following attorneys expended the time represented below at the following hourly rate for a total value of charges of \$2,442.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Steven C. Reingold (SCR)	\$330.00	7.40	\$2,442.00

Modern Continental Construction Co., Inc.
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Fee Applications

		Hours		
11/05/2008	SCR Prepared billing statements and letter re: same to notice parties	0.90		
11/12/2008	SCR Prepared first interim fee application and related exhibits (3.5); telephone conference with E. Jeffery re: same (.2)	3.70		
11/13/2008	SCR Drafted e-mail to E. Jeffery re: first interim fee application (.2); finalized and filed same (.7)	0.90		
	For Current Services Rendered	5.50	1,815.00	

Recapitulation

Timekeeper	Hours	Hourly Rate	Total
Steven C. Reingold	5.50	\$330.00	\$1,815.00
Total Current Work			1,815.00

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Modern Continental Construction Co., Inc.
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Fee Applications

		Hours		
12/02/2008				
SCR	Reviewed bills (.3); drafted letter to notice parties re: monthly billing (.4)		0.70	
	For Current Services Rendered		0.70	231.00
Recapitulation				
Timekeeper		Hours	Hourly Rate	Total
Steven C. Reingold		0.70	\$330.00	\$231.00
Total Current Work				231.00

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Modern Continental Construction Co., Inc.
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Fee Applications

		Hours	
01/07/2009			
SCR	Reviewed billing statements (.3); drafted letter to notice parties re: monthly payment (.3)	0.60	
	For Current Services Rendered	0.60	198.00
Recapitulation			
<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>
Steven C. Reingold		0.60	\$330.00
			<u>Total</u>
			\$198.00
	Total Current Work		198.00

Modern Continental Construction Co., Inc.
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Creditors

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02/28/2009
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Statement No: 48086

Fee Applications

		Hours		
02/03/2009	SCR	Reviewed billing statements (.3); drafted letter to notice parties re: interim compensation (.3)	0.60	
		For Current Services Rendered	0.60	198.00
Recapitulation				
<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Steven C. Reingold		0.60	\$330.00	\$198.00
	Total Current Work			198.00

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Category No. 7 – Financing

Jager Smith has included in this category, amongst other things, time spent reviewing the several motions which the Debtor filed seeking to extend its ability to obtain post-petition financing, and attending the hearings relating thereto.

In rendering the services in Category No. 7, the following attorneys expended the time represented below at the following hourly rates for a total value of charges of \$957.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Steven C. Reingold (SCR)	\$330.00	2.90	\$957.00

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 Statement No: 47826

Financing

		Hours	
12/03/2008			
SCR	Attended hearing on extension of DIP financing	0.60	
	For Current Services Rendered	0.60	198.00
Recapitulation			
<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>
Steven C. Reingold		0.60	\$330.00
			<u>Total</u>
			\$198.00
	Total Current Work		198.00

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Financing

		Hours	
01/09/2009			
SCR	Reviewed motion to extend DIP borrowing and related documents	0.50	
01/13/2009			
SCR	Prepared for hearing on extension of DIP financing	0.30	
01/14/2009			
SCR	Attended hearing on motion to extend DIP borrowing	1.10	
	For Current Services Rendered	1.90	627.00

Recapitulation

Timekeeper	Hours	Hourly Rate	Total
Steven C. Reingold	1.90	\$330.00	\$627.00

Total Current Work 627.00

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Category No. 8 – Meetings of Creditors

Jager Smith has included in this category, amongst other things, time spent communicating with the Committee, by way of written reports and conference calls, about the status of the case and numerous issues raised therein as are discussed elsewhere herein.

In rendering the services in Category No. 8, the following attorneys expended the time represented below at the following hourly rates for a total value of charges of \$859.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Bruce F. Smith (BFS)	\$450.00	1.00	\$450.00
Steven C. Reingold (SCR)	\$330.00	0.30	\$99.00
Michael J. Fencer (MJF)	\$310.00	1.00	\$310.00

Modern Continental Construction Co., Inc.
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Meeting of Creditors

		Hours	
11/19/2008			
SCR	Drafted e-mail to committee chairman re: conference call (.1); drafted e-mail to committee scheduling same and issues (.2)	0.30	
11/25/2008			
MJF	Attend telephonic committee meeting	1.00	
BFS	Creditors committee meeting	1.00	
	For Current Services Rendered	2.30	859.00

Recapitulation			
Timekeeper	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Bruce F. Smith	1.00	\$450.00	\$450.00
Steven C. Reingold	0.30	330.00	99.00
Michael J. Fencer	1.00	310.00	310.00

Total Current Work 859.00

Category No. 9 – Relief from Stay Proceedings

Jager Smith has included in this category, amongst other things, time spent reviewing the Debtor's objection to the motion for relief from the automatic stay filed by one of its sureties.

In rendering the services in Category No. 9, the following attorneys expended the time represented below at the following hourly rates for a total value of charges of \$99.00. Time charged to this category includes:

<u>Attorney</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Steven C. Reingold (SCR)	\$330.00	0.30	\$99.00

Modern Continental Construction Co., Inc.
 Official Committee of Unsecured
 Creditors

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Relief from Stay Proceedings

		Hours	
12/12/2008			
SCR	Reviewed debtor's objection to National Union motion for relief from stay	0.30	
	For Current Services Rendered	0.30	99.00
Recapitulation			
Timekeeper		<u>Hours</u>	<u>Hourly Rate</u>
Steven C. Reingold		0.30	\$330.00
			<u>Total</u>
			\$99.00
	Total Current Work		99.00

Expenses

In rendering the services detailed herein, the following expenses were necessary. All copying charges were charged at \$0.15 per page. All charges for incoming and outgoing facsimile transmittals were eliminated. The expenses total \$708.21.

Modern Continental Construction Co., Inc.
Official Committee of Unsecured
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Expenses

11/05/2008	Copy Costs, 32 copies	4.80
11/05/2008	Postage	2.28
11/10/2008	Copy Costs, 2 copies	0.30
11/10/2008	Postage	0.42
11/12/2008	Copy Costs, 41 copies	6.15
	Total Expenses	<u>13.95</u>
	Total Current Work	13.95

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Modern Continental Construction Co., Inc.
Official Committee of Unsecured
Creditors

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Expenses

12/02/2008	Copy Costs, 23 copies	3.45
12/02/2008	Postage	1.77
12/02/2008	Copy Costs, 40 copies	6.00
12/03/2008	Cab fare	10.00
12/03/2008	Copy Costs, 9 copies	1.35
12/03/2008	Copy Costs, 296 copies	44.40
12/03/2008	Copy Costs, 180 copies	27.00
12/03/2008	Copy Costs, 689 copies	103.35
12/03/2008	Copy Costs, 147 copies	22.05
12/04/2008	Copy Costs, 2 copies	0.30
12/04/2008	Copy Costs, 2 copies	0.30
12/04/2008	Federal Express	19.69
12/04/2008	Federal Express	28.05
12/04/2008	Copy Costs, 113 copies	16.95
12/04/2008	Copy Costs, 383 copies	57.45
12/16/2008	Copy Costs, 77 copies	11.55
12/16/2008	Copy Costs, 301 copies	45.15
12/17/2008	Cab fare	22.00
12/22/2008	Copy Costs, 35 copies	5.25
12/22/2008	Copy Costs, 560 copies	84.00
12/22/2008	Copy Costs, 35 copies	5.25
12/22/2008	Postage	21.44
	Total Expenses	<u>536.75</u>
	Total Current Work	536.75

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Modern Continental Construction Co., Inc.
Official Committee of Unsecured
Creditors

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Expenses

12/02/2008	Pacer Services - Federal Court Database	71.76
12/16/2008	Pacer Services - Federal Court Database	48.96
12/22/2008	Pacer Services - Federal Court Database	4.96
01/07/2009	Copy Costs, 29 copies	4.35
01/07/2009	Postage	2.28
01/08/2009	Copy Costs, 4 copies	0.60
01/09/2009	Copy Costs, 8 copies	1.20
01/09/2009	Postage	1.68
01/14/2009	Cab fare	21.00
	Total Expenses	<u>156.79</u>
	Total Current Work	156.79

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Modern Continental Construction Co., Inc.
Official Committee of Unsecured
Creditors

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Expenses

02/20/2009	Copy Costs, 2 copies	0.30
02/27/2009	Postage	<u>0.42</u>
	Total Expenses	0.72
	Total Current Work	0.72

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

_____)	
In re)	
)	Chapter 11
MODERN CONTINENTAL)	Case No. 08-14558-WCH
CONSTRUCTION CO., INC.,)	
)	
Debtor.)	
_____)	

CERTIFICATE OF SERVICE

I, Steven C. Reingold, hereby certify that on this 3d day of April, 2009, I caused true copies of the *Second Interim Application of Jager Smith P.C. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Counsel to the Official Committee of Unsecured Creditors* to be served upon the parties set forth on the attached service list via first class mail, postage prepaid, or via Electronic Case Filing where indicated.

/s/ Steven C. Reingold

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Top 20 Unsecured Creditors

Schumacher Landscaping
17 Electric Avenue
Boston, MA 02135

MRP Site Development
360 Audnbon Road
Wakefield, MA 01880

Mass Bay Electrical Corporation
125 Orleans Street
E. Boston, MA 02128

L&C Flashing Barricades
55 Bodwell Street
Avon, MA 02322

Lockton Companies Inc.
c/o Ann Abercrombie
444 West 47th Street
Kansas City, MO 64112

Fonditek International
60 Fireworks Circle
Bridgewater, MA 02324

Thomas F. Corbett Associates
14 West Broadway
Salem, NJ 08079

Columbus Construction
687 Columbus Avenue
Mount Vernon, NY 10550

Chenango Contracting
29 Arbutus Road
Johnson City, NY 13790

V.I.P. Landscaping
2461 Iorio Street
Union, NJ 07083

The Aulson Company
c/o Shaunna Jammal
49 Danton Drive
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Liddel Brothers Inc.
600 Industrial Drive
Halifax, MA 02338

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