

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

GARDEN OAKS MAINTENANCE
ORGANIZATION, INC.

DEBTOR

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CASE NO. 18-60018

**FIRST AND FINAL APPLICATION OF WALKER & PATTERSON, P.C., DEBTOR'S
COUNSEL FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF
EXPENSES**

THIS APPLICATION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE APPLICATION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE APPLICATION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE APPLICATION AT THE HEARING.

Name of Applicant:	Walker & Patterson, P.C.	
Applicant's Role in Case:	Debtor's Counsel	
Date Order of Employment Signed:	May 21, 2018 [Docket No. 23]	
	Beginning Of Period	End of Period
Time Period Covered By This Application:	04/11/2018	06/06/2019
Time Period(s) Covered By Prior Applications:	n/a	n/a
Total Amounts Awarded In All Prior Applications:	\$0.00	
Total professional fees requested in this Application:	\$72,460.00	
Total actual professional hours covered by this Application:	182	
Average hourly rate for professionals:	\$398.13	
Total paraprofessional fees requested in this Application:	\$0.00	
Total actual paraprofessional hours covered by this Application:	0	
Average hourly rate for paraprofessionals:	n/a	
Reimbursable expenses sought in this application:	\$114.00	
Total of payments paid to administrative claims (other than applicant)	Case converted to chapter 7	
Total to be Paid to General Unsecured Creditors:	Case converted to chapter 7	
Anticipated % Dividend to General Unsecured Creditors:	Case converted to chapter 7	
Date of Confirmation Hearing:	n/a	
Indicate whether plan has been confirmed:	No.	

Walker & Patterson, P.C. ("WP") files this first and final application for allowance of compensation (the "Application"). WP served as counsel for the Debtor, pursuant to this Court's Order entered May 21, 2018 (Docket #23).

OVERVIEW

1. The Debtor employed WP pursuant to 11 U.S.C. § 328 under an hourly rate plus out-of-pocket expense reimbursement arrangement to represent the Debtor and its interests in a Chapter 11 bankruptcy case.
2. Pursuant to the fee arrangement with the Debtor, WP is entitled to \$72,460.00, plus their expenses. Accordingly, WP requests the award of compensation in the amount of \$72,740.00, plus total expenses of \$114.00, for a total award of \$72,854.00.

BACKGROUND

3. This Chapter 11 case was filed on April 11, 2018.
4. On May 21, 2018, the Court authorized the employment of WP pursuant to 11 U.S.C. § 327 to provide all necessary legal services to the Debtor effective April 11, 2018.
(Docket No. 23)
5. On June 6, 2019, on the Court's own motion, the Debtor's Chapter 11 case was converted

to a Chapter 7, and Randy Williams (“Trustee”) was subsequently appointed as Chapter 7 Trustee for the estate.

PRIOR APPLICATIONS AND PAYMENTS RECEIVED BY WP

6. Prior to filing the bankruptcy case, WP received a retainer of \$50,000.00 from the Debtor as security for payment of services to be rendered. This amount was reduced by WP’s pre-petition fees and expenses, including the filing fee for the Chapter 11. The balance of the retainer was \$40,003.00 as of the petition date. WP was paid \$9,997.00 for current billings in March and April, 2018, which included the filing fee of \$1,717.00.
7. This is the first and final application filed by WP for allowance of fees and reimbursement of expenses incurred as counsel for the Debtor.

COMPENSATION REQUESTED

8. This Application covers the period from March 21, 2018 through June 6, 2019, (the “Application Period”).
9. WP seeks allowance of fees in the amount of \$72,854.00 and allowance of expenses in the amount of \$114.00 incurred during the Application Period. *See Exhibit A (Time Records) and Exhibit B (Expense Records)*
10. This amount can be broken down by professionals as follows:

Johnie Patterson	178.60 hours @ \$400.00	\$71,440.00
Miriam Goott	3.40 hours @ \$300.00	\$1,020.00
11. WP has not promised, either directly or indirectly, to share any awarded compensation with any other person, nor does WP have any agreement for payment of attorney’s fees and expenses except as stated herein.

EXPENSE AMOUNT

12. The expenses incurred by WP are summarized as follows:

Parking for hearings \$114.00

TOTAL \$114.00

13. All of WP’s expenditures were actual and necessary costs incident to the performance of professional services for the Debtor.

FACTORS SUPPORTING ALLOWANCE OF COMPENSATION

14. Section 330(a)(3)(A) of the Bankruptcy Code sets forth the criteria for the evaluation of professional fees. Prior to enactment of § 330(a)(3)(A), *In re First Colonial Corp. of America*, 544 F.2d 1291 (5th Cir.), *cert. denied*, 431 U.S. 904 (1977) was the controlling authority that Courts within the Fifth Circuit relied upon in evaluating requests for payment

of professional fees. The § 330(a)(3)(A) factors are subsumed within the *First Colonial* factors. The following factors support the reasonableness of the requested fees and expenses:

- a. **Time and labor required.** Pursuant to the Court's Order, the services for which compensation are sought are reasonable and were necessary for the representation of the Debtor.
- b. **The size of the fee is commensurate with the novelty and difficulty of the questions presented in the case.** Nothing in this case was exceptionally novel or difficult, although somewhat unusual. The Debtor was a non-profit homeowners association for one of the largest neighborhoods in the city of Houston. The single issue involved was the legal viability of the organization itself, which was questioned by a state court appellate decision in a case brought against a single homeowner. The ability of the Debtor to address and resolve the issue in a chapter 11 plan was hampered somewhat with the number of homeowners, each being solicited with chapter 11 confirmation materials. The neighborhood was literally divided, even after holding several in-person town-hall meetings to discuss the issues needed to resolve the apparent question of the authority of the Debtor to operate as a mandatory HOA for the neighborhood. The Debtor was not able to obtain sufficient votes from the neighborhood to confirm a plan which enforced the authority of the Debtor as an HOA, and the Court thereafter converted the case.
- c. **The skill requisite to perform the legal services properly.** WP is an experienced law firm in the area of complex bankruptcy litigation and bankruptcy law.
- d. **Preclusion of other employment due to the acceptance of this case.** WP was not required to decline other representation due to its representation of the Debtor in this case.
- e. **The customary fee.** The rates approved in this case are similar or lower to rates in Houston, Texas.
- f. **Whether the fee is fixed or contingent.** The fee was neither fixed nor contingent, however chapter 11 fees by their nature are contingent to a certain extent.
- g. **The amount of time involved and the results obtained.** The representation of the Debtor was handled in a prudent and cost-effective manner. The requested compensation is reasonable in view of the results obtained in the case to date.

- h. **The experience, reputation and ability of the professionals who performed virtually all of the services in the case.** The attorney performing the legal services in this case on behalf of WP were Johnie Patterson. Mr. Patterson has practiced bankruptcy law for nearly 30 years. He is board certified in consumer bankruptcy law by the State Bar of Texas and has tried contested matters and adversary proceedings in all four federal districts in Texas. In addition, Mr. Patterson has successfully argued bankruptcy appeals before the District Courts of Texas and the Fifth Circuit Court of Appeals. Since becoming an attorney, Mr. Patterson has specialized in bankruptcy reorganization matters, complex business litigation and general bankruptcy law. Mr. Patterson is member of the State Bar of Texas, and is admitted to practice before the United States District Court for the Southern and Northern Districts of Texas and the Fifth Circuit Court of Appeals.
- i. **The undesirability of the cases.** This case was not undesirable.
- j. **Awards in similar cases.** The compensation requested in this case is comparable to compensation allowed in other cases of the size and complexity of this case.

CONCLUSION

The requested fee is both reasonable and appropriate in this case. The expenses incurred by WP were actual and necessary to the representation. Accordingly, WP requests that the Court approve the compensation and reimbursement of expenses as set forth above; and such other and further relief as is just.

Dated: October 12, 2020

Respectfully submitted,
/s/Miriam Goott
Miriam Goott
SBN 24048846

OF COUNSEL
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CERTIFICATE OF SERVICE

I, Miriam Goott, hereby certify that a true and correct copy of the foregoing Application was served upon the U.S. Trustee, the Chapter 7 Trustee, and all parties registered to receive notice by ECF for the US Bankruptcy Court for the Southern District of Texas on October 12, 2020.

/s/ Miriam Goott
Miriam Goott