

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re : Chapter 11
GLOBAL TELESYSTEMS, INC. and :
GLOBAL TELESYSTEMS EUROPE, B.V., :
Debtors. : Case Number 01-11280 (RB)

Objection Deadline: TBD

Hearing Date: TBD

**MOTION OF THE ACTING UNITED STATES TRUSTEE
FOR RECONSIDERATION OF THIS COURT’S MAY 23, 2002 ORDER
APPROVING FINAL APPLICATIONS FOR COMPENSATION AND
REIMBURSEMENT OF EXPENSES OF PROFESSIONALS
(DOCKET ENTRY # 285)**

In support of his motion for reconsideration of this Court’s May 23, 2002 Order Approving Final Fee Applications for Compensation and Reimbursement of Expenses of Professionals, Donald F. Walton, Acting United States Trustee (“UST”) for Region 3, by and through his counsel, avers:

INTRODUCTION

1. This Court has jurisdiction to hear and determine this Motion.
2. Pursuant to section 586 of title 28, United States Code, the UST is charged with oversight of the federal bankruptcy system. *See Morgenstern v. Revco D.S., Inc. (In re Revco D.S., Inc.)*, 898 F.2d 498, 500 (6th Cir. 1990) (describing the UST as a “watchdog”).
3. Pursuant to section 307 of the Bankruptcy Code, the UST has standing to be heard on the issues raised in this Motion.

GROUND FOR RELIEF

Confirmed Plan

4. On February 21, 2002, this Court issued an order confirming the Debtors’ Joint Plan

of Reorganization Under Chapter 11 of the Bankruptcy Code (Docket Entry # 194) (“Plan”).

5. The Plan’s centerpiece was a Stock Purchase Agreement dated October 18, 2001 between the Debtors, GTS European Telecommunications Corp. (together with the Debtors, the “Sellers”) and KPNQwest N.V (“Purchaser”).

6. Pursuant to the Stock Purchase Agreement, the Purchaser was obligated to deliver approximately € 200,000,000 in Convertible Bonds to the Sellers and assume certain of the Sellers’ liabilities (including payment of allowed administrative and unsecured claims in connection with these cases) in exchange for the capital stock of the reorganized entities.

7. Pursuant to Paragraph 2.03 of the Stock Purchase Agreement (which was incorporated into the Plan), the transaction contemplated therein did close.

8. On May 23, 2002, after the transaction contemplated by the Stock Purchase Agreement had closed, a hearing was held regarding the final applications for compensation and reimbursement for the Debtors’ professionals and the professionals representing the unofficial bondholder representatives.

9. Also on May 23, 2002, after the hearing regarding the fee applications had concluded, this Court issued an order approving the final applications for a number of the professionals involved in these cases.

KPNQwest’s Dutch Insolvency Proceedings

10. The afternoon of May 23, 2002, undersigned counsel was advised via telephone by a representative of one of the Debtors’ professionals that the Purchaser had filed for insolvency protection in the Netherlands. The UST was unaware of any such filing by the Purchaser at the time the fee applications were approved.

11. As of the date this Motion was filed, according to its own press releases and other news reports, the Purchaser was in the process of converting the moratorium into a bankruptcy, which will likely result in the Debtors' creditors getting next to nothing on account of their claims. Based upon available information, the UST believes that this action is analogous to converting a chapter 11 case to a chapter 7 proceeding.

12. The status of administrative payments and other Plan payments assumed by the Purchaser is unclear.

13. The timing of the Purchaser's insolvency filing in the Netherlands raises significant questions regarding these cases and the results obtained therein. At bottom, it appears that there is sufficient basis to revisit the allowances approved by this court for professional compensation and reimbursement once a full, complete factual record is before this court. In addition, there may be a basis for disgorgement of amounts paid to such professionals at that juncture.

BASIS FOR RELIEF

14. Federal Rule of Bankruptcy Procedure 9023 provides that Federal Rule of Civil Procedure 59 generally applies in cases under the Bankruptcy Code, with one exception (Rule 3008 – reconsideration of claims) not applicable here.

15. Federal Rule of Civil Procedure 59(e) states: “Any motion to alter or amend a judgment shall be filed no later than 10 days after entry of the judgment.”

16. KPNQwest's Dutch insolvency proceeding is a new development which compels reconsideration of the awards to the various professionals who applied for compensation and reimbursement in these cases. There may be grounds for reductions in such awards and/or disgorgement of fees paid to the professionals after a complete record is developed.

17. The UST reserves the right to amend and/or supplement this Motion.

WHEREFORE the UST requests that this Court issue an order granting the UST's request for reconsideration of this Court's May 23, 2002 Order Approving Final Fee Applications for Compensation and Reimbursement of Expenses of Professionals.

Respectfully submitted,

DONALD F. WALTON
ACTING UNITED STATES TRUSTEE

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