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**Mark Stromberg**  
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**STROMBERGSTOCK, PLLC**  
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*Attorneys for Jeffrey Baron, Alleged Debtor*

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF TEXAS**  
**DALLAS DIVISION**

**IN RE:** §  
§  
**JEFFREY BARON,** § **Bankr. No. 12-37921-SGJ**  
§  
**Alleged Debtor.** § **Hearing: March \_\_, 2013 @ \_\_: \_\_ .m.**

**MOTION FOR DISTRIBUTION OF RETAINER**

**TO THE HONORABLE STACEY G. JERNIGAN, U.S. BANKRUPTCY JUDGE:**

Busch, Ruotolo and Simpson, L.L.P. ("**Applicant**"), counsel for the Alleged Debtor, files this *Motion for Distribution of Retainer* (the "**Motion**") pursuant to Rule 2016(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of Texas, and would respectfully show the Court the following:

1. Attached hereto as Exhibit "A" is a statement of the services rendered by Applicant for the period of January 28, 2013, through February 28, 2013, in the amount of \$9,435.25 (\$9,423.00 in fees for services, and \$12.25 in out-of-pocket expenses incurred).

The statement contains a description of the services rendered, time spent, and the name of the attorney or paraprofessional performing the work.

2. The attorneys performing work on this file were Alan L. Busch (\$400.00/hour) and Christopher M. Albert (\$275.00/hour) and paraprofessional performing services herein was Kevin Perry (at \$95.00/hour). Gross billings for attorney and paraprofessional services on this file totaled \$9,423.00 (*after* voluntary discounts of \$1,000.00); the overall average hourly rate for such services was \$270.78/hour.

3. Pursuant to orders from this Court on or about January 15, 2013, with the approval of the District Court in the Netsphere litigation, a post-petition retainer of \$25,000 (the "Retainer") has been funded by the Receiver, Peter Vogel (the "Receiver"). The Retainer was established for the benefit of the Alleged Debtor and was to be used to pay fees incurred by, (i) Applicant, and (ii) Stromberg and Stock P.L.L.C<sup>1</sup> in representing the interests of the Alleged Debtor in the initial phases of this case involuntary case.

4. By this Motion, Applicant seeks its pro rata share of the Retainer based on its fees and expenses of \$9,435.25. In addition, Applicant seeks a recommendation from this Court to the District Court authorizing the funding of such additional funds as are necessary to pay the balance of Applicant's and co-counsel's bills as are not covered by the Retainer, and such additional funds as the Court determines may be appropriate relative to the remaining proceedings herein. To that end, Applicant would request an additional retainer of not less than \$40,000.00.

5. All parties receiving a copy of this Motion are hereby notified that any objections must be filed and served on Applicant within twenty-one (21) days of the mailing hereof.

Applicant reserves the right to withdraw the portion not objected to and seek a determination by the Court at a later time in a formal fee application as to that portion to which an objection was filed.

**WHEREFORE, PREMISES CONSIDERED**, Applicant prays for the relief requested herein and for such other and further relief as to which it may be justly entitled.

Respectfully submitted,  
**Busch, Ruotolo & Simpson, L.L.P.**

By: /s/ Alan L. Busch

Alan L. Busch  
State Bar No. 19408830  
Christopher M. Albert  
State Bar No. 24008550

**CERTIFICATE OF SERVICE**

I hereby certify that on March 5, 2013 a true and correct copy of the foregoing document was sent by email to Lisa Lambert, Counsel for the United States Trustee; Gerrit Pronske, Counsel for the Petitioning Creditors, was served upon all persons identified below by regular mail, postage prepaid, and to all other persons requesting notices via the ECF system.

Gerrit M. Pronske  
PRONSKE & PATEL, P.C.  
2200 Ross Ave., Suite 5350  
Dallas, Texas 75201

Shurig, m Jetel Beckett Tackett  
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Dean Ferguson  
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Gary G. Lyon  
The Willingham Law Firm  
6401 W. Eldorado Parkway, Suite 203  
McKinney, Texas 75070

David Pacione  
Law Offices of Brian J. Judis  
700 N. Pearl St., Suite 425  
Dallas, Texas 75201

Robert Garrey  
1201 Elm Street, Suite 5200  
Dallas, Texas 75270  
Email: bgarrey@gmail.com

Sidney B. Chesnin  
4841 Tremont, Suite 9  
Dallas, Texas 75246  
Email: schesnin@hotmail.com

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<sup>1</sup> Stromberg and Stock, P.L.L.C. has filed a separate fee application for its fees and expenses incurred in this case.

Darrell W. Cook and Stephen W. Davis  
Darrell W. Cook & Associates  
One Meadows Building  
5005 Greenville Ave., Suite 200  
Dallas, Texas 75206  
Email: all@attorneycook.com

Lisa L. Lamert and Nancy Resnick  
Office of the United States Trustee  
1100 Commerce St., Room 976  
Dallas, Texas 75242  
Email: lisa.l.lambert@usdoj.gov  
Email: nancy.s.resnick@usdoj.gov

/s/ Alan L. Busch

**VERIFICATION OF TRANSMITTAL TO U.S. TRUSTEE**

Pursuant to Bankruptcy Rule 5005(b), I hereby verify that a copy of the foregoing Motion for Distribution of retainer was served via the Court's electronic filing system on the United States trustee, 1100 Commerce Street, Room 976, Dallas, Texas 75242-1496 on the 5<sup>th</sup> day of March, 2013.

/s/ Alan L. Busch

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Attorneys for Jeffrey Baron, Alleged Debtor

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE: §  
§  
JEFFREY BARON, § Bankr. No. 12-37921-SGJ  
§  
Alleged Debtor. § Hearing: March , 2013 @ \_\_: \_\_.m.

**COVER SHEET**

Interim Application of Busch, Ruotolo & Simpson, L.L.P.  
for the time period of January 28, 2013 to February 28, 2013  
Capacity: Attorneys for the Jeffrey Baron, the Alleged Debtor

Chapter: N/A

Debtor/Case: Jeffrey Baron – 12-34046-BJH-11

Retainer Received: \$25,000.00 Amount Previously Paid: \$0.00

Amount Requested:

Fees: \$ 9,423.00  
Vol. Fee Reductions: \$ 1,000.00  
Expenses: \$ 12.25  
Expense Reductions: \$ 0.00  
Other: \$ 0.00  
Total Reductions: \$ 1,000.00  
Total: \$ 9,435.25

\_\_\_\_\_

Expenses:

Copies per page: \$2.25  
Federal Express: N/A  
Postage: N/A  
Fax: N/A  
Courier/Delivery: N/A  
Online Research: N/A  
Outside Copying: N/A  
Transcripts: \_\_\_\_\_  
Filing fees: \_\_\_\_\_  
Pacer: \_\_\_\_\_  
Travel: \$10.00 (Parking)  
Online Access: \_\_\_\_\_  
Other: \_\_\_\_\_  
Total Expenses: \$12.25

<u>Hourly Rates:</u>	<u>Attorney</u>	<u>Paralegal</u>
Highest Rates:	<u>\$400.00 – \$275.00</u>	<u>\$95.00</u>
Hours Billed:	<u>29.40</u>	<u>5.40</u>
Average per Hour:	<u>\$303.06</u>	<u>\$95.00</u>
Overall Hourly Average:	<u>\$270.78</u>	

/s/ Alan L. Busch  
Signature

March 5, 2013  
Date

Busch, Robert L & Simpson LLP  
 100 Crescent Court, Suite 250  
 Dallas, Texas 75201  
 Telephone (214) 855-2880  
 Facsimile (214) 855-2871

Tax ID 76-0840555

Baron, Jeffery  
 via email: jeffbaron1@gmail.com  
 via email: mark@strombergstock.com

Page: 1  
 February 28, 2013  
 Account No: 550-000  
 Invoice No: 13212

ATTN: Mark Stromberg

Baron/Stromberg

Legal Fees

		Hours	
02/03/2013	ALB	first review of Motion for Summary Judgment and exhibits	1.60 640.00
02/04/2013	CMA	Receipt and review motion for summary judgment, declarations and other attachments. Participate in conference with A. Busch regarding same.	3.00 825.00
	ALB	t/c's and emails Stromberg regarding status, need for expert, procedural issues	0.60 240.00
02/05/2013	KEP	Drafting of affidavits, research on Internet.	2.80 266.00
	CMA	Work with A. Busch and M. Stromberg on strategy for responses and division of labor. Review summary judgment affidavits.	1.70 467.50
02/06/2013	CMA	Receipt and review Electronic communication with from M. Stromberg on "fully litigated" issue. Research and send M. Stromberg case regarding affirmative defenses.	1.50 412.50
02/07/2013	KEP	Review of Motion for Summary Judgment and exhibits, drafting of affidavit.	2.10 199.50
	ALB	review various drafts of response and affidavits	0.80 320.00
	CMA	Review Response to Motion for Summary Judgment discuss agreement with opposing counsel and strategy for next stage with A. Busch.	1.50 412.50
02/08/2013	ALB	review final response and brief and motion for continuance; conf CMA and Electronic communication with Stromberg	1.30 520.00
02/11/2013	CMA	Review outline for Motion for Summary Judgment hearing.	0.40 110.00



Baron/Stromberg

		Hours	
02/12/2013	CMA	Receipt and review settlement conversation with G. Pronske. Discuss same with A. Busch.	0.50      137.50
02/13/2013	ALB	t/c Stromberg; prep for hearing; conf MS and client and hearing; t/c Stromberg	3.60      1,440.00
	CMA	Receipt and review objection to summary judgment evidence, Motion to preserve status quo of receivership, request for payment by receiver and various other receiver filings. Participate in conference with A. Busch regarding receiver motion and fifth circuit language to "re-evaluate" fees. Prepare A. Busch for hearing on Motion for summary judgment. Draft and file notice of appearance.	3.00      825.00
	KEP	Preparation of notice of appearance (.3); E-filing of Notice of Appearance (.2).	0.50      47.50
02/14/2013	CMA	Review bankruptcy court filing of order from hearing.	0.10      27.50
02/20/2013	ALB	review outline from Schepps; conf Stromberg and court appearance regarding ruling and going forward	3.40      1,360.00
	CMA	Review motion to pay receiver.	0.20      55.00
02/21/2013	CMA	Receipt and review of Order abating and for joint status conference and motion by trustee and receiver filed with court.	1.00      275.00
02/22/2013	ALB	analyze settlement emails; conf Stromberg regarding settlement status, wind down plan, and going forward regarding insolvency	1.40      560.00
		For Current Services Rendered	<u>31.00</u> <u>9,140.50</u>

Attorney Summary

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Alan L. Busch	Senior Partner	12.70	\$400.00	\$5,080.00
Christopher M. Albert	Associate	12.90	275.00	3,547.50
Kevin E. Perry	Paralegal	5.40	95.00	513.00

Expenses

02/20/2013	Travel expense: Parking	10.00
02/28/2013	Photocopy charges	2.25
	Total Expenses	<u>12.25</u>



Account No: 550-000  
Invoice No: 13212

Baron/Stromberg

Total Current Work	9.152.75
Previous Balance	\$1.282.50
Courtesy Discount	-1,000.00
Balance Due	<u>\$9,435.25</u>
Total amount to be paid	<u>\$9,435.25</u>

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Baron, Jeffery  
 via email: jeffbaron1@gmail.com  
 via email: mark@strombergstock.com

Page: 1  
 January 31, 2013  
 Account No: 550-000  
 Invoice No: 13150

ATTN: Mark Stromberg

Baron/Stromberg

Legal Fees

		Hours	
01/28/2013	CMA	Receipt and review filings in bankruptcy court ordering Motion for Summary Judgment hearing on involuntary petition and bona fide dispute issue. Discuss case strategy with A. Busch.	0.00
01/29/2013	CMA	Receipt and review Findings of fact and conclusions of law.	0.00
01/31/2013	ALB	preliminary review of: order adopting bk court rec, 5th Cir opinion in Netsphere, order setting involuntary trial for interim relief, Baron answer and counterclaim, FFCL, various emails from Schepps and Stromberg regarding strategy, etc.	1.90 760.00
	CMA	Review pleadings and discuss case strategy with A. Busch.	1.90 522.50
		For Current Services Rendered	<u>3.80</u> <u>1,282.50</u>

Attorney Summary

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Alan L. Busch	Senior Partner	1.90	\$400.00	\$760.00
Christopher M. Albert	Associate	1.90	275.00	522.50

Total Current Work 1,282.50

Balance Due \$1,282.50

Total amount to be paid \$1,282.50