

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
ADVANTA CORP., et al.,	:	Case No. 09-13931 (KJC)
	:	
Debtors.	:	(Jointly Administered)

**FEE AUDITOR’S FINAL REPORT REGARDING THE
SECOND INTERIM FEE APPLICATION OF KPMG LLP**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Second Interim Fee Application of KPMG LLP (the “Application”).

BACKGROUND

1. KPMG LLP (“KPMG”) was retained as Auditors, Tax Consultants and Advisors to the Debtors and Debtors-in-Possession. In the Application, KPMG seeks approval of fees totaling \$169,325.73 and expenses totaling \$57,619.94 for its services for the period from April 1, 2010 through July 31, 2010 (the “Application Period”).

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2010, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, Issued January 30, 1996 (the “U.S. Trustee Guidelines”), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the

District of Delaware, and the Third Circuit Court of Appeals. We served an initial report on KPMG based on our review, and we received a response from KPMG, portions of which response are quoted herein.

DISCUSSION

3. We noted that during the current Application Period, KPMG billed 89.3 hours, for total fees of \$27,690.58, on matters pertaining to its fee application preparation. This computes to 16.35% of the total fees billed by KPMG during the current Application Period. KPMG's cumulative fees for fee application preparation through July 31, 2010 total \$75,686.27,¹ and compute to 8.26% of KPMG's total fees billed in the case to date.² Although the Court has not set a defined limit on fees for fee application preparation in this case, such fees must still be reasonable under Section 330 of the Bankruptcy Code. A number of courts have established 5% of the total fees billed as a guideline for reasonableness for such fees. We asked KPMG to explain why its fee application preparation fees should be considered reasonable. KPMG responded:

KPMG has reviewed the charges questioned by the Fee Auditor listed in paragraph 3 of the Initial Report and continues to believe that the time expended on the fee preparation was fair and reasonable. Please note that approximately 80% of the fees billed for fee application preparation were billed by professionals with relatively low hourly rates of \$287 or less. Furthermore, for the first interim application, the fee auditor recommended a 25% reduction of the fee application preparation fees exceeding 5%; therefore, we respectfully request and are willing to accept a 25% reduction of the fee application preparation fees exceeding 5% of the total fees billed in the second interim application, in the amount of \$4,806.07. In addition, we will not seek any future fee application preparation fees in this case even though we

¹We calculated this amount by taking the total fees of \$79,238.44 for fee application preparation through July 31, 2010 and subtracting from that amount the Court's reduction of \$3,552.17 on this issue for the previous interim period.

²KPMG's cumulative fees billed in the case through the end of the Second Interim Period total \$916,109.11.

estimate the fees, associated with preparing the final fee application, to exceed \$8,000.00.

We appreciate KPMG's response and, consistent with the response, recommend a reduction of \$4,806.07 in fees.

4. We noted the following expenses for legal fees of KPMG's counsel:

12-Apr-10 \$23,308.23

10-May-10 \$34,261.71

Pursuant to our request, KPMG provided us with a copy of the itemized invoices for these expenses and (*see* Response Exhibit "A"), in addition, offered the following explanation:

KPMG hired Foley Hoag for a number of reasons. First, the subpoena came from the Massachusetts Attorney General's office. Foley Hoag, a predominantly Boston firm, was identified based in part on their expertise with Massachusetts Attorney General regulatory investigations and in part for their experience and knowledge of audit firms, both of which we expected would provide efficiencies in responding to the civil investigative demand and in producing responsive documents. Second, KPMG hired Foley Hoag to help with the logistics of identifying, collecting, reviewing and producing the potentially large quantity of documents sought by the civil investigative demand. This was done in the normal course; KPMG generally brings in the resources and legal expertise of outside counsel in responding to government and regulatory subpoenas.

We have reviewed the invoices and have no objection to these expenses.

CONCLUSION

5. Thus, we recommend approval of \$164,519.66 in fees (\$169,325.73 minus \$4,806.07) and \$57,619.94 in expenses for KPMG's services for the Application Period.

Respectfully submitted,

WARREN H. SMITH & ASSOCIATES, P.C.

By: 
Warren H. Smith
Texas State Bar No. 18757050

325 N. St. Paul Street, Suite 1250
Dallas, Texas 75201
214-698-3868
214-722-0081 (fax)
whsmith@whsmithlaw.com

FEE AUDITOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 17th day of January, 2010.


Warren H. Smith

SERVICE LIST
Notice Parties

Applicant

John P. Depman
Partner
KPMG LLP
1601 Market Street
Philadelphia, PA 19103

U.S. Trustee

David Klauder
Office of the United States Trustee
District of Delaware
844 King Street, Suite 2207
Lockbox 35
Wilmington, DE 19801

Debtors

Philip M. Browne
Advanta Corp.
P.O. Box 844
Spring House, PA 19477-844

Debtor's Counsel

Robert L. Lemons
Weil, Gotshal & Manges, LLP
767 Fifth Avenue
New York, NY 10153

Chun I. Jang
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801

**Counsel to Official Committee of
Unsecured Creditors**

Mitchell A. Seider
Roger G. Schwartz
Latham & Watkins LLP
885 Third Avenue, Suite 1200
New York, NY 10022-4834

Howard A. Cohen
Drinker Biddle & Reath LLP
1100 N. Market Street, Suite 1000
Wilmington, DE 19801



RECEIVED

APR 16 2010

Lisa C. Wood
617-832-1117
Boston

PARALEGAL

KPMG LLP
Attn: Ellen Wahl Parker
Office of the General Counsel
FDR Station Box 5340
New York, NY 10150-5340

April 12, 2010
Invoice No.: 459571
Matter No.: 25358.00009

Re: Advanta - MA A.G. CID

For Professional Services rendered through March 31, 2010

Fees	\$23,293.80	✓
Disbursements	14.43	✓
Total Fees and Disbursements	23,308.23	

- Advantia Corporation
- Massachusetts Civil Investigative Demand No.
10-1FS-047 (Advantia Corp)

OTHER OFFICE CHARGE
Account: 60921000
11994421



PARALEGAL _____

FOOTINGS/EXTENSIONS DK 16

HOURLY RATES UNITED - N/A 10

FEE DISCOUNTS None 10

OTHER TERMS (EXPENSES) OK 16

APPROVED AMOUNT 23,308.23 16

OGC ATTORNEY OK 16

OGC AUDITOR _____

MANAGEMENT REVIEW _____



<u>Date</u>	<u>Timekeeper</u>	<u>Narrative</u>	<u>Hours</u>
03/17/10	Wood	E-mails with E. Parker; background discussion with E. Parker and D. Rose.	0.5 ✓
03/18/10	Wood	Call with client regarding background.	1.1 ✓
03/19/10	Wood	Read various e-mails from client.	1.1 ✓
03/19/10	Miller	Review client materials regarding documents and collection preservation and correspondence regarding same.	2.4 ✓
03/22/10	Wood	Discuss status with M. Miller and highlights of material forwarded by client.	1.1 ✓
03/22/10	Miller	Correspondence regarding status conference.	0.1 ✓
03/23/10	Miller	Telephone conference with client to discuss strategy and status for response to CID.	1.1 ✓
03/23/10	Wood	Call with A.G.'s office and prepare for same.	1.2 ✓
03/23/10	Wood	Client call and review related e-mails and talk with M. Miller.	2.8 ✓
03/24/10	Wood	Long conference call with Office of General Counsel and audit team; second call with Office of General Counsel; numerous e-mails; planning for tasks forward to prepare for both calls.	3.2 ✓
03/24/10	Miller	Correspondence regarding conference with Attorney General's Office; prepare for and attend telephone conference with client regarding response to CID.	3.1 ✓
03/25/10	Miller	Review documents provided by client; review procedures and regulation for response to CID.	3.1 ✓
03/25/10	Wood	Numerous e-mails from client [REDACTED], client notice and workpapers review.	1.2 ✓
03/26/10	Wood	Client communication regarding document review and production issues.	0.7 ✓
03/26/10	Miller	Draft summary of telephone conferences with client and review documents provided by client.	1.9 ✓
03/29/10	Wood	Call with Mass. A.G. and memo to client regarding same; review segment footnote to Advanta Corp.'s financial statements in advance of call with regulator.	2.1 ✓
03/30/10	Wood	Review S-3 and 2008 10-K; discuss production issues with M. Miller; e-mails with client regarding same.	2.8 ✓

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<u>Date</u>	<u>Timekeeper</u>	<u>Narrative</u>	<u>Hours</u>
03/30/10	Bialas	Discussion with J. Tracy regarding obtaining class-action complaints and docket print-outs for cases filed in the past year involving Advanta; discussion with M. Miller regarding same.	0.6 ✓
03/30/10	Miller	Correspondence regarding negotiations with attorney general's office and production in response to CID; confer with L. Wood regarding response to CID; confer with W. Megloin regarding review of work papers and correspondence regarding same.	1.8 ✓
03/31/10	Wood	Call with D. Dougherty regarding collection of e-mails from his computer; e-mails with client regarding same; e-mail to Mass. A.G. regarding extension.	2.2 ✓
03/31/10	Miller	Review workpapers in Philadelphia and confer with engagement team and OGC personnel regarding same.	13.0 ✓
Total Hours			47.1

TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Hours</u>		<u>Rate</u>		<u>Amount</u>
Brian Bialas	0.6	✓ at	288.00	=	172.80 ✓
Lisa C. Wood	20.0	✓ at	607.50	=	12,150.00 ✓
Matthew Miller	26.5	✓ at	414.00	=	10,971.00 ✓
Total Fees					\$23,293.80 ✓

Disbursement Summary

<u>Date</u>	<u>Telephone</u>	<u>Amount</u>
03/31/10		14.43 ✓
Total Disbursements		\$14.43

Total Fees	\$23,293.80 ✓
Total Disbursements	14.43 ✓
Total Fees and Disbursements	<u>\$23,308.23</u> ✓



RECEIVED

GOP/MH

MAY 11 2010

Lisa C. Wood
617-832-1117
Boston

PARALEGAL

KPMG LLP
Attn: Ellen Wahl Parker
Office of the General Counsel
FDR Station Box 5340
New York, NY 10150-5340

May 10, 2010
Invoice No.: 461140
Matter No.: 25358.00009

Re: Advanta - MA A.G. CID

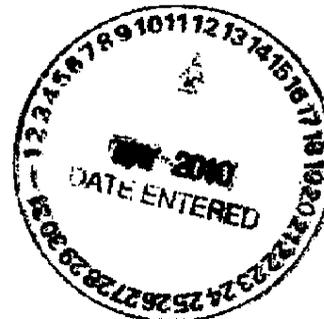
For Professional Services rendered through April 30, 2010



Fees	\$31,900.95
Disbursements	2,360.76
Total Fees and Disbursements	\$34,261.71

- ADVANTA CORPORATION
 - MASSACHUSETTS CIVIL INVESTIGATIVE DEMAND NO. 10-1P-047
 (ADVANTA CORP.)

OTHER OFFICE CHARGE
 Account: 60921000
 11994421



PARALEGAL
 FOOTINGS/EXTENSIONS OK
 HOURLY RATES Lowest TN
 FEE DISCOUNTS None
 OTHER TERMS (EXPENSES) OK
 APPROVED AMOUNT \$ 34,261.71
 OGC ATTORNEY DLC 2 Part
 OGC AUDITOR _____
 MANAGEMENT REVIEW _____

<u>Date</u>	<u>Timekeeper</u>	<u>Narrative</u>	<u>Hours</u>
04/01/10	Bialas	Emailed M. Miller regarding Advanta class-action complaints; discussion with M. Miller regarding same.	0.3 ✓
04/01/10	Wood	E-mails with client regarding collection process and several calls with F. Feurer regarding same.	1.9 ✓
04/01/10	Wood	Call with OGC auditor regarding document review and [REDACTED]	2.2 ✓
04/01/10	Wood	Review e-mail from E. Parker with questions regarding production and discuss with F. Feurer.	0.8 ✓
04/01/10	Miller	Review workpapers and confer with L. Wood, W. McGloin and S. Richards regarding same; travel from Philadelphia for same; review class action complaint filed in Pennsylvania district court.	7.4 ✓
04/05/10	Miller	Confer with L. Wood and W. McGloin regarding workpaper review and draft correspondence regarding same; draft memo summarizing workpaper review and interviews with audit team members	5.8 ✓
04/05/10	Wood	E-mail and call with M. Miller.	0.2 ✓
04/05/10	Wood	Review report on key workpapers.	1.7 ✓
04/05/10	Wood	Call with client to collect electronic data from J. Depman (engagement partner).	0.8 ✓
04/06/10	Miller	Correspondence and telephone conferences regarding collection interview for J. Depman and participate in same.	1.1 ✓
04/06/10	Bialas	Discussions with A. Rines regarding obtaining class-action complaints filed against former Advanta officers and directors; discussion with M. Miller regarding results of research.	0.4 ✓
04/07/10	Miller	Review emails collected from audit partner and manager for responsiveness to CID; attend training on review tool for outline review of engagement team member documents.	4.4 ✓
04/07/10	Wood	Long call with client regarding [REDACTED]; direct M. Miller on e-mail review.	2.3 ✓
04/08/10	Wood	Several e-mails with E. Parker regarding preservation.	0.4 ✓
04/08/10	Wood	Review 10-K, [REDACTED]	2.3 ✓

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<u>Date</u>	<u>Timekeeper</u>	<u>Narrative</u>	<u>Hours</u>
		[REDACTED]	
04/08/10	Wood	Discuss status of negotiations with A.G. and status of collection with F. Feurer, M. Miller and R. Eatinger.	1.3 ✓
04/08/10	Miller	Review Advanta SEC filings and engagement documents and confer with L. Wood regarding same; correspondence regarding collection of materials of departing employee.	2.5 ✓
04/09/10	Miller	Review J. Depman emails and draft correspondence regarding same; draft correspondence regarding status of review for response to CID.	1.3 ✓
04/09/10	Wood	Collection interview with departing employee; e-mails with client regarding status; discuss e-mails from manager and partner with M. Miller.	2.1 ✓
04/12/10	Wood	Review status and discuss open tasks with M. Miller.	0.3 ✓
04/12/10	Miller	Review documents for response to CID and confer with B. McGloin regarding same; confer with L. Wood regarding document review.	1.3 ✓
04/12/10	Bialas	Reviewed and analyzed memorandum authored by M. Miller regarding [REDACTED]	0.2 ✓
04/13/10	Bialas	Discussions with A. Rines and M. Miller regarding [REDACTED]	0.2 ✓
04/13/10	Wood	Review key documents identified by W. McGloin.	0.7 ✓
04/13/10	Miller	Review documents for responsiveness to CID and confer with L. Wood regarding same; draft chronology of key events.	1.4 ✓
04/14/10	Miller	Prepare for and attend telephone conference with client to discuss production; review documents for production.	2.1 ✓
04/14/10	Wood	Client call.	0.9 ✓
04/14/10	Wood	Call with A.G. and follow-up report.	0.5 ✓
04/15/10	Wood	E-mails regarding production issues.	0.3 ✓
04/15/10	Miller	Draft and revise production letter; telephone conference with client and copying vendor regarding preparation of document production and email correspondence regarding same.	4.7 ✓

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<u>Date</u>	<u>Timekeeper</u>	<u>Narrative</u>	<u>Hours</u>
04/19/10	Wood	Edit letter to A.G. regarding production.	0.9 ✓
04/20/10	Miller	Review documents for production to Attorney General's Office; email correspondence regarding same; revise and redraft production cover letter.	3.3 ✓
04/21/10	Wood	Review client comments and proposed edits to production letter.	0.6 ✓
04/22/10	Wood	Call with client regarding production letter and related follow up.	0.7 ✓
04/22/10	Miller	Prepare for and attend teleconference with client to discuss status of production and letter to Attorney General's office; correspondence regarding status of production.	1.0 ✓
04/23/10	Miller	Revise production letter; correspondence regarding preparation of work papers for production.	0.9 ✓
04/23/10	Wood	E-mails regarding production details.	0.7 ✓
04/26/10	Miller	Draft and revise production letter and review correspondence regarding same; telephone conference with P. Swiney regarding processing documents for production and correspondence regarding same.	2.0 ✓
04/26/10	Miller	Revise and serve responses to interrogatories.	0.2 ✓
04/26/10	Wood	Finalize letter to A.G.'s office and related e-mails.	1.1 ✓
04/29/10	Wood	Read e-mail from M. Miller regarding status.	0.1 ✓
04/30/10	Miller	Review documents for production to Attorney General's Office and serve same.	2.7 ✓
04/30/10	Wood	Work on supplemental production issues with M. Miller.	0.5 ✓
Total Hours			66.5

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TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Hours</u>		<u>Rate</u>		<u>Amount</u>
Brian Bias <i>W/L</i>	1.1	at	288.00	=	316.80
Lisa C. Wood <i>\$92.50 lower</i>	23.3	at	607.50	=	14,154.75
Matthew Miller <i>\$46. lower</i>	42.1	at	414.00	=	17,429.40
Total Fees					\$31,900.95

Disbursement Summary

<u>Date</u>		<u>Amount</u>
04/26/10	Telephone	23.40
04/26/10	In-House Photocopying	40.40
04/26/10	Taxi Fare	66.00
04/26/10	Mileage, Toll, Parking	63.00
04/26/10	Hotels & Related Expenses	285.06
04/26/10	Computer Research	14.00
04/26/10	Computer Research, CourtLink	9.50
04/15/10	Air, Train & Bus Fare - MATTHEW MILLER TRAVEL TO PHILADELPHIA FOR COURT HEARING: 03/31/10-04/01/10	1,123.40 <i>OT</i>
04/15/10	Air, Train & Bus Fare - MATTHEW MILLER CHANGE FEE TO MOVE FLIGHT US AIRWAYS: 04/01/10	50.00
04/15/10	Air, Train & Bus Fare - MATTHEW MILLER TRAIN TO NYC - PENN STATION: 04/08/20	165.00
04/15/10	Air, Train & Bus Fare - MATTHEW MILLER TRAIN FROM PENN STATION TO WESTWOOD, MA: 04/08/10	178.00
04/21/10	Air, Train & Bus Fare - LISA WOOD ATTENDANCE AT ESI POLICIES & PROCEDURES TRAINING IN NYC: 04/08/10	343.00
Total Disbursements		\$2,360.76

Total Fees	\$31,900.95
Total Disbursements	<u>2,360.76</u>
Total Fees and Disbursements	<u>\$34,261.71</u>

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