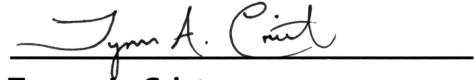


**This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.**

**IT IS SO ORDERED.**



**Dated: October 30, 2025**

  
Tyson A. Crist  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

*In re:*

ALPHAONE EXTERIORS LLC,	:	Case No. 24-30371
	:	Chapter 11 (Subchapter V)
<i>Debtor.</i>	:	Judge Crist
	:	

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**ORDER: (I) GRANTING FIRST AND FINAL APPLICATION OF SUBCHAPTER V TRUSTEE FOR PAYMENT OF FEES AND REIMBURSEMENT OF EXPENSES (DOC. 122); AND (II) REQUIRING SUPPLEMENT TO THE FIRST AND FINAL APPLICATION FOR THE APPROVAL OF FEES AND EXPENSES FOR PATRICIA J. FRIESINGER AND COOLIDGE WALL, CO., L.P.A., AS COUNSEL FOR THE DEBTOR FOR THE PERIOD OF MARCH 1, 2024 THROUGH THE CONFIRMATION DATE OF APRIL 21, 2025 (DOC. 124)**

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This matter is before the Court on the: (1) *First and Final Application of Subchapter V Trustee for Payment of Fees and Reimbursement of Expenses* (Doc. 122), for the period of March 1, 2024 through May 13, 2025, filed on May 15, 2025 (the “Sub V Trustee Application”); and (2) *First and Final Application for the Approval of Fees and Expenses for Patricia J. Friesinger and Coolidge Wall, Co., L.P.A., as Counsel in the Amount of \$69,490.00 for Attorney Fees and \$2,816.56 for Expenses for the Period of March 1, 2024 Through the Confirmation Date of April 21, 2025 and the Authority to Pay Same, Combined with Notice Thereof and of Opportunity to Object* (Doc. 124), filed on June 20, 2025 (the “Sub V Debtor Application” and together with the Sub V Trustee Application, the “Applications”).

## **I. Background**

### **A. Pre-Confirmation Filings and Actions**

Debtor AlphaOne Exteriors LLC (“AlphaOne” and “Debtor”) filed its Voluntary Petition (Doc. 1) on March 1, 2024 (the “Petition Date”). At that time, prior to the sunset of the pandemic era increased debt limit on June 21, 2024,<sup>1</sup> Debtor was able to and did elect to proceed as a debtor under 11 U.S.C. § 1182(1) with aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) that were less than \$7,500,000, under subchapter V of chapter 11. *See id.* at 2, part 8. However, it appears that the total noncontingent liquidated debt in this case may have been well under the current debt limit of \$3,424,000, as further discussed below.

In the Statement of Financial Affairs (Doc. 1 at 31-39) and Disclosure of Compensation of Attorney for Debtor (Doc. 1 at 40), both filed with the Voluntary Petition, AlphaOne disclosed that it paid the firm of Coolidge Wall Co., L.P.A. (“Debtor’s Counsel”) a prepetition retainer of \$15,000 on February 7 and 9, 2024, \$11,356.50 of which was applied prepetition, leaving Debtor’s Counsel with a balance on-hand of \$3,643.50. Doc. 1 at 34.<sup>2</sup> Total current liabilities listed in the Balance Sheet (Doc. 11) filed on the Petition Date were \$285,670.78. In the Summary of Assets and Liabilities (Doc. 1 at 9) the total liabilities were \$486,953.77; however, Colleen Sallee, as well as Marco Majors, Steven Snelson, and United States EPA Region 5, were scheduled with contingent, unliquidated, and disputed nonpriority unsecured claims for “unknown” or \$0.00 amounts. *See* Schedule E/F (Doc. 1 at 21-25). Total assets of \$130,512.33 were listed in Schedule A/B (Doc. 1 at 10-16).

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<sup>1</sup> The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Pub L. No. 116-136 (2020), enacted on March 27, 2020, first increased the debt limit. *See* 8 Collier on Bankruptcy ¶ 1182.LH. The extended debt limit was extended under the COVID-19 Bankruptcy Relief Extension Act of 2021, Pub. L. No. 117-5, § 2(a)(1) (Mar. 27, 2021). *Id.* After a gap period during which the limit went back down to \$3,024,725, effective April 1, 2022, the increased debt limit was reinstated retroactively and extended under the Bankruptcy Threshold Adjustment and Technical Corrections Act, Pub. L. No. 117-151, § 2(a), (d) (June 21, 2022) until June 20, 2024, but then allowed to expire through an amendment to § 1182(1) now simply defines a “debtor” for purposes of subchapter V as a “small business debtor,” which is currently defined in § 101(51D) to have a debt limit of \$3,424,000, as adjusted under § 104 on April 1, 2025. *Id.*; *see also* <https://www.federalregister.gov/documents/2025/02/04/2025-02207/adjustment-of-certain-dollar-amounts-applicable-to-bankruptcy-cases>.

<sup>2</sup> Also, in the Disclosure of Compensation (Form B2030), Debtor’s Counsel represented that they had agreed to accept \$15,000 for legal services. That is presumed to only apply to the prepetition period, but the Application (Doc. 4) to employ, filed on March 1, 2024, does not explain. Doc. 1 at 40; Appl. (Doc. 4) at 5, ¶ 12 (stating “[t]he Debtor desires to retain Friesinger and the Firm under the retainer agreement set forth in the Affidavit[,]” but the Declaration attached as Exhibit A (there being no Affidavit) only addresses disinterestedness, such that the only details about the terms of retention are set forth in paragraphs 9 and 13 of the Application (Doc. 4)).

Also on the Petition Date, the United States Trustee filed the *Notice of Appointment of Subchapter V Trustee* (Doc. 16), by which Donald W. Mallory was appointed as the Subchapter V Trustee in this case pursuant to 11 U.S.C. § 1183(a). A *Supplemental Notice of Appointment of Subchapter V Trustee* (Doc. 20) was filed on March 4, 2024, to include the previously referenced Verified Statement of Subchapter V Trustee which disclosed his hourly rate of \$350, for which he would seek compensation subject to court approval pursuant to 11 U.S.C. § 330.

An Application (Doc. 4) to employ Patricia J. Friesinger and the law firm of Coolidge Wall Co., L.P.A. (together, “Debtor’s Counsel”) as general counsel for the Debtor, pursuant to 11 U.S.C. § 327(a)<sup>3</sup> and Federal Rule of Bankruptcy Procedure (“Bankruptcy Rule”) 2014, was also filed on the Petition Date. Said Application disclosed hourly rates of \$380 for Ms. Friesinger in 2024; \$225-\$600 for all attorneys at the Coolidge firm in 2024; and \$170-\$275 for paralegals at the Coolidge firm in 2024, all subject to allowance by this Court. Appl. (Doc. 4) at 4, ¶ 9. The Application also confirmed that Debtor’s Counsel had received a prepetition retainer of \$15,000 and referred to the Statement of Financial Affairs as identifying “the amounts from the retainer applied to the pre-petition fees of the Debtor.” *Id.* at 6, ¶ 13. Further, the Application stated that “[t]he Firm shall retain the deposit to be applied to any fees, charges, and disbursements which remain unpaid at the end of this case as ordered by the Court.” *Id.* On March 27, 2024, the Court entered an Order (Doc. 29) granting the Application to employ Debtor’s Counsel as “General Counsel.” Doc. 37 at 2.

There were two “first day” motions filed in this case: (1) an Emergency Motion (Doc. 5) to use cash collateral and seek related relief (the “Motion to Use Cash Collateral”); and (2) Motion (Doc. 6) to pay prepetition wages and seek related relief (the “Motion to Pay Prepetition Wages”). The Motion to Use Cash Collateral stated that two creditors, Channel Partners Capital, LLC and Prime 1 LLC (an entity with “similar ownership to the Debtor”) were owed \$67,206.72 and \$15,000, respectively. The *Declaration of Jarrod Clauser in Support of Chapter 11 Petition and First Day Motions* (Doc. 7) (the “First Day Declaration”) further explained that “the Debtor took out a loan from Channel Partners Capital, LLC for \$84,000” in June 2023. First Day Decl. at 3.

Counsel for Creditor Colleen Sallee (“Ms. Sallee”) appeared in this case on April 29, 2024 (Docs. 43-45). Ms. Sallee, by and through counsel, filed a Motion (Doc. 51) to extend the time to

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<sup>3</sup> The Motion cites § 327(e), but that appears to be an inadvertent typo as it would not apply to general counsel.

file a complaint to challenge dischargeability of debt on May 17, 2024, asserting she was owed \$2.251 million for damages in connection with a residential construction contract. The Motion was granted by an Order (Doc. 57) entered on June 20, 2024. Thereafter, AlphaOne and Ms. Sallee entered into a series of Stipulations (Docs. 72, 79, 86, & 104) filed on September 17, 2024, November 18, 2024, January 14, 2025, and March 17, 2025, respectively, to further extend the deadline.

The initial *Plan of Reorganization of AlphaOne Exteriors LLC* (Doc. 53) was filed on May 30, 2024. Ultimately, an Agreed Order (Doc. 81), entered into between Ms. Sallee, the Subchapter V Trustee, the United States Trustee, and AlphaOne, was approved by the Court on November 25, 2024, extending AlphaOne's deadline to file an amended plan of reorganization, which had previously been set by an Order (Doc. 74) entered on September 25, 2024. The *First Amended Plan of Reorganization of AlphaOne Exteriors LLC* (Doc. 84) was filed on January 2, 2025.

An Application (Doc. 77) to employ Rike LLC as a certified public accountant to prepare tax returns, at an hourly fee of \$150-\$265, was filed on October 15, 2024, pursuant to 11 U.S.C. § 327(a), Bankruptcy Rule 2014, and LBR 2014-1. The Order (Doc. 87) granting said Application, effective as of October 15, 2024, was entered on January 17, 2025. The Application stated that “[s]ubject to Court approval pursuant to Section 330(a) of the Bankruptcy Code, compensation will be payable to Rike on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by Rike.” Appl. (Doc. 77) at 4. Moreover, the Affidavit of Dave Rike on Behalf of Rike LLC (Doc. 77) stated that “Rike . . . understands that any compensation paid by the estate must be approved by the Court.” Ex. A – Aff. (Doc. 77) at 6. But, as discussed below within the heading of “other issues” concerning the Sub V Debtor Application, no application for compensation for services or reimbursement of expenses has been filed on behalf of Rike LLC.

On February 19, 2025, Debtor filed several motions (Docs. 93, 94, & 95) to: (1) assume leases, (2) approve a compromise with Ms. Sallee, and (3) approve a compromise with Channel Partners Capital, LLC in resolution of Adversary Proceeding No. 24-3006, which had been filed on the first day of the case. In addition, Debtor filed its *Second Amended Plan of Reorganization of AlphaOne Exteriors LLC* (Doc. 96), followed by a comparison copy (Doc. 100) to identify changes made in the Second Amended Plan (the “Plan”). The various Motions were granted by Orders (Docs. 107, 108, & 112), entered on April 1, 3, and 14, 2025, respectively.

On April 15, 2025, the Subchapter V Trustee filed his *Report of Subchapter V Trustee in Support of Confirmation of the Second Amended Plan of Reorganization of AlphaOne Exteriors, LLC* (Doc. No. 96) (Doc. 113) (the “Report”). The Report details the Subchapter V Trustee’s work in this case and the efforts that lead to a settlement and confirmation of the Plan on a consensual basis under 11 U.S.C. § 1191(a). In particular, it explains that:

41. The instant case was unusual in that a resolution of the underlying litigious dispute surrounding the Texas Action with Ms. Sallee and the Sallee Claim was a significant hurdle to reaching confirmation. Trustee was involved at the onset in many robust negotiations between the Debtor and its counsel, counsel for the Debtor’s insurer, Ms. Sallee and counsel for Ms. Sallee. . . .

Report (Doc. 113) at 18-19, ¶ 41.

### **B. Confirmation of Plan and Plan Terms**

The Plan was confirmed on April 21, 2025, pursuant to the *Order Confirming Second Amended Plan* [Doc. 96] (Doc. 116) (the “Confirmation Order”), which stated that “the Second Amended Plan is hereby confirmed pursuant to 11 U.S.C. § 1191(a).” Confirmation Order at 1. Pursuant to the confirmed Plan, “[h]olders of Administrative Expense Claims that do not file a request with the Bankruptcy Court and serve on all parties entitled to notice thereof no later than sixty (60) days after the Effective Date, are forever barred from asserting such Claims except as provided in the Plan.” Plan at 23-24, § XIV.D. The Plan provides that the term “Effective Date” means “the first day after the first full calendar month after entry of the Confirmation Order.” Plan at 6, § II.6. Thus, the Effective Date was June 1, 2025, and the Administrative Expense Claims bar date was July 31, 2025.

The Plan provides that Class 1<sup>4</sup> Allowed Administrative Claims under 11 U.S.C. § 507(a), inclusive of Debtor’s postpetition attorney’s fees, will be paid “to the extent approved by the Court . . . first from the retainer deposit on hand from prior to the Petition Date and then, if needed, out of the available Cash.” Plan at 17, § VIII.A. The Plan further provides that, “[t]o the extent Cash is insufficient to cover the approved amount of the attorney’s fees and expenses, such amounts may be paid as such funds come available, as agreed between counsel and the Debtor.” *Id.* With respect to the Subchapter V Trustee’s fees, they are to be paid following approval by the

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<sup>4</sup> Capitalized terms used but not defined in this Order have the meanings given in the Plan which are incorporated herein by reference.

Court “first from the funds that have been put on deposit with the Subchapter V Trustee and then, if needed, out of available Cash. . . ahead of the amounts Allowed for Debtor’s attorney’s fees.” *Id.* The provision on treatment of the Class 1 Administrative Claims concludes as follows:

The Debtor’s Bankruptcy Case will not be closed until all Allowed Administrative Expense Claims are paid in full. Class 1 Creditor Allowed Administrative Expense Claims are estimated, to not exceed the amount of \$55,000.00, after application of funds held by counsel and/or the Subchapter V Trustee for application to such expenses.

*Id* (emphasis added). Thus, to the extent that the Class 1 Allowed Administrative Expense Claims do exceed \$55,000, after application of funds held by Debtor’s Counsel and/or the Subchapter V Trustee, that will have an impact on Reorganized AlphaOne’s Cash and therefore its ability to make distributions to the holders of Class 4 Allowed General Unsecured Claims. This is so because the “Net Excess Funds,” from which Class 4 is to be paid *pro rata*, is defined as “seventy-five (75%) of the Debtor’s projected Cash” minus accounts payable “as of June 30 of 2025, 2026, 2027, and 2028” and “one hundred percent (100%) of the Debtor’s projected Cash” minus accounts payable as of March 1, 2029. Plan at 6-7, § II, ¶ 20.

Related to the above-cited terms of the Plan, on October 21, 2025, AlphaOne filed a *Post-Confirmation Report Pursuant to LBR 3020-2* (Doc. 126) (the “Post-Confirmation Report”) in which its counsel represented, amongst other things, that “[t]he first potential distribution date was August 31, 2025. The projections called for \$0.00 Net Excess Funds to be available to distribute in the summer of 2025.” Post-Confirmation Report at 2.

As noted in the Report filed by the Subchapter V Trustee, the Subchapter V Trustee’s services terminated “upon the substantial consummation of a consensual plan” pursuant to 11 U.S.C. § 1183(c)(1). Doc. 113 at 12, ¶ 37. Likewise, the Plan states that if it was confirmed consensually, “the Subchapter V Trustee shall be terminated upon Substantial Consummation.” Plan at 26, § XVI.E.

### C. Applications

Both Applications were presumably filed pursuant to sections 330 and 331 of Title 11 of the United States Code (the “Bankruptcy Code”), Federal Rule of Bankruptcy Procedure

(“Bankruptcy Rule”) 2016, and Local Bankruptcy Rule (“LBR”) 2016-1(a)(2).<sup>5</sup> In addition, both Applications were accompanied by notice of the 21-day response period, as required by LBR 9013-1(a). The Sub V Debtor Application, however, did not include the Notice of Application set forth in LBR Form 2016-1(a)(1)(C), which satisfies the requirements of LBR 2016-1(a)(2)(B)<sup>6</sup> for final fee applications, although it did set forth the total fees and expense reimbursement requested within the caption. No party in interest, including the United States Trustee, has responded to or otherwise opposed the Applications.

### **1. Sub V Trustee Application**

The Sub V Trustee Application covers the period of March 1, 2024 – the Petition Date – through May 13, 2025. A review of the time entries, however, reveals that his services were performed March 4, 2024 to, principally, April 21, 2025, the date of the confirmation hearing. There was one entry on May 13, 2025 for 1.50 hours to prepare the Sub V Trustee Application, which is the first and final application. *See Ex. A – Invoice (Doc. 122-1 at 7).* The total fees charged over this period were \$24,185; however, the Sub V Trustee voluntarily applied a discount of \$2,261.36 – a 9.35% reduction – which it appears he took in order to reduce his fees, before addition of the total costs of \$76.36, to fit within the escrowed amount of \$22,000; thus, a total reduced fee of \$21,923.64 plus total costs of \$76.36, which equals \$22,000.

As summarized in the Sub V Trustee Application, his fees will be paid from escrow deposits made to him in the total amount of \$22,000. And due to the voluntary reduction of his fees, there will be no balance remaining due to be paid by the reorganized AlphaOne. Moreover, the Subchapter V Trustee did not increase his rate for 2025, charging all time at \$350 an hour, and he charged half-time for travel of 2.4 hours – a round-trip from Cincinnati to Dayton for the first-day hearing on March 6, 2024. The costs consisted of \$72.36 in mileage and \$4.00 in parking. The Subchapter V Trustee did not file an interim fee application and has not been paid anything to date,

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<sup>5</sup> Although not expressly stated in the Sub V Debtor Application, the Court presumes it was filed pursuant to the same statutory provisions and rules as the Sub V Trustee Application.

<sup>6</sup> *See, e.g.*, the Sub V Trustee Application (Doc. 122 at 9-10).

apart from the escrowed fees that he is holding in trust pursuant to the Agreed Interim and Final Orders (Docs. 28 and 46<sup>7</sup>) on Debtor's use of cash collateral.

## **2. Sub V Debtor Application**

The Sub V Debtor Application covers the period of March 1, 2024 – the Petition Date – through April 21, 2025. It appears that the two professionals with Coolidge Wall Co., L.P.A. who rendered services, Patricia J. Friesinger, Shareholder, and Amanda M. Farris, Paralegal, billed time at the respective rates of \$380 and \$175 in 2024, but increased their respective rates to \$400 and \$180 at the beginning of 2025. From a review of the docket, it does not appear that Debtor's Counsel disclosed these hourly rate increases to the Court or to the parties, prior to (or soon after) taking effect.

## **II. Jurisdiction**

This Court has subject matter jurisdiction over the Applications pursuant to 28 U.S.C. § 1334(b) and Amended General Order No. 05-02 of the District Court for the Southern District of Ohio (Amended Standing Order of Reference). These Applications arise from Debtor AlphaOne's bankruptcy itself and from the provisions of the Bankruptcy Code and may therefore be constitutionally decided by a bankruptcy judge. *See, e.g., In re Louis*, No. 20-71283, 2022 WL 2055290, at \*11 (Bankr. C.D. Ill. June 7, 2022) (citing *Stern v. Marshall*, 564 U.S. 462, 499 (2011)).

## **III. Analysis**

Even in the absence of objections and regardless of the chapter under which a bankruptcy case is filed, the Court still has an independent duty to review attorney and some trustee fee applications for reasonableness “[i]n order to guard the public interest and integrity of the bankruptcy system.” *In re Vaughn*, 660 B.R. 827, 843-44 (Bankr. S.D. Ohio 2024) (Humphrey, J.) (citing *In re Henson*, 637 B.R. 13, 15 (Bankr. S.D. Ohio 2022) (citing *In re Spear*, 636 B.R. 765, 769 (Bankr. S.D. Ohio 2022) (internal citations omitted); *Dery v. Cumberland Cas. & Sur. Co. (In re 5900 Assocs.)*, 468 F.3d 326, 329-30 (6th Cir. 2006) (citation omitted) (“In a bankruptcy case

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<sup>7</sup> The Agreed Final Order (Doc. 46) on the Debtor's use of cash collateral states that, “[t]he Budget provides for a \$2,000 monthly carve-out for the Subchapter V Trustee to be held by the Subchapter V Trustee in trust against fees that may be approved in the future. Such funds subject to this carve out shall remain property of the bankruptcy estate until fees are authorized a[n]d such funds are approved for payment.” Doc. 46 6, ¶ I.

fees are not a matter for private agreement. There is an inherent public interest that must be considered in awarding fees.”)). And counsel has the burden of establishing its entitlement to fees. *See In re Spurlock*, 642 B.R. 269, 285 (Bankr. S.D. Ohio 2022) (Humphrey, J.) (“The applicant seeking attorney fees always carries the burden of proof to establish that the fees are warranted and should be approved.”) (citations omitted); *see also In re Thomas v. Robinson (In re Robinson)*, 189 F. App’x 371, 374 (6th Cir. 2006) (similar); *Vaughn*, 660 B.R. at 844 (similar).

There is not a lot of case law on applications for approval of fees and expenses in subchapter V cases. *See, e.g., In re Louis*, No. 20-71283, 2022 WL 2055290 (Bankr. C.D. Ill. June 7, 2022).<sup>8</sup> This case was inherited by the current Court post-confirmation and this is the first occasion to review and address fee applications in a subchapter V case. Thus, in this instance, the Court took some time to examine the issues and to survey the fees awarded in other subchapter V cases in Dayton, for purposes of context and comparison.

Although, by all accounts, the Court now understands that Debtor’s counsel and the Subchapter V Trustee did an admirable job in shepherding this case to a consensual confirmation of the Plan, pursuant to 11 U.S.C. § 1191(a),<sup>9</sup> there were three main issues of concern that initially gave the Court pause in proceeding to approve the Applications. Accordingly, this Order will address each of those issues, in turn, which are summarized as follows:

1. The gatekeeping question, which is whether subchapter V trustees can be awarded compensation for services and reimbursement of expenses pursuant to § 330(a) without any limitation on compensation under § 326(b)?<sup>10</sup>
2. How the fees of Debtor’s Counsel and the Subchapter V Trustee in this case compare to: (a) the fees projected in the Plan; and (b) the fees approved in other subchapter V cases filed in the Western Division at Dayton, and whether either of those issues suggests any adjustment?

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<sup>8</sup>Although not reported, this is one of the few in-depth opinions on fee applications in a Subchapter V case. Citation of this case, however, in no way suggests that the case at bar was factually similar to the *Louis* case.

<sup>9</sup> Hereinafter, unless otherwise noted, all sections referenced will be sections of Title 11 of the United States Code (the “Bankruptcy Code”).

<sup>10</sup> An ancillary issue, very briefly addressed below, is the period of time for which a subchapter V trustee can be awarded compensation and reimbursement, which varies depending on the basis of confirmation of the plan.

3. Are there any other specific issues of concern with the Applications and the time entries and expenses therein which would affect approving the total amount of compensation and reimbursement of expenses requested?

The Court will address each of the foregoing issues, in turn, as follows.

#### **A. Basis for Approval of Subchapter V Trustee Fees and Expenses**

The language of § 326(b) is not clear. Confusingly, it provides that:

(b) In a case under subchapter V of chapter 11 . . . , the court may not allow compensation for services or reimbursement of expenses of the United States Trustee or of a standing trustee appointed under section 586(b) of title 28, but may allow reasonable compensation under section 330 of this title of a trustee appointed under section 1202(a) or 1302(a) of this title for the trustee's services, payable after the trustee renders such services, not to exceed five percent upon all payments under the plan.

11 U.S.C. § 326(b) (emphasis added). It appeared that Congress, through the SBRA<sup>11</sup> amendments to § 326(b) made in 2019, was going to tell us how this section applied to all trustees in subchapter V cases, but due to a presumed drafting error, they did not (parsing the plain language); at least not with respect to subchapter V trustees that are not standing trustees or, as some refer to them, “case-by-case” trustees. *See* Paul W. Bonapfel, U.S. Bankruptcy Judge, N.D. Ga, *A Guide to the Small Business Reorganization Act of 2019* at 66 (Rev. June 2022) (“Some observers who participated in the drafting of SBRA and the legislative process leading to its enactment attribute this result [— that § 326(b) “does not place a cap on such compensation” —] to a drafting error. The drafters of subchapter V intended that provisions for compensation of non-standing sub V trustees be the same as those for non-standing chapter 12 and 13 trustees” (n. 145 omitted; citing *In re Louis*, 2022 WL 2055290, at \*11 n.10)); *In re DynoTec*, No. 21-30803, 2024 WL 2003065, at \*2 (Bankr. D. Minn. Apr. 5, 2024). Further suggesting that this may have been a mistake is that § 326(a) applies to limit the compensation of trustees in traditional, non-subchapter V chapter 11 cases, as well as trustees in chapter 7 cases, thereby leaving, due to the apparent drafting error (or omission), subchapter V trustees as the only type of trustee not subject to a cap. Moreover, § 326(b) states that a court “may allow reasonable compensation under section 330 of this title of a trustee appointed under section 1202(a) or 1302(a) of this title for the trustee's services,” but § 326(b)

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<sup>11</sup> The Small Business Reorganization Act of 2019 (the “SBRA”), Pub. L. No. 116-54, 133 Stat. 1079 (2019).

does not tell courts what to do with respect to the fees of a subchapter V trustee who is appointed under § 1183(a), but who is not a standing trustee appointed under 28 U.S.C. § 586(b), which also presents a circularity issue discussed below.

So, § 326 does not tell us what to do, but “the United States Trustee Program’s position is that compensation may be awarded without regard to a cap[.]” Bonapfel, *A Guide to the Small Business Reorganization Act of 2019* at 66, n.146 (citing *In re Louis*, 2022 WL 2055290, at \*11, which did not decide the issue in the absence of any objections). And it appears that all courts to have considered the issue, to date, have agreed that “case-by-case” subchapter V trustees may be compensated for services and reimbursed for expenses under § 330 of the Bankruptcy Code, without limitation – that such compensation and reimbursement is not capped by § 326(b). And, as noted above, this is consistent with guidance from the United States Trustee, as stated in its Program Policy and Practices Manual. *See* U.S. Trustee Program Policy and Practices Manual, Vol. 3: Chapter 11 Case Administration, § 3-17.15.2, p. 206 (cited in *In re Louis*, 2022 WL 2055290, at \*11 n.10). This Court, similarly, is not going to take a different tack, particularly on unopposed Applications without the benefit of briefing by interested parties.

Given that subchapter V trustees in the Southern District of Ohio, like many other (if not all) districts, are not standing trustees, but rather are appointed as disinterested persons to serve in each case by the United States Trustee, the Court determines, as to the present unopposed Applications, that there is no bar or cap, under current case law and United States Trustee guidance, to awarding reasonable compensation and reimbursement of expenses to this Subchapter V Trustee because he is not a standing trustee. *See, e.g.*, *In re Louis*, 2022 WL 2055290, at \*11 & n.10 (citing 11 U.S.C. §§ 326(b), 330(a), 1183(a)); *In re Tri-State Roofing*, 2020 WL 7345741, at \*1-3 (Bankr. D. Idaho Dec. 7, 2020) (also involving an unopposed application and “concluding that Subchapter V trustee compensation under § 330(a) was neither barred nor capped by § 326(b)” after analyzing “an apparent discrepancy in § 326 regarding limitations on trustee compensation” given that “[s]ubsection (b) clearly applies to Subchapter V cases,” but “the second half of that provision, which provides for compensation under § 330 . . . makes no reference to trustees appointed in the context of Chapter 11 or Subchapter V or under the provisions thereof.”). If Congress wants to

impose a cap they will have to say so.<sup>12</sup> For now, the “universal practice” is that subchapter V trustees can be awarded compensation under § 330(a)(1) without a statutory cap. *See In re Robert J. Ambruster, Inc.*, 653 B.R. 461 (Bankr. E.D. Mo. 2023), discussed in Bonapfel, *Subchapter V Update* at 82-83, [https://www.ganb.uscourts.gov/sites/default/files/sub\\_v\\_update\\_9-30-24\\_002.pdf](https://www.ganb.uscourts.gov/sites/default/files/sub_v_update_9-30-24_002.pdf).

For the foregoing reasons, the Court ultimately concludes that the Subchapter V Trustee – a case-by-case Subchapter V Trustee – may be paid compensation for services and reimbursed for expenses from the estate in accordance with and pursuant to § 330(a), not subject to the cap in § 326(b). But § 330(a)(1) and (a)(7) present a circularity issue of quick note.

No provision in § 330, unlike § 326(a) and (b), mentions “subchapter V of chapter 11.” The provisions of § 330 only refer to a “trustee” in § 330(a)(1) and (a)(7), and to a “trustee under chapter 11” in § 330(a)(3). Further, § 330(a)(7), which was added in 2005, states that “[i]n determining the amount of reasonable compensation to be awarded to a *trustee*, the court shall treat such compensation as a commission, based on section 326.” 11 U.S.C. § 330(a)(7) (emphasis added); *see* 3 Collier on Bankruptcy ¶ 330.LH[6] (discussing the four amendments to section 330 made by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005). This Court has previously discussed § 330(a)(7) as applied to a chapter 7 trustee, but not to a chapter 11, or more specifically a subchapter V, trustee. *See In re Staker*, 667 B.R. 556, 559-62 (Bankr. S.D. Ohio 2025) (Humphrey, J.) (observing that under BAPCPA, section 330 was amended to add (a)(7), but “removed Chapter 7 trustees from the list of professionals subject to the Section 330(a)(3) factors” and concluding that the Chapter 7 Trustee could not be awarded compensation “under § 326(a) or otherwise for her services as the Trustee.”). Congress was presumed to be aware of the 2005 addition of sub-section (a)(7) to § 330 when it amended § 326(b) in 2019, which again leads to the conclusion that the omission might have been an error. *See In re Bunting Bearings*, 302 B.R. 210, 217 & n.4 (Bankr. N.D. Ohio 2003) (“Congress is presumed to know the attendant circumstances . . . pertinent to any legislation it enacts”) (citing *Goodyear Atomic Corp. v. Miller*, 486 U.S. 174, 185 (1988)).

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<sup>12</sup> Although the Court is not applying the five percent (5%) cap in § 326(b), simply for comparison, in this case the Subchapter V Trustee’s fees sought, in the amount of \$20,000 after voluntary reduction, total 13.33% of the estimated Net Excess Funds to be distributed under the Plan, in the amount of \$149,960.63. *See* Plan at 16, § VII.

Thus, the question is how to apply sub-parts (a)(1), (a)(3), and (a)(7) to a subchapter V trustee? And that brings us back to § 326, which, as discussed above, does tell us how to compensate chapter 11 trustees in sub-section (a), but does not tell us in sub-section (b) how to compensate non-standing subchapter V trustees. This could potentially be interpreted in two ways: either (a) they are compensated under § 330(a)(1) and (a)(3), without regard to (a)(7), because § 326 does not contain a cap or commission structure for case-by-case subchapter V trustees; or (b) they receive no compensation. *See In re Tri-State Roofing*, 2020 WL 7345741, at \*2 (noting that § 330(a)(1) requires analysis of § 326 because it is expressly subject to § 326, but concluding that the interpretation that “no compensation should be allowed under subsection 330 to subchapter V trustees . . . [I]s not a plausible reading of the statute” (citations omitted)); Bonapfel, *A Guide to the Small Business Reorganization Act of 2019* at 66-67 & n.148 (“Because § 330(a) is subject to § 326, and § 326(b) does not provide for compensation of a non-standing sub V trustee, it may be arguable that a sub V trustee is not entitled to compensation.”). But awarding them no compensation would be an absurd result; thus, the position of the United States Trustee Program that subchapter V trustees “‘are compensated through § 330(a)(1)(A)’ ”). *See Donovan v. FirstCredit, Inc.*, 983 F.3d 246, 254 (6th Cir. 2020) (“Under [the absurd results] canon of statutory construction, interpretations of a statute which would produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available.”) (cleaned up); Bonapfel, *A Guide to the Small Business Reorganization Act of 2019* at 66-67 & n.148 (quoting U.S. Dep’t of Justice, Handbook for Small Business Chapter 11 Subchapter V Trustees (Feb. 2020) at 3-21).

In sum, there presently is no statutory cap to awarding compensation to subchapter V trustees under § 330(a)(1), as both the courts and the U.S. Trustee Program have concluded. There is only an admonition that case-by-case trustees “are encouraged to keep in mind Congress’ stated intent that subchapter V cases not be burdened with excessive administrative expenses when planning their work and submitting their fee applications for review and approval by the court.” U.S. Dep’t of Justice, Handbook for Small Business Chapter 11 Subchapter V Trustees 3-22 (Feb. 2020). Moreover, because the United States Trustee will review such fees and “object to the requested compensation if it is excessive or unreasonable[,]” the absence of an objection is ordinarily an indication that the fees are reasonable. *Id.*

As noted above, an ancillary issue is the period of time for which a subchapter V trustee can be awarded compensation and reimbursement. Here, the specific question that initially arose is whether the Court can approve fees for the Subchapter V Trustee's services provided after the date of consensual confirmation of the Second Amended Plan of Reorganization of AlphaOne Exteriors LLC Chapter 11 Plan? However, the Subchapter V Trustee has not sought fees after the date of confirmation, April 21, 2025, except for the time to prepare his Sub V Trustee Application. And § 330(a)(6) contemplates an award of compensation for the preparation of a fee application.

With that out of the way, the Court will turn to its review of the Applications in this case under § 330(a)(1) and (a)(3), but first will compare the fees sought in this case with the fees projected in the Plan and with those approved in other subchapter V cases filed in the Western Division at Dayton.

**B. Comparison of Fees Sought in the Applications to: (a) the Fees Projected in the Plan; and (b) the Fees Approved in Other Subchapter V Cases Filed in the Western Division at Dayton**

**1. Comparison to Fees Projected in the Plan**

Initially, it appeared that the fees and expenses applied for in the Applications exceeded those projected in the Plan by a substantial amount. It also appeared that the fees sought in this case were higher than in a typical subchapter V case, which prompted the Court to not only review the fees applied for in this case, but also the fees previously approved in other subchapter V cases in Dayton.

Taking the Plan issue first, the Second Amended Plan filed on February 29, 2025 provides that “Class 1 Creditor Allowed Administrative Expense Claims are estimated, to not exceed the amount of \$55,000, after application of funds held by counsel and/or the Subchapter V Trustee for application to such expenses.” Plan at 17, ¶ VIII.A. As noted above, Debtor’s Counsel disclosed on the Petition Date that she had \$3,643.50 on-hand remaining from her \$15,000 prepetition retainer. Doc. 1 at 34. However, the Sub V Debtor Application states that Debtor’s Counsel is holding “a retainer in the amount of \$8,643.50.” Sub V Debtor Appl. at 6, ¶ 7.

In comparison, prior to the application of any funds held by Debtor’s Counsel and/or the Subchapter V Trustee, the total amount of Class 1 fees and expenses sought in the Applications is \$94,306.56, a delta of \$39,306.56 over the “not to exceed” estimate projected in the Plan three and

four months before the Applications were filed. The total amount of the Applications includes the Subchapter V Trustee's reduced fees sought in the amount of \$21,923.64, plus \$76.36 in expenses – a total of \$22,000 – and the Debtor's counsel's fees sought in the amount of \$69,490.00, plus \$2,816.56 in expenses – a total of \$72,306.56.<sup>13</sup> However, the Sub V Debtor Application states that Debtor's Counsel is holding a retainer in the amount of \$8,643.50, whereas the Statement of Financial Affairs (Doc. 1 at 34), referred to in the Application to Employ (Doc. 4 at 6, ¶ 13), indicated that her law firm is holding a remaining \$3,643.50 in retainer. Doc. 124 at 6, ¶ 7. The Subchapter V Trustee is holding \$22,000 in escrow deposits from the Debtor pending further order of the Court, which covers his entire requested reduced fee. Doc. 122 at 3. *See also* Docs. 28, 46 (Interim and Final Orders Authorizing the Use of Cash Collateral). Therefore, factoring in the funds held by the Subchapter V Trustee negates his fees for purposes of comparison to the \$55,000 amount of Class 1 Administrative Expense Claims projected in the Plan. The overage of fees sought in the Applications, as against the “not to exceed” Plan estimate, is therefore based on the increase in fees sought in the final Sub V Debtor Application.

Once the retainer is subtracted, if it is \$3,643.50, the total amount of fees and expenses sought to be paid by Debtor's Counsel in the Sub V Debtor Application is \$68,663.06, which is \$13,663.06 more than estimated in the Plan. Looking back at the prior version of the Plan, the projected fee amount was changed from “the amount of \$35,000” in the First Amended Plan (Doc. 84) to “\$55,000.00, after application of funds held by counsel and/or the Subchapter V Trustee for application to such expenses” in the Second Amended Plan. *See Comparison Copy Identifying Changes in the Second Am. Plan* (Doc. 100) at 37, § VIII.A (Feb. 25, 2025). Also, as of the date the Second Amended Plan was filed, February 19, 2025, the time records attached to the Sub V Debtor Application as Exhibit B indicate that Debtor's Counsel's fees were \$63,522 at that point.

Ultimately, while the discrepancy between the total amount of fees in the “not to exceed” estimate in the Plan is not quite as substantial as it first appeared, there is still a delta in an amount that depends upon the amount of retainer still held by Debtor's Counsel and might have an impact on the ultimate distribution to Class 4 general unsecured creditors under the Plan that the parties voted to approve (*see* Doc. 111).

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<sup>13</sup> The Subchapter V Trustee wrote off \$2,261.36 in fees. Doc. 122 at 1. As noted, the write off appears intended to cap the final fee application at the cumulative escrow amount from the Interim and Final Cash Collateral orders.

## 2. Comparison to Fees Approved in Other Subchapter V Cases Filed in the Western Division at Dayton

In reviewing the Applications, the Court has surveyed the fees awarded in other subchapter V cases filed in Dayton to attempt to place the requested fees in this case in context and to determine if any patterns have emerged to date. This case proceeded to confirmation prior to the current Court's tenure. And although the Court has taken the time to review the record in this case in order to rule on these Applications, canvassing the other subchapter V cases in Dayton is helpful to provide a barometer. As the table set forth below demonstrates, the total fees applied for in this case are the third highest out of the twelve (12) subchapter V cases identified, as follows:

	<b>Sub V Case Name</b>	<b>Case No.</b>	<b>DIP Fees (No Expenses)<sup>14</sup></b>	<b>Sub V Trustee Fees (No Expenses)</b>	<b>Percentage of Sub V Fees to DIP Fees</b>
1.	The Lorenz Corporation	20-31952	\$343,325	\$25,965	7.6%
2.	Reliable Castings Corporation	23-31157	\$130,459	\$32,407	24.8%
<b>3.</b>	<b>AlphaOne Exteriors LLC</b>	<b>24-30371</b>	<b>\$69,490</b>	<b>\$21,924</b>	<b>31.5%</b>
4.	ISIS Medical, Inc.	20-32705	\$48,107	\$16,958	35.25%
5.	Commuter Advertising, Inc.	23-31504	\$46,235	\$7,812	16.9%
6.	Pelletier Management and Consulting LLC	22-31296	\$37,270	\$13,363	35.9%
7.	Glenda M. Swartz	24-31353	\$31,810	\$3,319	10.4%
8.	JFK Heating & Cooling, LLC	21-30341	\$31,085	\$5,307	17.1%
9.	Glenda Swartz Mulch, LLC	24-30946	\$28,450	\$7,000	24.6%
10.	Kyle L. Young	24-32046	\$15,000	\$7,537	50.2%
11.	American Land Investments, LTD	23-30539	\$11,012	\$5,508	50%
12.	Rescom LTD	23-30540	\$11,012	\$5,904	53.6%

The two cases in which more fees were charged than those applied for in this case involved more assets and liabilities. Reviewing the Summary of Assets and Liabilities (Case No. 20-31952, Doc. 1) for *The Lorenz Corporation* case, the assets were listed at \$1.397 million and the debts were listed at \$7.078 million. In turn, reviewing the Summary of Assets and Liabilities (Case No. 23-31157, Doc. 63) for the *Reliable Castings Corporation* case, the assets were listed at \$10.848

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<sup>14</sup> The Court has not set about to review and compare the dockets of every subchapter V case for the amount of assets and debts at issue in each case, which no doubt has an impact on the fees, along with how many contentious disputes arise. But, as noted up front, comparing a subchapter V case filed prior to June 21, 2024, with one filed thereafter may have limited utility if the earlier case could not have been filed today due to the reduced debt limit.

million and the debts were listed at \$6.722 million. Thus, it appears that neither of those cases could be filed under the reduced debt limit that went into effect on June 21, 2024.

The Court is also aware from taking judicial notice of the filings in this case, which are discussed in the background above, that this case involved: (a) an adversary proceeding against a creditor, Channel Partners Capital, LLC; (b) dealing with five (5) vehicle leases; and (c) negotiating a settlement with the largest unsecured creditor, Ms. Sallee, who had alleged a claim for \$2.251 million. *See Alpha One Exteriors LLC v. Channel Partners Capital, LLC*, Adv. No. 24-3006 (Debtor and Defendant resolved this adversary proceeding by a \$5,000 payment from the Defendant, reclassifying the Defendant's claim as non-priority unsecured, and eliminating the defendant's secured claim); Plan at 11-14,<sup>15</sup> § IV, ¶ B (Post-Bankruptcy Matters).

The Court also observes that subchapter V fees do vary in Dayton cases, as they likely do in other locations. Some of those differences may be attributable, like any chapter 11 case, to the complexity of issues or litigiousness of the parties. That said, as the Subchapter V Trustee noted in his Report, and has been written about in other cases, as well as by the U.S. Trustee's Office, “ “[t]he statutory hope is that by encouraging small business reorganizations more creditors will receive greater distributions, debtors will pay less in attorneys' fees, and more small businesses will survive and prosper.” ” Report at 4 (quoting *In re Ellingsworth Residential Cnty. Ass'n*, No. 20-bk-01346-KSJ, 2020 Bankr. LEXIS 2897, at \*1 (Bankr. M.D. Fla. Oct. 16, 2020)). Subchapter V is intended to be a cheaper and more expedient approach for small businesses. *See In re Louis*, 2022 Bankr. LEXIS, at \*36 (citations omitted). Accordingly, as part of its independent duty to review attorney fees, it is incumbent upon the Court to review the fees of the Subchapter V Trustee and Debtor's Counsel, even in the absence of objections, as addressed below; however, in comparison to other subchapter V cases filed in the Western Division at Dayton, for a case of its size the fees are on the high side, and the Subchapter V Trustee's fees are a high percentage in comparison the fees of Debtor's Counsel, excluding the smallest three cases, but are not outside a range of reasonableness.

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<sup>15</sup> These are the ECF numbers, not the document page numbers.

## C. Other Issues

### 1. Sub V Trustee Application

The Court evaluates the Sub V Trustee Application starting with the loadstar method, “which is calculated by multiplying the number of hours reasonably expended on a matter by a reasonable attorney rate, while also considering the attorney’s experience level and comparable rates in the local market.” *In re Vaughn*, 660 B.R. 827, 844 (Bankr. S.D. Ohio 2024) (Humphrey, J.); *see also* *In re Boddy*, 950 F.2d 334, 337 (6th Cir. 1991) (endorsing the loadstar method to approve the reasonableness of fees under § 330). The Court can look at other factors to determine an appropriate overall fee. The Court reviewed the Sub V Trustee Application under this framework. Upon review of the Sub V Trustee Application and the current Court becoming familiar with this case, and factoring in the voluntary reduction of fees, the Court is satisfied that the fees sought in the Sub V Trustee’s Application are reasonable and necessary, should be approved in full, and that there are no reasons to further reduce the amount of fees sought pursuant to § 330(a)(2), (a)(3), or (a)(4).

The only critique the Court would offer is that the Subchapter V Trustee’s time entries appear, in some instances, to be a bit “heavy,” but this is by comparison to corresponding entries by Debtor’s Counsel for calls between them, such that it could also be an issue of inaccurate timekeeping (or lumping tasks), which is suggested by the fact that in some instances Debtor’s Counsel has calls with the Subchapter V Trustee listed on days where the Subchapter V Trustee has no entry, or has an entry with a similar description on a different day.<sup>16</sup> It could also be that

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<sup>16</sup> As one example, see the time entry dated 4/16/2024 for “Call with Friesinger re Final Cash Collateral Order, Owner salary, vehicle sublease” for which the Subchapter V Trustee billed 0.40 hours, but for which Debtor’s Counsel billed 0.20 hours. *See Ex. A to Sub V Trustee Appl. (Doc. 122-1) at 2; Ex. B to Sub V Debtor Appl. (Doc. 124) at 14, item 104.* As another example, see the time entry dated 11/19/2024 for “Call with Friesinger re upcoming mediation conference” for which the Subchapter V Trustee billed 0.60 hours, but for which Debtor’s Counsel billed 0.40 hours, describing it as a “phone conference with D. Mallory (Subchapter V Trustee) re practical and logistical concerns with plan submission and settlement conference.” *See Ex. A to Sub V Trustee Appl. (Doc. 122-1) at 4; Ex. B to Sub V Debtor Appl. (Doc. 124) at 20, item 296.* As another example, compare the time entry dated 11/20/2024 for “Attend and participate in Zoom Mediation regarding Sallee Settlement Conference” for which the Subchapter V Trustee billed 3.50 hours with the time entry dated 11/20/2024 for “prepare for and attend settlement conference . . .” for which Debtor’s Counsel billed 3.40 hours. *See Ex. A to Sub V Trustee Appl. (Doc. 122-1) at 4; Ex. B to Sub V Debtor Appl. (Doc. 124) at 20, item 302.* As yet another example, compare the time entry dated 12/31/2024 for “Conference with D. Mallory (Subchapter V Trustee) re status of settlement discussions and anticipated next steps” for which Debtor’s Counsel billed 0.50 hours with the time entry dated 12/31/2024 for “Call with Friesinger re plan revised plan projections and proposed plan terms” for which the Subchapter V Trustee billed 0.70 hours. In each instance it appears that the length of the calls should be the same, but the Subchapter V Trustee billed 0.10 to 0.20 more hours. *See Ex.*

the Subchapter V Trustee has also written off or chose not to charge those entries. But because the Subchapter V Trustee has already voluntarily taken a 9.35% reduction, the Court will award the fees and expenses sought.

As in *Louis*, because the United States trustee did not lodge any objections to the Sub V Trustee Application and because, by all accounts, the work of the Subchapter V Trustee in this case was valuable and effective, fulfilling the unique role to serve as a pseudo-mediator to facilitate a consensual plan, the Court will not reduce the amounts, but the Court did want to take this opportunity to provide some analysis.

## **2. Sub V Debtor Application**

Upon review of the Sub V Debtor Application, a question remains as to whether the remaining amount of the prepetition retainer held by Debtor's Counsel is \$8,643.50, as set forth in the Sub V Debtor Application, or \$3,643.50, as set forth in the Statement of Financial Affairs. *See* Sub V Debtor Appl. at 6, ¶ 7; Statement of Financial Affairs (Doc. 1 at 34). Further, there are questions about: (1) whether the 2025 hourly rate increase was disclosed to and approved by the Debtor; (2) why the fees applied for by Debtor's counsel exceeded the "not to exceed" estimate; and (3) why there are instances in which Debtor's Counsel has time entries for calls with the Subchapter V Trustee on dates for which the Subchapter V Trustee has no time entries (see *supra*

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A to Sub V Trustee Appl. (Doc. 122-1) at 5; Ex. B to Sub V Debtor Appl. (Doc. 124) at 21, item 329. At the same time, there are instances in which Debtor's Counsel billed time for a short call that the Subchapter V Trustee did not bill. *See, e.g.*, Ex. B to Sub V Debtor Appl. (Doc. 124) at 13, item 82 (dated 4/4/2024 – 0.50 – "Phone conference with D. Mallory (Subchapter V Trustee) re cash collateral and concerns over amendments to be prepared"; at 21, item 342 (dated 1/7/2025 – 0.20 – "phone conference with D. Mallory (subchapter V Trustee) . . ."). And there is an instance in which Debtor's Counsel billed 0.10 more than the Subchapter V Trustee for a call. *Compare* Ex. B to Sub V Debtor Appl. (Doc. 124) at 22, item 349 (dated 1/13/2025 – 0.40 – "phone conference with D. Mallory (subchapter V Trustee) . . ."), with Ex. A to Sub V Trustee Appl. (Doc. 122-1) at 5 (dated 1/13/2025 – 0.30 – "Call with Friesinger re settlement documentation"). This also highlights, however, that Debtor's Counsel has, in instances, block billed, making it hard to compare apples to apples. There are also multiple instances in which Debtor's Counsel has an entry on a day in which she identifies a call with the Subchapter V Trustee on which the Subchapter V Trustee does not have any time entry. *Compare* Ex. B to Sub V Debtor Appl. (Doc. 124) at 24, item 405 (dated 2/18/2025 – 0.50 – "Conference with D. Mallory (subchapter V Trustee) re plan comments and updates to same . . ."), with Ex. A to Subchapter V Trustee Appl. (Doc. 122-1) at 5 (containing no entry for 2/18/2025, but containing an entry for 2/19/2025 – 0.60 – "Multiple call with Friesinger to discuss Sallee settlement open issues with final plan and obtain resolution").

note 16).<sup>17</sup> Further, in Exhibit B attached to the Sub V Debtor Application, there was no breakdown of the out-of-pocket expenses paid by Debtor's Counsel.

In addition, there is an open question with respect to whether there are any amounts owed or paid to Rike LLC, which was employed as Debtor AlphaOne's accountant through the Order (Doc. 87) entered on January 17, 2025. The Order (Doc. 87) approving Rike LLC's employment by Debtor AlphaOne stated that Debtor was "authorized to compensate Rike, according to the terms set forth in the Motion, and upon further application and approval of fees." No such approval has been sought or granted, and the Administrative Expense Claim bar date, which was July 31, 2025, has passed. Until those two pieces of information are known, the Court reserves final ruling on the Sub V Debtor Application.

#### **IV. Conclusion**

Upon careful review of the itemized entries in the Sub V Trustee Application, the specific issues that arose during the pre-confirmation stage of this case, that this case resulted in a consensually confirmed Plan, that there was no objection by the United States Trustee, and in comparison to other subchapter V cases that have come before the Court, the Court finds that the fees and expenses of the Subchapter V Trustee were reasonable and necessary for services provided and expenses actually incurred in furtherance of the Subchapter V Trustee's duties and will be approved pursuant to § 330(a)(1) and (a)(3). With respect to the fees and expenses of Debtor's Counsel, the Court is likewise inclined to approve the fees given that consensual confirmation of the Plan was achieved and there have been no objections by the United States Trustee or other parties, but there are several other issues for which the Court needs further information, as discussed below, before completing its review and making a final determination.

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<sup>17</sup> In reviewing the time entries in Exhibit B, some are block billed (lumped) – one entry containing multiple discrete tasks that could be separately itemized. *See, e.g.* Ex. B at 11, items 2 (1.80), 8 (0.30), 13 (0.40), 29 (2.70), at 12, items 35 (0.20), 50 (0.80), 55 (0.40), 63 (0.50); at 13, items 81 (0.20), 84 (0.30), 86 (0.30), 90 (0.30); at 14, items 119 (0.40), 124 (0.20); at 15, item 148 (5.90), 151 (2.70), 159 (2.30); at 16, items 172 (0.40), 175 (0.40), 176 (0.40), 185 (0.20), 187 (0.80), 196 (0.40); at 17, items 205 (1.00), 206 (0.50), 208 (0.20); at 18, items 236 (0.20), 239 (0.20), 259 (0.40); at 19, items 265 (0.40), 289 (0.40); at 20, items 294 (0.20), 303 (0.20); at 21, items 328 (0.40), 333 (0.50), 344 (0.40); at 22, item 351 (0.50), 357 (0.50), 358 (0.50), 367 (1.10), 372 (0.30); at 24, item 401 (0.80), 413 (0.50), 417 (0.40), 419 (0.80). This makes it more difficult to determine how much time was spent on each task and whether the time for each task was reasonable.

Accordingly, based upon the foregoing, it is hereby **ORDERED** as follows with respect to the Sub V Trustee Application:

1. The Sub V Trustee is awarded total compensation of \$21,923.64 and reimbursement of expenses of \$76.36, for a total award of fees and expenses in the amount of \$22,000 on a FINAL basis pursuant to 11 U.S.C. § 330(a).

2. The Sub V Trustee, having represented to the Court that he is holding in trust designated trustee fee funds received from the Debtor under prior orders of the Court (Docs. 28 and 46) concerning Debtor's use of cash collateral, in the amount of \$22,000 (the "Escrow Funds") to pay towards the above awarded fees and expenses, shall be and hereby is, permitted to immediately withdrawal and pay and apply such Escrow Funds towards the fees and expenses awarded herein; thus, Reorganized AlphaOne shall have no further obligations to pay the Subchapter V Trustee, from available Cash (as defined in the Plan) or otherwise.

3. This Order is effective immediately upon entry.

4. This Court retains jurisdiction of all matters relating to the interpretation and implementation of this Order.

And it is further hereby **ORDERED** as follows with respect to the Sub V Debtor Application:

5. Debtor's Counsel shall, within 21 days after the entry of this Order, file a supplement to the Sub V Debtor Application to: (a) state the amount of the balance of the prepetition retain held by Debtor's Counsel; (b) whether the Debtor AlphaOne was notified of and agreed to the increase in hourly rates of Debtor's Counsel for 2025; (c) explain the difference in the "not to exceed" estimate of Class 1 Administrative Expense Claims – professional fees – and those applied for by Debtor's Counsel; (d) provide the breakdown of the out-of-pocket expenses of \$2,816.56 for which reimbursement is sought; (e) address instances in which Debtor's Counsel has time entries for calls with the Subchapter V Trustee on dates for which the Subchapter V Trustee has no time entries (see *supra* note 16); and (f) address (i) whether Rike LLC provided postpetition services to Debtor AlphaOne, (ii) whether the Debtor paid or owes any amounts to Rike LLC for any

postpetition services provided to the Debtor AlphaOne, and (iii) if so, how this is being dealt with.

**IT IS SO ORDERED.**

Copies to: Default List Plus Top 20