

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

In Re

EVERGREEN TRANSPORTATION, INC.

Case No. 09-13525-MAM-7

Debtor

**ORDER APPROVING FINAL FEE REQUEST OF SILVER, VOIT, & THOMPSON AND
SUSTAINING OBJECTION OF TRUSTEE TO ALL FEES REQUESTED FOR WORK
DONE AND EXPENSES INCURRED AFTER CONVERSION OF CASE TO A CASE
UNDER CHAPTER 7**

Terrie Owens, Attorney for Trustee, Mobile, AL
Larry Voit, Applicant, Mobile, AL
Charles Baer, Assistant U.S. Attorney, Mobile, AL
Travis Bedsole, Bankruptcy Administrator, Mobile, AL

This matter is before the Court on the final application for attorney's fees and expenses of Silver, Voit & Thompson for work done as attorneys for the chapter 11 debtor. The court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the order of reference of the District Court. The matter is a core proceeding pursuant to 28 U.S.C. § 157 (b)(2) and the court has the authority to enter a final order.

Silver, Voit & Thompson requests fees of \$161,239 and expenses of \$1562.41. Some of the time and expenses were incurred after April 12, 2011, the date the case was converted to a chapter 7 case. The trustee objected to payment of any fees and expenses incurred after April 12, 2011 because of the case of *Lamie v. U.S. Trustee*, 540 U.S. 526, 124 S. Ct. 1023 (2004) which followed the reasoning of a case from the Eleventh Circuit, *Inglesby, Falligant, Horne, Courington & Nash, P.C. v. Moore (In re American Steel Product, Inc.)*, 197 F.3d 1354 (11th Cir. 1999). There have been no cases that have distinguished or overruled these cases and their holding that fees cannot be

paid to chapter 11 debtors' counsel for work done post-conversion in a situation like this one. For that reason, the trustee's objection should be sustained.

THEREFORE IT IS ORDERED that

1. The objection of the trustee is SUSTAINED;
2. The Final Application for Compensation of Silver, Voit & Thompson, Attorneys at Law, P.C., is ALLOWED in an amount that reflects this ruling; and
3. Silver, Voit & Thompson, Attorneys at Law, P.C. shall prepare an order that includes the exact amounts allowed after consultation with the trustee as to the proper calculation.

Dated: October 18, 2011


MARGARET A. MAHONEY
CHIEF U.S. BANKRUPTCY JUDGE