

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re: * **Chapter 7**
* **Case No. 06-20198**
Atlantic Park *
*
Debtor *

ORDER

Before me is the debtor's motion seeking final allowance of previously-awarded fees for debtor's counsel and to compel payment of those allowed fees by LBM Financial, LLC.

The fees at issue were allowed in the course of the Chapter 11 case. The matter has now been converted to Chapter 7. Thus far, the Chapter 11 fees had only been allowed on an interim basis. No objection has been lodged to their final allowance and I can ascertain no reason why they should not be finally allowed on this record.

The second part of the motion seeks to compel LBM to pay debtor's counsel's allowed fees, notwithstanding the fact that the post-petition financing LBM agreed to provide under authority of court orders was fully exhausted in the debtor's unsuccessful attempts to build-out its construction project.

I have reviewed debtor's counsel's second interim fee application and have reviewed the record of the May 23, 2007, hearing at which the application was considered. Neither the second application, the remarks made by counsel at the hearing, the court's oral ruling, nor the written order approving the application provides that LBM was responsible for the fees. Indeed, the order allowing the application provides that the debtor will pay the fees, and remarks made by debtor's counsel at the May 23 hearing reflect his expectation that fees will be paid as provided for under the debtor's budget out of the proceeds of the debtor-in-possession financing. If, in the end, that financing was exhausted without the fees having been paid, there exists no basis in law

or equity to compel LBM to fund their payment.

It is, therefore, ORDERED that the debtor's motion seeking final allowance of previously- awarded fees is granted; but that portion of the motion seeking to compel LBM Financial, LLC to pay the fees is denied.

DATED November 8, 2007

/s/ James B. Haines, Jr.

James B. Haines, Jr.
U.S. Bankruptcy Judge