

The document below is hereby signed.

Signed: March 04, 2011.



S. Martin Teel, Jr.
S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

| | | |
|----------------------------|---|----------------------------|
| In re |) | |
| |) | |
| GB HERNDON AND ASSOCIATES, |) | Case No. 10-00945 |
| INC., |) | (Chapter 11) |
| |) | Not for Publication in |
| Debtor. |) | West's Bankruptcy Reporter |

MEMORANDUM DECISION AND ORDER
RE AMENDED APPLICATION TO EMPLOY SPECIAL COUNSEL

The Amended Application of Debtor and Debtor-in-Possession for Order Authorizing Employment and Retention of Polsinelli Shughart PC as Special Counsel for Debtor includes a declaration that fails adequately to comply with Fed. R. Bankr. P. 2014(a).

In relevant part, that rule provides:

The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

The declaration does state that the law firm has no connection with the debtor (presumably meaning no connection other than the prepetition representation of the debtor disclosed earlier in the declaration). But beyond identifying in paragraph 20 two

creditors the law firm has represented in the past (without saying these are all of the creditors it has represented in the past), the declaration fails forthrightly to disclose connections with "creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee" as required by Rule 2014(a).

The declaration opines that the law firm "does not represent any party adverse to the Debtor or the Debtor's estate with respect to matters for which Polsinelli Shughart is to be retained, except as identified below" and opines that the law firm and its lawyers are not "so connected with . . . the United States Trustee for Region 4, the Assistant Trustees for Region 4 or the staff attorneys for Region 4, as to render the appointment of Polsinelli Shughart as counsel for the Debtor inappropriate." These are instances of the declarant deciding what connections would be disqualifying instead of leaving that task to the court.

Paragraph 19 of the declaration states:

Polsinelli Shughart, its shareholders, counsel, and associates have represented in the past, and may in the future represent, creditors of the Debtor and various other parties-in-interest in the Chapter 11 Case with respect to matters in which the Debtor was or is adverse but which were or are unrelated to anything fairly contemplated to be within the scope of Polsinelli Shughart's retention.

Yet, the declaration fails to disclose the creditors the law firm represented in the past in matters in which the debtor was

