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Dollar Amount Revisions Under Various Sections of the Bankruptcy Code Take Effect as of April 1, 2010

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Pursuant to section 104(a) of the Bankruptcy Code (11 U.S.C. § 104(a)), starting April 1, 1998, and at each three year interval ending on April 1 thereafter, the dollar amounts in effect under various sections of the Bankruptcy Code are subject to adjustment. The adjustments are based upon the consumer price index, and a rounding to the nearest \$25 amount that represents such change, with such adjusted amounts to be published in the Federal Register by the Judicial Conference of the United States not later than March 1 of each three year interval. **Such adjustments apply only with respect to cases commenced after the effective date of such adjustments.** On or about February 25, 2010, the Judicial Conference published the adjustments that will take effect as of April 1, 2010 (see Federal Register/Vol. 75, No. 37/Thursday, February 25, 2010/Notices, Page 8747-8749.)

The following are a few of the increases that would be relevant to business bankruptcy cases:

- a. Under the 28 U.S.C. § 1409(b), venue of proceedings arising under or related to cases under Title 11 to recover a debt against a non-insider of less than \$11,725.00, may be brought only in the district court for the district in which the defendant resides. This is an increase from \$10,950.
- b. In the definition of “small business debtor” under 11 U.S.C. § 101(51D)(A) and (B), the aggregate non-contingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief has been increased from \$2,190,000 to the amount of

\$2,343,300, each time it appears in such sections (note, these amounts exclude debts owed to one or more affiliates or insiders).

c. The minimum aggregate amount of claims needed under 11 U.S.C. § 303(b) for the commencement of an involuntary Chapter 7 or Chapter 11 bankruptcy case has been increased from \$13,475.00 to \$14,425.00.

d. Priority expenses and claims under 11 U.S.C. § 507(a) have been increased as follows:

- priority expenses and claims under 11 U.S.C. § 507(a)(4) for wages, salaries, or commissions, including vacation, severance and sick leave pay, or for sales commissions have been increased from \$10,950.00 to \$11,725.00;
- priority expenses and claims under 11 U.S.C. § 507(a)(5) for allowed unsecured claims for contributions to an employee benefit plan have been increased from \$10,950.00 to \$11,725.00;
- priority expenses and claims under 11 U.S.C. § 507(a)(7) for pre-petition deposits have been increased from \$2,425.00 to \$2,600.00.

e. The minimum amount that a trustee may seek to recover as a preferential transfer in a case filed by a debtor whose debts are not primarily consumer debts has been increased from \$5,475.00 to \$5,850.00.

f. Again, the foregoing amounts apply only to cases commenced after April 1, 2010.

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