

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

PROCOM AMERICA, LLC d/b/a  
Beyond Band of Brothers d/b/a  
BBOB,

Debtor.

Case No. 8:20-bk-03522-MGW  
Chapter 7

**FIRST INTERIM APPLICATION OF  
SHUMAKER, LOOP & KENDRICK, LLP FOR  
COMPENSATION FOR SERVICES RENDERED AND  
REIMBURSEMENT OF EXPENSES AS SPECIAL COUNSEL TO THE  
TRUSTEE FOR THE PERIOD FROM JUNE 4, 2020 THROUGH SEPTEMBER 30, 2021**

**NOTICE OF APPLICATION FOR  
COMPENSATION AND REIMBURSEMENT OF EXPENSES  
AND OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING**

Steven M. Berman, Esquire, special counsel for Douglas N. Menchise, as Chapter 7 Trustee filed an application for compensation in the amount of \$149,886.50 and reimbursement of expenses in the amount of \$4,899.28 ("First Interim Fee Application"). A copy of the First Interim Fee Application is being filed with this notice and may also be viewed on the case docket or may be obtained by request to the Applicant at 813-229-7600 or sberman@shumaker.com.

If you object to the First Interim Fee Application, you must file an objection with the Clerk of the Court at Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Suite 555, Tampa, Florida 33602 within 21 days from the date of the attached proof of service below, plus an additional three days if this paper was served on any party by U.S. Mail.

If you file and serve an objection within the time permitted, the Court will either (i) notify you of a hearing date, or (2) consider the First Interim Fee Application and approve or disapprove the First Interim Fee Application without a hearing. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the First Interim Fee Application, and the Court will consider the First Interim Fee Application without further notice or hearing.

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**SUMMARY/COVER SHEET**

Name of Applicant: Shumaker, Loop & Kendrick, LLP

Services provided to: Douglas N. Menchise, Chapter 7 Trustee

Date of Retention: June 4, 2020 (Order at Doc. 97)

Period for this Application: June 4, 2020 – September 30, 2021

Amount of Compensation Sought: \$149,886.50

Amount of Expense Reimbursement: \$ 4,899.28

Amount of Original Retainer: \$0 Current Balance: \$0

Fees Requested by Professional:

NAME OF PROFESSIONAL	BAR ADMISSION	HOURS BILLED	HOURLY RATE	TOTAL FOR APPLICATION
<b><u>Attorneys</u></b>				
Wood, Thomas M.	10080	91.50	\$510.98	\$46,755.00
Traub, Seth P.	2006	3.10	\$380.00	1,178.00
Berman, Steve M.	1990	117.80	\$525.62	\$61,918.00
Spaulding, Matthew C.	89632	1.60	\$290.00	\$464.00
Ceriale, Matthew	2019	60.40	\$218.05	\$13,170.00
<b><u>Paralegals/Staff</u></b>				
Nelson, Lori A	n/a	2.70	\$110.00	\$297.00
Curran, Beth A.	n/a	26.30	\$265.00	\$6,969.50
Kaufman, Beth A.	n/a	1.20	\$110.00	\$132.00
Hunter, Krystal A.	n/a	5.50	\$161.27	\$887.00
Wit, Andrew J.	n/a	7.70	\$214.03	\$1,648.00
Furst, Jamie L.	n/a	49.50	\$187.23	\$9,268.00
Queirolo, Matthew J.	n/a	4.00	\$210.00	\$840.00
Clark, Norma J.	n/a	31.80	\$200.00	\$6,360.00
<b>Totals</b>		<b>403.10</b>		<b>\$149,886.50</b>

Blended Attorneys'<sup>1</sup> Hourly Rate this Application: \$450.02

Blended Professionals'<sup>2</sup> Hourly Rate this Application: \$205.14

Blended Attorneys' and Professionals' Hourly Rate this Application: \$371.83

<sup>1</sup> Excludes paralegals and paraprofessionals.

<sup>2</sup> Excludes attorneys.

This is an: ✓ Interim: \_\_\_\_ Final Application

Disclose the following for each prior application: N/A

Steven M. Berman, Esquire. and the law firm of Shumaker and Loop & Kendrick, LLP (collectively “Shumaker”), pursuant to 11 U.S.C. §§ 503 and 330; Fed.R.Bankr.P. 2016; and Local Rule 2016-1, hereby file this First Interim Application for the Allowance and Payment of Fees and Costs to Shumaker, Loop & Kendrick, LLP as Special Counsel for the Trustee (the “First Interim Fee Application”) and, in support thereof, state as follows:

### **Background Facts**

1. On May 1, 2020, Procom America, LLC dba Beyond Band of Brothers dba BBOB (“Debtor”) filed his voluntary petition for relief under Chapter 7 of Title 11 of the United States Bankruptcy Code (the “Petition Date”).

2. On May 4, 2020, Douglas N. Menchise (“Trustee”) was appointed as Chapter 7 Trustee after the Debtor’s case was converted from Chapter 11 to Chapter 7.

3. On June 16, 2020, the Trustee filed its Application for Order Approving Employment of Steven M. Berman, Esq. and the Law Firm of Shumaker, Loop & Kendrick, LLP, as Special Counsel *Nunc Pro Tunc* to June 4, 2020 (Doc. 93) (“Employment Application”).

4. On June 18, 2020, this Court entered its Order Approving the Employment Application (Doc. 97).

### **Compensation Requested for the Interim Application Period**

5. This First Interim Fee Application seeks the allowance and payment of fees earned and costs incurred from June 4, 2020 through September 30, 2021 (“First Interim Fee

Application Period”) in the amount of \$149,886.50 in fees based on services performed during the First Interim Fee Application Period. This First Interim Fee Application also seeks the allowance and payment of costs incurred by Shumaker during the First Interim Fee Application Period in the amount of \$4,899.28.

6. Pursuant to the United States Trustee’s fee application guidelines as codified at 28 C.F.R. Part 58, Appendix A, a chart reflecting Shumaker’s time entries for this matter arranged by project category is attached hereto as **Exhibit A**<sup>3</sup>, a chart reflecting Shumaker’s reimbursable expenses is attached as **Exhibit B**, and summaries of Shumaker’s fees incurred by timekeeper and project category are set forth below.

#### **Summary of Fees by Project Category**

7. A detailed breakdown as to the fees incurred for each project category is set forth below. Generally, the fees incurred by project category are as follows:

<b>Project Category</b>	<b>Hours</b>	<b>Total Fees</b>
S100 Employment Application	3.00	\$1,164.00
S102 General Case Administration	45.60	\$17,605.50
S103 Asset Analysis and Recovery	173.00	\$75,867.00
S104 Discovery and Fact Investigation / Development	134.40	\$42,780.00
S106 Settlement / Alternative Dispute Resolution	.20	\$40.00
S107 Pleadings / Motions	30.90	\$6,974.00
S108 Trial / Hearing / Court Mandated Conference Preparation & Attend	14.70	\$4,780.00
S109 Fee Applications and Objections	1.30	\$676.00
<b>Totals</b>	<b>403.10</b>	<b>\$149,886.50</b>

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<sup>3</sup> The actual time entries may be available upon request. A summary is attached for filing purposes as the time entries reveal strategy and privileged material.

**SUMMARY BY PROJECT CATEGORY****A. S100 Employment Application**

Description: This project category encompasses the drafting of employment papers and work to apply for employment.

Time spent and compensation requested for each professional:

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Berman, Steve M.	1.80	\$936.00
Hunter, Krystal A.	0.30	\$48.00
Furst, Jamie L.	0.90	\$180.00
<b>Total</b>	<b>3.00</b>	<b>\$1,164.00</b>

**B. S102 General Case Administration**

Description: This project category encompasses necessary administrative matters, including review and analysis, case intake, preparation of filing adversary complaint, and general motion practice related to the Debtor.

Time spent and compensation requested for each professional:

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Wood, Thomas M.	9.50	\$4,850.00
Traub, Seth P.	3.10	\$1,178.00
Berman, Steve M.	15.20	\$7,934.00
Curran, Beth A.	0.70	\$185.50
Kaufman, Beth A.	1.20	\$132.00
Hunter, Krystal A.	2.20	\$339.00
Spaulding, Matthew C.	1.60	\$464.00
Ceriale, Matthew	5.40	\$1,169.00
Wit, Andrew J.	0.30	63.00
Furst, Jamie L.	5.20	\$1,051.00
Clark, Norma J.	1.20	\$240.00
<b>Total</b>	<b>45.60</b>	<b>\$17,605.50</b>

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**C. S103 Asset Analysis and Recovery**

Description: This project category encompasses the identification and valuation of assets and review of financial accounting information. This project category also encompasses preparation, review, and filing of adversary complaints for recovery of assets. Additionally, this project category encompasses work performed as it relates to the review and analysis of outstanding accounting receivables.

Time spent and compensation requested for each professional:

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Wood, Thomas M.	56.20	\$28,667.00
Berman, Steve M.	73.10	\$38,419.00
Ceriale, Matthew	19.60	\$4,292.00
Wit, Andrew J.	0.50	\$105.00
Furst, Jamie L.	22.00	\$4,064.00
Clark, Norma J.	1.60	\$320.00
<b>Total</b>	<b>173.00</b>	<b>\$75,867.00</b>

**D. S104 Discovery and Fact Investigation / Development**

Description: This project category encompasses preparation of written, Rule 2004 discovery, depositions and third party discovery. This project category also encompasses review of responsive documents produced and work related to turnover.

Time spent and compensation requested for each professional:

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Wood, Thomas M.	20.10	\$10,331.00
Nelson, Lori A.	2.70	\$297.00
Berman, Steve M.	23.50	\$12,428.00
Curran, Beth A.	25.60	\$6,784.00
Hunter, Krystal A.	2.00	\$340.00
Ceriale, Matthew	28.80	\$6,125.00
Wit, Andrew J.	3.10	\$682.00
Furst, Jamie L.	18.30	\$3,693.00
Queirolo, Matthew J.	4.00	\$840.00
Clark, Norma J.	6.30	\$1,260.00
<b>Total</b>	<b>\$134.40</b>	<b>\$42,780.00</b>

**E. S106 Settlement / Alternative Dispute Resolution**

Description: This project category encompasses settlement negotiations with potential litigation targets.

*Time spent and compensation requested for each professional:*

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Clark, Norma J.	0.20	\$40.00
<b>Total</b>	<b>0.20</b>	<b>\$40.00</b>

**F. S107 Pleadings / Motions**

*Description:* This project category encompasses preparation of motions, applications and other requests for relief.

*Time spent and compensation requested for each professional:*

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Wood, Thomas M.	1.90	\$969.00
Berman, Steve M.	0.90	\$471.00
Hunter, Krystal A.	0.70	\$112.00
Ceriale, Matthew	6.60	\$1,584.00
Wit, Andrew J.	1.80	\$378.00
Furst, Jamie L.	2.00	\$60.00
Clark, Norma J.	17.00	\$3,400.00
<b>Total</b>	<b>30.90</b>	<b>\$6,974.00</b>

**G. S108 Trial / Hearing / Court Mandated Conference Preparation & Attend**

*Description:* This project category encompasses preparation for and attendance at hearings and other court-mandated conferences.

*Time spent and compensation requested for each professional:*

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Wood, Thomas M.	3.80	\$1,938.00
Berman, Steve M.	2.00	\$1,054.00
Hunter, Krystal A.	0.30	\$48.00
Wit, Andrew J.	2.00	\$420.00
Furst, Jamie L.	1.10	\$220.00
Clark, Norma J.	5.50	\$1,100.00
<b>Total</b>	<b>14.70</b>	<b>\$4,780.00</b>

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**H. S109 Fee Applications and Objections**

Description: This project category encompasses the preparation and drafting of fee application and work to apply for compensation.

Time spent and compensation requested for each professional:

<b>Timekeeper</b>	<b>Hours</b>	<b>Fees</b>
Berman, Steve M.	1.30	\$676.00
<b>Total</b>	<b>1.30</b>	<b>\$676.00</b>

**Description of Services for Which Fee and Costs Award is Sought**

8. The Firm first identified causes of action and bases for recovery by interviewing certain of the Debtor's principals and employees and by examining the Debtor's books and records.

9. Although some discovery has been accomplished, substantial discovery has been delayed and thwarted by the Debtor's owner, Peter Gaal and his related Procom and Beyond Band of Brothers companies, and by the Debtor's former professionals.

10. Discovery demands are outstanding and motions to compel a number of discovery demands are outstanding. So far and even without all discovery completed, significant avenues of recovery have been identified along with other potential lesser causes of action.

11. Ongoing asset recovery investigation and litigation continues with respect to other litigation targets.

**WHEREFORE**, Shumaker respectfully requests this Court enter an Order approving this First Interim Fee Application, allowing the Firm fees in the amount of \$149,886.50 and reimbursement of expenses incurred in the amount of \$4,899.28, for a total of **\$154,785.78**, permitting disbursements to Shumaker in the allowed amount up to a cap on attorney's fees of no



more than 50% of the Estate's recoveries to date along with allowed expenses, and further relief as this Court deems just and appropriate.

DATED: October 25, 2021.

**SHUMAKER, LOOP & KENDRICK, LLP**

By: /s/ Steven M. Berman  
**Steven M. Berman, Esquire**  
Florida Bar No. 856290  
[sberman@shumaker.com](mailto:sberman@shumaker.com)  
101 E. Kennedy Blvd., Suite 2800  
Tampa, Florida 33602  
Phone (813) 229-7600  
Facsimile (813) 229-1660  
*Counsel for Ch. 7 Trustee*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 25, 2021, the foregoing was furnished by CM/ECF notice to all counsel of record, and additionally served via U.S. Mail to all postage prepaid per Limited Notice Order (Doc 138) and to the following:

**United States Trustee - TPA7, 7**  
Timberlake Annex, Suite 1200  
501 E Polk Street  
Tampa, FL 33602  
*Via CM/ECF*

**Debtor, Procom America, LLC**  
400 N. Ashley Drive  
Suite 1010  
Tampa, FL 33602  
*Via US Mail*

**Robert F Elgidely**  
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*Via CM/ECF*

**Larry S. Hyman**  
**c/o Edwin G Rice**  
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*Via CM/ECF*

**David C Cimo, Attorney for Trustee**

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**Scott A. Stichter**

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*Via U.S. Mail*

**Michael P Roland**

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Consumer Protection Division  
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*Via CM/ECF*

**Jared S Gardner**

Florida Department of Agriculture and  
Consumer Services  
407 South Calhoun Street, Suite 520  
Tallahassee, FL 32399-0800  
[Jared.Gardner@FDACS.gov](mailto:Jared.Gardner@FDACS.gov)  
*Via CM/ECF*

**Lynn Welter Sherman**

Trenam Law  
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St. Petersburg, FL 33701  
[lshearn@trenam.com](mailto:lshearn@trenam.com)  
*Via CM/ECF*

**Mark Moll**

401 N. 7th  
Fort Smith, AR 72901  
*Via U.S. Mail*

/s/ Steven M. Berman  
Attorney

## **EXHIBIT A**

<b>M53890-243245</b>			
<b>Fee Application - Timekeeper Summary</b>			
<b>6/4/2020 - 9/30/2021</b>			
<b>Name</b>	<b>Work Hours</b>	<b>Work Rate</b>	<b>Work Amount</b>
Wood, Thomas M.	91.50	\$ 510.98	\$ 46,755.00
Nelson, Lori A.	2.70	\$ 110.00	\$ 297.00
Traub, Seth P.	3.10	\$ 380.00	\$ 1,178.00
Berman, Steve M.	117.80	\$ 525.62	\$ 61,918.00
Curran, Beth A.	26.30	\$ 265.00	\$ 6,969.50
Kaufman, Beth A.	1.20	\$ 110.00	\$ 132.00
Hunter, Krystal A.	5.50	\$ 161.27	\$ 887.00
Spaulding, Matthew C.	1.60	\$ 290.00	\$ 464.00
Ceriale, Matthew	60.40	\$ 218.05	\$ 13,170.00
Wit, Andrew J.	7.70	\$ 214.03	\$ 1,648.00
Furst, Jamie L.	49.50	\$ 187.23	\$ 9,268.00
Queirolo, Matthew J.	4.00	\$ 210.00	\$ 840.00
Clark, Norma J.	31.80	\$ 200.00	\$ 6,360.00
<b>Total</b>	<b>403.10</b>		<b>\$ 149,886.50</b>

## **EXHIBIT B**

<b>M53890-243245</b>		
<b>Fee Application - Monthly Disbursement Summary</b>		
<b>6/4/2020 - 9/30/2021</b>		
<b>June 2020</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H305	Miscellaneous - CourtSolutions, LLC	\$ 70.00
H305	Miscellaneous - Go Daddy domain	\$ 25.55
Total		\$ 95.55
<b>July 2020</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H250	Witness Fees	\$ 80.00
S120	Scans	\$ 1.60
H230	Service of Process Fees	\$ 600.00
Total		\$ 681.60
<b>August 2020</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H230	Service of Process Fees	\$ 100.00
H235	Subpoena Services	\$ 33.50
Total		\$ 133.50
<b>September 2020</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H305	Miscellaneous - CourtSolutions, LLC	\$ 70.00
S160	Westlaw Court Document	\$ 522.90
S100	Copies	\$ 5.60
Total		\$ 598.50
<b>October 2020</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H235	Subpoena Services	\$ 339.60
S160	Westlaw Court Document	\$ 119.90
S165	PACER/Federal District	\$ 88.00
Total		\$ 547.50
<b>November 2020</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H305	Miscellaneous - E-Hounds, Inc.	\$ 1,000.00
H140	Postage	\$ 71.49
Total		\$ 1,071.49
<b>December 2020</b>		

<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
S160	Westlaw Court Document	\$ 95.90
Total		\$ 95.90
<b>January 2021</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
S165	PACER/Federal District	\$ 25.00
Total		\$ 25.00
<b>February 2021</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H145	Federal Express	\$ 29.31
Total		\$ 29.31
<b>April 2021</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
S165	PACER/Federal District	\$ 6.00
Total		\$ 6.00
<b>June 2021</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
S275	Secretarial Overtime	\$ 67.38
Total		\$ 67.38
<b>July 2021</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
S275	Secretarial Overtime	\$ 22.46
S165	PACER/Federal District	\$ 37.75
Total		\$ 60.21
<b>August 2021</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H230	Service of Process Fees	\$ 100.00
S275	Secretarial Overtime	\$ 152.34
Total		\$ 252.34
<b>September 2021</b>		
<b>Cost Code</b>	<b>Cost Description</b>	<b>Work Amount</b>
H190	Deposition	\$ 1,235.00
Total		\$ 1,235.00
<b>Grand Total</b>		<b>\$ 4,899.28</b>