

**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 (converted)

**SECOND 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 OF OCTOBER 1, 2021, TO SEPTEMBER 30, 2022**

**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 \$132,084.00 and reimbursement of expenses in the amount of \$2,991.56 ("Second Interim Fee Application"). A copy of the Second 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 Second 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 Second Interim Fee Application and approve or disapprove the Second 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 Second Interim Fee Application, and the Court will consider the Second 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: October 1, 2021 – September 30, 2022

Amount of Compensation Sought: \$132,084.00

Amount of Expense Reimbursement: \$ 2,991.56

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

Fees Requested by Professional:

NAME OF PROFESSIONAL	BAR ADMISSION	HOURS BILLED	HOURLY RATE	TOTAL FOR APPLICATION
<u>Attorneys</u>				
Ballentine, Andrew S.	2015	44.70	\$349.83	\$15,637.50
Berman, Steve M.	1990	142.40	\$545.20	\$77,636.00
Ceriale, Matthew	2019	64.80	\$195.51	\$12,669.00
Traub, Seth P.	2006	6.80	\$410.00	\$2,788.00
White, Robert F.	2020	1.40	\$274.29	\$384.00
Wood, Thomas M.	1994	1.00	\$540.00	\$540.00
<u>Paralegals/Staff</u>				
Clark, Norma	n/a	61.70	\$204.59	\$12,623.00
Figueroa, Rosa	n/a	45.50	\$182.31	\$8,295.00
Hunter, Krystal	n/a	4.20	\$173.10	\$727.00
Kaufman, Beth	n/a	.60	\$120.00	\$72.00
Nelson, Lori	n/a	.40	\$120.00	\$48.00
Reeder, Celeste	n/a	3.00	\$210.00	\$630.00
Totals		376.80		\$132,084.00

Blended Attorneys'¹ Hourly Rate this Application: \$419.97

Blended Professionals'² Hourly Rate this Application: \$193.86

Blended Attorneys' and Professionals' Hourly Rate this Application: \$350.54

This is an: ☒ Interim: ☐ Final Application

¹ Excludes paralegals and paraprofessionals.

² Excludes attorneys.

Disclose the following for each prior application:

		<u>Requested and Approved</u>				<u>Paid</u>		<u>Holdback</u>
<u>Filed</u>	<u>Period</u>	<u>Fees</u>	<u>Hrs.</u>	<u>Rate</u> ³	<u>Exps.</u>	<u>Fees</u>	<u>Exps.</u>	
10/25/2021	6/4/2020 – 9/30/2021	\$149,886.50	403.10	371.83	\$4,899.28	\$0	\$0	N/A
<u>Total</u>		\$149,886.50	403.10	371.83	\$4,899.28	\$0	\$0	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 Second Interim Application for the Allowance and Payment of Fees and Costs to Shumaker, Loop & Kendrick, LLP as Special Counsel for the Trustee (the “Second 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 its 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 his 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).

5. On October 25, 2021, the Firm filed its First Interim of Shumaker, Loop & Kendrick, LLP for Compensation for Services Rendered and Reimbursement of Expenses as

³ Blended rate for Attorneys and Professionals.

Special Counsel to the Trustee for the Period from June 4, 2022 through September 30, 2021, (Doc. 318) (“First Interim Fee Application”), requesting approval of fees in the amount of \$149,886.50 and costs in the amount of \$4,899.28 for a total of \$154,785.78.

6. On December 2, 2021, this Court entered its Order Granting the First Interim Fee Application (Doc. 328) approving and allowing the Firm fees in the amount of \$149,886.50 and costs in the amount of \$4,899.28 for a total of \$154,785.78.

Compensation Requested for the Interim Application Period

7. This Second Interim Fee Application seeks the allowance and payment of fees earned and costs incurred from October 1, 2021, through September 30, 2022 (“Second Interim Fee Application Period”) in the amount of \$132,084.00 in fees based on services performed during the Second Interim Fee Application Period. This Second Interim Fee Application also seeks the allowance and payment of costs incurred by Shumaker during the Second Interim Fee Application Period in the amount of \$2,991.56.

8. 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**⁴, 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

9. 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:

⁴ 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.

Project Category	Hours	Total Fees
S100 Employment Application	8.00	\$2,219.00
S102 General Case Administration	58.80	\$16,042.00
S103 Asset Analysis and Recovery	100.80	\$35,395.00
S104 Discovery and Fact Investigation / Development	111.90	\$48,742.50
S105 Experts / Consultants	.80	\$352.00
S106 Settlement / Alternative Dispute Resolution	7.90	\$3,051.00
S107 Pleadings / Motions	52.10	\$15,804.50
S108 Trial / Hearing / Court Mandated Conference Preparation & Attend	25.40	\$7,445.00
S109 Fee Applications and Objections	11.10	\$3,033.00
Totals	376.80	\$132,084.00

SUMMARY BY PROJECT CATEGORY

A. S100 Employment Application

Description: This project category encompasses the drafting of employment papers and work to apply for employment for forensic accountant, special litigation counsel and co-counsel, and Hungarian local counsel.

Time spent and compensation requested for each professional:

Timekeeper	Hours	Fees
Berman, Steve M.	1.20	\$642.00
Clark, Norma	1.70	\$340.00
Figueroa, Rosa	4.00	\$840.00
Traub, Seth P.	.20	\$82.00
Ballentine, Andrew S.	.90	\$315.00
Total	8.00	\$2,219.00

B. S102 General Case Administration

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

Time spent and compensation requested for each professional:

Timekeeper	Hours	Fees
Berman, Steve M.	5.80	\$3,178.00
Ceriale, Matthew	11.00	\$2,928.00
Clark, Norma	10.30	\$2,123.00

Figueroa, Rosa	20.20	\$4,116.00
Kaufman, Beth	.60	\$72.00
Nelson, Lori	.40	\$48.00
Ballentine, Andrew S.	1.10	\$385.00
Traub, Seth P.	5.70	\$2,337.00
White, Robert	1.20	\$330.00
Reeder, Celeste	2.50	\$525.00
Total	58.80	\$16,042.00

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 asset focused Rule 2004 discovery, dealing with obstacles to Rule 2004 discovery, preparation, review and filing of asset recovery adversary complaints. Additionally, this project category encompasses work performed as it relates to the review and analysis of outstanding receivables and other accounts receivable. Finally, this category included support for professional liability causes of action.

Time spent and compensation requested for each professional:

Timekeeper	Hours	Fees
Ballentine, Andrew S.	3.10	\$1,085.00
Berman, Steve M.	47.00	\$25,610.00
Ceriale, Matthew	46.90	\$7,924.00
Clark, Norma	3.80	\$776.00
Total	100.80	\$35,395.00

D. S104 Discovery and Fact Investigation / Development

Description: This project category encompasses preparation of written, additional 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:

Timekeeper	Hours	Fees
Ballentine, Andrew S.	30.90	\$10,807.50
Berman, Steve M.	61.80	\$33,736.00
Clark, Norma	15.80	\$3,239.00
Hunter, Krystal	2.40	\$420.00
Wood, Thomas M.	1.00	\$540.00
Total	111.90	\$48,742.50

E. S105 – Experts/Consultants

Description: This project category encompasses discussions with experts regarding scope of work.

Time spent and compensation requested for each professional:

Timekeeper	Hours	Fees
Berman, Steve M.	.40	\$212.00
Ballentine, Andrew S.	.40	\$140.00
Total	0.80	\$352.00

F. S106 Settlement / Alternative Dispute Resolution

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

Time spent and compensation requested for each professional:

Timekeeper	Hours	Fees
Berman, Steve M.	3.00	\$1,622.00
Ceriale, Matthew	2.60	\$624.00
Ballentine, Andrew S.	2.30	\$805.00
Total	7.90	\$3,051.00

G. S107 Pleadings / Motions

Description: This project category encompasses preparation of motions, applications and other requests for relief including those address at service abroad and discovery from Debtor's principal and related entities.

Time spent and compensation requested for each professional:

Timekeeper	Hours	Fees
Ballentine, Andrew S.	2.80	\$980.00
Berman, Steve M.	12.90	\$6,997.00
Ceriale, Matthew	3.00	\$855.00
Clark, Norma	19.10	\$3,929.00
Figueroa, Rosa	12.30	\$2,583.00
Hunter, Krystal	.60	\$103.00
Traub, Seth P.	.40	\$164.00
White, Robert F.	.20	\$54.00
Gasaway, Brandice	.30	\$34.50

Reeder, Celeste	.50	\$105.00
Total	52.10	\$15,804.50

H. 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:

Timekeeper	Hours	Fees
Berman, Steve M.	7.80	\$4,290.00
Ceriale, Matthew	1.30	\$338.00
Clark, Norma	3.60	\$736.00
Ballentine, Andrew S.	3.20	\$1,120.00
Figueroa, Rosa	9.00	\$756.00
Traub, Seth	.50	\$205.00
Total	25.40	\$7,445.00

I. 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:

Timekeeper	Hours	Fees
Berman, Steve M.	2.50	\$1,349.00
Clark, Norma	7.40	\$1,480.00
Hunter, Krystal	1.20	\$204.00
Total	11.10	\$3,033.00

Description of Services for Which Fee and Costs Award is Sought

10. 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.

11. 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.

12. 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.

13. 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 \$132,084.00 and reimbursement of expenses incurred in the amount of \$2,991.56, for a total of **\$135,075.56**, 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 17, 2022.

Respectfully submitted,

SHUMAKER, LOOP & KENDRICK, LLP

By: /s/ Steven M. Berman
Steven M. Berman, Esquire
Florida Bar No. 856290
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 17, 2022, the foregoing was furnished by CM/ECF notice to all counsel of record, and additionally served via U.S. Mail 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

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Via CM/ECF

David C Cimo, Attorney for Trustee

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Via CM/ECF

James S. Myers

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Jared S Gardner

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St. Petersburg, FL 33701
lsherman@trenam.com
Via CM/ECF

/s/ Steven M. Berman
Attorney

Exhibit A

Task	Task Desc	Work Hrs	Work Amount
S100	Employment Application	8.00	\$ 2,219.00
S102	General Case Administration	58.80	\$ 16,042.00
S103	Asset Analysis and Recovery	100.80	\$ 35,395.00
S104	Discovery and Fact Investigation / Development	111.90	\$ 48,742.50
S105	Experts / Consultants	0.80	\$ 352.00
S106	Settlement/Alternative Dispute Resolution	7.90	\$ 3,051.00
S107	Pleadings / Motions	52.10	\$ 15,804.50
S108	Trial/Hearing/Court Mandated Conference Preparation & Attend	25.40	\$ 7,445.00
S109	Fee Applications and Objections	11.10	\$ 3,033.00
	Totals	376.80	\$ 132,084.00

S100 - Employment Application			
Name	Work Hours	Work Amount	
Berman, Steve M.	1.20	\$ 642.00	
Clark, Norma J.	1.70	\$ 340.00	
Figueroa, Rosa I.	4.00	\$ 840.00	
Traub, Seth P.	0.20	\$ 82.00	
Ballentine, Andrew S.	0.90	\$ 315.00	
Total	8.00	\$ 2,219.00	
S102 - General Case Administration			
Name	Work Hours	Work Amount	
Nelson, Lori A.	0.40	\$ 48.00	
Traub, Seth P.	5.70	\$ 2,337.00	
Berman, Steve M.	5.80	\$ 3,178.00	
Kaufman, Beth A.	0.60	\$ 72.00	
Ceriale, Matthew	11.00	\$ 2,928.00	
Clark, Norma J.	10.30	\$ 2,123.00	
White, Robert F.	1.20	\$ 330.00	
Ballentine, Andrew S.	1.10	\$ 385.00	
Figueroa, Rosa I.	20.20	\$ 4,116.00	
Reeder, Celeste	2.50	\$ 525.00	
Total	58.80	\$ 16,042.00	
S103 - Asset Analysis and Recovery			
Name	Work Hours	Work Amount	
Berman, Steve M.	47.00	\$ 25,610.00	
Ceriale, Matthew	46.90	\$ 7,924.00	
Clark, Norma J.	3.80	\$ 776.00	
Ballentine, Andrew S.	3.10	\$ 1,085.00	
Total	100.80	\$ 35,395.00	

S104 - Discovery and Fact Investigation / Development		
Name	Work Hours	Work Amount
Wood, Thomas M.	1.00	\$ 540.00
Berman, Steve M.	61.80	\$ 33,736.00
Hunter, Krystal A.	2.40	\$ 420.00
Clark, Norma J.	15.80	\$ 3,239.00
Ballentine, Andrew S.	30.90	\$ 10,807.50
Total	111.90	\$ 48,742.50
S105 - Experts/Consultants		
Name	Work Hours	Work Amount
Berman, Steve M.	0.40	\$ 212.00
Ballentine, Andrew S.	0.40	\$ 140.00
Total	0.80	\$ 352.00
S106 - Settlement/Alternative Dispute Resolution		
Name	Work Hours	Work Amount
Berman, Steve M.	3.00	\$ 1,622.00
Ceriale, Matthew	2.60	\$ 624.00
Ballentine, Andrew S.	2.30	\$ 805.00
Total	7.90	\$ 3,051.00
S107 - Pleadings / Motions		
Name	Work Hours	Work Amount
Traub, Seth P.	0.40	\$ 164.00
Berman, Steve M.	12.90	\$ 6,997.00
Hunter, Krystal A.	0.60	\$ 103.00
Ceriale, Matthew	3.00	\$ 855.00
Gasaway, Brandice L.	0.30	\$ 34.50
Clark, Norma J.	19.10	\$ 3,929.00
White, Robert F.	0.20	\$ 54.00
Ballentine, Andrew S.	2.80	\$ 980.00
Figueroa, Rosa I.	12.30	\$ 2,583.00
Reeder, Celeste	0.50	\$ 105.00
Total	52.10	\$ 15,804.50
S108 - Fee Applications and Objections		
Name	Work Hours	Work Amount
Traub, Seth P.	0.50	\$ 205.00
Berman, Steve M.	7.80	\$ 4,290.00
Ceriale, Matthew	1.30	\$ 338.00
Clark, Norma J.	3.60	\$ 736.00
Ballentine, Andrew S.	3.20	\$ 1,120.00
Figueroa, Rosa I.	9.00	\$ 756.00
Total	25.40	\$ 7,445.00
S109 - Fee Applications and Objections		
Name	Work Hours	Work Amount
Berman, Steve M.	2.50	\$ 1,349.00
Hunter, Krystal A.	1.20	\$ 204.00
Clark, Norma J.	7.40	\$ 1,480.00
Total	11.10	\$ 3,033.00
Grand Total	376.80	\$ 132,084.00

Exhibit B

M53890-243245		
Fee Application - Monthly Disbursement Summary		
10/1/2021 - 09/30/2022		
October 2021		
Cost Code	Cost Description	Work Amount
S100	Copies	\$ 9.00
S165	PACER/Federal District	\$ 66.50
Total		\$ 75.50
January 2022		
Cost Code	Cost Description	Work Amount
H210	Court Reporter	\$ 400.00
S165	PACER/Federal District	\$ 41.00
Total		\$ 441.00
March 2022		
Cost Code	Cost Description	Work Amount
H305	Miscellaneous - Relativity ODA	\$ 200.00
S170	Litigation Hosting	\$ 166.60
Total		\$ 366.60
April 2022		
Cost Code	Cost Description	Work Amount
S165	PACER/Federal District	\$ 35.00
S170	Litigation Hosting	\$ 166.60
Total		\$ 201.60
May 2022		
Cost Code	Cost Description	Work Amount
S170	Litigation Hosting	\$ 166.60
S310	Relativity Access Charge	\$ 200.00
Total		\$ 366.60
June 2022		
Cost Code	Cost Description	Work Amount
S170	Litigation Hosting	\$ 166.60
S310	Relativity Access Charge	\$ 200.00
Total		\$ 366.60
July 2022		
Cost Code	Cost Description	Work Amount
H190	Deposition	\$ 149.05
H305	Miscellaneous	\$ 32.00
S170	Litigation Hosting	\$ 166.60
S275	Secretarial Overtime	\$ 46.91
S310	Relativity Access Charge	\$ 200.00
Total		\$ 594.56
August 2022		
Cost Code	Cost Description	Work Amount
S310	Relativity Access Charge	\$ 200.00
Total		\$ 200.00
September 2022		
Cost Code	Cost Description	Work Amount
S310	Relativity Access Charge	\$ 200.00
H305	Miscellaneous	\$ 12.50
S170	Litigation Hosting	\$ 166.60
Total		\$ 379.10
Grand Total		\$ 2,991.56