



Enhancing Fee Examination in Bankruptcy Cases with Legal Decoder: A Look Back at the PG&E Bankruptcy Case

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The Chapter 11 bankruptcy of PG&E was the largest and one of the most complex utility bankruptcy cases in U.S. history. In 2018, PG&E filed its Chapter 11 petition after incurring an estimated \$30 billion in liability for wildfires it caused. As with all Chapter 11 bankruptcies, professional fees payable by the PG&E estate to attorneys, accountants, financial advisors, consultants and other court-appointed professionals had to be court-approved, in PG&E's case by Judge Dennis Montali, under the procedures set out in Section 330 of the Bankruptcy Code (11 U.S.C. § 330). Judge Montali, however, was not the only person scrutinizing professional fees in the PG&E case. Indeed, Professor Bruce A. Markell, who was the court-appointed fee examiner, the U.S. Trustee and other professionals/counterparties involved in the case also voiced views and objections as to the reasonableness of fees charged by PG&E's professionals.

When evaluating the (un)reasonableness of fees under Section 330, these parties often look to the *"Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330 for Attorneys in Larger Chapter 11 Cases"* published by the U.S. Trustees' Office for guidance on billing standards and different types of problematic billing practices.

In today's tech-enabled environment, parties also regularly use AI and legal spend data analytics technology to establish the reasonableness or unreasonableness of the professional fees under scrutiny.

THE CHALLENGE

Before Legal Decoder arrived on the scene, traditional fee examination in a large Chapter 11 bankruptcy case was labor-intensive, time-consuming, and prone to human error. Fee examiners had to manually review and analyze billing statements from attorneys, consultants, and other professionals involved in bankruptcy cases. The risk of overbilling or inaccuracies in fee charges posed a significant challenge given the volume of

data in the PG&E case and the time spent in the fee review process was likely to be enormous.

To overcome these challenges, Professor Markell sought a solution to assist with his expert fee review as he realized that a manual review would result in thousands of hours of analysis with a significant margin for error. Adding to the challenge was the condensed time to review the initial backlog of invoices before the first fee hearing.

When evaluating technology to assist him, Professor Markell not only wanted to highlight problematic billing behaviors, but also wanted a solution which could surface good behaviors as a training tool. The most important criteria for Professor Markell were processing speed, capacity, accuracy, reliability, objectivity and industry-wide benchmarks. He also wanted technology that was easy-to-use and closely aligned with the 2013 Guidelines and offered access to industry-wide data and benchmarks. Professor Markell consulted with other fee experts who, based on Legal Decoder's success in other large Chapter 11 bankruptcy cases, recommended that he evaluate Legal Decoder's capabilities.

"These AI-powered tools can be used as a sword to attack professional fees or as a shield to defend the reasonableness of professional fees."

Professor Markell shared with Legal Decoder his projections as to the volume of professional fees requiring analysis and his review timeline and approach. Each individual line item in every single invoice had to be reviewed for compliance with his standards. Legal Decoder correctly concluded that there would be no problem satisfying Professor Markell's needs.

LEGAL DECODER'S SOLUTION

Professor Markell selected Legal Decoder as it met his requirements and more. Over the course of almost 18 months, 30+ professional firms billed



800 lawyers' and other professionals' time for review and approval. Professor Markell's fee examination team used the LD Compliance Decoder to analyze large sets of invoice data to meet all deadlines.

The Compliance Decoder programmatically analyzes about 25,000 invoice line items (about \$15.0 million in professional fees) in under 10 minutes without human fatigue, variability, or subjectivity. An expert analysis on the same data set would have taken weeks to thoroughly review with high probability of human error. The Compliance Decoder has forty-seven different flags (approx. 5000 rules) which collectively cover all problematic billing behaviors and practices arising in the USTP 2013 Fee Guidelines, outside counsel billing guidelines and industry best practices. The flags are classified into three categories (staffing efficiency, workflow efficiency, and billing hygiene).

THE RESULTS

LD's Compliance Decoder analyzed over \$492 million in fees (not including fixed fees or expenses). The invoices underlying these applications were programmatically analyzed and analysis was provided to the Fee Examiner for approval or further review. The results were:

Total Analyzed Amount: \$492M

Total Recommended Reduction Amount: \$54M

Average Reduction: 9%

Largest Reduction: 21.44%

The Compliance Decoder's Staffing Efficiency flags highlighted an overstaffing concern for the fee examination team. One issue brought to surface was firms not utilizing staffing in local and lower cost offices which resulted in ballooning travel costs. Through fee analysis of all activity associated with travel and local court rules Professor Markell and U.S. Trustee were able to objectively communicate which fees and expenses could be authorized.

Using the Compliance Decoder's analysis, the Fee Examiner's team identified hundreds of occasions where multiple participants from the same firm billed for attending the same meeting, including 26 instances in which a meeting was attended by 12 or

more legal professionals from the same firm. The Compliance Decoder flagged line items that were not obviously apparent to the human eye. Overall, \$47M of billed work across the board was flagged as multi-staffed meetings. The Compliance Decoder analysis also helped unearth other billing issues such as inter-office communications, vague entries, and excessive time on routine tasks. LD's unique bottom-up analysis allowed Professor Markell's fee examination team to drill down into the data for other potential billing problems.

The greatest benefit of the Compliance Decoder analysis was providing objective information to firms and timekeepers about billing practices that were not in alignment with billing guidelines. This opened dialogue between Professor Markell and firms while managing expectations from both sides. Firms better understood the boundaries of billing and Professor Markell was able to better predict the billing behavior from firms.



CONCLUSION

As large bankruptcies continue to accelerate, fees will be scrutinized for reasonableness and billing within bankruptcy guidelines. Being able to convey objective information about billing compliance or non-compliance can open meaningful dialogue between fee examiners, firms, creditors (secured and unsecured) and other interested parties. Using technology to analyze billing data provides analysis to ensure the reasonableness of fees. Legal Decoder's technology has evaluated fee applications for high profile bankruptcy cases in recent years, such as Purdue Pharma, Endo Pharmaceuticals, and Toys R Us. Outside of bankruptcies, Legal Decoder's technology has also been used by law departments and firms for fee analysis, write-off detection, and legal pricing. For more information, please visit our website at <https://www.legaldecoder.com/contact>.