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Attorneys unlikely to share pain in GM bankruptcy

By Tom Hals

NEW YORK (Reuters) - A General Motors bankruptcy promises plenty of pain for bondholders, workers, dealers and shareholders, but lawyers are likely to reap $1 billion in fees, charging Uncle Sam as much as $1,000 an hour.

Unlike most court cases, legal fees in bankruptcies must be disclosed and approved by a judge because the money is paid from the estate of the company that filed for Chapter 11. Creditors can challenge the fees, which eat into what they hope to recover.

Unique to the case of General Motors Corp or Chrysler, the government would most likely provide the funds that essentially would pay the legal fees for the automakers, as well as the fees for counsel for bondholders, employees and any party the court recognizes by granting them "committee" status.

GM is scrambling to restructure by the June 1 deadline set by Washington The government could use its role as bankruptcy lender to clamp down on costs.

"It's certainly not going to be the wild wild west of fees charged in a case like Lehman," said Scott Stuart, a partner with claims agent Donlin Recano and a former U.S. Trustee.

Weil, Gotshal & Manges LLP asked a judge to approve $55.1 million in fees this month for less than four months work in ongoing the bankruptcy of Lehman Brothers Holding Inc.

Chapter 11 filings generate eye-popping legal bills. Enron Corp generated hundreds of millions of dollars for the lawyers in the case and legal bills paid by GM's estate are forecast to reach $1.2 billion, according to Lynn LoPucki, a UCLA law professor and prominent critic of U.S. bankruptcy practices.

The costs stem from the litigious nature of bankruptcy, with battles sometimes waged over nearly every aspect of a case and the time pressures. Attorneys often bill more than 10 hours a day in the rush to preserve the value of a company.

Weil's fee application emphasized those conditions.

"As Lehman's employees rushed out of Lehman's offices with boxes and suitcases filled with their belongings, WGM attorneys rushed in," said the firm's fee application, which included 12 employees billing more than $1,000 an hour.

"I have a broad range of meaningful compensation. I would need to be convinced that's where the market is now," Kevin Carey, the chief judge on Delaware's bankruptcy court told a recent panel discussion on the subject of $1,000 an hour fees.

Courts have a couple tools to contain costs. Audit firms are used to review the detailed fee and expense applications and look for breaches of guidelines.

"When a firm jumps into bankruptcy it's an 'Oh my god!' situation. It's very expensive in the beginning," said Patrick Woods, executive vice president of Legal Cost Control, a fee auditor. "Everyone duplicates each others work."

Audits typically reduce fees for things such as overcharging for paperwork and for firms sending several attorneys to attend the same meeting. Woods said 10 percent or more of the bills submitted in a bankruptcy may be stricken for falling outside guidelines.

Courts can also appoint committees that include creditors to oversee legal bills and set guidelines, although with limited success.

"There are significantly higher fees in cases with fee committees and fee examiners," said LoPucki, which he attributes to cost of employing a fee examiner and the disputes it can generate.

The court appointed a fee committee in the bankruptcy of auto parts maker Delphi Corp. The group eventually cut fees by a few percent, but raised doubts about the purpose of such oversight.

"The fee committee now questions whether the cost of the fee committee -- in both time and money -- outweighs any benefit to the estate," said a report from the panel.

There are some examples of success in reining in fees. The fee committee in the bankruptcy of Adelphia Committee Corp cut costs by about 10 percent, which John Marquess, president of Legal Cost Control, attributed to the leadership of the U.S. trustee leading the committee. The panel was "dedicated through process and wasn't easy. It's a lot of work."

The government could also set budgets for a bankruptcy if it were providing the financing for the case, as it is expected to do. However, budgeting has had limited success, particularly in more complicated cases.

Perhaps unsurprisingly, few bankruptcy attorneys expect fees to be an issue in a filing by an automaker, despite the role of taxpayer money.

"Do I believe there will be a public outcry? No. I hope not. They are providing good and valuable services," said Fred Caruso, a vice president of Development Specialists Inc, who provided financial advice to the fee examiner in the bankruptcy of Collins and Aikman, a manufacturer of auto parts.

"It's very difficult in large cases to determine what is an appropriate rate," Kevin Gross, a judge on Delaware's bankruptcy court, told a recent panel discussion.

One member of a fee committee put it more cynically: "Lawyers don't like to object to other lawyers fees."

(Editing by Andre Grenon)