

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:)
ARTHUR BUCHANAN and) Bankruptcy Case No. 86-30597
JOYCE BUCHANAN,)
)
Debtors.)

O P I N I O N

The matter before the Court is the Amended Application for Compensation and Reimbursement of Expenses filed by McGaughey & McGaughey. This case was initiated as a Chapter 11 bankruptcy case, but was converted to a Chapter 7 case on December 16, 1988. The original application for compensation and reimbursement was submitted on November 16, 1988. An objection to the application was filed by a creditor, Ewing & Associates, and a hearing was held on January 20, 1989. At that hearing, Debtors' attorney was represented by counsel. During that hearing, the Court informed Debtors' attorney that the application failed to meet the standards set forth in In re Wiedau, 78 B.R. 904 (Bank. S.D. Ill. 1987). The Court gave Debtors' attorney a copy of the Wiedau case and also gave him an opportunity to submit an amended application that conforms to the requirements of the Wiedau case. On February 22, 1989, Debtors' attorney filed his amended application for compensation and reimbursement and a hearing was held on April 21, 1989.

11 U.S.C. 9330(a) provides as follows:

"After notice to any parties in interest and to the United States trustee and a hearing, and subject to sections 326, 328, and 329 of this title, the court may award to a trustee,

to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney -

(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the nature, the extent, and the value of such services, the time spent on such services, and the cost of comparable services other than in a case under this title; and

(2) reimbursement for actual, necessary expenses."

Bankruptcy Rule 2016(a) provides, in part, as follows:

"An entity seeking interim or final compensation for services, or reimbursement of necessary expenses, from the estate shall file with the court an application setting forth a detailed statement of (1) the services rendered, time expended and expenses incurred, and (2) the amount requested."

Two recent cases have been decided in this district that set forth the standards that the Court will apply in evaluating attorney applications for compensation in bankruptcy proceedings. See: In re Mid-State Fertilizer Co., 83 B.R. 555 (Bankr. S.D. Ill. 1988); In re Wiedau, 78 B.R. 904 (Bankr. S.D. Ill. 1987). The standards set forth in these two cases will be followed by this Court. In evaluating attorney fee applications, the Court must consider the following three areas:

"(1) Are the services that are the subject of the application properly compensable as legal services?

(2) If so, were they necessary and is the

performance of necessary tasks adequately documented?

(3) If so, how will they be valued? Were the necessary tasks performed within a reasonable amount of time and what is the reasonable value of that time?"

Wiedau, at 907, citing In re Wildman, 72 B.R. 700, 704-05 (Bankr. N.D. Ill. 1987).

In order to be compensable, the attorney fee application must list each activity, its date, the attorney who performed the work, a description of the nature and substance of the work performed, and the time spent on the work. In re Wiedau, 78 B.R. at 907. Services for telephone calls, conferences, and letters must state the purpose or nature of the service and the persons involved. See: Id. at 908. Each type of service must be listed separately with the corresponding specific time allotment; services may not be lumped together. Id.

An attorney fee application must comply with the standards set forth in In re Wiedau. In addition, the time expended must be reasonable in light of the results obtained. See: In re Mid-State Fertilizer Co., 83 B.R. at 557; In re Prairie Central Railway Co., 87 B.R. 952, 958 (N.D. Ill., E.D., 1988). Attorneys may not recover fees unless their services produced benefits to the estate. Id., citing Matter of Ryan, 82 B.R. 929 (N.D. Ill. 1987).

In evaluating the fee application before the Court, two considerations will be taken into account. First, does the application comply with the standards in In re Wiedau? Second, were the services rendered reasonable, actual, and necessary? See: In re Wiedau, 78 B.R. at 907; In re Wildman, 72 B.R. at 707-08.

The application does provide daily entries, but many of the entries fail to comply with the requirements set forth in In re Wiedau. For example, many of the entries do not state the purpose of the work performed. Time spent researching, reviewing documents, and attending a conference must state the purpose of the work. In re Wiedau, at. 908; In re Mid-State Fertilizer Co., 83 B.R. at 556.

No fees should be allowed for general research on law which is well known to practitioners in the area of law involved. Wiedau, at 909. For example, this application requests compensation for extensive amounts of time for research on disclosure statements. The requirements for a disclosure statement should be well known to a practitioner who practices bankruptcy law.

A major problem with the fee application in this case is that it appears to the Court that excessive amounts of time were spent on services that had questionable value to the estate. For example, the application includes over 100 hours for time spent on three disclosure statements, none of which were ever approved prior to the case being converted to a Chapter 7 bankruptcy case. For the dates 9/27/86 through 10/1/86, five days, the time billed is 45.5 hours and most of this time seems to be in regard to the disclosure statement.

Another problem area with this fee application is the services regarding state court matters. The application requests compensation for time spent in various state court proceedings, including a pre-petition foreclosure proceeding and a Cook County Circuit Court proceeding. It is unclear to the Court as to how these state court proceedings benefited the estate. Services are not compensable unless

they produced benefits to the estate. In re Prairie Central Railway Co., 87 B.R. 952, citing Matter of Ryan, 82 B.R. 929. Services that only benefit the debtor personally and do not benefit the estate are not compensable. Id. at 933.

In addition, the application seeks compensation for time spent regarding motions for continuances and regarding defense against motions for sanctions and motions to compel. It would be unfair to the estate and the creditors to compensate Debtors' attorney for time incurred as a result of his noncompliance with discovery requests.

The Court is also reluctant to compensate Debtors' attorney for the time and expense incurred in filing an adversary complaint that was later dismissed by the Chapter 7 trustee. The adversary complaint filed against Stallings and Williams, that was later dismissed, did not benefit the estate in any way.

Despite these various infirmities with the attorney fee application, the Court does recognize that the efforts of Debtors' attorney did produce some benefit to the estate. Through his efforts, Debtors settled major debts, including settlement with Fairfield National Bank. This has been a complicated bankruptcy case with many parties involved.

The application states that the fees for his legal services are in the amount of \$32,498.50, in addition to his expenses in the amount of \$7,878.77. Debtors' attorney has already received \$11,300.00.

The hourly rate requested by Debtors' attorney ranges from \$50 to \$125, depending on the type of services performed. The Court finds this hourly rate to be reasonable.

However, because many of the entries in the application fail to meet the standards of In re Wiedau set out earlier in this opinion, the Court will reduce the hours billed by 150 hours. This reduction is applied because the amount of time spent on several occasions was excessive in light of the results obtained and it is unclear to the Court as to how many of the services rendered benefited the estate. At an hourly rate of \$75, reducing the hours billed by 150 reduces the fees requested by \$11,250.

In regard to the expenses, the Court is unaware of any authority in this district allowing for compensation for meals. In addition, Debtors' attorney has requested reimbursement for payments to a driver, in addition to reimbursement for gas and mileage. The Court will not authorize reimbursement for payments to a driver. The Court will also not allow reimbursement to Debtors' attorney for the copying expense of the three disclosure statements or for the filing fee for the Stallings and Williams adversary complaint. Accordingly, the expenses requested will be reduced by \$1,082.

For the reasons set forth above, the Court finds that Debtors' attorney should be compensated for services rendered in the amount of \$21,248.50. Because there have already been payments in the amount of \$11,300, the net amount Debtors' attorney shall be compensated is \$9,948.50. In regard to the expenses, Debtors' attorney shall be reimbursed in the amount of \$6,796.77.

/s/ GERALD D. FINES

U.S. Bankruptcy Judge

ENTERED: April 27, 1989