

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re:
ESTHER E. APPEL,

CASE NO. 99-41375-BKC-RAM
CHAPTER 7

Debtor.

ORDER ALLOWING FEES

After notice to all creditors, this Court has examined all pending fee applications filed in this case. The Court has considered these applications and finds that the following allowances are reasonable.

I find that reasonable compensation for James Feltman, Trustee, is \$300.00 plus expenses of \$20.40.

I find that reasonable compensation for Thomas Messana, Attorney for Trustee, is \$800.00 plus expenses of \$300.00.

The trustee is authorized and directed to pay the foregoing sums and shall pay to the Clerk of the Court \$-0- for special charges.

In allowing the foregoing fees, this court has considered the criteria specified in 11 U.S.C. §§326 and 330 and the requirements of B.R. 2016 in light of the principles stated in Hensley v. Eckerhart, 461 U.S. 424, 433 (1983); Blum v. Stenson, 465 U.S. 886, 897 (1984); Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546 (1986); and

Norman v. Housing Authority of Montgomery, 836 F.2d 1292, 1299 (11th Cir. 1988).

The Court has reduced the fee request of both the Trustee and Trustee's counsel based upon its careful review of the record. This was a simple Chapter 7 case in which the only meaningful professional services were the preparation and settlement of an objection to exemptions for a total of \$2,500. Of that amount, \$525 was paid to Jack Abrams, who was retained as an appraiser, leaving a balance of \$2,007.44 after receipt of certain other minimal amounts. The Trustee seeks fees in the amount of \$630.11 plus expenses in the amount of \$20.40. Trustee's counsel seeks fees in the amount of \$1,350.00 plus expenses in the amount of \$310.28. These amounts, if awarded in full, will result in administrative insolvency yielding no distribution to creditors, a result unacceptable to the Court.

Given the limited amount of potential recovery and actual recovery, the professional and paralegal time billed is clearly excessive, including nearly \$500 for preparation of employment and fee applications, and over \$600 in time billed by paralegals for services which include some services that are secretarial in nature.

The Court is also awarding the Trustee less than the statutory maximum. Since the recovery in the case, limited as it was, was generated from the efforts of the Trustee's attorneys and appraiser, the Court finds it appropriate to reduce the Trustee's compensation to allow a further distribution to

creditors.

The Court recognizes that there are instances in which trustees and their attorneys appropriately pursue claims which, if successful, would yield a significant dividend. At times, the recovery may be small, resulting in little or no dividend to creditors, but the professional services were appropriate and the fees are allowed.

This is not one of those cases. There was no reason to expect a substantial recovery from the objection to exemptions, and it was incumbent upon the Trustee and his professionals to gear their efforts to the size of the case.

ORDERED in the Southern District of Florida, this 27th Day of November, 2001.

ROBERT A. MARK
Chief Bankruptcy Judge