

In re: Gustavo Emilio Salazar
Case No: 04-32008-BKC-SHF

Order Allowing Fees

A chapter 7 trustee submitted a fee application based on disbursements in the amount of \$205,783.77. Pursuant to 11 U.S.C § 326 (a), the court may allow reasonable compensation to a chapter 7 Trustee subject to certain delineated limitations based upon "...all monies disbursed or turned over in the case by the trustee to parties in interest...". One component of the trustee's gross receipts is an amount of \$240,000.00, representing the proceeds derived from the Trustee's sale of real property. However, the sale of the real property was closed through escrow agents and the net amount of proceeds actually received by the trustee equals \$78,373.75. Therefore, the actual total disbursements by the trustee equals \$78,373.75, and not \$240,000.00. The trustee argues that since he constructively received the \$240,000.00 from the sale of the property, his compensation should be based on the total amount. The Court rejected the "constructive disbursement" theory and reduced the disbursement base from to \$78,373.75,590.44.

The Court also dealt with the issue of the fee application of the trustee's attorney. In the fee application, the attorney included numerous time entries reflecting tasks performed by secretaries or paralegals employed by the attorney, including telephone calls, preparation of notices of appearance, copying, and preparing certificates of service. The court made the determination that those services were to be considered secretarial in nature and were non-compensable and should be deducted from the final fee award.