

United States Bankruptcy Court

For the NORTHERN District of IOWA

IN RE: CHARLES MOORE and
MILDRED MOORE,

Debtors.

}

Case No. Y87-01349M

Chapter 12
FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

JUL 22 1988

BARBARA A. EVERLY, CLERK

JUDGMENT

This proceeding having come on for trial or hearing before the court, the Honorable William L. Edmonds, United States Bankruptcy Judge, presiding, and the issues having been duly tried or heard and a decision having been rendered,

[OR]

The issues of this proceeding having been duly considered by the Honorable _____, United States Bankruptcy Judge, and a decision having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED:

that the application for fees filed by the Ludlow Co. is denied and that the Ludlow Co. shall return to the debtors the \$4,998.83 paid to it without previous order of this court.



*Copies mailed with
Order, 7/22/88, LEM*

[Seal of the U.S. Bankruptcy Court]

Date of issuance: 7-22-88

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BARBARA A. EVERLY
Clerk of Bankruptcy Court

By: Laura McElhany
Deputy Clerk

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

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IN RE:

CHARLES MOORE and)
MILDRED MOORE,)
Debtors.)

BARBARA A. EVERLY, CLERK
Chapter 12

Bankruptcy No. Y87-01349M

ORDER RE: APPLICATION OF LUDLOW CO. FOR PAYMENT OF
FEES AND EXPENSES

The matter before the court is the application filed by the Ludlow Co. on June 9, 1988 requesting payment of its fees and expenses as financial consultant to the debtors Charles and Mildred Moore.

This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

This Chapter 12 case was filed on June 9, 1987. A plan of reorganization was confirmed on April 18, 1988.

On July 8, 1987, this court entered its order approving the employment of the Ludlow Co. as a financial consultant to the debtors.

The Ludlow Co.'s application for payment of administrative fees and expenses was accompanied by an affidavit of its president, Thomas Ludlow, and an itemized statement of services by date and service rendered and time expended.

The itemized statement shows 144.15 hours expended for which Ludlow Co. seeks payment of \$65.00 per hour plus the payment of expenses in the amount of \$89.81.

The itemized statement, therefore, shows fees and expenses of \$9,459.56. Ludlow Co. shows in its itemization that it has been

paid \$4,998.83, although this court has never approved payment of interim fees and expenses to Ludlow Co.

By order of the bankruptcy court filed June 10, 1988, Jeffrey P. White, attorney for the Moores, was required to mail a copy of the notice setting hearing on the application for fees to the Ludlow Co. which notice also contained a bar date for objections. The bar date was July 7, 1988.

One objection was filed on July 1, 1988, that by the Citizens National Bank.

There has never been certification of service by Jeffrey P. White, P.C., attorney for the debtors, with regard to the notice or application.

The objection filed by Citizens National Bank was served upon Jeffrey White, and Thomas Ludlow, President of the Ludlow Co., among others.

The notice set hearing for July 20, 1988 at 1:00 p.m. in the second floor courtroom in Mason City, Iowa. Neither the debtors' attorney nor the applicant appeared.

Appearing on behalf of Citizens National Bank, the objector, was Robert W. Brinton.

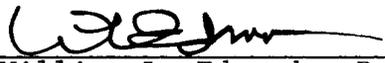
The court had several questions with regard to the application of Ludlow Co. However, no one appeared on behalf of Ludlow Co. nor did the debtors' attorney appear in support of the application.

Because of the failure of the debtors' attorney or the applicant to appear and because of the failure of the debtors' attorney to certify service of the notice of the application and

the hearing date thereon, this court believes it is not in the interest of justice to allow the fees and expenses.

IT IS THEREFORE ORDERED that the application for fees filed by the Ludlow Co. is denied and that the Ludlow Co. shall return to the debtors the \$4,998.83 paid to it without previous order of this court.

SO ORDERED ON THIS 22nd DAY OF JULY, 1988.



William L. Edmonds, Bankruptcy Judge

cc: Jeffrey P. White
Robert Brinton
U. S. Trustee
on 7/22/88, *LM*