

In the United States Bankruptcy Court

for the Northern District of Iowa

BYRON D. SMEBY and
LINDA J. SMEBY

Debtor(s).

Bankruptcy No. X88-00159M

Chapter 11

ORDER RE: ATTORNEYS' FEES

In this contested matter proceeding, the lawyers formerly representing the debtors seek a final award of professional compensation. The debtors have objected to the amount of the fees. Hearing was held on January 16, 1992 in Fort Dodge. Applicant, Childers & Vestle, P.C., was represented by attorney Thomas McCuskey; debtors appeared pro se. The court now issues its findings, conclusions and order.

I.

The law firm of Childers & Vestle, P.C. (FIRM) seeks a final award of compensation in this chapter 11 case. Firm has filed five applications for interim compensation under 11 U.S.C. § 331. These applications have requested the allowance of fees and the reimbursement of expenses in the total amount of \$36,356.38. These applications cover the period from January 18, 1988 through August 23, 1991. The court has allowed interim payments totaling \$30,858.62. Since the filing of the fifth interim application, firm has generated additional charges, including fees and expenses, of \$1,875.61. Firm has not sought and does not intend to seek to recover this amount from the debtors or the estate. Firm thus requests final approval of its compensation and a remaining payment of \$5,497.76.

Although the court has previously approved interim payments to firm, those allowances are not final and are fully reviewable by the court in determining the final award of compensation. Continental Illinois National Bank & Trust Co. of Chicago v. Charles N. Wooten, Ltd. (Matter of Evangeline Refining Co.), 890 F.2d 1312, 1321 (5th Cir. 1989).

The court must now determine the final award of compensation to which firm is entitled under 11 U.S.C. § 330 which provides for "reasonable compensation for actual, necessary services . . . based on the nature, 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 [the Bankruptcy Code]." 11 U.S.C. § 330(a)(1). The court may also award reimbursement for actual, necessary expenses. 11 U.S.C. § 330(a)(2).

The Eighth Circuit Court of Appeals has recognized the practice of basing fee awards on "the lodestar amount" which is the number of hours reasonably expended by the attorney multiplied by a reasonable hourly rate. Novelly v. Palans (In re Apex Oil Co.), ___ F.2d ___ 1992 WL 59705 (8th Cir., March 30, 1992).

II.

Byron and Linda Smeby are farmers from Hancock County, Iowa. Smebys defaulted on their mortgage payments to the Federal Land Bank of Omaha (FLB). FLB accelerated the note, foreclosed the

mortgage and obtained a special execution against Smebys' farm. On February 1, 1988, just before the sheriff's sale, Smebys filed a chapter 11 petition in this court. Smebys had five creditors: (1) the Cerro Gordo County ASCS, a lender holding a security interest in sealed grain; (2) members of the Dungan family, vendors to the Smebys under a real estate contract on 160 acres of farmland; (3) FLB; (4) the IRS; and (5) the Iowa Department of Revenue and Finance. Smebys also had unexpired farmland leases with three different landlords. Smebys' schedules treated the Dungans and FLB as

undersecured creditors.

Early in the case, Dungans sought a court order requiring Smebys to assume or reject the land sales contract prior to the confirmation of a plan. The court ordered an earlier assumption or rejection date and debtors appealed. The appeal was dismissed when Dungans and Smebys settled issues between them. Settlement included an agreement by Dungans to "write down" the amount of the balance of the contract. Smebys' attorneys were successful in getting Dungans not only to reduce the secured claim but to waive any unsecured claim. The written-off amount was approximately \$40,000.00 to \$50,000.00. This result was excellent because under the prevailing law, such a result could not have been obtained by litigation. Settlement between these parties essentially removed Dungans as active participants in the case.

Of Smebys' remaining few creditors, only FLB was active in the case. It, however, was pugnacious in pursuing its claim. According to Dan Childers, Smebys' main counsel, FLB took hard positions in the case because its personnel believed that FLB might fully recover its claim if Smebys' assets were liquidated. During the case, FLB objected to debtors' claims of exemption, particularly the claim to exemption of the substantial cash value of a life insurance policy. The exemptibility was fully litigated with counsel participating in two hearings and filing briefs. Smebys were successful in this litigation. FLB also initiated stay litigation; as a result, Smebys were required to pay FLB adequate protection payments. FLB sought dismissal of the case; after trial, this remedy was denied. Finally, FLB actively resisted confirmation of Smebys' proposed reorganization plan. Prior to the hearing on confirmation, a separate hearing was held to value the farmland which debtors had mortgaged to FLB. Confirmation issues were somewhat unusual and were well handled by counsel on both sides--they involved the continued vitality of the new value exception to the absolute priority rule; the best interest test and tax issue having a novel bearing on it; and the issue of good faith. On April 25, 1990, the court denied confirmation of the debtors' plan. Subsequently, FLB moved to dismiss the case and again moved for relief from the stay. These matters were heard and briefed. The motion to dismiss was denied. The court denied the motion for relief, approving the debtors' offer of adequate protection. The latter orders were entered July 13, 1990.

Little in the way of litigation took place in the case after the entry of the latter two orders. Through negotiation, much of it conducted personally by Byron Smeby, the debtors and FLB settled their dispute. As a result, debtors proposed a new plan on August 15, 1991. It was approved by the court, with the affirmative vote of FLB, on October 11, 1991.

The relationship between Smebys and their counsel deteriorated. Smebys were concerned about the amount of the legal fees and the time it took to accomplish reorganization. Byron Smeby also feels that the plan required the debtors to pay too much to the creditors to keep the land. The tension between firm and clients increased when Smeby objected to the fourth and fifth interim fee applications. Firm moved to withdraw as debtors' counsel. Debtors did not object. The court approved the withdrawal on January 16, 1992.

III.

The attorney-client relationship began when Smebys sought help with their financial problems with FLB. They were unsatisfied with the prospect of retaining counsel in their immediate area. They determined to obtain the best-qualified bankruptcy counsel they could find. On January 18, 1988, they met for the first time with attorney R. Fred Dumbaugh of Cedar Rapids. Two days later, the Smebys signed a fee contract with Dumbaugh's firm, Dumbaugh and Childers, P.C. The agreement required Smebys to pay the firm a \$10,000.00 retainer against which the firm would charge legal fees and expenses. The contract provided that the hourly rate for attorney services would range from \$90.00 to \$125.00 per hour; for paralegal services, Smebys would be charged \$45.00 per hour. These rates could be increased without prior notice. If the fees and costs exceeded the retainer, Smebys were responsible for the balance.

From the inception of the relationship to the attorneys' withdrawal in 1992, seven attorneys and nine paralegals worked on the Smebys' bankruptcy case. The hours expended by these professionals through August 23, 1991 and their rates were summarized in Applicant's Exhibit F:

ATTORNEY HOURS	RATE	
Dumbaugh	1.40	\$135.00
Vestle	.90	115.00

Schnack	5.80	100.00
Resnicek	.10	100.00
Fiegen	13.10	90.00
Seymour	5.60	85.00
Childers	----	115.00
		(\$125 beginning September, 1990)

Childers' hours were not summarized on Exhibit F. An examination of the five pending applications reveals that he billed 186.90 hours on the case.

The paralegals and their hours and rates were shown as follows on Exhibit F.

PARALEGAL HOURS		RATE
Svoboda-Epp	--	\$45.00
	--	50.00
		(beginning April, 1989)
Daves	9.20	45.00
		50.00
		(beginning Dec. 1991)
Feddersen	32.90	45.00
Stewart	--	45.00
Roth	6.40	45.00
Jones	3.70	45.00
Arnold	9.85	35.00
	40.00	(beginning Aug. 1991)
Burghart	.50	35.00
Rife	.20	25.00 (legal ass't. intern)

Time for Svoboda-Epp and Stewart was not summarized. From the five applications, the court calculates that Stewart billed 25.10 hours and Svoboda-Epp billed 116.85 hours.

IV.

TRAVEL TIME

In most cases, firm has billed its travel time at full rate except when combined trips were taken for Smebys and other clients. In such instances, trips were prorated among the clients. Firm argues that travel time should be billed at the full hourly rate. It points out first, that in a non-bankruptcy setting, attorneys generally bill clients for travel at full hourly rates, and second, that travel prevents an attorney from performing fully billable legal work at the office or in the courtroom. This court has permitted compensation to professionals for travel at one-half the attorney's regular hourly rate. This policy is apparently followed by the majority of bankruptcy courts participating in the American Bankruptcy Institute study on bankruptcy compensation. Am.Bankr.Inst., American Bankruptcy Institute National Report on Professional Compensation in Bankruptcy Cases (G. R. Warner rep. 1991), page 185. The rationale in this court is that an attorney should not be compensated at his full professional hourly rate for doing non-legal work. To accomplish the reduction in this case, travel time applicable to Smebys' case will be reduced by one-half and will be paid at the allowed rates.

PREPARATION AND DEFENSE OF FEE APPLICATIONS

This court has recently issued a decision determining that attorneys generally will not be compensated for the preparation, submission and defense of fee applications in bankruptcy cases. Such work, except in extraordinary

circumstances, is a cost of doing business. In re Courson, ___ B.R. ___, 1992 WL 57849 (Bankr. N.D. Iowa, Feb. 28, 1992). Therefore, applicant's request for compensation associated with the preparation and submission of the applications in this case will be denied.

HOURLY RATES

A. Paralegals

Attorney Childers testified that the paralegals hired by the firm are all trained legal assistants, each having graduated from the Kirkwood Community College legal assistant program. Childers further testified that the "going rate" charged to clients for paralegal work in the Cedar Rapids area is \$45.00 per hour. During the course of the case, firm began charging \$50.00 per hour for work done by Due Daves and Debra K. Svoboda/ Epp. The former's rate increased in December, 1991, the latter's in April, 1989. Given the testimony concerning market rate, all of Daves' and Svoboda-Epp's allowed time will be compensated at the rate of \$45.00 per hour. Time for the other paralegals will be compensated at the initial rates shown in Exhibit F.

B. Attorneys

The hourly rates charged by the attorneys in this case range from \$85.00 to \$135.00. R. Fred Dumbaugh charged \$135.00 per hour for work done in 1988. Dumbaugh's work was minimal. He contacted the client by phone and reviewed the short filing (less than all required schedules and statements were initially filed). He was an experienced attorney, but the nature of the work done on a purely introductory basis does not warrant a rate of \$135.00. Dumbaugh will be compensated for allowed time at the rate of \$115.00 per hour.

Dan Childers is a well-qualified and conscientious attorney, experienced in bankruptcy matters. His practice, since its beginning in 1984, has concentrated almost entirely on bankruptcy. He graduated from the University of Iowa Law School in 1982 and served for one and one-half years as law clerk to the late Honorable William W. Thinnes. When he began working with the Smebys, he had been out of law school for three and one-half years. For 96 per cent of the hours billed by Childers in this case, he charged at the rate of \$115.00 per hour; for the remaining four per cent, beginning in September, 1990, he charged \$125.00. During 1990, a \$115.00 rate placed an attorney in the top 15 per cent of Iowa attorneys doing trial work, and among the top 13 per cent of Iowa attorneys doing non-trial work. 1990 Economic Survey of the Iowa State Bar Association (October, 1991). Although the survey is not considered provably valid (see survey, p. 8), its results nonetheless are relevant to the court.

Eric Lam, a Cedar Rapids attorney specializing in bankruptcy matters, testified as an expert on Childers' behalf. He had investigated the hourly rates of commercial law firms in Cedar Rapids and Des Moines, his firm and two others. In 1988, Lam charged \$110.00 per hour for bankruptcy work. In 1989 and 1990, he charged \$120.00. For non-bankruptcy, commercial work, he charged \$85.00 in 1988, \$90.00 in 1989 and \$95.00 in 1990. Lam graduated from the University of Iowa College of law in 1982. Afterward, he clerked for the Iowa Supreme Court and the late Judge Thinnes.

Lam's partner, Kevin Visser, specializes in marriage dissolution and employee relations. In 1988 and 1989, Visser charged \$110.00 per hour in his specialty. In 1990, he charged \$117.00, and in 1991, he charged \$125.00. Visser graduated from law school and began practicing in 1980.

Another of Lam's partners is Thomas Buresh. He graduated from law school in 1978. He began private practice after serving in a legal capacity in the armed forces. He specializes in government contract work. In 1988, he charged \$113.00 per hour; in 1989, \$130.00; in 1990, \$135.00; and in 1991, \$140.00.

Lam also visited with a member of the firm of Lynch, Dallas, Smith and Harman in Cedar Rapids. Its 1988 range of rates for lawyers was \$60.00 to \$120.00 per hour. The 1991 range is \$75.00 to \$140.00. Of that firm, a regular and very competent bankruptcy practitioner is John Titler who represented FLB in the Smeby case. His 1988 rate was \$82.00 per hour.

Lam also testified as to the hourly rates of the firm of Riley and Riley of Cedar Rapids. Senior partner Tom Riley charged \$150.00 per hour in 1990; his son Peter charged \$125.00. The firm specializes in litigation. Todd Becker of the

Riley firm is two or three years older than Lam. Becker charges \$100.00 per hour, but sometimes charges \$100.00 to \$125.00 for "nasty" litigation.

Lam believes that bankruptcy lawyers should get at least as much as they can obtain outside of bankruptcy and that that figure should be increased to account for bankruptcy expertise. Lam also testified that in his opinion bankruptcy counsel should be able to obtain whatever hourly rate the market will bear.

Childers testified that other attorneys in this district now charge \$125.00 per hour in debtor/creditor cases; they are Joe Peiffer, Eric Lam, Thomas McCuskey, Larry Gutz and Tom Riley. Childers says that such charges are at the upper end of the scale for bankruptcy practitioners.

The court, having considered the evidence and its own knowledge of rates charged in bankruptcy in this district, finds that a reasonable rate for Childers for work in the Smeby case is \$115.00 per hour.

The court has also considered the background and experience of the other lawyers working on this case in conjunction with the rate testimony of the witnesses. Vestle will be allowed a rate of \$115.00 pr hour; Schnack will be allowed \$100.00 per hour. Thomas Fiegen will be allowed \$80.00 per hour and Shelley Seymour, \$75.00 per hour. Seymour worked on the case in 1988. She graduated from Iowa Law School in 1987. She joined the firm in the summer of 1987. Despite any training she may have received from the firm, her experience entitles her to no more than \$75.00 per hour. Fiegen had two years experience when he joined the firm in early 1990. He worked on the Smeby case during 1990-91.

NON-COMPENSABLE TIME

Firm must be compensated for actual, necessary services rendered on behalf of the debtors. The court must consider the nature, extent and value of each service and the time spent. Not all services are compensable. Services having no value to the debtors will not be compensated. The debtors should not have to compensate firm for duplication of services. A firm compensated with the rates allowed herein should be efficient in its use of time. Also, professionals should not be compensated at professional rates for performing clerical duties.

The examination of the five applications has been difficult for the court. Time entries on the itemizations are chronological according to the professional. It is, therefore, difficult to compare entries for the same dates to determine if different persons are duplicating work on the same tasks. Having read the itemizations more than once, the court is left with the impression that the number of attorneys (seven) and the number of paralegals (nine) working on this case resulted in duplication of effort, the cost of which should not be borne by the debtors.

Smebys testified that early in the case they explained the same information on their financial affairs over and over to different firm personnel. There was a significant change in personnel assigned to the case when paralegal Stewart left firm's employ. Firm contends, however, that firm assigned paralegals to the case based on the needs of the client and to the benefit of the client. That may be in some instances, but the court finds that was not always the case. Preparation of the disclosure statement and plan is one example. It would seem that for the sake of continuity and consistency, it would make sense to assign an attorney and a paralegal to the task. In this case, more than one attorney and at least two paralegals worked on the plan and disclosure statement and on revisions. I take it as a given that when one person picks up a task which has been worked on by another there is a certain amount of time necessary for the new person to absorb not only the background information, but also evaluate the other person's work. Having examined the fee applications, I find that the number of professionals assigned to this case resulted in unavoidable duplication of effort.

A.

ATTORNEYS

Dumbaugh

The application contains 1.40 billable hours for attorney Dumbaugh. The time spent by Dumbaugh on February 1, 1988 for reviewing the filing papers was excessive in light of the limited number of papers filed with the court. One-quarter hour will be allowed, not the .60 hours listed. On March 7, 1988, Dumbaugh spent .20 hours in a phone conference

regarding the file. There is no indication as to whom the conference was with nor as to the value or purpose of the conference in light of the fact that Dumbaugh did no further work on the case. This time will be disallowed. The firm will be compensated for .85 hours of Dumbaugh's work on the case.

Vestle

The firm bills for .90 hours of attorney Vestle's time. Compensation of this time will be allowed.

Schnack

Firm bills for 5.80 hours of attorney Schnack's time. On October 19, 1988, Schnack spent .50 hours drafting an amendment to the plan and disclosure statement. This is so despite the fact that Childers and paralegals Feddersen, Stewart and Svoboda had been heavily involved in the preparation of those documents. There is insufficient justification for this isolated expenditure of time by an attorney theretofore not involved in the case. It will not be allowed. On March 28, 1989, Schnack drafted a motion for extension on a briefing deadline. He listed .50 hours. The court has re-examined the motion and finds the time charge excessive. one-quarter of an hour will be allowed. Schnack will be compensated for 5.05 hours.

Reznicek

Thomas Reznicek billed for .10 hours for reviewing schedules on February 25, 1988. The schedules were prepared for the most part by paralegal assistants. Although it is certainly proper to provide for review by an attorney before filing, Reznicek was not the attorney assigned to the case. He did no further work, and the minimal time spent by him here was no doubt repeated when the attorney in charge of the case also reviewed the schedules postfiling. Exertion of billing judgment by the firm should have removed this entry from the bill. The .10 hours will not be compensated.

Fiegen

Attorney Thomas Fiegen began working on the case in June, 1990. On August 1, 1990, he drafted a motion seeking an extension of the time for paying FLB an adequate protection payment. He billed 1.10 hours. This time is excessive for the drafting of the one and one-half page motion. One-half hour will be compensated for this task. On July 30, 1991, Fiegen billed .20 hours for a phone conference with Childers. There is insufficient justification in the application to permit compensation for this attorney conference. On August 5, 1991, Fiegen read and routed to a paralegal a letter from the U. S. Trustee on back monthly reports. This entry was for .10 hours and disposed of a matter that had been routinely handled by paralegals. It will not be compensated. Firm will be compensated for 12.4 of the 13.10 hours billed by Fiegen.

Seymour

Attorney Seymour began her involvement with Smebys' case on January 25, 1988 through a brief (.10 hours) conversation with a paralegal on the "status of case." There is no indication that anything significant was accomplished for the client by the sixminute exchange. No compensation will be allowed. On February 19, Seymour reviewed the schedules and a motion to assume or reject filed by Dungans. She repeated these activities on the same day and the additional time is shown as part of entries totaling .90 hours. The work appears to have been repeated by her. The court will disallow .45 hours. On March 3 and 4, Seymour twice reviewed the Dungan motion as part of entries totaling .70 hours; of this .35 will be allowed. In summary, .90 hours will not be allowed; 4.70 hours will be.

Childers

Childers was the attorney in charge of the case. He billed 186.90 hours. of those hours, 29.55, as shown on the following list, will be disallowed.

On March 16, 1988, he billed 3.00 hours for travel. Of this, one-half, or 1.50, will be disallowed.

April 21, 1988, travel disallowance--1.50 hours.

For January 24, 1989, there was a billing duplication of 6.50 hours. That amount will be disallowed.

February 15, 1989, travel disallowance, 1.50 hours.

March 15, 1989, travel disallowance of 1.40 hours.

From April 4 through April 10, 1989, Childers spent 11 hours working on briefs on the issue of real estate valuation and the validity of an insurance policy exemption. Attorney Schnack had had experience on the insurance issue. He reportedly drafted most of the brief relating to the insurance issue, which was the bulk of the exemption brief. The valuation brief was only two pages. Schnack billed and has been allowed 4.70 hours for his work. In consideration of the division of labor and the extent of the work apparently done by Childers, the court considers 11 hours excessive. Four hours will be allowed, seven disallowed.

June 14, 1989, travel and meeting; 5.30 billed, 2.50 will be disallowed as travel.

June 24, 1989, entry on review of ruling on exemptions. Duplicate of work done on June 23. Disallow .30 hours.

November 14, 1989, travel disallowance, 1.35 hours.

November 15, 1989, travel disallowance, 1.30 hours.

February 21, 1990, disallowance of .30 hours spent on attorneys' fees.

September 5 and 7, disallow estimated .20 hours for work on attorneys' fees.

December 4, 1990, disallow .20 hours for vagueness of entry.

February 12, 1991, disallow 4.00 hours for travel to and appearance at fee hearing.

Of the billed hours, 157.35 will be compensated.

SUMMARY OF ATTORNEYS' ALLOWED FEES

Attorney	Time (Hours)	Rate	Allowance
Dumbaugh	.85	\$115.00	\$ 97.75
Vestle	.90	115.00	103.50
Schnack	5.05	100.00	505.00
Reznicek	0	--	0
Fiegen	12.40	80.00	992.00
Seymour	4.70	75.00	352.50
Childers	157.35	115.00	18,095.25
	181.00	TOTAL	\$20,146.00

B.

PARALEGALS

Rife and Burghart

The time for Rife (.20) and Burghart (.50) will be allowed.

Jones

Firm has billed 3.70 hours for work done by paralegal Jones. Her work was limited to the month the case was filed. On February 3, 1988, she spent three hours with the Smebys presumably revising ("Rev") worksheets. This is the only substantial work done by her on the case. This time will not be compensated in light of the fact that paralegals Roth and Stewart and attorney Seymour had already spent substantial time on the case and its schedules and reports. This entry confirms to the court the debtors' concern that early in the case they had to repeat information over and over to different people in the firm. In another time entry for the same date, Jones spent .50 hours copying an unreadable tax return and holding a conference with attorney Seymour. The copying is clerical work and will not be compensated. The conference time is lumped in with the clerical time. However much it was, it will be disallowed. On February 26, there was a similar entry lumping clerical time with a conference with the client. No time for this entry will be allowed. No time will be allowed for paralegal Jones.

Roth

The applications show 6.40 hours of billable time for Nancy Roth. On February 19, 1988, paralegals Stewart and Roth conferred on the case for the purpose of turning certain matters over to Roth because Stewart was going on sick leave. This was not the clients' problem. Updating the new paralegal assigned to the case was the responsibility of the firm and should not have been billed to the client. The .20 hour entry will be disallowed. Roth's review on February 22 of documents prepared by Seymour and Stewart will not be compensated; although the time entry is lumped with compensable time, the court will estimate the disallowance at .20 hours. On February 23 and 25, Roth billed for copying documents. Of the time shown, .20 hours will be disallowed. Firm will be compensated for 5.80 hours of Roth's time.

Daves

Firm has billed 9.20 hours for the time spent on the case by paralegal Sue Daves. Of this time, .70 hours will be disallowed.

On November 8, 1989, she spent court-estimated time of .10 hours sending a copy of a tax return to an accountant. This is clerical work and will not be compensated at professional rates. On March 15, 1990, she spent .50 hours on the firm's fee application. This is part of firm's cost of doing business and is not billable to the clients. On March 9, 1989, she spent .10 hours filing a list with the court. This is clerical time and not compensable at professional rates. Firm will be compensated for 8.5 hours of Daves' time.

Arnold

Firm has requested compensation for 5.95 hours of Carol Arnold's time on the case. Of this, 1.85 hours was spent on August 21 and 22, 1991 on firm's fee application. This time will be disallowed; 4.1 hours will be compensated.

Stewart

The fee application requests compensation for 25.10 hours of time spent on the case by paralegal Dawn Stewart. Entries for work which the court considers clerical will be disallowed. These include: February 8, 1988, sent copies to client, .40 hours; estimated .10 hours on March 4, 1988, copies made; March 8, 1988, organizing files, .20 hours; March 23, 1988, copies made, .20 hours; estimated .10 hours on March 24, 1988, sending schedules; April 13, 1988, making copies, estimated .10 hours.

On February 29 and March 1, 1988, Stewart spent an excessive amount of time drafting and reviewing an amended matrix and certification of service for the matrix. She spent .70 hours; of this .35 hours will be disallowed.

On March 11, 1988, Stewart charged Smebys with .10 hours for unsuccessfully trying to call them on the telephone. This time will not be allowed. On March 9 and 10, 1988, Stewart spent .60 hours reviewing and discussing the monthly report. The work appears to be duplicative; .30 hours will be disallowed.

On March 10, 1988, Stewart spent .10 hours drafting the cover sheet for the monthly report. Stewart also spent time for similar work on April 12, 1988, reviewing a monthly report cover sheet on April 14 and May 18, 1988. These cover sheets are simple and could have been duplicated with blanks to enable the firm to use them in updated form each

month. The paralegal should not have been billing time each month to draft or review the cover sheet. The court will disallow .30 hours of this time.

Firm will be compensated for 22.95 hours of Stewart's time.

Feddersen

Darlene Feddersen spent 32.0 hours on the Smebys' case. She spent .80 hours on July 12, 1988 regarding amendments to the debt schedules to include the claim of the Iowa Department of Revenue. She spent .20 hours on the amendment on July 14. The court could not locate any such amendment. The time will not be compensated. It may also be that .20 hours spent on July 25 involved the same amendment. It is difficult to tell from the description of the time entry; the .20 hours will also be disallowed.

Certain of Feddersen's entries appear to be for clerical work. These include July 28, 1988, preparing a copy of the IRS claim, .20 hours; time entries for December 21 and 29, 1988 and January 13, 1989, for deliveries to the court and filing documents, total .50 hours; January 31, 1989, filing documents, .10 hours; and April 4, 1989, drafting certificate of service of motion and service of motion, .10 hours. These entries total .90 hours. For them, no compensation will be allowed.

Firm will be compensated for 29.90 hours spent on the case by Feddersen.

Svoboda-Epp

Debra Svoboda-Epp spent 116.85 hours on the Smebys' bankruptcy. The substantial amount of time spent by her working on firm fee applications will be disallowed. These include February 1, 1989, for 1.00 hours; May 15, 1989, entry for 1.75 hours; May 18, 1989, entry for .30 hours; May 25, 1989, entry for .40 hours; June 22, 1989, entry for .40 hours; June 29, 1989, entry for .25 hours; February 12 and 16, 1990, 1.15 hours; June 22, 1990, entry for 1.50 hours; July 5 and 6, 1990, entries totaling .45 hours; August 3, 1990, entry for .45 hours; entries from November 21 through December 7, 1990, totaling 2.15 hours; and February 26, 1991, entry for .20 hours. These fee entries total ten hours. Firm will not be compensated for this time. Firm will be compensated for 106.85 hours spent by Svoboda-Epp on the Smebys' case.

SUMMARY OF PARALEGAL TIME AND RATES

Paralegal	Time	Rate	Allowance
Rife	.20	\$25.00	\$5.00
Burghart	.50	35.00	17.50
Jones	0	45.00	00
Roth	5.80	45.00	261.00
Daves	8.50	45.00	382.50
Arnold	4.10	35.00	143.50
Stewart	22.95	45.00	1,032.75
Feddersen	29.90	45.00	1,345.50
Svoboda-Epp	106.85	45.00	4,808.25
	178.80	Total	\$7,996.00

The court has tried to eliminate obvious or apparent instances of duplication of work among the paralegals. Yet, the court is still left with the conclusion that other duplication and inefficiency were the almost certain results of assigning more than one paralegal to substantially similar tasks in this case. It is difficult for the court, from the nature of the time entries, to point with certainty to instances where more time was spent than was necessary to accomplish a task because too many people were assigned to parts of the task.

Nine paralegals worked on this case. There was some "no charge" time, but not terribly much of it. The court noted conferences among paralegals, conferences between paralegals and attorneys, paralegals reviewing briefs filed by opponents (yet no doubt the attorneys had to read these briefs also), paralegal reviews of documents produced by other paralegals. The court also noted instances where paralegals visited with opposing attorneys and then reported the conversations to counsel in the firm. The court tallies at least 40 or more hours during which three paralegals worked on the plan and disclosure statement. This does not count attorney time and eliminates from paralegal totals time which the court has already disallowed.

The court concludes that with the number of paralegals assigned to the case there was some inevitable duplication of effort and inefficiency. In fairness to the Smebys, there should be some further reduction of paralegal compensation. In the court's judgment, a reduction of paralegal compensation by a factor of five per cent would alleviate some of the problem and provide more fairness in the bill. See, In re Tom Carter Enter., Inc., 55 B.R. 548, 551 (Bankr. C.D. Cal. 1985). Five per cent of \$7,996.00 is \$399.80. At the rate of \$45.00 per hour, this is an adjustment of less than nine hours. The final allowance for paralegal time will be \$7,596.20.

COSTS

Smebys are concerned with the amount of costs charged to them, including travel expense, postage and copying. Costs shown on the five applications total \$3,037.38. This total is composed of \$228.60 in postage, delivery and fax charges; \$226.64 in telephone charges; \$556.79 in travel expense; \$678.00 in court costs including the \$500.00 filing fee; \$1,281.85 in copy charges; and \$65.50 in miscellaneous charges. These miscellaneous charges included a consultation fee, UCC search charges and a document recording fee.

The charges relating to postage, delivery, fax, telephone, travel, court costs and miscellaneous were actual and necessary expenses and will be allowed.

Firm charges 30 cents per page for copying. Childers testified that 15 to 20 cents covers actual costs not including the use of the equipment. The normal range for copying costs in Cedar Rapids is 20 to 27 cents per page. Firm charges 30 cents because it maintains large capacity machines in order to provide quick service for clients. That is a cost of doing business. The evidence does not support a finding that the actual expense of copying is 30 cents per page.

Copy charges applied for were \$1,281.85. Dividing that figure by .30 leaves 4,273 copies (rounded off). Firm will be allowed reimbursement at the rate of 25 cents per page or \$1,068.25.

Total expenses allowed to firm are \$2,823.78.

CHARGES AFTER AUGUST 23, 1991

Firm has not applied and says it does not intend to apply for compensation for work done after August 23, 1991. This is the end date of the fifth interim application. Yet the court must be fair to the attorneys as well as to the Smebys. Firm should not have to do free work for Smebys or pay legitimate costs of the case. The court has examined Exhibit 6 and finds that there was 4.90 hours of compensable paralegal time and 1.90 hours of attorney Childers' time spent on the case after August 23. This time will be compensated at previously allowed rates. The attorney's time will be compensated in the amount of \$218.50 and the paralegals' time in the amount of \$220.50. Time allowed does not include work on fee applications. The court also finds that the firm expended \$240.83 in reimbursable costs. This figure allows copying at 25 cents, not 30 cents, per copy. Allowed compensation after August 23, 1991 totals \$679.83.

SUMMARY OF ALLOWANCES

Attorneys:	\$20,146.00
Paralegals:	7,596.20
Costs:	2,823.78
Fees and Costs (after August 23)	679.83
Total	\$31,245.81

Firm has previously received from Smebys, based on interim awards, the sum of \$30,858.12. Of this, firm is presently holding \$229.58 in its trust account. Firm should be awarded reasonable fees and reimbursed expenses in this case of \$31,245.81. Firm may apply the amount in its trust account to this award. Debtors shall pay the balance of \$387.69 within 45 days from the date of this order.

ORDER

IT IS ORDERED that the law firm of Childers & Vestle, P.C. is awarded professional fees and reimbursed expenses in this chapter 11 case in the amount of \$31,245.81.

IT IS FURTHER ORDERED that firm may apply to this award the balance of fees being held by applicant in its trust account.

Smebys shall pay the \$387.69 balance of the award within 45 days.

Judgment shall enter accordingly.

SO ORDERED ON THIS 20th DAY OF APRIL, 1992.

William L. Edmonds
Chief Bankruptcy Judge