

# In the United States Bankruptcy Court

## for the Northern District of Iowa

### Western Division

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JOHN EDWARD MATLAGE and  
LESLIE JO MATLAGE

Bankruptcy No. X92-01004S

*Debtor(s).*

Chapter 13

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### ORDER RE: ATTORNEYS' FEES

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Debtors' attorney, Donald Molstad, makes application for attorney's fees to be paid from the estate. Hearing was held April 13, 1993, in Sioux City. At the same time, the court, on its own motion, examined the fees paid to William Lane, the attorney who initially filed the debtors' case.

John and Leslie Matlage filed their joint chapter 13 petition on May 21, 1992. They had retained William Lane to be their attorney and had paid him \$750.00. Lane's fee disclosure indicated that his agreement with his clients was to handle the case for a flat fee. Lane met with Matlages, prepared the bankruptcy documents, including a plan, and filed them with the court. Debtors also participated in preparing the schedules. After the date of filing, most of the work shown in Lane's itemization involved conferring with his clients, and corresponding with creditors. Although Lane shows 1.00 hour for preparing for and attending the meeting of creditors, he did not. Also, debtors claim that according to Lane's agreement with them, the first consultation was to be free.

Lane's work for debtors spanned the period from March 24, 1993, through October 5, 1993, when he withdrew from the case at the request of the debtors. His itemized time totals 13.7 hours. The withdrawal was precipitated by debtors' dissatisfaction with his work. One of their primary concerns was his failure to satisfactorily communicate with them.

Lane was replaced by attorney Donald Molstad who appeared on September 29, 1992. He filed an amended plan which was later confirmed. His work involved resisting motions for relief from stay, plan confirmation, and lien avoidance. Molstad's fee application requests compensation for 10.80 hours. Molstad agrees that an entry for .30 hours on October 5, 1992, should be deleted. Further, Molstad requests compensation for 1.00 hour on November 26, 1992, for the confirmation hearing. This entry is not adequately explained as the plan was confirmed without trial, although a short hearing was held. The court will allow .50 hours. The court has examined the remainder of Molstad's fee application and finds that the remaining requests for compensation are reasonable. The work was necessary to obtain a confirmed plan, amend schedules and handle litigation. The court will award compensation to Molstad for 10 hours at the rate of \$100.00 per hour, for a total of \$1,000.00.

The court now turns to compensation already paid to Lane. The court recognizes that two attorneys worked on the case and, therefore, there was some necessary duplication when the second attorney examined and continued the work of the first attorney. However, despite the fact that confirmation

was resisted and there was other litigation in the case, a total of 23.7 hours of work for two attorneys was not warranted. To compensate both attorneys without examination would be to penalize creditors. It appears to the court that the plan, lien avoidance and stay litigation, and schedule amendments were all handled by Molstad. The remaining significant activities in this case, as in most, would be initial client consultation to prepare schedules and a plan and to appear with the client at the meeting of creditors. Lane did not do the latter; he did participate in the former, although his proposed plan was not adopted. Substantial time is claimed by Lane for preparation for schedules. Debtors, however, claim they also did work on those by filling out schedules and providing them to Lane.

The court must balance the interests of the creditors, the debtors and the attorneys in determining the appropriate amount of attorneys' fees to be awarded in this case. Molstad should not be penalized for taking over a case and bringing it to a successful conclusion. On the other hand, Lane is somewhat responsible for the decline in the attorney-client relationship between him and his clients. Their inability to reach him when they felt they needed to led to their change in attorneys; in the process, any potential value of any work relating to the plan was lost. The court will not penalize the debtors or creditors by making them pay double attorney fees for duplication of effort regarding a plan. Since Lane agreed to handle the entire case for a flat fee of \$750.00, and since he did not complete the case, some money must be returned to the estate.

The court finds that attorney Lane should be compensated for seven hours of work at the rate of \$75.00 per hour. He is also entitled to reimbursement of expenses in the amount of \$61.25. Lane will be allowed \$586.25 in fees and expenses to be paid from the estate. Lane has received \$750.00. Therefore, \$163.75 must be returned to the estate.

### **ORDER**

IT IS ORDERED that Donald Molstad is allowed professional fees as an administrative claim in the amount of \$1,000.00

IT IS FURTHER ORDERED that \$586.25 is a reasonable attorney's fee for William Lane. William Lane shall return to the estate, by payment to the case trustee, the sum of \$163.75.

SO ORDERED ON THIS 20th DAY OF APRIL, 1993.

William L. Edmonds  
Chief Bankruptcy Judge

I certify that on I mailed a copy of this order by U. S. mail to: Debtors, William Lane, Donald Molstad, Carol Dunbar, 2002 List and U. S. Trustee.