

In the United States Bankruptcy Court

for the Northern District of Iowa

GLEN H. HUEBNER
Debtor.

Bankruptcy No. X90-01961M
Chapter 7

ORDER RE: APPLICATION FOR FEES BY ATTORNEY FOR TRUSTEE

Habbo G. Fokkena, as attorney for the trustee, applies to the court for allowance of professional fees and expenses (docket no. 81). Fokkena is also the trustee. Farmers State Bank, Grafton, Iowa, objects to the amount of fees requested (docket no. 85). Hearing was held July 20, 1994, in Mason City.

Fokkena applies for \$3,200.00 in fees based on 32 hours of work at the rate of \$100.00 per hour and for reimbursement of \$295.70 in expenses. Bank argues that much of the itemized time was not legal work but was for work of the trustee. In particular, Bank contends that Fokkena merely monitored an appeal and an adversary proceeding, and that such work should not be compensated as legal services.

The court has considered the application and objection and the statements and arguments of the parties. The court will disallow 5.8 hours of the request. The remaining 26.2 hours will be compensated at the rate of \$100.00 per hour; the total fee allowance will be \$2,620.00. Expenses will be reimbursed in the amount requested--\$295.70. The total award will be \$2,915.70.

The court will provide a brief explanation of its decision. First, various entries on the applicant's itemization show work that was the responsibility of the trustee, not his attorney, or the explanation of certain tasks was insufficient to justify treating the work as other than that of the trustee. These entries are as follows:

12/5/90	.10	(also pre-appointment)
12/21/90	.10	(also pre-appointment)
1/15/91	.40	
1/16/91	.20	
1/18/91	.20	
1/18/91	.10	
1/23/91	.30	(prepare application to assume)
1/24/91	.40	
1/26/91	.10	
2/6/91	.10	
3/16/91	.10	(obtain creditor matrix)
3/18/91	.10	
4/4/91	.10	

6/11/91	.20	
6/10/91	.50	
12/18/91	.20	
5/20/92	.30	(two entries; review correspondence)
Total	3.50	hours

The court agrees with Bank that the time spent by Fokkena monitoring the appeals of this court's order on the exemption issue should not be compensated as a lawyer's professional activity. The trustee did not appeal. Fokkena's reading of the paperwork filed after Bank's appeal was informational and, therefore, was more appropriately work of the trustee, not the trustee's attorney. The disallowance for this monitoring activity totals 2.30 hours. The dates of the work are: 7/8/91; 9/25/91; 10/10/91; 4/15/92; 4/20/94; 5/12/92 (second entry) 5/13/92; 6/29/92; 6/30/92; 7/15/92; 8/24/92; 3/3/93; 7/26/93; 9/13/93 (two entries).

As to Fokkena's work on the adversary proceeding, this will not be disallowed. The evidence shows that the Bank named the trustee as a party and encouraged his participation. His itemization for time on the adversary was minimal (approximately 2.20 hours, according to Bank's objection). This is not excessive.

IT IS ORDERED that Bank's objection is sustained in part and overruled in part. Habbo G. Fokkena is allowed professional fees as attorney for the trustee in the amount of \$2,620.00. He is allowed reimbursement of expenses in the amount of \$295.70, for a total award of \$2,915.70. Judgment shall enter accordingly.

SO ORDERED ON THIS 25th DAY OF JULY, 1994.

William L. Edmonds

Chief Bankruptcy Judge

I certify that on _____ I mailed a copy of this order and judgment by U. S. mail to: Larry Eide, Habbo Fokkena, Ted Enabnit and U. S. Trustee.