

# In the United States Bankruptcy Court

## for the Northern District of Iowa

RONALD LOUIS PAQUIN and  
KAREN MARGIE PAQUIN

*Debtor(s).*

Bankruptcy No. 95-40909XM

Chapter 13

### ORDER RE: APPLICATION FOR COMPENSATION

Counsel for debtors has filed application for professional compensation. The Sutton & Troge Law Office, by Roger Sutton, filed its application for professional compensation on November 24, 1995. It was served on parties on December 1 with notice of a bar date for objections. No objections were filed.

Ronald and Karen Paquin filed their joint chapter 13 petition on May 17, 1995. They operate a greenhouse/garden center and lawn spraying business. Their amended chapter 13 plan was confirmed on November 22, 1995. Paquins had filed a prior chapter 13 case on April 20, 1995, but it was dismissed on May 12, 1995 for failure to file a plan. Throughout the prior case and the present one, Roger L. Sutton and Ann M. Troge have represented the debtors.

Sutton and Troge seek professional compensation and reimbursement of expenses from the estate. Their application covers the period from March 14, 1995 through November 15, 1995. They seek \$5,624.64 in combined compensation and expenses. Their request is incorrectly a net request after application of a retainer and payments on account in cash and goods. Sutton failed to disclose a \$1,000.00 retainer on his Disclosure of Compensation filed May 17, 1995 (docket no. 2). The debtors' Statement of Affairs discloses only the payment to counsel of the \$150.00 filing fee in the year preceding filing. According to the itemization attached to the application, counsel received from debtors before and after their second filing the following payments in cash, goods or services:

April 19, 1995	cash	\$1,000.00
May 8, 1995	spraying	37.28
July 27, 1995	merchandise	268.61
October 2, 1995	spraying	37.28
October 5, 1995	cash	25.00
October 17, 1995	cash	100.00
	Total	\$1,468.17

All of the foregoing payments, whether by cash or goods and services, appear to have been applied to the debtors' account without application to the court for payment. The post-petition payments of cash, goods or services appear to have been from property of the estate. It is the court's prerogative to allow payment, not an attorney's prerogative to take it. 11 U.S.C. § 330(a)(4)(B). Because of counsel's failure to disclose the retainer and because of the unauthorized application of payments to fees during the case, particularly the obtaining of goods or services, the court will assess a penalty, by reduction in fees, of \$500.00.

Counsel request allowance of fees at the rate of \$100.00 per hour. The itemization does not summarize the hours devoted by each attorney. I calculate that they request compensation for 60.46 hours. This figure reduces travel time hours by half in accordance with the court's rulings that travel time be compensated at half the rate for legal work. I have considered the work done in this case and have examined the itemization and the case file. I find that \$85.00 per hour is a reasonable hourly rate for the work done by each attorney when I consider the tasks, the attorney's efficiencies, the

result, the range of fees allowed and charged for attorneys practicing in this court, the complexity and nature of the case, debtors' problems, and the skill and experience of the attorneys.

Of the time for which compensation is sought, the court will disallow 12.25 hours. Of that amount, 2.25 hours will be disallowed for the following reasons. On April 6, there is a 2.00 entry for "Print Bankruptcy" by Ann Troge. This appears to be clerical work. On June 8, the attorneys charged .05 hours for "Copy to client." This does not appear to be legal work. There are similar charges on June 14 (.05 hours), July 17 (.05 hours) and July 20 (.05 hours) that will be disallowed. Similarly, the court will not allow .05 hours for one Rita to pick up tax returns on July 11.

During the course of the case, attorney Sutton met 21 times with debtors (May 23, 30; June 6, 13, 20, 27; July 5, 11, 18, 25; August 3, 8, 25; September 19; October 3, 10, 16, 19; November 1, 8, 14). Nearly all of the entries indicated that the meetings were weekly meetings and early entries indicate that the purpose of the meeting was to review financials, pay weekly bills, and to audit checking and savings accounts. At the October 25 meeting, they discussed the plan. Presumably at these meetings, they also discussed the status of the case. Charges for these meetings total 21 hours. I am doubtful that the time spent by Sutton in looking at the checking and savings accounts each week and in paying bills was essential legal work. Debtors operating a business ought to be able to balance their bank statements and pay their bills. If there are questions as to whether a bill may be paid, that can be referred to the attorney. It ought not to be necessary for the attorney to engage in the day-to-day bookkeeping of the business. Sutton should not be compensated as a legal professional for daily accounting and bill paying. The court will disallow 10 of the 21 hours.

Therefore, 12.25 hours will be deducted from the 60.46 hours for which compensation is requested. The 48.21 hours of allowed time will be compensated at \$85.00 per hour. Total compensation will be \$4,097.85. Counsel has requested \$780.33 for reimbursement of expenses, which the court finds reasonable. The expense request will be allowed. Total compensation and expenses will be \$4,878.18 less the penalty of \$500.00 or \$4,378.18. The retainer and post-petition payments of \$1,468.17 will be applied to that amount leaving an unpaid balance of \$2,910.01 which sum the trustee shall pay according to the confirmed plan.

IT IS ORDERED that Roger L. Sutton and Ann M. Troge, as attorneys for the debtors, are allowed chapter 13 professional compensation and reimbursed expenses as an administrative expense under 11 U.S.C. §§ 330(a)(4)(B) and 503(b)(2) in the amount of \$4,378.18.

IT IS FURTHER ORDERED that the retainer and post-petition payments in the amount of \$1,468.17 shall be credited to the allowance, and the standing trustee shall pay the balance of \$2,910.01 according to the confirmed plan.

SO ORDERED THIS 10th DAY OF JANUARY 1996.

William L. Edmonds  
Chief Bankruptcy Judge

I certify that on I mailed a copy of this order and a judgment by U.S. mail to: Debtors, Roger Sutton, Carol Dunbar, USAAttorney, William Frye and USTrustee.