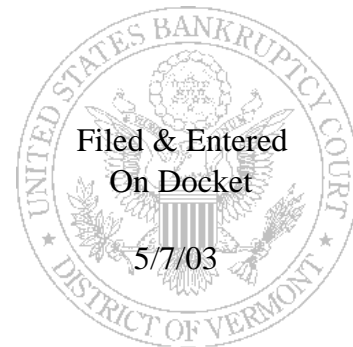


UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT



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In re:

**James G. Needham,  
Debtor.**

**Chapter 13  
Case # 01-11450**

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**ORDER**

**Denying Chapter 7 Trustee's Application For Compensation Under § 326(a)**

WHEREAS, on January 22, 2003, Raymond J. Obuchowski, Esq. (hereafter "the Applicant") filed the Chapter 7 Trustee's Report of All Receipts and Disbursements; Report on Administration and Application for Compensation and Reimbursement of Expenses (doc. #58) (hereafter, "the Application") regarding the services rendered by Mr. Obuchowski as the chapter 7 trustee while this case was pending in chapter 7, which the Applicant asserts were responsible, at least in part, for the ultimate distribution to creditors in the instant chapter 13 case; and

WHEREAS this Court has previously ruled that a chapter 7 trustee may be entitled to and allowed compensation under 11 U.S.C. § 326(a) for services rendered in a chapter 7 case, even if the case converts to chapter 13 and the chapter 13 trustee is also paid a commission, *if* the chapter 7 trustee can demonstrate that his or her efforts were directly responsible for a greater distribution to creditors or otherwise were of significant benefit to the estate, see, e.g., In re Hages, 252 B.R. 789 (Bankr. N.D. Cal. 2000); and

WHEREAS the Application states that, in particular, the Applicant's efforts in identifying an avoidable transfer with a net value of over \$70,000 was of benefit to the estate and increased the distribution to unsecured creditors, see Application at ¶3, and, therefore that, pursuant to 11 U.S.C. § 326(a), the Applicant is entitled to a commission of up to \$6,750.00, see Application at ¶4; and

WHEREAS the Applicant, the Debtor's attorney and the chapter 13 trustee have consented to the Applicant being allowed compensation under § 326(a) in the amount of \$2,000, see Amended Motion (doc # 78) and electronic consents filed on May 6, 2003;

AFTER DUE CONSIDERATION of the Application and all exhibits attached thereto, the Amended Motion, the electronic consents and all papers filed in this case, THE COURT FINDS that the Applicant has not sufficiently articulated the relationship between the time the Applicant spent and the benefit to the estate for the Court to determine a reasonable commission under 11 U.S.C. § 326.

THE COURT FURTHER FINDS that while the Applicant may enter into an agreement with other interested parties regarding a cap on the amount of compensation to be awarded under § 326(a), any award of compensation is subject to the Court's approval, based upon the Court's determination of whether the compensation sought is reasonable. See 11 U.S.C. §§ 326 and 330.

THEREFORE, IT IS HEREBY ORDERED that the Application is DENIED, without prejudice to the Applicant re-filing it with a more specific description of how the time he spent and the services he rendered were of direct benefit to the estate.

SO ORDERED.

May 7, 2003  
Rutland, Vermont



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Colleen A. Brown  
United States Bankruptcy Judge