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UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re: **Chapter 7 Cases**

Doralie Lahaye	**03-11346**
Jennifer A. Daks	**03-11348**
Jean E. Eigenbrod	**03-11363**
Danny J. & Sandra L. Drew	**03-11428**
Denise Fisher	**03-11444**
Paul E. Hutchins	**03-11446**
Martin R. Cannon	**03-11525**
Debtors.	

Appearances:

Raymond J. Obuchowski, Esq.
Bethel, VT
Chapter 7 Trustee
&
John J. Kennelly, Esq.
Rutland, VT
For the Trustee

Kevin Purcell, Esq.
Albany, NY
Office of the U.S. Trustee

John Glynn, Esq.
Lebanon, NH
Attorney for Debtors

ORDER ON TRUSTEE'S OMNIBUS MOTION
TO EXAMINE REASONABLENESS OF ATTORNEY'S FEES

WHEREAS, on December 9, 20003, Raymond J. Obuchowski, Esq., in his capacity as chapter 7 trustee (hereafter, "the Trustee") filed an omnibus motion objecting to attorney's fees paid to debtors' counsel in each of the above chapter 7 cases, asking the Court to examine the reasonableness of the amount of said attorney's fees paid in each case pursuant to 11 U.S.C. § 329 ("the Motion"); and

WHEREAS, on December 23, 2003, John Glynn, Esq., the attorney representing each of the above-named Debtors, filed a response to the Trustee's Motion in each case, objecting to the conclusions asserted by the Trustee and denying that there were grounds for the relief sought by the Trustee; and

WHEREAS, since the issue of professional compensation in bankruptcy cases in general, and the reasonableness of attorney's fees in particular, are issues which also fall within the purview of the Office of the U.S. Trustee, and the Court was concerned that the outcome of the Motion might have a significant impact on practice in this District, the Court directed the U.S. Trustee to file a response to the Trustee's Motion and adjourned the hearing on the Trustee's Motion until January 20, 2004, see Order (doc. #16); and

WHEREAS prior to the adjourned hearing, the U.S. Trustee filed a timely response to the Trustee's Motion and Attorney Glynn filed a timely Memorandum of Law in each case; and

WHEREAS on January 20, 2004, the Court held a hearing on the Trustee's Motion at which Raymond J. Obuchowski, Esq., and John J. Kennelly, Esq., appeared on behalf of the Trustee, Kevin Purcell, Esq., appeared for the Office of the U.S. Trustee, and John Glynn, Esq., appeared as counsel for the above-named Debtors; and, at the conclusion of the hearing, the Court directed Attorney Glynn to file the transcript of the meeting of creditors in the Eigenbrod case (#03-11363), and directed the Trustee to file a response to the transcript, with regard to the wording of the questions posed by the Trustee and the answers given by the Debtor with regard to the review of the filed petition and schedules; and, the Court then took these motions under advisement.

UPON CONSIDERATION of all papers submitted, the arguments of counsel, the requirements of the Bankruptcy Code and Rules, and principles of equity,

THE COURT FINDS:

1. A primary purpose of the Trustee's Motion was educational, and this purpose has been accomplished as Attorney Glynn represented at the hearing that he now understands, *inter alia,* the need to:
    - (i) ask debtor clients about all expense categories on Schedule J, even if it is clear that there is no disposable income, and to fill in Schedule J with all of that detail;
    - (ii) list all creditors to whom the debtor made payments aggregating more than $600 in the 90 days preceding the bankruptcy filing, including both secured and unsecured creditors, in response to question 3 of the Statement of Financial Affairs;
    - (iii) obtain and review the client's tax returns before filing the bankruptcy case to make sure that the information contained on the schedules is consistent with the information on the filed tax returns;
    - (iv) review copies of the client's checkbook registers when there is a question about completeness of expenses itemized by the debtor;
    - (v) carefully and thoroughly review the completed set of schedules with the client before the petition and schedules are filed, to ensure that they are complete and accurate, and to make sure that there are no internal inconsistencies in the information provided; and
    - (vi) make certain that the debtor understands that he or she is signing the petition and schedules under penalty of perjury and signs the paper copy of the petition and schedules.

2. With regard to the question raised regarding the Eigenbrod case (#03-11363), and after having reviewed the transcript of the meeting of creditors, the Court finds the transcript is not helpful in resolving the Trustee's and Attorney Glynn's different interpretation of the testimony. The Court notes that the Declaration REF requires an attorney to swear that the copy of the petition he or she provides to a debtor for that debtor's review is the same as the one that was filed electronically with the Court. Therefore, it is sufficient that a debtor review a paper copy of the electronically filed petition that is supplied by that debtor's attorney.

3. In sum, based upon representations made at the hearing, the Court is persuaded that Attorney Glynn has made changes in his practice which are sufficient to address the issues raised by the Trustee.

4. Moreover, the exercise of drafting and filing the Motion and responsive papers, together with the hearing on the same, has also served to remind all parties:
   (a) about the importance of having some Vermont-admitted attorneys providing bankruptcy filing services to debtors within a modest price range, such as that charged by Attorney Glynn;
   (b) that there is a certain minimum standard of completeness and accuracy that all schedules must meet and the fairness of the system is dependent upon the case trustees enforcing that standard consistently and in an even-handed manner in all chapter 7 cases; and
   (c) of the need for trustees to raise issues, and file § 329 motions, regarding the reasonableness of attorneys' fees: (i) whenever the minimum standard is not met (regardless of the magnitude of the fee charged); and (ii) when the fee charged appears unjustified by the amount, nature, and quality of work performed (i.e., the higher the fee charged, the greater the expectations).

Accordingly, IT IS HEREBY ORDERED that, to the extent the Trustee's Motion seeks the disgorgement of Attorney Glynn's fees, it is DENIED; and IT IS FURTHER ORDERED that, to the extent the Trustee's Motion seeks such relief as the Court deems just and proper under the circumstances, the Motion is GRANTED, and Attorney Glynn is directed to maintain the practices set forth above to ensure compliance with the minimum standards for bankruptcy petitions and schedules, and to attend at least three hours of continuing legal education annually about bankruptcy law, bankruptcy procedure or bankruptcy court practice in Vermont, during calendar years 2004, 2005 and 2006, and file proof thereof with the Clerk's Office.

February 23, 2004
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge