

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:)
)
MARK ANTHONY HOBSON) CASE NO. 01-40129
TWILA JANE HOBSON)
)
Debtors)

DECISION AND ORDER CONCERNING DEBTORS' ATTORNEY FEES

At Fort Wayne, Indiana, on June 28, 2006.

By an order entered on June 1, 2006, the court ordered John Wojcik, counsel for Meyer Waste Systems, to “reimburse the debtors for the reasonable costs, expenses, and attorney fees incurred as a result of preparing for and attending the hearing held in this matter on May 10, 2006” That order gave counsel fourteen (14) days within which to file an affidavit itemizing any such fees and expenses, and Mr. Wojcik was given ten (10) days thereafter within which time to file any objections thereto. Debtors’ counsel, Mark Hobson, filed and served the required affidavit on June 6, 2006, and there has been no response thereto within the time required by the court’s order. Accordingly, the matter is now before the court for a decision.

Rule 16(f) was the basis for the order requiring Mr. Wojcik to reimburse the debtors for the attorney fees and expenses they had incurred “as a result of preparing for and attending the hearing held in this matter on May 10, 2006” That hearing had been scheduled to consider the issues raised by an objection that Mr. Wojcik had filed to a motion to avoid judicial liens which debtors’ counsel had filed on behalf of his clients. Since the focus of the reimbursement called for by the court’s order was what counsel had done to prepare for and attend the hearing of May 10, 2006, the

court was expecting to receive something limited to that time frame – what counsel had done on May 10, and perhaps shortly prior thereto to get ready for the hearing. Imagine the court’s surprise then when counsel filed an affidavit seeking more than \$1,500.00 in fees and expenses, going back to January 16, 2006. Such a request is patently unreasonable and cannot possibly be approved despite the lack of any objection to it. The purpose of the court’s order was to reimburse the debtors for the time their counsel was unnecessarily required to devote to this case because of Mr. Wojcik’s objection. See, In re Philbert, 340 B.R. 886 (Bankr. N.D. Ind. 2006). That objection was not filed until March 30, 2006. As a result, it is utterly impossible that any of the time counsel devoted to this matter or any of the expenses he may have incurred prior to that date are in any way attributable to Mr. Wojcik’s dereliction.

Although Mr. Wojcik has not objected to the fees sought by debtors’ counsel, that does not relieve the court of the obligation to make an assessment of their reasonableness. Admittedly, in the absence of an objection, the court is often willing to give the applicant the benefit of the doubt where a fee request may be a bit beyond what the court would usually expect to see but where, as here, there appears to be no straight-faced argument which could possibly be made in support of the fees and expenses sought, the court cannot in good conscience call them reasonable simply because no one bothered to object. An unreasonable request for attorney fees may be sanctionable under Rule 9011. Matter of Central Ice Cream Co., 836 F.2d 1068, 1074 (7th Cir. 1987). Even without the specter of Rule 11, submitting an unreasonable request for fees constitutes sufficient cause to deny the request in toto rather than sifting through it to sort the wheat from the chaff. Id.; Brown v. Stackler, 612 F.2d 1057, 1059 (7th Cir. 1980); Matter of Pierce, 165 B.R. 252, 255 (Bankr. N.D. Ind. 1994).

Debtors' requested attorney fees in response to the court's order of June 1, 2006, is clearly and obviously unreasonable and is therefore DENIED.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court