

**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF IDAHO**

**IN RE** )  
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**PAUL V. JAYO,**      )      **Case No. 00-20322-TLM**  
                        )  
                        **Debtor.**      )      **SUMMARY ORDER**  
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Before the Court is a § 330 application for compensation of Kerwin C. Bennett, formerly local counsel to the above Debtor when the case was proceeding under chapter 11. *See Doc. No. 116* (filed January 3, 2001). The matter, though long dormant, comes back before the Court now as the case, converted to a chapter 7 in November, 2000, is approaching closing.

The application came on for hearing pursuant to notice on August 17, 2006. *See Doc. No. 361* (minute entry). No objections were filed, and no one appeared at hearing in opposition. *Id.* However, the Court has the duty to independently examine the requests under § 330(a) even in the absence of objection. *In re Mahaffey*, 247 B.R. 823, 825 (Bankr. D. Mont. 2000); *Dale's Crane*, 99.1 I.B.C.R. 8 (Bankr. D. Idaho 1999) (citing *Lobel & Opera v. United States Tr.* (*In re Auto Parts Club, Inc.*), 211 B.R. 29, 33 (9th Cir. BAP 1997)); *In re Schwandt*, 95 I.B.C.R. 268, 269 (Bankr. D. Idaho 1995).

The burden of establishing entitlement to compensation, and its reasonableness, is on the applicant. *Dale's Crane*, 99.1 I.B.C.R. at 8; *Schwandt*, 95

I.B.C.R. at 268 (citing *In re Xebec*, 147 B.R. 518, 524 (9th Cir. BAP 1992)). The Court may reduce or deny the applicant's compensation if the requirements of either the Code or case law are not met. *In re Fairview Med. Clinic*, No. 99-01288, 2000 WL 33712479 at \*1; see also *Law Offices of Nicholas A. Franke v. Tiffany (In re Lewis)*, 113 F.3d 1040, 1045 (9th Cir. 1997).<sup>1</sup>

Upon review of the application, the Court finds that Mr. Bennett seeks \$1,475.00 in attorney's fees. His time, totaling 11.80 hours, is charged at a rate of \$125.00 per hour. The services relate solely to Mr. Bennett acting as local counsel for Debtor's lead counsel. Almost all the services represent his receipt and "review" (a term used in virtually all the time entries to describe the nature of the work performed) of pleadings filed by his lead counsel or by other parties and participants in the chapter 11. There is nothing in the entries to indicate that Mr. Bennett took action based on these pleadings (outside of co-signing those prepared by his lead counsel), or that he consulted with lead counsel on substantive bankruptcy issues, state law issues, or local practice issues.

Under the circumstances, the Court finds the suggested rate of \$125.00 per hour for this work to be unreasonably high. See § 330(a)(3)(B). The Court is quite familiar with the range of rates charged for bankruptcy services and in bankruptcy cases, as it regularly reviews the same in connection with thousands of cases filed

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<sup>1</sup> Many of these principles and authorities were discussed by the Court in an earlier decision in this case addressing the chapter 11 fee requests of Debtors' lead counsel. See Doc. No. 133.

yearly under all chapters of the Code.<sup>2</sup> A \$125.00 per hour rate 5 or 6 years ago in this District would have been reflective of services beyond mere monitoring and, occasionally, co-signing pleadings as local counsel.<sup>3</sup>

As noted, it is the applicant's burden to justify the request. In regard to the suggested rate for the type of services performed, the burden was not met. The Court will allow fees at a rate of \$100.00 per hour for the 11.80 hours itemized.

The application, Doc. No. 116, is therefore **GRANTED** to the extent of \$1,180.00 in compensation and \$.50 in reimbursed costs, for a total of **\$1,180.50**. Such amount is allowed under § 330, and is entitled to treatment as an administrative expense under § 503(b)(2). Such allowance will be paid by the Trustee at closing in the subordinated priority required by § 726(b).

**IT IS SO ORDERED.**

DATED: September 7, 2006



A handwritten signature in black ink that reads "Terry Myers".

TERRY L. MYERS  
CHIEF U. S. BANKRUPTCY JUDGE

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<sup>2</sup> As noted earlier in this case, the Court can rely on its knowledge and experience in regard to rates. Doc. No. 133 at 7 (citing *In re Staggie*, 00-4 I.B.C.R. 203, 206 (Bankr. D. Idaho 2000)).

<sup>3</sup> In Doc. No. 133, the Court allowed \$120.00 per hour for Debtor's lead chapter 11 counsel and \$100.00 per hour for an associate. *Id.* at 8.