



Signed and Filed: October 19, 2005

THOMAS E. CARLSON
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In re:)	Bankruptcy Case
)	No. 05-30946-TEC
LIMITED EDITION RUBBERSTAMPS,)	Chapter 7
)	
)	Date: September 26, 2005
)	Time: 9:30 a.m.
)	Crtrm: 235 Pine St., 23 rd Fl.
Debtor.)	San Francisco, CA
)	

MEMORANDUM OF DECISION

On September 26, 2005, the court held a continued hearing on the United States Trustee's Motion to Review Fees paid to Debtor's counsel. Frank M. Cadigan, Jr. appeared for the United States Trustee. Aron M. Oliner appeared for the chapter 7 trustee. Debtor's counsel did not appear.

FACTS

Debtor is a sole proprietorship, the fictitious business name of Leigh Edwards. Although Debtor is not a separate legal entity, Ms. Edwards and Debtor filed separate no-asset, chapter 7 bankruptcy cases on April 3, 2005. Jonathan G. Chance received \$2,500 for attorney fees in the Limited Editions Rubberstamps case and \$1,000 for Ms. Edwards' case. The United States Trustee moves

1 for a review of Mr. Chance's fees in the Rubberstamps case, and for
2 disgorgement of any fees determined to be excessive.

3 After the continued hearing, Mr. Chance submitted time
4 records, which he represents is for work related only to the
5 Rubberstamps case. These time records set forth fees totaling
6 \$6,454.50, at a rate of \$275 per hour.^{1/} The court categorizes
7 these fees as follows:

8 (1) \$1,981.50 for prepetition services (7.2 hours).^{2/} This
9 sum represents \$1,238 for meeting with the client to review
10 Debtor's assets and debts, and \$743.50 to review related documents.
11 Included in the document-review fees is \$275 charged for "review of
12 client's assets and inventory list re preparation of schedules".

13 (2) \$138 for 1/2 hour preparing and filing Debtor's skeletal
14 voluntary petition. After the petition was filed, Mr. Chance
15 billed \$83 to draft two e-mails regarding "creditor actions" and
16 the 341 meeting.

17 (3) \$1,075 (3.9 hours) for Debtor's Schedules and Statement
18 of Financial Affairs. These documents were filed in this case on
19 the same day that Ms. Edwards filed her Schedules and Statement of
20 Financial Affairs, and only after an Order to Show Cause was
21 entered directing Debtor to file the required documents.^{3/}

23 ^{1/} Mr. Chance's billing summary totals the fees as \$6,930.
24 Pursuant to the court's calculations, the line-item fees total
\$6,454.50.

25 ^{2/} The actual number of hours is 9; however, Mr. Chance did
26 not always charge for the full amount of the time billed. 7.2
27 hours represents the charge recorded (\$1981.50) divided by the
billing rate (\$275).

28 ^{3/} An identical OSC was also filed in Ms. Edwards' bankruptcy
case.

1 (4) \$1,677 for the section 341 meeting of creditors. More
2 than half of this amount (\$907) was incurred obtaining two
3 continuances. Of this amount, \$686 is for a personal appearance to
4 request a continuance. Mr. Chance never filed a stipulation
5 documenting the continuances.

6 (5) \$754 regarding the chapter 7 trustee's document requests.

7 (6) \$746 for responding to the United States Trustee's Motion
8 to Review Fees.

9 I determine that only one bankruptcy case was necessary. It
10 was sufficient for Ms. Edwards to file an individual case, listing
11 Limited Edition Rubberstamps as a fictitious business name she had
12 used. I also determine that Mr. Chance's fees for the two cases
13 are excessive and should be reduced, and that Mr. Chance should be
14 required to repay the \$209 fee for filing the unnecessary
15 bankruptcy case.

16 First, Ms. Edwards' bankruptcy case is not complex. Ms.
17 Edwards owns no real property, and has no secured or priority debt.
18 Ms. Edwards owns personal property worth less than \$20,000. The
19 documents Mr. Chance needed to review to draft Debtor's petition,
20 Schedules and Statement of Financial Affairs are limited:
21 approximately 55 pages of documents related to Debtor's
22 liabilities, and a two-page, detailed list regarding Debtor's
23 assets.

24 **FEES FOR PREPETITION SERVICES AND PETITION**

25 Based on my review of the documents submitted by Debtor's
26 counsel and counsel for the chapter 7 trustee, I find that \$275 is
27 a reasonable fee for the prepetition services related to filing the
28 voluntary petition. The voluntary petition is a skeletal, two-page

1 document, that provides only the most basic information about
2 Debtor (i.e., Debtor's name, address, county of residence, type of
3 Debtor, debt nature, and estimated number of creditors, assets, and
4 debts). The court was able to determine this limited information
5 from the documents in less than half an hour. I find that Mr.
6 Chance needed no more than one hour to review Debtor's documents,
7 draft the petition, and obtain his client's signature.

8 **FEES RE SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS**

9 I find that \$825 (\$275 x 3) is a reasonable fee for drafting,
10 revising and filing Debtors' Schedules and Statement of Financial
11 Affairs. Drafting these documents required Mr. Chance to review a
12 limited number of documents, a detailed review of which should have
13 taken no more than one hour. Communicating with Ms. Edwards
14 regarding the draft Schedules and Statement of Financial Affairs
15 and finalizing these documents for filing reasonably should have
16 taken no more than two hours.

17 I find that the \$825 reasonable fee should be reduced in this
18 case to \$0 for the following reasons. First, counsel was paid in
19 full for drafting the Schedules and Statement of Financial Affairs
20 in Ms. Edwards' bankruptcy case, and only one bankruptcy case
21 should have been filed. Second, the Schedules filed by Mr. Chance
22 are infirm. Assuming, *arguendo*, that a separate filing had been
23 necessary, the Schedules filed in Debtor's case omit significant
24 liabilities known to Mr. Chance both from the documents and from
25 specific comments made by Ms. Edwards (see 5/16/05 and 5/17/05 fax
26 from Ms. Edwards re her "great reservations" about "significant
27 errors" in the Schedules). Third, even if some fee were
28 appropriate for the unnecessary second set of Schedules, the

1 Schedules filed in this case are less complex than those filed in
2 Ms. Edwards' case because there is no Schedule I & J (income and
3 expense schedules), yet Mr. Chance sought and was paid less for his
4 work on Ms. Edwards' Schedules. The same holds true regarding
5 Debtor's Statement of Financial Affairs and the related fees.

6 **FEES RE 341 MEETING**

7 I find that \$700 is a reasonable fee for continuing and
8 attending the 341 meeting, and for traveling to and from the 341
9 meeting in San Francisco from Mr. Chance's office in Redwood City.
10 This fee represents two hours for substantive legal work, and two
11 hours travel time at a reduced rate of \$75 per hour. In so
12 finding, I note the following. First, the continuances obtained by
13 Mr. Chance were informal, and never documented by a filed
14 stipulation. Thus, the cost of the continuances should have been
15 minimal. Second, Mr. Chance provides no explanation why he
16 appeared in person to obtain one of the continuances, which could
17 have been continued by a less expensive method.

18 I find that this fee award should be reduced to \$0, because
19 the 341 meeting in this case was necessary only because Mr. Chance
20 filed the unnecessary bankruptcy case on behalf of Ms. Edward's
21 sole proprietorship. Further, Mr. Chance has already been paid for
22 his attendance at the 341 meeting in Ms. Edwards' bankruptcy case.

23 **OTHER FEES**

24 I find that the \$754 sought by Mr. Chance related to the 2004
25 Order and the chapter 7 trustee document requests are reasonable,
26 and that Mr. Chance has not yet been paid on account of these
27 services.

28

1 I find that Debtor should pay no fees related to Mr. Chance's
2 defense of the United States Trustee Motion to Review Fees, because
3 this work benefitted only Mr. Chance, and because Mr. Chance did
4 not prevail on the Motion.

5 I find that Mr. Chance should reimburse Ms. Edwards the \$209
6 fee for filing two separate chapter 7 cases that should have been
7 filed as one.

8 **SUMMARY**

9 Mr. Chance seeks \$3,500 for his work in two cases that should
10 have been filed as one case. Mr. Chance has already received
11 \$1,000 for his services related to these cases. For the reasons
12 stated above, I find that Mr. Chance should be paid as follows: (1)
13 \$275 for prepetition services and services related to filing
14 Debtor's petition, (2) \$0 for services related to filing Debtor's
15 Schedules and Statement of Financial Affairs, (3) \$0 for services
16 related to the section 341 meeting, (4) \$0 for services related to
17 responding to the United States Trustee's Fee Review Motion, and
18 (5) \$754 for services related to the 2004 Order and the chapter 7
19 trustee document requests. I find that Mr. Chance should repay Ms.
20 Edwards the \$209 fee for filing the unnecessary case.

21 ****END OF MEMORANDUM****

22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Court Service List

Leigh Edwards
fbda Limited Editions Rubberstamps
1011c Bransten Rd.
San Carlos, CA 94070

Jonathan G. Chance
Law Offices of Jonathan G. Chance
1605 Middlefield Rd.
Redwood City, CA 94063

Janina M. Elder
P.O. Box 1657
Santa Rosa, CA 95402

Aron M. Oliner
Buchalter, Nemer, Fields and Younger
333 Market St. 25th Fl.
San Francisco, CA 94105-2130

Office of the U.S. Trustee
235 Pine Street
Suite 700
San Francisco, CA 94104