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3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
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8 In re:)
9)
9 JOHN JOHNSON and) Case No. 05-27398-B-7
ELIZABETH JOHNSON,)
10) Date: March 20, 2007
11 Debtor(s).) Time: 9:30 a.m.
12)
_____)

13 On or after the calendar set forth above, the court issued
14 the following ruling. The official record of the ruling is
appended to the minutes of the hearing.

15 Because the ruling constitutes a "reasoned explanation" of
16 the court's decision under the E-Government Act of 2002 (the
"Act"), a copy of the ruling is hereby posted on the court's
17 Internet site, www.caeb.uscourts.gov, in a text-searchable
format, as required by the Act. However, this posting does not
18 constitute the official record, which is always the ruling
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 This matter came on for final hearing on March 20, 2007, at 9:30
21 a.m. Appearances are noted on the record. The following constitutes
22 the court's findings of fact and conclusions of law pursuant to
23 Federal Rule of Bankruptcy Procedure 7052.

24 The trustee's application for compensation and reimbursement
25 is approved in the amount of \$21,180.00 in fees and \$507.18 in costs,
26 for a total of \$21,687.18. Requested fees in the amount of \$4,884.62
27 are disallowed.
28

1 In setting this matter for hearing, the court directed the
2 chapter 7 trustee to detail the manner in which the trustee calculated
3 his fee request of \$26,064.62, which, when divided by the 70.60 hours
4 of work trustee performed in this case, results in an hourly rate of
5 \$369.33 per hour. In reviewing the trustee's final report and
6 supplemental memorandum of points and authorities, the court concludes
7 that the trustee applied the formula set forth in 11 U.S.C. § 326(a)
8 to the facts of the case and requested the maximum amount allowable
9 under that section. When the maximum amount allowable under § 326 is
10 divided by the time spent by the trustee on this case, the imputed
11 hourly rate is \$369.33. However, § 326 "sets the outermost limit on
12 compensation Trustees can receive under the Code. . . Determination of
13 the amount of fees to be paid is done under the considerations set out
14 in § 330." In re Rauch, 110 B.R. 467, 473 (Bankr. E.D. Cal. 1990).
15 Pursuant to § 330 a court may award to a trustee reasonable
16 compensation for actual, necessary services.

17 The trustee has not shown that an hourly rate of \$369.33 for
18 the services performed is reasonable. The trustee performed work in
19 this case from June 24, 2005 to January 11, 2007. The trustee's own
20 evidence of trustee rates as compiled by the U.S. Trustee's office
21 shows that his hourly rate through 2006 was \$300.00 per hour. (Dkt.
22 No. 100 at 2). Of the seventeen trustees on the list compiled by the
23 U.S. Trustee's office, no trustee charges as much as \$369.33 per hour.
24 One trustee charges \$350.00 per hour. Eight charge \$300.00 per hour,
25 including the applicant, at least through 2006. One charges \$265 per
26 hour. Two charge \$250 per hour. Five charge \$225.00 per hour. Thus,
27 94.1% of the trustees charge \$300 per hour or less.

1 The trustee's argument that he is a full-time trustee and
2 that he is more experienced than the most of the other trustees is not
3 persuasive to justify the fee requested here. The imputed rate is
4 \$69.00 per hour more than the applicant charged through 2006 (all but
5 2.2 hours of the work performed in this case was performed prior to
6 December 31, 2006) and \$19.00 per hour more than the rate charged by
7 any trustee. The trustee's description of the tasks he performed in
8 preserving, marketing and selling real property of the estate is also
9 not persuasive in justifying the fee requested here. His description
10 may justify the 70.60 hours he spent on work related to the case, but
11 it does not persuade the court that the work performed was so
12 difficult, complex, or otherwise characteristic of the type of work
13 that may justify the hourly rate sought here.

14 The court finds that the tasks applicant performed through
15 2006 are reasonably compensated at the high end of the \$225.00 -
16 \$300.00 per hour range. This also reflects the applicant's then-
17 current hourly rate of \$300.00 per hour. The court also finds that
18 the tasks performed by applicant in the year 2007, including getting a
19 phone call, picking up, logging and depositing a check and revising
20 the trustee's final report - totaling 2.2 hours - are very generously
21 and reasonably compensated at \$300.00 per hour. Accordingly, the
22 applicant is awarded \$21,180.00 in compensation, which is equivalent
23 to 70.60 hours of work at \$300.00 per hour. These fees and costs are
24 reasonable compensation for actual, necessary and beneficial services.

25 The court will issue a minute order.
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