

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA
3

4 In re:) Case No.04-25642-B-13J
5 JEROME JACKSON,) Docket Control No. ARP-1
6) Date: June 7, 2005
7 Debtor(s).) Time: 1:30 p.m.
) Department B

8 MEMORANDUM DECISION

9 The Debtor filed a voluntary chapter 7 case on June 1, 2004.
10 Frederick Lucksinger (the "Former Trustee") was appointed as the
11 chapter 7 trustee herein and served as such until the Debtor
12 converted the case to chapter 13 on March 28, 2005. The Former
13 Trustee seeks approval of an administrative claim for his fees. He
14 also seeks approval of the fees incurred by Hughes & Pritchard,
15 LLP, ("Counsel"), which was approved as special counsel to the
16 Former Trustee on September 3, 2004. The Debtor objects to the
17 Former Trustee's motion.

18 After this case was filed, the Debtor apparently transferred
19 his real property to his sister Lindell Slaughter. After discovery
20 of this transfer, the Former Trustee filed an adversary proceeding
21 with the assistance of Counsel to avoid this transfer. Shortly
22 thereafter, the Debtor converted his case to chapter 13.

23 The Debtor's objection to the Former Trustee's motion is based
24 on the following grounds: 1) the Former Trustee's fees exceed the
25 statutory cap set forth in 11 U.S.C. § 326(a); 2) the Former
26 Trustee and Counsel should not be compensated for time spent on
27 this case following its conversion to chapter 13; 3) the Former
28 Trustee has not documented the amount of time spent on this case;

1 and 4) the Former Trustee's billing rate is not reasonable. Each
2 objection is discussed below.

3 Statutory Cap

4 This court adheres to the decision of In re Hages, 252 B.R.
5 789 (Bankr. N.D.Cal. 2000), which provides that the potential
6 distributions by the chapter 13 trustee in a converted case may be
7 imputed to the former chapter 7 trustee in order to calculate the
8 statutory cap imposed by section 326(a). Id. at 793-94. At the
9 hearing, the Debtor conceded that the Former Trustee's fees do not
10 exceed the statutory cap, calculated on this basis.

11 Post-conversion Fees

12 Following receipt of the Debtor's opposition, the Former
13 Trustee agreed not to seek post-conversion fees for either himself
14 or Counsel.

15 Documentation for the Former Trustee's Fees

16 The Former Trustee provided contemporaneous time records for
17 time spent on this case. These time records provide sufficient
18 detail to scrutinize the activities undertaken by the Former
19 Trustee. In light of the unauthorized post-petition transfer by
20 the Debtor, the amount of time spent by the Former Trustee is
21 entirely reasonable.

22 Former Trustee's Hourly Rate

23 The Former Trustee bills at an hourly rate of \$250.00. The
24 Debtor suggests that this rate should be limited to \$200.00. The
25 court agrees with the Debtor that the applicant, in this case, the
26 Former Trustee, has the burden of demonstrating that the hourly
27 rate is reasonable. However, the court is satisfied that \$250.00
28 per hour is a "reasonable" rate for a chapter 7 trustee's services

1 based on the court's familiarity with rates charged by local
2 trustees.¹ The court finds this rate even more justifiable when
3 viewed in light of the minimum amount of time spent on this case
4 relative to its complications.

5 The court will approve the Former Trustee's motion, with the
6 fees reduced to eliminate post-conversion time. Such approval is
7 without prejudice to any arguments Lindell Slaughter may have with
8 respect to these fees. The Former Trustee shall submit a proposed
9 order to the court and counsel consistent with this decision.

10 Dated: June 8, 2005

11
12 /s/_____
13 JANE DICKSON McKEAG
14 United States Bankruptcy Judge
15
16
17
18
19
20
21
22
23
24
25
26
27

28 ¹Recently these rates have ranged from \$195 to \$300.