

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:)	
)	Chapter 13
Robert P. Martin and)	Case No. 16-20052
Cynthia A. Martin,)	
)	
Debtors.)	

DECISION ON FIRST AND FINAL APPLICATION OF JEFFREY P. WHITE AND ASSOCIATES, P.C. FOR COMPENSATION OF LEGAL SERVICES

This matter came before me on the First and Final Application of Jeffrey P. White and Associates, P.C. for Compensation of Legal Services (the “Fee Application”) (Docket Entry “DE” 97). In reaching my decision I have considered, among other things, the Fee Application, the objection of Herget Building Supply, Inc. (DE 104), the comments of the chapter 13 trustee (DE 205) and the arguments of the parties at the hearing held on July 12, 2017.

Burden of Proof and Applicable Law.

Mr. White bears the burden of proof as the applicant. In re Hansbury, 2015 WL 2445051, at *1 (Bankr. D. Me. May 20, 2015). As I have previously held, “[g]enerally, the Bankruptcy Code permits the award of reasonable compensation for legal services rendered by debtor’s counsel in connection with a chapter 13 case provided they were necessary and beneficial to the debtor’s estate or the debtor. 11 U.S.C. § 330(a)(4). In keeping with my prior decisions on fee applications and as directed by Berliner v. Pappalardo (In re Sullivan), 674 F.3d

65, 69 (1st Cir. 2012), I apply a “flexible paradigm” when I consider and determine fee awards.” In re Sangillo, 547 B.R. 1, 2 (Bankr. D. Me. 2016). The law I apply in reviewing fee applications is set forth in In re Mullen, 2014 WL 4988269, at *1 (Bankr. D. Me. Oct. 6, 2014).

Background.

The Martins filed for bankruptcy relief on February 28, 2016. Their case involved several failed efforts to confirm a chapter 13 plan of reorganization and ended with my granting Herget’s motion to dismiss (DE 71) on May 24, 2017 (DE 94, 95 and 101). Though I dismissed the case, I reserved jurisdiction over fee awards and Mr. White subsequently filed the Fee Application seeking \$18,307.50 in fees and \$580.24 in expenses for a total fee award of \$18,887.74. Herget objected generally on the grounds that Mr. White is not deserving of an hourly rate of \$300 in this case per hour. The trustee commented that “fees of the magnitude sought in this case are not in order.” At the hearing, Mr. White responded to the objections and comments and added that his clients were aware that any fees awarded to him would come from monies held by the trustee, which funds would otherwise be relinquished to them.

Analysis.

After considering the relevant law, the Fee Application, Herget and the trustee’s responses, the arguments of counsel at the hearing, and the docket in the case, I will order that Fee Application shall be granted but in the reduced amount of \$14,887.74 (\$14,307.50 in fees and \$580.24 in expenses). I am reducing the award by \$4,000 in part because many of the battles in this case, unnecessarily and apparently at the Martins’ insistence, revolved around their attempts to treat the 1967 Corvette in a manner squarely at odds with a valid, final, un-appealed order of the Maine District Court. Each of the three chapter 13 plans proposed treatment of the

Corvette in such a manner and the legal fees incurred in connection with those attempts was not reasonable or necessary. I have reviewed the Fee Application and the time entries contained therein and have determined that \$4,000 is the correct reduction based upon my familiarity with this case. See, for example audio file of the hearing on May 24, 2017 (DE 94). I realize that this reduction punishes Mr. White, and not necessarily the debtors, but he, as their attorney, has the duty and obligation to counsel them as respects the reasonable and necessary travel of their case.

A separate order shall enter.

Dated: July 14, 2017

/s/ Peter G. Cary
Judge Peter G. Cary
United States Bankruptcy Court
for the District of Maine