

1 The gist of the debtor's objections to the fees sought by
2 trustee's counsel is that debtor provided the information the
3 trustee needed concerning the residence, and that debtor and his
4 counsel prepared the objections to claims. Therefore, argues
5 debtor, the trustee and his counsel should have found it
6 unnecessary to put in time on the same efforts. The Court
7 understands the debtor's argument, but disagrees with some of his
8 conclusions.

9 In support of his position, the debtor stresses how
10 cooperative and open he has been amending his Schedules to add
11 previously undisclosed bank accounts, a possible community
12 property interest in the wife's LLC and, after the trustee
13 discerned a possible interest in a Prius, also the Prius. In
14 reality, the trustee and his counsel have a duty to the estate
15 to not just accept without reservation that a debtor, however
16 apparently cooperative, has disclosed everything.

17 The debtor specifically challenges the fees sought
18 concerning 1) whether the estate had a community property
19 interest in the residence; 2) the Prius; 3) claims objections;
20 and 4) the settlement agreement. The debtor's schedules listed
21 his joint tenancy interest in the residence and, were it
22 community property, there might have been equity for the benefit
23 of creditors. Gathering and reviewing the documents that
24 ultimately satisfied the trustee that the estate did not have a
25 community property interest took time and effort. The fact that
26 it did not yield a return to the estate does not mean that the

1 time and effort should not be compensated. It was clearly time
2 and effort intended to benefit the estate when undertaken. No
3 reduction is warranted.

4 The debtor's objection to fees concerning the Prius are
5 centered on the argument that some of the activity should have
6 been performed by the trustee, not by separately compensated
7 counsel. While the line is not always clear, it is true the
8 trustee by statute is charged with efforts such as ascertaining a
9 value for the estate's interest in the vehicle. The Court
10 concludes the fees allowed for work on the Prius issue should be
11 reduced by \$700.

12 The central issue concerning the claims objections filed by
13 the debtor was whether his personal bankruptcy estate had any
14 liability for them. Debtor's position was that the bulk of
15 claims were filed for liabilities of a failed business, Danky's,
16 and were not the personal liabilities of the debtor. While a
17 trustee certainly is empowered to review and object to claims, in
18 this case a legal issue concerning liability intruded. No
19 reduction in fees is warranted for the work on the claims
20 objections.

21 The fourth area objected to by the debtor is the complexity
22 of the settlement agreement, which debtor contends was
23 unnecessarily so. The Court disagrees. Because of the way
24 debtor and his spouse chose to conduct their business affairs,
25 settlement was necessary to bring closure to the issues
26 concerning not only the real property and the Prius, but also the

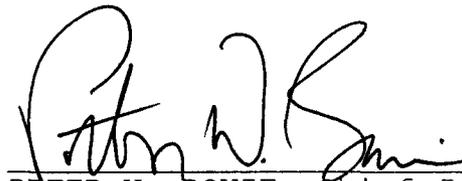
1 non-filing spouse's possible interest in the tax refund the
2 debtor properly turned over to the trustee. Moreover, that
3 settlement needed to be noticed out to creditors to ensure full
4 closure.

5 Conclusion

6 For the foregoing reasons, the application of trustee's
7 counsel for fees and costs on an interim basis is granted in
8 large part. Fees are allowed in the amount of \$9,922.50 and
9 costs are allowed in the amount of \$121.40.

10 IT IS SO ORDERED.

11 DATED: MAR - 2 2009

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14 PETER W. BOWIE, Chief Judge
15 United States Bankruptcy Court
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