UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

IN RE	]	
	]	
	]	NO. 98-06290-R33
CELIA L. MORRISON,	]	
	]	
Debtor .	]	

MEMORANDUM OPINION

This case involves Gary McGlothlen's request for allowance of attorneys fees in the above-captioned case. This court has heretofore rendered Memorandum Opinions in thirteen other cases involving the award of attorneys fees in Chapter 13 cases to Mr. McGlothlen. The principles set out in those Memorandum Opinions are equally applicable to this decision. Those decisions may be found in the case of In Re Charlene L. Huston, No. 96-04212-R33 (includes ten cases); In re Slagle, No. 98-00337-R33; In re Kincannon, No. 98-03749-R33; and In re Smiscon, No. 97-06526-R33.

Celia L. Morrison filed a petition for relief under Chapter 13 of the Bankruptcy Code on October 19, 1998. Her schedules reflect assets of $2,392.00 (all personal property) and liabilities of $23,570.60, all unsecured.

Morrison's schedules reflect monthly income of $1,186.00 and expenses of $1,130.00.

Morrison's initial plan was a $2,016.00 base plan to be paid over 36 months with a payment of $56.00 per month. The Plan funding analysis indicated payments to unsecured claims of $1,364.40 over the term of the Plan to the unsecured claims. This funding analysis is inconsistent with the debtor's plan which envisions this money paid to separately classified criminal fines.

The principal thrust of debtor's plan was dealing with the debtor's criminal fines resulting

from driving offenses. The debtor's attorney separately classified a number of criminal driving offense fines. The trustee objected to debtor's plan on the basis its treatment of these separately classified criminal traffic fines were inconsistent with the applicable case law in the district. At a contested confirmation hearing, trustee's objection was sustained and the debtor given two weeks to file a plan consistent with the case law. The debtor's modified plan increased the plan term to sixty months and the base to $5,304.00. The debtor's counsel objected to the claims of two creditors and separately classified the criminal traffic fines. The debtor's amended funding analysis reflected payments to the separately classified claims of $3,965.00 and $358.60 to unsecured claims. This modified plan was confirmed.

Mr. McGlothlen filed an application for attorney fees in this case for $1,479.60 of which $550.00 had been paid at the time of the application. The trustee objected to allowance of the amount requested.

Between the initial interview with the clients and the first meeting of creditors, Mr. McGlothlen spent 4.07 hours and seeks $488.40 in fees. These fees are reasonable and are allowed.

In the period between the first meeting and plan confirmation, Mr. McGlothlen seeks an additional $867.60 for 7.23 hours of work.

In this time period the trustee objects to two charges. The first relates to the January 14, 1999 entry of .68 hours in the amount of $81.60. The trustee bases his objection that it relates to a discussion of general procedures and this should be a part of overhead as general education and this should not be charged to this case. The court sustains this objection.

The trustee also objects to the second time entry for April 28, 1998 for 2.18 hours in the amount of $261.60. It appears that a portion of this time was spent discussing the court's legal rulings as to the appropriate way to deal with separate classification of traffic fines. In re Ponce, 218 B.R. 571 (Bkrcy E.D. Wash. 1998) and In re Games, 213 B.R. 773 (Bkrcy E.D. Wash. 1997). This appears to be case specific education for debtor's attorney as to the case law and would generally be allowable.

MEMORANDUM OPINION

This time entry also includes "review of plan funding re 36/60 months and Culpepper/Colvin confirmed plan filings. . .". Evidently Mr. McGlothlen traveled to the Clerk's office and reviewed confirmed Chapter 13 cases handled by other attorneys to determine how they handled these matters. This seems to fall in the nature of more general education and generally attributable to overhead and not allowable.

Also included in this time entry is time for modification of the plan, time clearly compensable.

All of these different tasks are lumped together in one time entry. It is impossible for the court to reconstruct this time after the fact without simply guessing. As this court has previously ruled in In re Smiscon, this practice of time lumping is unacceptable to this court.

In light of the lumping of time in the entry of April 28, 1999, the court will disallow this entry in its entirety. The lumping of time was called to Mr. McGlothlen's attention by the trustee's objection. Mr. McGlothlen had an opportunity to attempt to remedy that complaint prior to the hearing but did not do so. The court will henceforth not speculate on what time was spent on what task in lumped time entries.

As a result of this analysis, the court sustains the trustee's objections to Mr. McGlothlen's fees and accordingly $81.60 and $261.60 for a total $343.20 of the time requested is disallowed on the trustee's objection. This amount reduces the fees to $1,136.40.

Also included in Mr. McGlothlen's fee request is 1.22 hours for $146.40 attorney fee for the fee application. This is a reasonable sum for fee application preparation and usually would be approved. Here, however, Mr. McGlothlen has not prevailed in this fee contest. He should not be compensated for making this fee request because the only charge which makes the preparation of the request necessary is the amount of the fee request itself. Without the fee request time, Mr. McGlothlen's allowed time would total $990.00. There was no need under our rules to file an itemized fee request in a Chapter 13 case if compensation sought is less than $1,000.00. Therefore, the time requested for allowance of the fee application is disallowed.

The court allows as a reasonable fee in this matter $990.00.

This memorandum opinion will constitute the court's Findings of Fact and Conclusions of Law.

Done this 19 day of November, 1999.

JOHN A. ROSSMEISSL
BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

The undersigned Clerk of the U.S. Bankruptcy Court for the Eastern District of Washington hereby certifies that a copy of the document on which this stamp appears was mailed this date to the following parties as required by the Bankruptcy code and rules of Bankruptcy.

MC Clothiers
Brisbane

T.S. McGregor, Clerk

By: Betty D Rogers 11/22/99
Deputy Clerk Date