

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In Re:

D.J. MANAGEMENT GROUP, INC.
dba American Women Metals
aka American Women Metals Company

Case No. 90-11724 K

Debtor

The U.S. Trustee's objections to Donald P. Sheldon's application for \$2867.00 for services rendered as attorney for the post-conversion Debtor, i.e. the Chapter 7 Debtor, are sustained in full.

It is nearly axiomatic that the Debtor's counsel cannot be compensated from the Chapter 7 estate for work that (1) was the responsibility of the trustee or the trustee's counsel or (2) benefitted only the Debtor or the Debtor's principals, rather than the estate.

Sales of property by the Chapter 7 trustee and other aspects of administration of the Chapter 7 estate (e.g. settlements, appraisals, status reports, etc.) are no business of the Debtor's attorney unless his assistance is required by the Chapter 7 trustee or unless the Debtor-corporation's assistance is required and such assistance (by the Debtor-corporation) requires legal advice independent from that provided by the trustee's counsel.

On the other hand, providing legal assistance to the Debtor-corporation in providing complete schedules and in responding to the Trustee's requests for information or

assistance is compensable from the estate if the legal services are fully supportive of and in cooperation with the estate, rather than antagonistic to it. The interests of principals are often antagonistic to the trustee and the estate, and for fee allowance purposes this Court views efforts to second-guess the trustee's business judgment to be "antagonistic" in the absence of a clear benefit to the estate.

The above principles are so well established that the Court does not know what to make of Mr. Sheldon's in-court representation that he does not "understand" the U.S. Trustee's objections.

All of that being said, the Court cannot tell from Mr. Sheldon's application what should be allowed and what shouldn't be. For example, was the 10/19/92 appearance at this Court's hearing on the trustee's sale of equipment requested by the trustee? Why was legal assistance required on 8/31/92 in connection with the trustee's request for documentation regarding the corporation's 11/90 and 11/91 tax returns? Was that assistance a benefit to the estate, or was it to protect the principals? And so forth.

Disbursements of \$77.26 are allowed. The .5 hr. charge on 6/18/92 is allowed as a Chapter 11 expense, not a Chapter 7 expense, although it appears here that the distinction has no genuine significance, as assets seem to be sufficient thusfar to pay all administrative expenses in full.

The U.S. Trustee's objections are valid, and Mr. Sheldon's refusal to acknowledge same has needlessly added to the work of the Court. The application will be allowed only in the amount of \$1000, unless Mr. Sheldon provides further detail within 15 days.

His Chapter 11 administrative fee and expense claims in the amount of \$13,590.00 and \$724.47 are allowed in full.

SO ORDERED.

Dated: Buffalo, New York
January 6, 1995

/s/Michael J. Kaplan

U.S.B.J.