

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

IPAC, INC.
f/k/a Hiross, Inc.
d/b/a Stean Industries

Case No. 93-12798 K

Debtor

ORDER ALLOWING FEES

Having considered the Application of Hazel & Thomas, P.C., the Objections of the United States Trustee, and the responding arguments of Mr. Dicello in open court, I note that objection #4 of the U.S. Trustee should be sustained. The "lumping" of research time with other tasks makes it impossible to determine the reasonableness of some of the requested fees. For example, an entry for September 21, 1993 charges for 5.20 hours of "MBG" time (presumably Merrill B. Green, attorney, at \$160/hr.) for a multitude of "lumped" matters including research (and intra-firm conference with Mr. Dicello). I cannot tell whether the research was a minuscule portion of this \$832 charge, or a major portion. Similar "lumps" are recorded for September 16, 1993 (3.9 hours of Mr. Dicello's time at \$285/hr), November 5, 1993 (4.1 hours of Mr. Dicello's time at \$285/hr), and perhaps elsewhere. While the Court is willing to accept Mr. Dicello's representation that such research was specific to this Debtor's needs and was necessary, how is the Court to determine whether the time spent was reasonable?

I specifically do not approve the September 14, 1993 charge for 1.9 hours to review this Court's Local Rules:

familiarity with those Rules is a pre-requisite to appearance here. That is no more allowable here than would be counsel's annual fee to maintain his or her Bar registration. The "lumped" reference to "review" of local procedures in the 2.2 hour charge on September 17, 1993 is similarly objectionable.

The fact that the majority of the time entries are not "lumped" satisfies the Court that the firm has not acted in disregard of the duty to maintain detailed time records, and lends support to counsel's representation that these blocks of time were in fact solid blocks of effort on behalf of the estate.

Further, the tasks and charges contained in "unlumped" entries are well-described and reflect reasonable amounts of charged time and a reasonable delegation among professionals billed at differing rates.

Billing "travel time" at half of "actual time" spent is also reasonable.

In all, only the "lumped" research time and the time spent researching local rules and procedures will be disallowed. The inability to determine how much time that involves requires that the Court err on the side of the protection of creditors. That purpose is served if the Court treats all "lumped" research time as having failed of reasonableness and if the Court assumes the amount of that time to be half of the time charged in the "lump."

2.6 hours of MBG time on September 21, 1993, 2 hours of

FPD time on September 16, 1993 and 2 hours of time on November 5, 1993 are all disallowed as are 1.9 hours of his time on September 15, 1993 and 1.1 hours of his time on September 17, 1993, for local rules review. That is 7.6 hours of FPD time at \$285, totalling \$2166, and 2.6 hours of MBG time at \$160, totalling \$2582.

Finally, it is well-known in this District that I reduce compensation when a party or the U.S. Trustee is put to the burden of objecting to fees in order to get the information which should have been contained in the application in the first place. In the present matter, however, the "offenses" were slight. Although the lumping of time must be avoided, most time was not lumped in this application; consequently, the Court was not without means to measure the reasonableness of the time charged. The objection based on a perception that time was billed in half/hour increments was disputed, and appears not to be sustainable.

Only the objection to "research" time has been sustained, and addressed as above. There will be no further reduction.

Fees of \$85,322.25 and expenses of \$7040.16 are allowed. The \$50,000 retainer may be drawn. (The U.S. Trustee has withdrawn his request for a holdback.)

SO ORDERED.

Dated: Buffalo, New York
March 21, 1994

/s/Michael J. Kaplan

U.S.B.J.