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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In the matter of the
Involuntary Petition Filed
Against

EDWARD N. DiPIRRO and
KATHLEEN M. DiPIRRO

Case No. 92-11832 K

Involuntary Debtors

ORDER ALLOWING FEES AND CLOSING CASE

The only matter in this case remaining before the Court is the DiPirro's claim for attorneys fees in the amount of \$3750.00.

Attorney Schaus' affidavit, filed November 30, 1992 and Attorney Arcadi's affidavit filed December 10, 1992, basically ask the Court to decide (on the basis of those attorney's affidavits) many of the issues that would have been the subject of trial. The Court is not going to undertake that task.

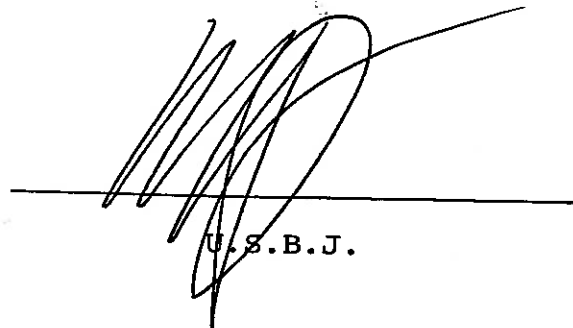
I find that the Involuntary Petition was not filed in bad faith, but that fact at most protects the Petitioner only from the costs of damage to the DiPirro's reputation and credit standing, and punitive damages.

An Involuntary Petition in bankruptcy is a drastic remedy that should never be utilized where a traditional lawsuit will suffice. Nor does the fact that Buddman withdrew the Petition prevent assessment of fees. [See *P. Eric Peterson Constr. Co.*, 951 F.2d 1175 (9th Cir. 1991)].

Buddman Distributors shall pay DiPirro's attorneys fees in the amount of \$3750.00 which the Court finds reasonable for defense of an involuntary bankruptcy.

This Involuntary Case is closed.

Dated: Buffalo, New York
December 15, 1992



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U.S.B.J.