

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

Sally Tuthill McNamee,  
  
Debtor.

BKY 03-47275  
  
Chapter 13 Case

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NOTICE OF HEARING AND APPLICATION  
FOR ALLOWANCE OF FEES AND REIMBURSEMENT OF COSTS

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1. Henson & Efron, P.A. ("Applicant") hereby makes application for allowance of fees and reimbursement of costs and gives notice of hearing herewith.
2. The Court will hold a hearing on Applicant's application in Courtroom 8 West, U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota, on October 6, 2004 at 10:00 a.m., or as soon thereafter as counsel can be heard.
3. Any response to this application must be served and filed by hand delivery not later than September 29, 2004 which is seven days prior to the date set for hearing (including Saturdays, Sundays or holidays) or served and filed by mail not later than September 26, 2004, which is ten days before the date set for hearing (including Saturdays, Sundays and holidays).  
  
UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed.R.Bankr.P., and Local Rule 1070-1. This is a core proceeding. The petition commencing this Chapter 13 case was filed on October 16, 2003. The case is still pending.

5. This application arises under 11 U.S.C. §330 and Fed.R.Bankr.P. 2016. This application is filed under Fed.R.Bankr.P. 2016 and Local Rule 2016-1. Applicant requests allowance of compensation and reimbursement of expenses.

6. Applicant is attorney for Debtor. No order approving its employment was entered or necessary.

7. The Applicant originally received a retainer in the aggregate amount of \$635.00<sup>1</sup>. Reductions from that retainer were made to pay a pre petition invoice for services unrelated to the bankruptcy case. The balance in the retainer is \$376.00.

8. Applicant has not made a previous application for fees and/or expenses

9. To the best of Applicant's knowledge, there are no other allowed administrative expenses.

10. The Debtor's Chapter 13 Plan was confirmed by Order, dated February 20, 2004.

11. The Debtor is performing the obligations under the Plan.

12. Applicant has incurred fees for services rendered to the Debtor and has incurred costs for expenses to be reimbursed by the Debtor and/or for costs advanced on behalf of the Debtor.

13. From July 3, 2003 through March 12, 2004 ("Application Period"), Applicant has incurred fees and expenses each month or partial month as follows:

| <u>Month</u> | <u>Fees</u> | <u>Costs</u> | <u>Total</u> |
|--------------|-------------|--------------|--------------|
| July         | \$ 376.00   | \$ 0.00      | \$ 376.00    |
| August       | \$ 309.50   | \$ 0.00      | \$ 309.50    |
| September    | \$ 367.50   | \$ 0.00      | \$ 367.50    |
| October      | \$3,250.50  | \$ 187.17    | \$3,437.67   |
| November     | \$ 22.00    | \$ 0.00      | \$ 22.00     |
| December     | \$ 484.00   | \$ 0.00      | \$ 484.00    |
| January      | \$ 506.00   | \$ 0.00      | \$ 506.00    |

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<sup>1</sup> The statement of attorney mistakenly states that \$665.00 was received. Only \$635 was received.

|          |            |           |            |
|----------|------------|-----------|------------|
| February | \$ 529.00  | \$ 0.00   | \$ 529.00  |
| March    | \$ 8.50    | \$ 0.00   | \$ 8.50    |
| Total:   | \$5,853.00 | \$ 187.17 | \$6,040.17 |

14. Even though the Applicant has incurred fees in an amount significantly greater, Applicant is only requesting allowance of fees in the amount of \$1,688.83 and costs in the amount of \$187.17 for a total amount of fees and costs of \$1,876.00 (“Requested Fees and Expenses”). Applicant is making this voluntary reduction based on the facts and circumstances of the case.

15. During the Application Period, Applicant rendered professional services in the following categories as further described below:

|                                      |            |             |
|--------------------------------------|------------|-------------|
| <b><u>Petition and Schedules</u></b> | Total Fees | \$3,286.00  |
|                                      | Total Time | 15.55 hours |

Services in this category include services related to the preparation and filing of the petition, schedules, statements.

A summary of the services performed, by category and by timekeeper, and of the hourly rates for the people performing the services is provided in Exhibit B. A statement of the detailed time entries, grouped by category, is attached as Exhibit C.

|                               |            |           |
|-------------------------------|------------|-----------|
| <b><u>Chapter 13 Plan</u></b> | Total Fees | \$335.00  |
|                               | Total Time | 1.5 hours |

Services in this category include services related to preparation of the chapter 13 plan and analysis of issues related thereto and to confirmation issues.

|                      |            |          |
|----------------------|------------|----------|
| <b><u>Claims</u></b> | Total Fees | \$176.00 |
|                      | Total Time | .8 hour  |

Services in this category include services related to analysis of issues related to disputed “co-signed” claim.

|                                |            |         |
|--------------------------------|------------|---------|
| <b><u>Fee Applications</u></b> | Total Fees | \$8.50  |
|                                | Total Time | .1 hour |

Services in this category include work regarding preparation of application for allowance of fees.

|                                     |            |            |
|-------------------------------------|------------|------------|
| <b><u>General/Miscellaneous</u></b> | Total Fees | \$2,047.50 |
|                                     | Total Time | 8.95 hours |

Services in this category include all services that do not fit in the other categories above and includes fees for attending the meeting of creditors, analysis of need for filing, issue regarding insurance, and responding to trustee requests. This category also includes one entry that contained multiple categories.

16. In addition, Applicant has incurred actual and necessary expenses during the Application Period for which it has not been reimbursed in the total amount of \$187.17. A summary of the expenses is set forth in Exhibit B. The Applicant charges a unit cost of \$.20 per page for copying costs.

17. Applicant has not made any prior request for allowance of fees and costs.

18. The Debtor has received copies of the invoices underlying this Application and this Application has been provided to the Debtor for its review.

19. All services for which compensation is requested by Applicant were performed for and on behalf of the Debtor and not on behalf of any committee, creditor or other person.

20. The Requested Fees and Expenses constitute reasonable compensation for actual necessary services rendered by Applicant based on the nature, the extent and the value of such services, the time spent on such services and the cost of comparable services other than in a case under Title 11, and constitute reasonable expenses incurred on behalf of the Debtor.

21. Applicant has not entered into any agreement, express or implied, with any other party in interest including debtors, any creditor, receiver, trustee or any representative of any of them, or with any attorneys for such party in interest in the proceedings, for the purpose of fixing

fees or other compensation to be paid to such party in interest in the proceedings for services rendered or expenses incurred in connection therewith from the assets of the estate in excess of the compensation allowed by law.

WHEREFORE, the Applicant requests the Court to enter an Order as follows:

(1) Allowing compensation to Henson & Efron, P.A. in the amount of \$1,688.83 and reimbursement of expenses in the amount of \$187.17 for a total allowed amount of \$1,876.00; and

(2) Authorizing Henson & Efron, P.A. to apply the balance of its retainer to the allowed amount.

HENSON & EFRON, P.A.

Dated: September 1, 2004

By /e/ Mary L. Cox  
Mary L. Cox (#176552)  
220 South Sixth Street, Suite 1800  
Minneapolis, Minnesota 55402-4503  
Telephone: 612-339-2500

Attorneys for Debtor

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**VERIFICATION**

I, Mary L. Cox, of Henson & Efron, P.A., the Applicant named in the foregoing Notice of Hearing and Application, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: September 1, 2004

/e/ Mary L. Cox

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**EXHIBIT B**

**Sally Tuthill McNamee**

**Chapter 13**

**Case No. 03-47275**

**SUMMARY OF FEES INCURRED**

| DESCRIPTION                     | WIK        |                 | MLC         |                   | GMS       |               | TLJ        |                | TOTAL<br>HRS | TOTAL<br>AMT      |
|---------------------------------|------------|-----------------|-------------|-------------------|-----------|---------------|------------|----------------|--------------|-------------------|
|                                 |            |                 |             |                   |           |               |            |                |              |                   |
| General Case Administration     | 1.0        | \$295           | 7.95        | \$1,752.50        | 0         | \$0.00        | 0          | \$0.00         | 8.95         | \$2,047.50        |
| Petition/Schedules              | 1.3        | \$383.50        | 13.05       | \$2,842.50        | 0         | \$0.00        | 1.2        | \$60.00        | 15.55        | \$3,286.00        |
| Employment and Fee Applications | 0          | \$0.00          | 0           | \$0.00            | .1        | \$8.50        | 0          | \$0.00         | .1           | \$8.50            |
| Claims                          | 0          | \$0.00          | .8          | \$176.00          | 0         | \$0.00        | 0          | \$0.00         | .8           | \$176.00          |
| Plan                            | 0          | \$0.00          | 1.5         | \$335.00          | 0         | \$0.00        | 0          | \$0.00         | 1.5          | \$335.00          |
| <b>TOTALS</b>                   | <b>2.3</b> | <b>\$678.50</b> | <b>23.3</b> | <b>\$5,106.00</b> | <b>.1</b> | <b>\$8.50</b> | <b>1.2</b> | <b>\$60.00</b> | <b>26.9</b>  | <b>\$5,853.00</b> |

**Hourly Rates:**

| <u>Initials</u> | <u>Name</u>       | <u>Position</u> | <u>Hourly Billing Rate</u> |
|-----------------|-------------------|-----------------|----------------------------|
| WIK             | William I. Kampf  | Attorney        | \$295                      |
| MLC             | Mary L. Cox       | Attorney        | \$210 - \$230 <sup>2</sup> |
| GMS             | Getey M. Steinke  | Legal Asst.     | \$ 85                      |
| TLJ             | Tawney L. Jameson | Legal Assistant | \$ 50                      |

**Applicant certifies that its hourly rates are the same for both bankruptcy and non-bankruptcy matters. Applicant further certifies that its charges for expenses and disbursements are actual and necessary costs of the administration of the estate.**

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<sup>2</sup> The billing rate of Mary L. Cox changed three times in the period of this fee application. From July through October 15, 2003, the rate was \$210 per hour. From October 15 through December 31, 2003, the rate was \$220 per hour. From January 1, 2004 to end, the rate was \$230 per hour.

**EXHIBIT B (cont.)**

**Sally Tuthill McNamee  
Chapter 13  
Case No. 03-47275**

**SUMMARY OF EXPENSES INCURRED**

| <u>Date</u> | <u>Expense<br/>Item</u>             | <u>Expense<br/>Amount</u> |
|-------------|-------------------------------------|---------------------------|
| 9/30/03     | Postage                             | \$1.20                    |
|             | Total Expenses for September, 2003: | <u>\$1.20</u>             |
| 10/31       | Postage                             | \$ .97                    |
|             | Filing Fee                          | 185.00                    |
|             | Total Expenses for October, 2003:   | <u>\$185.97</u>           |
|             | <b>Grand Total:</b>                 | <b><u>\$187.17</u></b>    |

**EXHIBIT C**

**Sally Tuthill McNamee  
Case No. 03-47275**

**TIME ENTRIES FOR JULY, 2003**

| <u>Date</u>         |     |   | <u>Hrs/Rate</u> | <u>Amount</u>   |
|---------------------|-----|---|-----------------|-----------------|
| CATEGORY: GENERAL   |     |   |                 |                 |
| 7/3/03              | WIK | Conference with client and Mike                   | 1.00            |                 |
|                     |     |   | 295/hr          | \$295.00        |
| 7/17/03             | MLC | Review document re lawsuit; Arrange for follow-up | 0.10            |                 |
|                     |     |   | <u>210/hr</u>   | <u>\$21.00</u>  |
|                     |     | Category Subtotal                                 | 1.1             | \$316.00        |
| CATEGORY: SCHEDULES |     |   |                 |                 |
| 7/7/03              | TL  | Work on schedules                                 | 1.20            |                 |
|                     |     |   | <u>50/hr</u>    | <u>\$60.00</u>  |
|                     |     | Category Subtotal                                 | 1.20            | \$60.00         |
|                     |     | TOTAL FOR JULY, 2003                              | <u>2.30</u>     | <u>\$376.00</u> |

**TIME ENTRIES FOR AUGUST, 2003**

| <u>Date</u>         |     |  | <u>Hrs/Rate</u> | <u>Amount</u>   |
|---------------------|-----|--|-----------------|-----------------|
| CATEGORY: GENERAL   |     |  |                 |                 |
| 8/7/03              | MLC | Follow up; Telephone call with client          | 0.25            |                 |
|                     |     |  | 210/hr          | \$52.50         |
| 8/21/03             | MLC | Follow up re status of filing.                 | 0.10            |                 |
|                     |     |  | <u>210/hr</u>   | <u>\$21.00</u>  |
|                     |     | Category Subtotal                              | 0.35            | \$73.50         |
| CATEGORY: SCHEDULES |     |  |                 |                 |
| 8/20/03             | WIK | Draft petition; Telephone conference with Mike | .80             |                 |
|                     |     |  | <u>\$295/hr</u> | <u>\$236.00</u> |
|                     |     | Category Subtotal                              | .80             | \$236.00        |
|                     |     | TOTAL FOR AUGUST, 2003                         | <u>1.15</u>     | <u>\$309.50</u> |

**EXHIBIT C (cont.)**

**Sally Tuthill McNamee  
Case No. 03-47275**

**TIME ENTRIES FOR SEPTEMBER, 2003**

| <u>Date</u>         |     |   | <u>Hrs/Rate</u>       | <u>Amount</u>   |
|---------------------|-----|---|-----------------------|-----------------|
| CATEGORY: SCHEDULES |     |   |                       |                 |
| 9/24/03             | MLC | Review file and all documents; Review draft of schedules; Analysis of revisions; Analysis of further information needed; Memo to client | 1.75<br><u>210/hr</u> | <u>\$367.50</u> |
|                     |     | Category Subtotal   | 1.75                  | \$367.50        |
|                     |     | TOTAL FOR SEPTEMBER, 2003   | <u>1.75</u>           | <u>\$367.50</u> |

**TIME ENTRIES FOR OCTOBER, 2003**

| <u>Date</u>         |     |   | <u>Hrs/Rate</u>       | <u>Amount</u>   |
|---------------------|-----|---|-----------------------|-----------------|
| CATEGORY: GENERAL   |     |   |                       |                 |
| 10/6/03             | MIC | Telephone call with McNamee re issues; Letter to client re general bankruptcy info.   | 0.50<br>210/hr        | \$105.00        |
| 10/15/03            | MLC | Communication with client re meeting; Office conference with client re issues.  | 1.20<br>210/hr        | \$252.00        |
| 10/29/03            | MLC | Revise according to communication from client re Statement of Financial Affairs; Review and revise schedules and statements; Telephone call with McNamee re issues of disputed claim and co-debtor stay; Analysis of issue; Telephone call with client re signature of schedules and plan | 1.00<br><u>220/hr</u> | <u>\$220.00</u> |
|                     |     | Category Subtotal   | 2.70                  | \$577.00        |
| CATEGORY: SCHEDULES |     |   |                       |                 |
| 10/14/03            | MLC | Review draft of schedules; Review information from client; Revise schedules based on  | 3.50<br>210/hr        | \$735.00        |

|                  |     |   |                       |                   |
|------------------|-----|---|-----------------------|-------------------|
|                  |     | information; Review closing statements and transactions; Analysis of disbursements; Communication to client re additional questions; Analysis of issues; Telephone conference with client; Review discovery requests; Analysis of deadline; Communication with client |                       |                   |
| 10/15/03         | WIK | Conference with client re Ch13.   | 0.50<br>295/hr        | \$147.50          |
| 10/16/03         | MLC | Review affidavit of purchase from client; Communication with client re same and other issues; Review final draft of petition; Review statement of expenses; Communication with client re same; Revise   | 1.00<br>225/hr        | \$225.00          |
| 10/21/03         | MLC | Review schedules and statement draft; Analysis of issues; Arrange for revisions and additional information from client.   | 0.80<br>225/hr        | \$180.00          |
| 10/28/03         | MLC | Review and revise schedules; Telephone call with client and spouse re income, expenses and other issues; Analysis of issues.  | 2.00<br>225/hr        | \$440.00          |
| 10/30/03         | MLC | Work on schedules; Office conference with client re schedules; Oversee filing.  | 2.50<br><u>220/hr</u> | <u>\$550.00</u>   |
|                  |     | Category Subtotal   | 10.30                 | \$2,277.50        |
| CATEGORY: CLAIMS |     |   |                       |                   |
| 10/29/03         | MLC | Telephone call with McNamee; Description of Services re issues of disputed claim and co-debtor stay; Analysis of issue; Telephone call with McNamee.  | 0.80<br><u>220/hr</u> | <u>\$176.00</u>   |
|                  |     | Category Subtotal   | 0.80                  | \$176.00          |
| CATEGORY: PLAN   |     |   |                       |                   |
| 10/29/03         | MLC | Analysis of plan provision re "cosigned" disputed debt; Draft plan.   | 1.00<br><u>220/hr</u> | <u>\$220.00</u>   |
|                  |     | Category Subtotal   | 1.00                  | \$220.00          |
|                  |     | TOTAL FOR OCTOBER, 2003   | <u>13.80</u>          | <u>\$3,250.50</u> |

**EXHIBIT C (cont.)**

**Sally Tuthill McNamee  
Case No. 03-47275**

**TIME ENTRIES FOR NOVEMBER, 2003**

| <u>Date</u>       |     |  | <u>Hrs/Rate</u> | <u>Amount</u>  |
|-------------------|-----|--|-----------------|----------------|
| CATEGORY: GENERAL |     |  |                 |                |
| 11/04/03          | MLC | Communicate with client re insurance policy. | 0.10            |                |
|                   |     |  | <u>220/hr</u>   | <u>\$22.00</u> |
|                   |     | Category Subtotal                            | 0.10            | \$22.00        |
|                   |     | TOTAL FOR NOVEMBER, 2003                     | <u>0.10</u>     | <u>\$22.00</u> |

**TIME ENTRIES FOR DECEMBER, 2003**

| <u>Date</u>       |     |   | <u>Hrs/Rate</u> | <u>Amount</u>   |
|-------------------|-----|---|-----------------|-----------------|
| CATEGORY: GENERAL |     |   |                 |                 |
| 12/03/03          | MLC | Attend meeting of creditors.  | 1.30            |                 |
|                   |     |   | <u>220/hr</u>   | <u>\$286.00</u> |
| 12/15/03          | MLC | Review file for trustee requests; Letter to client re trustee requests. | 0.80            |                 |
|                   |     |   | <u>220/hr</u>   | <u>\$176.00</u> |
| 12/29/03          | MLC | Follow up re trustee document request.                                  | 0.10            |                 |
|                   |     |   | <u>220/hr</u>   | <u>\$22.00</u>  |
|                   |     | Category Subtotal   | 2.20            | \$484.00        |
|                   |     | TOTAL FOR DECEMBER, 2003  | <u>2.20</u>     | <u>\$484.00</u> |

**EXHIBIT C (cont.)**

**Sally Tuthill McNamee  
Case No. 03-47275**

**TIME ENTRIES FOR JANUARY, 2004**

| <u>Date</u>         |     |   | <u>Hrs/Rate</u> | <u>Amount</u>   |
|---------------------|-----|---|-----------------|-----------------|
| CATEGORY: GENERAL   |     |   |                 |                 |
| 1/02/04             | MLC | Follow up re trustee requests.  | 0.10<br>220/hr  | \$23.00         |
| 1/06/04             | MLC | Follow up re trustee requests   | 0.10<br>220/hr  | \$23.00         |
| 1/13/04             | MLC | Follow up re trustee requests; Correspondence with client re same.  | 0.30<br>220/hr  | \$69.00         |
| 1/14/04             | MLC | Review voice mail from client; Follow up.   | .20<br>220/hr   | \$46.00         |
|                     |     | Category Subtotal   | 0.70            | \$161.00        |
| CATEGORY: SCHEDULES |     |   |                 |                 |
| 1/15/04             | MLC | Correspondence with attorney for trustee re items requested and plan hearing; Follow up with client; Analysis issues and items. | 1.50<br>220/hr  | \$345.00        |
|                     |     | Category Subtotal   | 1.50            | \$345.00        |
|                     |     | TOTAL FOR JANUARY, 2004   | <u>2.20</u>     | <u>\$506.00</u> |

**TIME ENTRIES FOR FEBRUARY, 2004**

| <u>Date</u>       |     |  | <u>Hrs/Rate</u> | <u>Amount</u> |
|-------------------|-----|--|-----------------|---------------|
| CATEGORY: GENERAL |     |  |                 |               |
| 2/05/04           | MLC | Review documents for trustee; Analysis of issues; Draft letter to trustee sending documents and responding to requests for information | 1.80<br>230/hr  | \$414.00      |
|                   |     | Category Subtotal  | 1.80            | \$414.00      |

CATEGORY: PLAN

|         |     |  |                       |                 |
|---------|-----|--|-----------------------|-----------------|
| 2/10/04 | MLC | Telephone call with Chapter 13 trustee; Letter to client re confirmation of plan subject to issue. | 0.50<br><u>230/hr</u> | <u>\$115.00</u> |
|         |     | Category Subtotal  | 0.50                  | \$115.00        |
|         |     | TOTAL FOR FEBRUARY, 2004   | <u>2.30</u>           | <u>\$529.00</u> |

**TIME ENTRIES FOR MARCH, 2004**

| <u>Date</u>            |     |                       | <u>Hrs/Rate</u>      | <u>Amount</u> |
|------------------------|-----|-----------------------|----------------------|---------------|
| CATEGORY: APPLICATIONS |     |                       |                      |               |
| 3/11/04                | GMS | Review billing file.  | 0.10<br><u>85/hr</u> | <u>\$8.50</u> |
|                        |     | TOTAL FOR MARCH, 2004 | <u>0.10</u>          | <u>\$8.50</u> |

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

Sally Tuthill McNamee,  
Debtor.

BKY 03-47275

Chapter 13

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ORDER ALLOWING FEES

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This case came before the Court on the Application for Allowance of Fees and Reimbursement of Costs, filed by Henson & Efron, P.A., counsel for the Debtor. Appearances, if any, were noted on the record. Based on the application and the file, record and proceedings herein,

IT IS ORDERED:

1. Henson & Efron, P.A. is allowed compensation in the amount of \$1,688.83 and reimbursement of expenses in the amount of \$187.17, for a total allowed amount of \$1,876.00.
2. Henson & Efron, P.A. is authorized to apply the balance of its retainer (\$376.00) to the allowed amount.

**BY THE COURT:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

BKY 03-47275

Sally Tuthill McNamee,

Debtor.

PROOF OF SERVICE

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The undersigned states that she is an employee of Henson & Efron, P.A., and in the course of said employment, on the date indicated below, she served the following:

**Notice of Hearing and Application for Allowance of Fees and Reimbursement of Costs;  
Proposed Order Allowing Fees; and Proof of Service**

on the entities named below and/or on the attached service by enclosing true and correct copies of same in an envelope, properly addressed and postage prepaid, and depositing same in the United States mail, unless otherwise noted; and that she certifies the foregoing under penalty of perjury.

United States Trustee  
300 South Fourth Street, Ste 1015  
Minneapolis, MN 55415

Chapter 13 Trustee's Office  
12 South Sixth Street, Ste 310  
Minneapolis, MN 55402

Dated: September 1, 2004

/e/ Tawney Lesto