

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

IN RE:

BKY 03-48545

*Michael W. Mullins, and
Wendy V. Mullins,*

**TRUSTEE'S RESPONSE TO FEE
APPLICATION BY ATTORNEY
FOR DEBTOR**

Debtor(s).

TO: All parties in interest pursuant to Local Rule 9013-3:

1. Jasmine Z. Keller, the standing Chapter 13 Trustee (the "Trustee"), by her undersigned attorney, submits this response to the Notice of Motion and Motion for Allowance of Compensation (the "Application").

2. The Court will hold a hearing on the Application on November 3, 2004, at 10:30 a.m., or as soon thereafter as counsel can be heard, in Courtroom 7 West, U.S. Courthouse, 300 South 4th Street, Minneapolis, Minnesota.

3. As of October 25, 2004, the Trustee has received \$9,900 from the above-named debtor(s). The debtors are current in payments to the Trustee, through the month of September 2004.

4. The Trustee has funds on hand in the total sum of \$3,220 as of October 25, 2004, including \$2,000 being held pending review of the Application.

5. The response deadlines set forth in ¶ 2 of the Application are wrong; however, the Trustee does not object to the Application on this basis since, if anything, they would allow interested parties additional time to respond to the Application beyond that permitted under Local Rule 9006-1(b).

6. The Statement of Compensation filed by the Applicant in this case states that the "compensation paid or agreed to be paid by the debtor(s) to the undersigned" is \$1,250. However, the Application itself states that the fees are based on an hourly rate of \$175/hr. To clarify this discrepancy, the Applicant should be required to provide the Court with a copy of his retainer agreement with the debtors.

7. The confirmed Chapter 13 plan in this case estimated the Applicant's fees at \$2,000 in ¶ 3, although the actual fees incurred as of the date of the plan totaled \$4,313.75, and the amount being sought to be paid through the Trustee is actually \$3,813.75. If allowed in full, the compensation will reduce the distribution to the debtors' nonpriority unsecured creditors by the sum of \$1,813.75, and will reduce the repayment percentage by less than 1%. The Trustee does not object to the Application on this basis; however, in the future the Applicant should estimate his fees more accurately in the plan, especially in a case such as this one, where all of the fees for which payment

is being sought were incurred by the date of the last modified plan.

8. The compensation requested is reasonable in amount for the services rendered, all of which appear to have been necessary for the proper representation of the debtors in this case. Applicant's hourly rate is reasonable for an attorney with his level of experience.

9. The Trustee's Counsel has reviewed the Application and the request for allowance of fees and expenses. **Subject to the concerns expressed in ¶ 6, above, the Trustee does not oppose the Court's granting the relief requested.**

Dated : October 25, 2004

Jasmine Z. Keller, Trustee:

By: /e/ Thomas E. Johnson
Thomas E. Johnson, #52000
Counsel to Chapter 13 Trustee
12 South Sixth Street, Suite 310
Minneapolis, MN 55402
(612) 338-7591

VERIFICATION

I, Thomas E. Johnson, employed by Jasmine Z. Keller, Chapter 13 Trustee, declare under penalty of perjury that the factual information contained herein is true and correct, to the best of my knowledge, information, and belief.

Dated: October 25, 2004

/e/ Thomas E. Johnson
Thomas E. Johnson

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

IN RE:

BKY 03-48545

*Michael W. Mullins, and
Wendy V. Mullins,*

Debtor(s).

UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Thomas E. Johnson, employed by Jasmine Z. Keller, Chapter 13 Trustee, declare that on October 25, 2004, I served Trustee's Response to Fee Application by Attorney for Debtor(s) on the individual(s) listed below, in the manner described:

By electronic means:

United States Trustee
1015 United States Courthouse
300 South 4th Street
Minneapolis, MN 55415

By first class U.S. mail:

Michael W. Mullins
Wendy V. Mullins
9470 Club House Road
Eden Prairie, MN 55347

By delivery:

Ian T. Ball
Attorney at Law
326 Plymouth Building
Minneapolis, MN 55402

And I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: October 25, 2004

/e/ Thomas E. Johnson