

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH DAKOTA

ROOM 211

FEDERAL BUILDING AND U.S. POST OFFICE

225 SOUTH PIERRE STREET

PIERRE, SOUTH DAKOTA 57501-2463

IRVIN N. HOYT
BANKRUPTCY JUDGE

TELEPHONE (605) 224-0560
FAX (605) 224-9020

October 13, 1989

Kay Cee Hodson, Esq.
300 North Dakota Avenue
Suite 510
Sioux Falls, South Dakota 57102

William Pfeiffer, Esq.
Post Office Box 1585
Aberdeen, South Dakota 57402

Brent Wilbur, Esq.
Post Office Box 160
Pierre, South Dakota 57501

Re: Roger Storm
Chapter 12 87-30022

Dear Counsel:

William Pfeiffer, former counsel for debtor Roger Storm, has submitted an application for attorney's fees for professional services which he had previously rendered to the debtor. Attorney Pfeiffer has asked for a disbursement totalling \$3,376.33. Brent Wilbur, on behalf of the Farm Credit Bank of Omaha, has objected on the ground that Attorney Pfeiffer has already been adequately compensated. Kay Cee Hodson of the United States Trustee's office has objected on the basis that Attorney Pfeiffer's application does not sufficiently explain or justify several items of service for which compensation is sought. After reviewing this matter, the Court grants Attorney Pfeiffer's request in full.

Re: Roger Raymond Storm
October 13, 1989

Page 2

11 U.S.C. §330(c) (1) allows a court appointed professional an award from the estate constituting "reasonable compensation for actual, necessary services ... based on the nature, the extent, and the value of such services, time spent on such services, and the cost of comparable services other than in a case under this title[.]" In *Mann v. McCombs*, 751 F.2d 286 (8th Cir. 1984), the Eighth Circuit noted that §330

is meant to encourage high standards of professional legal practice in the bankruptcy courts. Bankruptcy courts are no longer bound by pre-Code notions of frugality and economy in fixing fees. Bankruptcy courts must consider whether the fee awards are commensurate with fees for professional services in non-bankruptcy cases, thus providing sufficient economic incentive to practice in the bankruptcy courts.

Id. at 288, citing *In re Atlas Automation, Inc.*, 27 B.R. 820, 822 (Bkrcty. E.D.Mi. 1983) The award of fees is within the discretion of the bankruptcy court. McCombs at 287. For further analysis, counsel is referred to this Court's decision in *In re Hanson, et al.*, No. 386-00136, Letter Memorandum dated March 8, 1989.

The Court is well acquainted with the Storm bankruptcy and the problems which it has presented for all parties involved. However, the Court does not believe that the difficulties in this case have been enhanced by Attorney Pfeiffer's advocacy. Rather, Attorney Pfeiffer was required to work with a challenging debtor whose actions made Attorney Pfeiffer's job more difficult than would an "ordinary" client in an "ordinary" bankruptcy. The Court does not believe that Attorney Pfeiffer's request is unreasonable.

The Court's review of Attorney Pfeiffer's billing reveals no serious abnormalities. However, the Court does agree that the concerns raised by the Trustee, using its systematized logistical capabilities and integrated management scenarios, have some merit. Thus, the Court will instruct Attorney Pfeiffer take the trustee's concerns into account when preparing future fee applications. Conformance to the Trustee's request that services be sufficiently explained would serve the debtor attorney's functional management projections and the trustee's concerns with futuristic policy contingencies.

Re: Roger Raymond Storm
October 13, 1989

Page 3

This constitutes the Court's conclusions of law. This is a core proceeding under 28 U.S.C. §157(b). A compatible reciprocal order approving Attorney Pfeiffer's application will be entered by the Court.

Very truly yours,

Irvin N. Hoyt
Chief Bankruptcy Judge

INH/sh

Enclosure
CC: Bankruptcy Clerk

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

IN RE:) CASE NO. 87-30032
)
ROGER RAYMOND STORM,) CHAPTER 12
)
) ORDER APPROVING
) APPLICATION FOR
Debtor.) ATTORNEY'S FEES

Pursuant to the letter memorandum executed this same date
IT IS HEREBY ORDERED that the application for attorney's
fees submitted by Attorney William J. Pfeiffer is approved.

IT IS FURTHER ORDERED that Attorney Pfeiffer be compensated
\$3,376.33 for professional services rendered, such payment to be
made from debtor's bankruptcy estate.

Dated this 13th day of October, 1989.

BY THE COURT:

Irvin N. Hoyt
Chief Bankruptcy Judge

ATTEST:

PATRICIA MERRITT, CLERK

By: _____
Deputy

(SEAL)