

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLUMBIA

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In re: \*  
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UWE SIEMON-NETTO \*  
GILLIAN SIEMON-NETTO \*  
Debtor(s). \*  
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CASE NO.: 05-00720  
(Chapter 7)

FIRST AND FINAL APPLICATION FOR ATTORNEY'S FEES

McCarthy & White, PLLC, the duly appointed attorney for the Trustee, makes application for final compensation for legal services in this case. The Applicant seeks compensation in the amount of \$11,000.00 in fees, as more particularly set forth in Exhibit A, which is attached hereto and made a part hereof.

The Court appointed the Applicant attorney for the Trustee on July 20, 2005. This is the Applicant's first and final fee application. The hourly billing rate for Kevin R. McCarthy, the Applicant's primary attorney who rendered legal services to the Trustee, was \$295 throughout the period covered by this fee application. The earliest state bar admission date for Kevin R. McCarthy was 1978 (Virginia). The total hours billed are set forth at the end of the attached Exhibit A.

This case was essentially a two-sided struggle between the Debtors and The Society of Lloyd's, otherwise known as Lloyd's of London. The Debtors, who were former "names" for Lloyd's, had a million dollar liability to Lloyd's as the result of English court judgments they had tried unsuccessfully to convince the U.S. District Court for the District of Columbia not to enforce. Lloyd's did not trust the Debtors and sometimes wanted the Trustee--and the Applicant as the Trustee's counsel--to pursue collection of non-exempt assets more aggressively, more formally, and more expensively than the Trustee and the Applicant otherwise might have. However, in light of Lloyd's position as basically the only creditor, the Trustee and the Applicant deferred to Lloyd's. In

the end, the Trustee collected more assets for the estate than he otherwise would have, but at a substantially increased cost.

The Applicant analyzed the Debtors' exemptions, reviewed related documentation provided by the Debtors, asked for further documentation, and prepared three motions to extend the time to object, all of which were granted by the Court. Finally, the Applicant prepared an objection to the exemptions, which the Court sustained. This left the door open for the Trustee to sell non-exempt assets of the Debtors.

The Debtors had a house in France, bank accounts in Europe and the United States, antiques in D.C. when the case began and in St. Louis when the case ended, and a valuable painting in D.C. when the case began and in New York when the case ended. Each property venue posed special legal problems. Due to uncertainties about the effect of the Debtors' exemptions, about whether the Debtors or a third party would ultimately purchase the non-exempt tangible personal property from the Trustee, and about terms that would be acceptable to the sales agent, the U.S. Trustee, and the Court under various sale scenarios, the Applicant prepared, reviewed, and revised an application to retain the Trustee's proposed sales agent in D.C. multiple times. Eventually, the Debtors moved their tangible personal property to St. Louis (except for a painting that was shipped to New York) without the Trustee's prior knowledge, and efforts to retain a local sales agent were abandoned.

However, the prospective local sales agent looked at the Debtors' personal property before it was moved from the D.C. area, and advised the Trustee informally concerning its value. Based on that information and the Applicant's analysis of the effect of the Debtors' exemptions, the Applicant determined that an appropriate over-all settlement with the Debtors would be \$20,000. The Applicant recommended this figure to Lloyd's by e-mail to its attorney on November 22, 2005 and asked Lloyd's, if it did not wish to accept the recommendation, to confirm that it would like the

Trustee "to obtain formal appraisals of the personal property in St. Louis and the painting in New York and that Lloyd's is willing to run the risk of this resulting in a reduced distribution" due to the extra cost in appraisal fees and legal fees.<sup>1</sup>

Lloyd's did not accept the recommendation. Deferring to Lloyd's preferred approach, the Trustee had to locate and engage an antiques appraiser in St. Louis and an art expert in New York without the benefit of any estate funds. Eventually, the Trustee found a St. Louis antiques appraiser and a New York art expert whom he engaged. Each engagement involved special issues that had to be addressed in the retention application. The Trustee could not pay the St. Louis appraiser because the estate had no funds. Therefore, the Debtors paid the St. Louis appraiser, a fact disclosed in the application. The New York art expert does not carry a bond. Therefore, she instructed Christie's, the auction house that sold the painting, to pay the net proceeds directly to the Trustee. This too was disclosed in the application.

Following the appraisal of the antiques located in St. Louis, the Applicant was better able to analyze the effect of the Debtors' exemptions, particularly the per-item limit, and put together a comprehensive buy-back proposal to the Debtors that would approximate the likely result of a sale to a third party: \$25,000, excluding the painting. This time, Lloyd's accepted the Applicant's recommendation, and the Applicant presented to the proposal to the Debtors. The Debtors accepted the proposal after finding out that they were able to borrow enough from friends. The Applicant prepared a compromise notice, motion, and order, and the Court approved the compromise with the Debtors on August 27, 2006.

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<sup>1</sup> A later e-mail from the Applicant to Lloyd's attorney watered down the strength of the recommendation a bit after further analysis of the effect of the Debtors' exemptions, but repeated the request for confirmation from Lloyd's that getting formal appraisals could well reduce their distribution.

As for the painting in New York, with the help of the art expert the Applicant prepared a sale notice, motion, and order. The Court approved an auction sale of the Debtor's painting on April 26, 2006. The painting was sold on July 11, 2006 for a gross sale price of \$6500. The estate netted \$4252.50. The Applicant prepared and filed a Report of Sale in accordance with Rule 6004(f).

The Applicant has analyzed the likely distribution to creditors (basically, Lloyd's) had Lloyd's accepted the recommendation to settle with the Debtors for a total of \$20,000 in November 2005 and compared it with the expected distribution now. The Applicant believes that Lloyd's would have received about \$13,000 then and will receive about \$14,000 now, nearly a year later. Since November 2005 the administrative expenses have risen considerably, with about a \$1000 net benefit to the creditors. Under the circumstances present in this case, the Applicant believes that the requested fees are amply warranted by the results obtained. On September 21, 2006 the Trustee had \$29,254.14 on hand, all of it attributable to the Applicant's efforts.

The Applicant certifies that fees are not being sought for work that is the responsibility of the Trustee. A printout of the Trustee's time incurred in this case is attached as Exhibit B hereto. The Applicant further states that it has not shared or agreed to share any such compensation or reimbursement of expenses requested pursuant to Section 503(b)(2) or Section 503(b)(4) of the Bankruptcy Code in a manner contrary to the provisions of Section 504 of the Bankruptcy Code.

WHEREFORE the Applicant requests that the attached Order be entered.

Respectfully submitted,

/s/ Kevin R. McCarthy  
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McLean, VA 22102  
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Attorneys for the Trustee

CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of December 2006 I mailed a copy of the foregoing, by first class mail, postage prepaid, to the following:

United States Trustee  
115 S. Union Street  
Plaza Level - Suite 210  
Alexandria, VA 33214

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/s/ Kevin R. McCarthy