

DOCKET NUMBER: 94-12288  
ADV. NUMBER:  
JUDGE: M. A. Mahoney  
PARTIES: Linda P. Lovett  
CHAPTER: 13  
ATTORNEYS: B. L. Thompson  
DATE: 2/1/95  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ALABAMA

In Re

LINDA P. LOVETT,

Case No. 94-12288-MAM-13

Debtor.

**ORDER RE DEBTOR'S ATTORNEY'S FEES**  
**AND THE CHAPTER 13 TRUSTEE'S FEES**

This matter is before me on the Debtor's Motion to Establish Trustee's Fee and Attorney's Fees (the "Motion"). This court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Order of Reference of the District Court. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). For the reasons outlined below, the Court is establishing the Chapter 13 Trustee's fee at the December 17, 1991 Court order amount and the fee for Debtor's counsel at \$1350 in this case.

The Chapter 13 plan of this Debtor provides for payment of all claims against the Debtor. Mulherin Realty will be paid directly outside the Chapter 13 plan. United Companies Lending Corporation will also be paid directly upon a refinanced note which will cover the entire amount owed to it. Linda Lovett has no other creditors except the Debtor's attorney and the Chapter 13 Trustee. The attorney is owed whatever reasonable fees and expenses this court approves for his work; the Chapter 13 Trustee fee must be set by the Court for reasons to be explained. The two fees are the only items which will be paid on a monthly basis by this Debtor through her Chapter 13 plan.

Mr. Barry Thompson of Silver & Voit has requested a fee of \$1,500 for his work on this case. Such a fee is allowed in numerous cases in this district. However, usually the fee is charged in a situation where the debtor has numerous creditors. Here there are only two. In a case with many creditors, debtor's counsel is likely to be called upon to handle various motions

and other routine matters throughout the typical 5 year life of a plan. Because of this debtor's circumstances and use of bankruptcy to creatively solve her problem with United Lending, this case, once filed, will be likely to require no ongoing work by Mr. Thompson. Mr. Thompson indicated he had invested 8 hours of time at \$140 per hour to date in this filing. Because he had been consulted on the eve of a foreclosure, the case involved emergency measures on his part. An hourly rate of \$140 per hour is at the high end of the rate scale for attorneys who practice in the Chapter 13 area in this district; however, Mr. Thompson is very skilled and diligent in his representations, as this case shows. Based upon the fact that the \$1,120 already invested in the file is most of the time necessary to the case, based upon the "high end rate," but also based upon the excellent result, the Court will approve \$1,350 in fees.

The Chapter 13 Trustee's fees are set, in a non-U.S. Trustee district such as this is, by the Court. Pursuant to order dated December 17, 1991, the fee to be paid to the Trustee is "8.0% of all amounts paid under the terms of the extension proposal (Chapter 13 plan) confirmed by Order of this Court". (Parentheses added). The fees paid are based upon the amounts paid out to creditors. In this case, the creditor payout will be small—\$1,350. The fee at 8% would be \$108. The debtor proposes to pay the Trustee \$450 to better cover the Trustee's costs. This purpose is admirable, but one which the Court cannot fulfill. The court established fees must be followed in all cases in order to insure the integrity of the system. This is not the only case in which the Trustee has or will receive little or no commission.

For the reasons indicated, IT IS ORDERED that an attorney's fee of \$1,350 for Barry Thompson of Silver & Voit and a Chapter 13 Trustee's commission at the rate established in the Order of December 17, 1991 are approved.

Dated: February 1, 1995

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MARGARET A MAHONEY  
U.S. BANKRUPTCY JUDGE