

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :
MAX SUGARMAN FUNERAL HOME, INC. : BK No. 82-00568
Debtor : Chapter 11

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In re: :
EMB ASSOCIATES, INC. : BK No. 82-00569
Debtor : Chapter 11

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ORDER DETERMINING COMPENSATION

This is the Second (and final) Application for Compensation filed by Patricia Antonelli, Esq., and the firm of Partridge Snow & Hahn, LLP, (collectively "PS&H"), counsel to the Creditors' Trustee. PS&H, requesting fees in the amount of \$56,302 and expenses of \$4,078, was previously awarded \$100,000, on account of its first request for compensation. At the hearing, Ms. Antonelli stated, notwithstanding the fact that additional work will be required to conclude this nineteen year old bankruptcy case, that this would be her final application, and that she will not seek additional fees for future time expended by PS&H.

We have reviewed the application utilizing the lodestar approach, as well as the *Johnson* criteria. See *King v. Greenblatt*, 560 F.2d 1024 (1st Cir. 1977), cert. denied, 438 U.S.

916 (1978)(adopting the factors set forth in *Johnson v. Georgia Highway Express*, 488 F.2d 714 (5th Cir. 1974)); *Furtado v. Bishop*, 635 F.2d 915 (1st Cir. 1980); *In re Swansea Consol. Resources, Inc.*, 155 B.R. 28 (Bankr. D.R.I. 1993); *In re Almacs, Inc.*, 178 B.R. 598 (Bankr. D.R.I. 1995), and feel that the request is adequately documented and reasonable, with the following exception: The Applicant has expended in excess of \$42,000 in attorney and paralegal time on the Trustee's objection to the claims of Robert Goldblatt, which represented a maximum potential liability to the estate of \$110,000. The problem is that when one considers the projected best scenario dividend of 66% to unsecured creditors, this claim at most could have cost the estate \$72,600. PS&H, after preparing for trial on two occasions, settled the Goldblatt claim after mediation, for \$90,000, thereby saving the estate the net amount of \$13,302.¹

¹ \$20,000 (the net reduction in the claim), times 66.51% (the actual dividend to unsecured creditors), equals \$13,302.

While recognizing that the Court's hindsight is always 20/20 in these cases, and that professionals are not guarantors of successful results, they must always act reasonably. See *In re Narragansett Clothing Co.*, 210 B.R. 497 (B.A.P. 1st Cir. 1997), citing *In re Gianulias*, 111 B.R. 867, 869 (E. D. Cal. 1989) ("[i]t is well settled that the burden is on a professional claiming a fee in a bankruptcy proceeding to establish the value of his [or her] services"). When the highest possible dollar cost to the estate is \$72,000 and counsel requests \$42,000 for services regarding that claim, the bounds of reasonableness are certainly strained, and when the ultimate saving to the estate is only \$13,000, the benefit is clearly not commensurate with the expense. Balancing all of the equities, I find that \$25,000² reasonably compensates PS&H for the services rendered in opposing the Goldblatt proof of claim.

Accordingly, for the foregoing reasons, the Second and Final Application of PS&H is allowed in the amount of \$39,054,

² On its face, and without looking at the whole picture, this award would clearly be excessive. This result obviously reflects recognition of the heavy pressure and creditor attention under which the Applicant was laboring in this case, as well as factoring in something for future work, which Ms. Antonelli has waived. If unanticipated future services become extraordinary, the Court will disregard the waiver.

and expenses are allowed as requested, in the amount of \$4,078.32.

Dated at Providence, Rhode Island, this 16th day of February, 2001.

/s/ Arthur N. Votolato
Arthur N. Votolato
U.S. Bankruptcy Judge