

6-22-2004

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

<b>IN THE MATTER OF:</b>	:	<b>CASE NUMBER</b>
	:	
GRETA R. CARTER,	:	00-12200-WHD
	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
DEBTOR.	:	BANKRUPTCY CODE

**ORDER**

Before the Court is the application seeking approval of a claim for compensation filed in the above-captioned bankruptcy proceeding by Theo Mann, the former trustee of the Chapter 7 bankruptcy estate of Greta R. Carter, on behalf of Kem and A.C. Roda (hereinafter "Roda"). Greta Carter (hereinafter "Debtor") is the sole objector to the requested compensation. Following a hearing on the application, the Court took the matter under advisement. This matter constitutes a core proceeding within the subject matter jurisdiction of the Court, *see* 28 U.S.C. § 157(b)(2)(A)-(B), and it shall be disposed of in accordance with the following reasoning.

**BACKGROUND**

On September 19, 2000, the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code. Theo Mann (hereinafter the "Trustee") was appointed as the Chapter 7 Trustee of the Debtor's bankruptcy estate. Prior to filing her Chapter 7 petition, the Debtor owned jointly with her non-filing spouse certain real property known as 175 Forest Hall Place, Fayetteville, Georgia (hereinafter the "Property"). At the hearing, the Trustee

testified that he believed that the estate's one-half interest in the Property also consisted of non-exempt equity available for payment to creditors. Accordingly, on April 5, 2001, he filed a Trustee's Status Report Investigating Possibility of Assets. The Trustee also testified that he negotiated with the Debtor for the purchase of the estate's interest in the Property.

On January 7, 2002, the Court approved the Trustee's request to hire the law firm of Mann and Wooldridge to act as attorney for the Trustee and on January 8, 2002 the Court entered an order approving the Trustee's request to hire Roda for the purpose of marketing and selling the Property. The application to employ Roda pursuant to § 327(a) provided that Roda would be compensated with a commission of 7% of the purchase price "upon consummation of any sale." Both the application and Order to employ Roda stated that Roda had been informed and understood that "no sale may be consummated until after notice and a hearing." Additionally, both the Order and the application stated that the Court, pursuant to § 328 of the Bankruptcy Code, may authorize compensation other than that proposed in the application should the Court determine that the terms and conditions of employment were "improvident in light of developments unanticipatable at the time of fixing of such terms and conditions."

Ultimately, the Trustee, with Roda's assistance, began to market the Property for sale, and these efforts resulted in a sale contract with a purchase price of \$199,000. On August 6, 2002, the Trustee filed a motion to sell the Property. However, four days earlier, the Debtor had filed a motion to convert her Chapter 7 bankruptcy case to a case under Chapter

13. On September 16, 2002, the Trustee filed an objection to the conversion of the case, asserting that the Debtor was not entitled to convert her case to Chapter 13 because she had already received a Chapter 7 discharge. Both parties filed briefs in support of their positions, and the Court held a hearing on the matter on October 18, 2002. Having taken the matter under advisement, the Court issued a written opinion allowing the Debtor to convert her case to one under Chapter 13. See *In re Carter*, 285 B.R. 61 (Bankr. N.D. Ga. 2002). The conversion of the case rendered moot the Trustee's motion to sell the Property, and the Trustee never closed the sale of the Property.

Following the conversion of the Debtor's case, the Trustee and his attorney filed applications requesting approval of compensation for the services rendered to the Debtor's Chapter 7 estate and for reimbursement of expenses incurred. The Trustee also sought authorization to pay Roda's commission as an expense of administering the Debtor's bankruptcy estate. The Debtor filed an objection to the compensation sought by Roda, and the Court held a hearing on the matter.

On April 9, 2003, the Court entered an order disallowing the Trustee's request to pay the 7% commission to Roda as an expense of administration. The Court first acknowledged that the Trustee's request for payment was "procedurally defective" in that, as authorized "professionals" of the estate, Roda was required to make an application for payment of compensation in accordance with Rule 2016 of the Federal Rules of Bankruptcy Procedure, which requires the applicant to file a statement describing the services rendered and the time

spent. The Court also agreed with the Debtor that, given the fact that the sale of the Property never closed, payment of a commission would not be reasonable, within the meaning of § 330 of the Code. Recognizing that the payment of a 7% commission was essentially payment on a contingent-fee basis, the Court found that no payment was required under the original terms of the employment unless the sale of the Property had been consummated. The Court further noted that Roda had been aware of the risk that any particular sale may not be approved by the Court, and, when weighed against the potential injury to the Debtor and her creditors, the Court determined that, under the circumstances, payment of the 7% commission "would be unreasonable within the meaning of §§ 328 and 330."

Following the entry of the order disallowing the 7% commission, the Debtor filed a proposed Chapter 13 plan, which provided for payment of a 100% dividend to unsecured creditors. The Debtor's Chapter 13 plan was confirmed on May 8, 2003.

On February 24, 2004, the Trustee filed the instant application seeking compensation for Roda. In the application, the Trustee submits that, although the Court denied payment of the full commission to Roda, it would be inequitable to deny Roda some form of compensation. The Trustee asserts that, pursuant to § 328, the Court should have authorized compensation upon terms other than those approved in the employment order, because the fact that the Debtor would convert her case to Chapter 13 after Roda rendered substantial services to the Debtor's Chapter 7 bankruptcy estate was a development that could not have

been anticipated at the time the original employment application was filed. Specifically, the Trustee now seeks compensation for Roda in an amount based upon Roda's time and efforts. The Trustee has attached, as an exhibit, a statement, signed by Roda, outlining the nature of the activities performed by Roda in connection with marketing the Property. The statement indicates that Roda rendered 120 hours of services on behalf of the estate, and that Roda's average hourly rate works out to \$56 per hour, based upon gross sales. Accordingly, the Trustee seeks authorization to pay Roda \$6,720.

The Debtor objects to the payment of any amount to Roda. First, the Debtor argues that: 1) this Court's April 9th Order disallowing Roda's claim for a 7% commission is *res judicata* as to the issue of whether Roda is entitled to compensation; 2) the application is untimely; 3) the application is barred by the confirmation of the Debtor's Chapter 13 Plan; and 4) the application fails to comply with the procedural requirements of § 330 and Rule 2016.

### CONCLUSIONS OF LAW

#### A. *Res Judicata Effect of the Court's April 9th Order*

The Debtor first contends that, under the doctrine of *res judicata*, the Court's April 9th Order bars the re-litigation of the instant application. "'The doctrine of *res judicata* rests at bottom upon the ground that the party to be affected, or some other with whom he is in privity, has litigated or had an opportunity to litigate the same matter in a former action in a court of competent jurisdiction.'" *Richards v. Jefferson County, Alabama*, 116 S. Ct. 1761,

1765 (1996) (quoting *Southern Pacific R.R. Co. v. United States*, 168 U.S. 1, 48 (1897)).

"In the Eleventh Circuit, a party seeking to invoke the doctrine must establish its propriety by satisfying four initial elements: (1) the prior decision must have been rendered by a court of competent jurisdiction; (2) there must have been a final judgment on the merits; (3) both cases must involve the same parties or their privies; and (4) both cases must involve the same causes of action." *In re Piper Aircraft Corp.*, 244 F.3d 1289 (11th Cir. 2001).

However, the Court considers the instant application to be a motion for reconsideration of or relief from the Court's April 9th Order. The doctrine of *res judicata* does not preclude a court from reconsidering its own order, in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. For example, "[a] claim that has been allowed or disallowed may be reconsidered for cause." 11 U.S.C. § 502(j). "A reconsidered claim may be allowed or disallowed according to the equities of the case." *Id*; see also FED. R. BANKR. P. 3008 (a "party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate"); see also *In re Cleanmaster Indus., Inc.*, 106 B.R. 628 (Bankr. 9th Cir. 1989). Further, there is no time limit for filing a motion to reconsider a claim. See FED. R. BANKR. P. 9024(1); 3008. Because this Court's April 9th Order is subject to reconsideration, it is not a final judgment, and *res judicata* does not apply. The Advisory Committee Note accompanying Rule 3008 provides that reconsideration of a claim is discretionary with the Court. Moreover, in the interest of equity and justice, modification or reconsideration of an order which is *res judicata* is in the

exercise of sound judicial discretion, whether the order has been entered after litigation or by consent, and a balance must be struck between the policies of res judicata and the right of the Court to apply modified measures to changed circumstances. *U.S. v. Swift & Co., et al.*, 286 U.S. 106, 114-115 (1932); FED. R. BANKR. P. 9024.

"What constitutes 'cause according to the equities of the case' is not specifically set forth, but is an adaptable standard which reflects bankruptcy laws' roots in equity jurisprudence." 4 COLLIER ON BANKRUPTCY, ¶ 502.11[5] at 502-79 (15th Ed. 2004). This Court has previously considered the following factors when determining whether cause exists to reconsider a claim: "(1) whether granting review will prejudice the debtor or other creditors; (2) the length of the delay and its impact on efficient court administration; (3) whether the delay was beyond the reasonable control of the person whose duty it was to perform; (4) the presence of good faith; (5) whether clients should be penalized for their counsel's mistake or neglect; [and] (6) whether the claimant has a meritorious claim." *In re Bernard*, 189 B.R. 1017 (Bankr. N.D. Ga. 1996) . "[T]o the extent that it must weigh such a variety of considerations, the Court has substantial discretion regarding when to grant reconsideration under section 502(j)." *Id.* Further, most courts apply the "standards set forth in Federal Rule of Civil Procedure 60(b), incorporated by Bankruptcy Rule 9024" when determining whether cause exists to reconsider a claim. *In re Harbor Financial Group, Inc.*, 303 B.R. 124, 131 (Bankr. N.D. Tex. 2003). "The Rules are based on the historic equitable power of the court to modify its decree in light of changed circumstances."

*In re Joint Eastern and Southern Districts' Asbestos Litigation*, 237 F. Supp.2d 297 (E.D.N.Y. 2002). "Rule 60(b) applies to judgments no longer equitable because the operative facts underlying the judgment have changed." *Id.*

In this case, after careful consideration of the circumstances and based upon the equities of the case, the Court concludes that "cause" exists to reconsider the April 9th Order. Reconsideration or relief from the April 9th Order will not prejudice the Debtor's creditors, and, to the extent that it prejudices the Debtor, the current situation appears to have been largely created by her own conduct. The allowance of Roda's claim for compensation will not unduly delay the administration of this case, considering that the Chapter 13 Trustee should have sufficient funds to pay all claims, including Roda's, upon the entry of this Order, after which the Debtor's Chapter 13 case will be closed. As to the delay in seeking relief, Roda waited approximately eleven months to seek reconsideration of or relief from the Court's April 9th Order. At the hearing on the instant matter, Roda contended that he did not act sooner because it was possible that the Debtor's Chapter 13 Plan would fail, and the Debtor's case would be reconverted to Chapter 7, at which point the Property could be sold, and Roda's fees could be paid from the proceeds realized from the sale. Although the Court is not persuaded that this is an altogether sufficient justification for waiting almost a year to seek relief, the Court finds that the fact that Roda has a meritorious claim, as discussed further below, and is acting in good faith, far outweigh the fact that he has not produced a sufficient explanation for the delay. This mere delay,



standing alone, does not justify the triggering of the equitable doctrine of laches to prevent the Court from reconsidering Roda's claim for compensation.

Further, the Court concludes that, in light of the changed circumstances of this case, the Court's April 9th Order would be unjust and grossly inequitable based upon the equities of the case. *See* FED. R. BANKR. P. 9024; FED. R. CIV. P. 60(b). The Court had originally concluded that the payment of the full 7% commission would not be reasonable, within the meaning of § 330, given the fact that, under the original terms of the employment, the commission was not payable since the Property was not sold. The Court could have considered altering the terms of the employment, pursuant to § 328, to allow compensation to Roda based upon the time and efforts spent, rather than on a contingency basis. *See* 11 U.S.C. § 328 ("Notwithstanding such terms and conditions [of employment], the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions."). However, at the time the Court considered the original request for payment, it appeared that the Debtor's Chapter 13 Plan would not be feasible if the Court allowed any compensation to Roda. In short, the Court's earlier decision was influenced by the fact that allowance of compensation on an alternative basis would come at the expense of the Debtor's general unsecured creditors. In an effort to ensure that the Debtor's unsecured creditors would benefit from the Debtor's last-minute

conversion of her Chapter 7 case to a Chapter 13 case, the Court declined at that time to consider alternative theories of compensation.

The circumstances have obviously changed since the Court's initial consideration of this issue. For example, subsequent to the conversion of the Debtor's case and the confirmation of her Chapter 13 Plan, the Debtor has apparently been awarded sole ownership of the Property, in exchange for making a \$20,000 payment to her ex-spouse. The Debtor has also requested and been granted permission to refinance the Property in order to make this payment. It is the Court's understanding that the Debtor has received sufficient funds from the refinancing of the Property to pay the balance of her Chapter 13 Plan payments. The Chapter 13 Trustee is holding these funds, awaiting the entry of this Order. At this time, and under the current facts of the case, the Court finds that the Debtor's general unsecured creditors would no longer be prejudiced by an award of reasonable and equitable compensation to Roda. Accordingly, given the fact that Roda expended considerable time in marketing the Property, and his efforts were largely responsible for the Debtor's proposal of a Chapter 13 plan that will pay her creditors in full and will allow the Debtor to retain her home, it would be inequitable under these circumstances for the Court not to reconsider Roda's request for compensation.

Additionally, other than the objections to the timeliness of the second application discussed above, the Debtor has not objected to the payment of reasonable compensation to Roda. In fact, during a hearing held by this Court on the Trustee's original motion to sell

the Property, the Debtor's counsel stated that, if the Court allowed the Debtor to convert her case to Chapter 13, she would "pay the Realtor whatever his reasonable fees are," and that the "Realtor and the attorney, the Trustee, all are going to get paid their hundred cents on the dollar." Transcript of Proceeding Held on Trustee's Motion to Sell Property, September 6, 2002, at 9-10. These statements suggest to the Court that, at the time of that hearing, the Debtor's counsel recognized and agreed that Roda's original employment terms, which limited his compensation to a commission earned upon the consummation of a sale of the Property, were improvident in light of the Debtors' subsequent decision to convert her case to Chapter 13.

The Court has carefully considered the facts and balanced the equities of this case and has concluded that, pursuant to § 328, the matter of the compensation set forth in the order approving Roda's employment should be altered. The Debtor filed this bankruptcy case in September 2000. In April 2001, the Trustee alerted the Court and the Debtor that he was investigating the possibility of non-exempt assets. Throughout the remainder of 2001, the Trustee gave the Debtor fair warning of his intent to market and sell the Property. He also gave her a sufficient opportunity to either purchase the estate's interest in the Property or convert her case to Chapter 13 before he moved the Court for permission to employ a realtor in January 2002. The Debtor did not object to the application to employ Roda or otherwise take action. Even after the Court approved Roda's employment, the Debtor stood idly by and allowed Roda to invest his time and efforts in marketing the

property from February 2002 until August 2002 before she decided to convert her Chapter 7 case to a case under Chapter 13. She then stated to the Court that, if she were allowed to convert to Chapter 13, she would propose a plan that would pay Roda's reasonable fees. It would be unjust under these circumstances to allow the Debtor to benefit from conversion of the case without payment of reasonable and equitable compensation to Roda. Given the amount of time that passed in the case and the fact that the Debtor had already received her Chapter 7 discharge, the parties could not have anticipated that the Debtor would move to convert her case to Chapter 13 after the Trustee had obtained a contract for sale of the Property. Accordingly, the Court finds that, pursuant to § 328(a), the original terms of employment authorized were improvident in light of the Debtor's subsequent decision to convert her case to Chapter 13, and that the Debtor's decision to do was incapable of anticipation at the time the Court authorized Roda's employment.

That being said, as a court of equity, the Court must determine the reasonable compensation to which Roda is entitled. When determining whether requested compensation is reasonable, the Court must first "ascertain the nature and extent of the services supplied by the applicant." *In re Health Science Products, Inc.*, 191 B.R. 895, 910 n.20 (Bankr. N.D. Ala. 1995). Second, the Court must consider the twelve factors announced in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 171 (5th Cir. 1974), in order to assess "the reasonableness and necessity of the hours claimed and the hourly rate requested." *Id.* These factors include: "(1) The time and labor required; (2) The novelty and difficulty of

the questions; (3) The skill requisite to perform the . . . service properly; (4) The preclusion of other employment by the [professional] due to acceptance of the case; (5) The customary fee; (6) Whether the fee is fixed or contingent; (7) Time limitations imposed by the client or other circumstances; (8) The amount involved and the results obtained; (9) The experience, reputation, and ability of the [professional]; (10) The "undesirability" of the case; (11) The nature and length of the professional relationship with the client; and, (12) Awards in similar cases. *Id.* Third, a "reasonable fee may then be determined by multiplying the reasonable hourly rate by the number of hours reasonably expended." *Id.*

Roda has requested a fee of \$6,720, which is based upon 120 hours of time spent at an hourly rate of \$56. Because real estate agents do not generally charge their clients an hourly rate, the requested hourly rate has been calculated by dividing Roda's annual gross revenues, which the Court assumes is derived from the payment of commissions, by an average of 2500 hours worked per year (50-hour work week with 50 work weeks in a year).

Roda has submitted a statement describing the nature of the services rendered, but has not specified the time spent doing each activity. The Debtor has not objected to the reasonableness of the hourly rate, and the Court has no basis to conclude that a lower hourly rate should be used. The record appears to support the hourly rate requested, and the Debtor has presented no evidence to justify a reduction in the hourly rate. For example, the fact that Roda was able to obtain a contract for sale of the Property suggests that Roda is a qualified and experienced real estate professional. Further, it appears beyond dispute that the Debtor

did not make marketing and selling the Property an easy task, which probably made this particular listing less than attractive to other agents.

As to the reasonableness of the amount of time spent, the Court assumes that, generally speaking, all of the services rendered were necessary to obtain a contract for sale of the Property. For example, services rendered included developing marketing materials, publishing the materials to a website, entering the Property into the Multiple-Listing Service, coordinating showings of the Property, and conducting appraisal research to properly price the Property. However, without a more detailed statement of the actual time spent, the Court cannot conclude with certainty that the amount of hours spent on each task were necessary and reasonable. Additionally, because Roda did not maintain contemporaneous time records, as generally required by attorneys, Roda essentially had to guess in order to recreate the number of hours spent. Accordingly, there is a greater risk that the full 120 hours were not actually spent in rendering services to the Trustee. As between Roda, whose burden it is to establish that the fees sought are reasonable, and the Debtor, the Debtor should not have to bear the risk that the hours actually spent were less than 120 or that the time devoted to the case was unnecessary or unreasonable. Accordingly, the Court finds that the number of hours should be reduced by a third to 80 hours, and the Court will reduce the amount of the claim for compensation to \$4,480.<sup>1</sup>

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<sup>1</sup> To some extent, the Court's decision to reduce the fee requested is also motivated by a comparison of the fee requested to the total amount of the Debtor's debts. The Debtor scheduled total debts of \$20,726.58. The requested fee is approximately 32% of the total debt originally owed in this case. Once added to the administrative expenses paid to the

B. *The Effect of the Confirmation of the Debtor's Chapter 13 Plan*

The Debtor next argues that the confirmation of the Debtor's Chapter 13 plan, prior to the filing of the instant application, precludes the Court from reconsidering the April 9th Order. The Debtor refers to § 1327, which provides that "the provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan and whether or not such creditor has objected to, has accepted, or has rejected the plan." The Court recognizes that a confirmed plan generally precludes a creditor or the debtor from litigating issues that were or could have been litigated during the confirmation hearing. *In re Bateman*, 331 F.3d 821 (11th Cir. 2003). However, this Court has previously held that § 502(j) poses "a narrow exception to the otherwise unwavering bar which section 1327(a) places upon re-litigation of claim allowance after confirmation." *In re Bernard*, 189 B.R. 1017, 1022 (Bankr. N.D. Ga. 1996) (Drake, J.) ("[A] conclusion that *res judicata* bars reconsideration of allowance after confirmation would require one substantially to read section 502(j) out of the books."). The Court reasoned that "[w]hen read collectively, sections 1327(a), 502(a) and 502(j) . . . appear to direct that confirmation implicitly decides claim validity and, after confirmation, the section 502(j) "motion to reconsider" presents the only means by which a claim's validity may be questioned." *Id.* at 1021; *see also In re Dykes*, 287 B.R. 298 (Bankr. S.D. Ga. 2002); *In re Sheffield*, 281 B.R. 67, 72 (Bankr. S.D. Ala. 2001) ("Sheffield's confirmation orders are not a final bar to claim objections.").

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Trustee and his attorney, the Chapter 7 administrative expenses would total approximately 75% of the total debt originally owed in this case.

Finally, this Court has previously noted that, if the confirmed plan itself contemplates that a matter may be raised and heard at a later date, such as a claim objection, the *res judicata* effect of the plan would not preclude a party from raising that issue. *See In re Bernard*, 189 B.R. at 1020 n.3 ("Indeed, where the Order, or the reorganization plan which it confirmed, includes a reservation by the debtor of a right to bring future claim objections, *res judicata* should cement terms of that reservation just as it would the rest of the Order and allow the reservation to create its own statute of limitations for future objections."). In essence, the confirmed plan can provide that the confirmation order is entered without prejudice to the future resolution of a particular issue. *Id.* ("[T]he unique terms of the plan and Order potentially may provide for future objections to claim, notwithstanding" § 1327).

In this case, the Debtor's confirmed plan does not contain any provisions that would preclude the allowance and payment of an administrative expense claim after confirmation. As to Priority Claims, which would include Roda's claim for compensation, the Plan merely states that "payments shall be made to priority creditors, whose claims have been filed and allowed." *See* Docket No. 64. The Plan does not contain any time limit for filing such claims. In fact, the Plan states that "THE TRUSTEE SHALL PROVIDE FOR AND DISBURSE ONLY TO CREDITORS WITH FILED AND ALLOWED CLAIMS, REGARDLESS OF THE DATE OF THE PLAN'S CONFIRMATION." Accordingly, the Plan contemplates payment of claims allowed during the post-confirmation period, and the Plan cannot have preclusive effect upon the allowance and payment of Roda's claim for



compensation.

*C. Procedural Defects*

Finally, the Debtor argues that Roda's claim for compensation should be denied for its failure to comply with the requirements of Rule 2016. Rule 2016 requires a professional of an estate seeking compensation for services to file an application that sets forth a detailed statement of: 1) the services rendered, time expended, and expenses incurred; and 2) the amounts requested. *See* FED. R. BANKR. P. 2016. Roda's statement lists the nature of the services rendered, states that Roda spent 120 hours of time during the time period of February 2002 through August 2002, and requests a specific amount of compensation, based upon a disclosed hourly rate. The Court does not believe that the failure to submit a more detailed statement necessitates an outright denial of the request for compensation. As noted above, the Court has already determined that the compensation requested should be reduced by a third because the Court has not been presented with a more detailed statement as to the actual time spent rendering services to the Trustee.

Finally, the Debtor objects to the fee application on the basis that the application does not contain a sworn affidavit as to the truth of the statement provided by Roda. Again, the Debtor has submitted no authority to support her contention that the fee application must be verified or contain a sworn affidavit. The Court does not doubt that it is the customary practice in this District to verify an application for compensation. However, the Court's own research has revealed that the "Bankruptcy Rules neither require nor provide for the

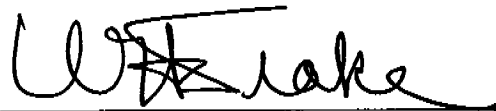
verification of fee applications." *In re Jensen-Farley Productions, Inc.*, 47 B.R. 557, 581 (Bankr. Utah 1985) (comparing FED R. BANKR. P. 2016 with FED. R. BANKR. P. 9011(b)); *see also In re Bond*, 254 F.3d 669 (7th Cir. 2001). "A verification is not required in order to impress upon an attorney's conscience the necessity of truthfulness in the matters set forth in the fee application." *Id.* at 582. Therefore, the Debtor's objection to the lack of a sworn statement is therefore overruled.

### CONCLUSION

Having carefully considered the matter and having balanced the equities of the case, the Court finds that Roda's deemed motion to reconsider or relief from the April 9th Order should be **GRANTED**. The Debtor's objection to Roda's claim for compensation is overruled. Compensation in the amount of \$4,480 shall be awarded to Roda as an administrative expense of the Debtor's bankruptcy estate and paid by the Chapter 13 Trustee in accordance with the priorities set by the Debtor's Chapter 13 Plan.

**IT IS SO ORDERED.**

At Newnan, Georgia, this 22 day of June, 2004.



W. HOMER DRAKE, JR.  
UNITED STATES BANKRUPTCY JUDGE