

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

In re: RUNNELS BROADCASTING SYSTEMS, LLC,

No. 7-02-14217 JR

Debtor.

**MEMORANDUM OPINION**

THIS MATTER is before the Court on consideration of the Chapter 7 Trustee's Final Report (TFR) and application for compensation ("Final Report"), filed May 18, 2009. *See* Docket No. 333. The Final Report requested compensation to the Chapter 7 Trustee in the amount of \$81,976.67 pursuant to 11 U.S.C. § 326(a). William F. Davis & Assoc. P.C. ("The Davis Firm") filed an objection to the Final Report and Application for Compensation. (Docket No. 336). The Objection asserts, among other things, that the Final Report contains certain mistakes and omissions, and disputes that the Chapter 7 Trustee is entitled to receive the requested compensation, which is the maximum compensation allowable under 11 U.S.C. § 326(a).

The Final Report reflects that, after payment of the Chapter 7 Trustee's fee and other administrative expenses, WP Broadcasting LLC ("Westburg")<sup>1</sup> is the only creditor to receive a distribution from the estate. *See* Final Report, Exhibit D. At a preliminary hearing on the Objection, the parties raised the issue of whether William F. Davis & Assoc. P.C., formerly Davis & Pierce, P.C. ("The Davis Firm"), which holds an allowed Chapter 11 administrative claim for attorneys' fees incurred during its representation of the debtor in possession, has standing to object to the Final Report. The Court directed the parties to brief the issue of The

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<sup>1</sup> The Final Report identifies Westburg as WO Broadcasting LLC. The Chapter 7 Trustee stated in the Chapter 7 Trustee's Response to William F. Davis & Assoc. P.C.'s Objection to the Trustee's Final Report and Application for Compensation ("Response") that the reference to "WO" is a typographical error resulting from the Trustee's estate software, and that WO Broadcasting LLC is, in fact, WP Broadcasting, LLC. Westburg is the transferee of the claim filed by Westburg Media Capital, L.P. *See* Notice of Transfer of Claim of Westburg Media Capital, L.P. (Docket No. 260).

Davis Firm's standing and took the matter under advisement. After consideration of the Chapter 7 Trustee's Motion to Dismiss William F. Davis & Assoc. P.C.'s Objection to the Trustee's Final Report and Application for Compensation (Docket No. 342) and supporting memorandum brief (Docket No. 343), The Davis Firm's response thereto (Docket No. 344), and the Chapter 7 Trustee's reply (Docket No. 339), and being sufficiently informed, the Court concludes that The Davis Firm lacks standing to object to the Final Report, and in connection therewith FINDS:

1. Runnels Broadcasting Systems, LLC ("Debtor") filed a voluntary petition under Chapter 11 of the Bankruptcy Code on June 14, 2002.
2. The Davis Firm was substituted as counsel for the Debtor on May 20, 2003.<sup>2</sup>
3. On November 23, 2004, the Court entered an order directing the United States Trustee to appoint a Chapter 11 Trustee, and on December 7, 2004, Linda S. Bloom was appointed as Chapter 11 Trustee. *See* Docket No. 155 and Docket No. 158.
4. On December 13, 2004, the Chapter 11 Trustee filed a motion to convert the Debtor's bankruptcy case to Chapter 7, and on March 3, 2005, following an evidentiary hearing on the motion to convert, the Court entered an Order Converting Case to Chapter 7 ("Conversion Order"). *See* Docket No. 159 and Docket No. 177. Linda S. Bloom was appointed as the Chapter 7 Trustee.
5. The Debtor did not appeal the Conversion Order.

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<sup>2</sup> *See* Case No. 11-02-14214 MA, Docket No. 113. The Debtor's owners, Dewey Matthew Runnels and Judy Carol Runnels, also filed a voluntary petition under Chapter 11 of the Bankruptcy Code on June 14, 2002, as Case No. 11-02-12414 MR ("Runnels Case"). In January of 2003, an order was entered jointly administering the Debtor's bankruptcy case with the Runnels Case. *See* Case No. 11-02-14217 - Docket No. 126. The Runnels Case was severed from Debtor's bankruptcy case on February 3, 2005. *See* Case No. 7-02-14217 MR - Docket No. 177, and Case No. 11-02-12414 MR (Docket No. 348).

6. On March 14, 2005, Linda S. Bloom filed an application seeking to employ her firm, Linda S. Bloom, P.A., as attorney for the Chapter 7 Trustee. *See* Docket No. 179. An order authorizing the employment of Linda S. Bloom, P.A. as attorney for the Chapter 7 Trustee was entered on March 21, 2005. *See* Order Authorizing Employment of Attorney for Trustee (Linda S. Bloom P.A.) (“Employment Order”) Docket No. 187. The Employment authorized the Chapter 7 Trustee to employ Linda S. Bloom, P.A. at the standard hourly rate of \$195.00. *Id.*
7. On August 2, 2005, after notice, a Stipulated Order Authorizing Chapter 7 Trustee to Use Cash Collateral and Granting Surcharge (“Surcharge Order”) was entered which permitted the Chapter 7 Trustee to use Westburg’s cash collateral to operate the Debtor’s businesses and granted a surcharge against Westburg’s collateral to pay all allowed Chapter 7 administrative expenses. *See* Surcharge Order - Docket No. 225.
8. Westburg holds an allowed claim in the amount of \$1,983,103.00 as of May 18, 2005. *See* Surcharge Order, p. 2, ¶ 2 – Docket No. 225. Westburg filed an Amended Proof of Claim for a secured claim in the amount of \$1,064,289.85 on September 1, 2006. *See* Claim No. 7-2.
9. No objection to the Amended Proof of Claim has been filed.
10. The Surcharge Order provides that “[n]othing herein shall prejudice Westburg’s or any other party’s right to object to any professional fee application or the administrative expense.” Surcharge Order, ¶ 10.
11. The Davis Firm did not object to the Surcharge Order, and did not appeal the Surcharge Order.

12. The Davis Firm holds an allowed administrative Chapter 11 expense claim for fees and costs in the amount of \$92,995.03 incurred during its representation of the Debtor in the Chapter 11 proceeding. *See* Order Granting First and Final Application by Attorneys for the Debtor Runnels Broadcasting Systems, LLC for Allowance and Payment of Compensation for the Period from April 2003 to July 2004 (Docket No. 306).
13. The Trustee sold the Debtor's radio stations for \$1,759,230.04, and collected accounts receivables totaling \$856,848.54, which, together, constituted substantially all assets of the estate. Orders approving the sales of the radio stations were entered on January 27, 2006 and January 31, 2007. *See* Order Approving Sale of KNMZ-FM; DRSY-FM; and KRSY-AM Radio Stations Free and Clear of Liens; and Approving the Brokerage Agreement with Buyer - Docket No. 277; and Order Approving Sale of KNFT-FM; KNFT-AM; and KPSA-FM Radio Stations Free and Clear of Liens; and Approving Brokerage Agreement with Buyer – Docket No. 280. The Davis Firm did not object to the sale.
14. Regardless of whether the Trustee's Application for Compensation is approved, Westburg is the only creditor who will receive a distribution other than Chapter 7 administrative expense claimants from the remaining funds in the estate.
15. Westburg did not object to the Trustee's Final Report, and supports approval of the Trustee's Final Report and the Chapter 7 Trustee's requested compensation notwithstanding the fact that Westburg, and only Westburg, would receive a greater distribution from the estate if the Chapter 7 Trustee's compensation were reduced.

16. The Chapter 7 Trustee requests compensation in the amount of \$81,976.67, plus expenses in the amount of \$200.50. *See* Trustee’s Final Report, Exhibit D.
17. In support of her requested compensation, the Trustee filed timesheets documenting the time she spent performing Chapter 7 trustee work for the estate. *See* Chapter 7 Trustee’s Timesheet Report (“Timesheets”), Docket No. 340.
18. The Timesheets reflect that from March 3, 2005, the date this case converted from Chapter 11 to Chapter 7, through June 23, 2009, the Chapter 7 Trustee spent 445.8 hours performing her duties as Chapter 7 Trustee.

## DISCUSSION

### Whether The Davis Firm Has Standing

In a Chapter 11 proceeding, “[a] party in interest, including . . . a creditor, may raise and may appear and be heard on any issue under this chapter.” 11 U.S.C. § 1109(b). Thus, as the holder of an allowed Chapter 11 administrative expense claim, The Davis Firm had standing under 11 U.S.C. § 1109(b) to object to any issue in the Chapter 11 case. But the Trustee’s Final Report concerns the Chapter 7 phase of the bankruptcy case, not the Chapter 11 phase; thus 11 U.S.C. § 1109, which, by its terms is confined to issues “under this chapter”, is inapplicable. Because “party in interest” as designated under 11 U.S.C. § 1109(b) is not exclusive<sup>3</sup>, nor otherwise defined in the Bankruptcy Code<sup>4</sup>, “the phrase invites interpretation.” *Nintendo Co., Ltd. v. Patten (In re Alpex Computer Corp.)*, 71 F.3d 353, 356 (10<sup>th</sup> Cir. 1995).

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<sup>3</sup> *See Vermejo Park Corp. v. Kaiser Coal Corp. (In re Kaiser Steel Corp.)*, 998 F.2d 783, 788 (10<sup>th</sup> Cir. 1993)(reasoning that “[u]nder the Bankruptcy Code, 11 U.S.C. § 102(3), the word ‘including’ is not a limiting term . . . therefore ‘party in interest’ is not confined to the list of examples provided in section 1109(b).”)(citing *In re Amatex Corp.*, 755 F.2d 1034, 1042 (3d Cir. 1985)).

<sup>4</sup> *In re Davis*, 239 B.R. 573, 579 (10<sup>th</sup> Cir. BAP 1999)(acknowledging that “[t]he Code does not define the phrase ‘party in interest.’”)

Generally “party in interest” means “all persons whose pecuniary interests are directly affected by the bankruptcy proceedings.”<sup>5</sup> “Party in interest” has also been interpreted to include “anyone who has a legally protected interest that could be affected by a bankruptcy proceeding.”<sup>6</sup> In appellate matters, standing is determined under the “person aggrieved” standard, which confers standing only upon “those persons whose rights or interests are ‘directly and adversely affected pecuniarily’ by the decree or order of the bankruptcy court.”<sup>7</sup>

In Chapter 7 proceedings, courts uniformly find that a debtor lacks standing to object to a trustee’s final report unless there is a surplus in the estate after distribution to creditors.<sup>8</sup> This approach is consistent with the pecuniary interest test for standing. Thus, generally a party who has no financial stake concerning the Court’s approval of the Trustee’s final report lacks standing to object.<sup>9</sup> Ultimately, “[b]ankruptcy courts ‘must determine on a case by case basis whether the prospective party in interest has a sufficient stake in the proceeding so as to require representation.’” *Kaiser*, 988 F.2d at 788 (quoting *Amatex Corp.*, 755 F.2d at 1042).

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<sup>5</sup> *Alplex Computer*, 72 F.3d at 356 (quoting *Yadkin Valley Bank & Trust Co. v. McGee (In re Hutchinson)*, 5 F.3d 750, 756 (4<sup>th</sup> Cir. 1993)(internal quotation marks omitted).

<sup>6</sup> *In re Magnolia Gas Co., LLC*, 255 B.R. 900, 914 (Bankr.W.D.Okla. 2000)(quoting *In re FBN Food Servs., Inc.*, 82 F.3d 1387, 1391 (7<sup>th</sup> Cir.1996) (quoting *In re James Wilson Assocs.*, 965 F.2d 160, 169 (7<sup>th</sup> Cir.1992)(internal quotation marks omitted)). See also, *Davis*, 239 B.R. at 579 (extending the definition of party in interest to “include anyone who has an interest in the property to be administered and distributed under the Chapter 13 plan.”).

<sup>7</sup> *Holmes v. Silver Wings Aviation, Inc.*, 881 F.2d 939, 940 (10<sup>th</sup> Cir. 1989)(quoting *In re Sweetwater*, 57 B.R. 743, 746 (D.Utah 1985)(remaining citations omitted).

<sup>8</sup> See, e.g., *In re Moon*, 258 B.R. 828, 832 (Bankr.N.D.Fla. 2001)(stating that “[t]here is hardly any doubt that upon the showing of surplus funds in the estate after distribution to creditors, a Chapter 7 debtor is considered a party in interest” with standing to challenge a trustee’s requested fee)(citations omitted); *In re Rybka*, 339 B.R. 464, 467 (Bankr.N.D.Ill. 2006)(acknowledging that when there is a surplus in the estate after distribution to creditors, the debtor has standing to object to the trustee’s final report). See also *In re Ebel*, 338 B.R. 862, 869 (Bankr.D.Colo. 2005)(concluding that Chapter 7 debtor was not a party in interest lacked standing to object to matters concerning the trustee’s administration of the estate because the estate had no potential to generate any surplus for the debtor); *In re T.G. Morgan, Inc.*, 394 B.R. 478, 483 (8<sup>th</sup> Cir. BAP 2008), *aff’d*, 2009 WL 2616607 (8<sup>th</sup> Cir. 2009) (determining that objectors had no standing to object to the trustee’s final report or appeal from the Court’s order approving it because they did not hold an allowed claim, reasoning that they would not benefit from a change to the trustee’s report).

<sup>9</sup> See *In re Muldoon*, 2009 WL 161657 at \* 5 (Bankr.D.Kan. 2009)(unreported)(concluding that “Persons who have no financial stake in the Bankruptcy Court’s approval of the Final Report are not parties in interest and lack standing to object to the final report.”)(citation omitted).

Here, The Davis Firm has no pecuniary interest in the outcome of whether the Court approves the Trustee's compensation because The Davis Firm will not receive a distribution on its Chapter 11 administrative expense claim even if the Trustee's compensation were reduced to zero. Pursuant to 11 U.S.C. § 726(b),

a claim allowed under section 503(b) of this title incurred under this chapter after such conversion has priority over a claim allowed under section 503(b) of this title incurred under any other chapter of this title . . .

11 U.S.C. § 726(b).

Under this section, administrative expenses of the Chapter 7 estate have priority over administrative expenses incurred before a case converts from Chapter 11 to Chapter 7. In accordance with the Surcharge Order, the Final Report reflects that administrative expenses of the Chapter 7 estate will be paid first, with the remainder of the estate to be distributed to Westburg. No funds are available from the estate to pay any Chapter 11 administrative expenses. The Davis Firm acknowledges that 11 U.S.C. § 726(b) operates to give priority to Chapter 7 administrative expense claims over Chapter 11 administrative claims that arise prior to conversion, but argues that the fact that it will not receive a distribution on its claim regardless of the outcome of its objection does not eliminate standing. This Court disagrees.

Approval of the Trustee's Final Report and requested compensation will have no effect on whether The Davis Firm receives a distribution on its allowed Chapter 11 administrative expense claim. Its position is similar to that of a Chapter 7 debtor in an estate that has no potential to generate any surplus for the debtor. The Davis Firm had an opportunity, and, in fact did, object on behalf of the Debtor to the conversion of the Chapter 11 case. But with regard to the Final Report, The Davis Firm is not a party in interest because it does not have a pecuniary interest in the outcome. The Davis Firm has not asserted that it has any non-pecuniary legally

protected interest that might confer standing under the circumstances of this case. Because there is no possible outcome under which The Davis Firm could be paid on its Chapter 11 administrative claim, and because The Davis Firm has not articulated any other legally protected interest, the Court concludes that The Davis Firm lacks standing to object. Therefore, any objection by The Davis Firm to the Chapter 7 Trustee's Final Report that concerns the Chapter 7 Trustee's administration of the estate is overruled.

Finally, the Surcharge Order contains a provision that preserved the right of Westburg "or any other party" to object to the Trustee's requested compensation. *See* Surcharge Order, ¶ 10. Westburg did not object, but instead supported the Trustee's Final Report and proposed distribution, including her requested compensation. As explained above, because The Davis Firm does not have a legally protected interest that could be affected by the outcome, it lacks standing to object to the Trustee's requested compensation, and, thus, has no right to object preserved by the Surcharge Order. Accordingly, The Davis Firm does not have a right to object notwithstanding the language in the Surcharge Order.

#### Whether the Trustee's Requested Compensation is Reasonable<sup>10</sup>

The Davis Firm further argues that the Court has an independent duty to review a trustee's application for compensation for reasonableness, regardless of whether a party in interest or the United States Trustee objects, citing *In re Market Resources Dev. Corp.*, 320 B.R. 841 (Bankr.E.D.Va. 2004) and *In re Hobbs*, 109 B.R. 93 (Bankr.D.Md. 1989). This Court acknowledges that, generally, it has an independent duty to review a chapter 7 trustee's requested

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<sup>10</sup> The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") added the following subsection regarding a trustee's compensation to 11 U.S.C. § 330(a): "[i]n determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326." 11 U.S.C. § 330(a)(7). Because this case was filed prior to the enactment of BAPCPA, new section 11 U.S.C. § 330(a)(7) is inapplicable.

compensation for reasonableness.<sup>11</sup> The Chapter 7 Trustee requests total compensation in the amount of \$81,976.67 in accordance with 11 U.S.C. § 326(a).<sup>12</sup> This figure comports with the maximum compensation allowed under 11 U.S.C. § 326(a).<sup>13</sup>

In *In re Miniscribe Corp.*, 309 F.3d 1234 (10<sup>th</sup> Cir. 2002), the Tenth Circuit determined that 11 U.S.C. § 326(a) imposes a limitation on the maximum compensation a Chapter 7 trustee may receive for administering the Chapter 7 estate, but “does not establish a presumptive or minimum compensation.” *Miniscribe*, 309 F.3d at 1241. Because compensation to the Chapter 7 Trustee under 11 U.S.C. § 326(a) must be reasonable, the Court must “begin by assessing reasonableness under § 330(a) before applying the percentage-based cap under § 326(a).” *Id.*

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<sup>11</sup> See, e.g., *In re Brown*, 371 B.R. 486, 499 (Bankr.N .D.Okla. 2007), *amended by* 371 B.R. 505 (Bankr.N.D.Okla. 2007)(stating that “[t]he Court has an independent duty to review all requests for fees to determine their allowability under § 330 of the Bankruptcy Code, even if no party in interest objects to the amount of fees sought.”)(citations omitted); *Market Resources*, 320 B.R. at 845 (considering trustee’s request for compensation and stating that “[t]he court must review each fee application and determine its merits even though the application is without opposition.”)(citing *In re Great Sweats, Inc.*, 113 B.R. 240, 242 (Bankr.E.D.Va. 1990); *In re LeClair*, 336 B.R. 718, 720 (Bankr.E.D.Va. 2002(acknowledging that even where the debtor may lack standing to object to a request for fees, “the court has an independent duty to review compensation applications of professionals that are to be paid out of a bankruptcy estate.”)).

<sup>12</sup> That section provides:

In a case under chapter 7 or 11, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee’s services, payable after the trustee renders such services, not to exceed 25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims.

11 U.S.C. § 326(a).

<sup>13</sup> The Court notes that the Trustee’s Final Report reflects gross receipts of \$1,957,569.14, yet the Chapter Trustee’s Response to William F. Davis & Assoc. P.C.’s Objection to the Trustee’s Final Report and Application for Compensation (“Response”) recites that the Final Report shows receipts of \$1,957,555.82. Exhibit C to the Response shows a calculation based on total disbursements in the amount of \$1,957,582.01, resulting in total requested compensation in the amount of \$81,977.46, yet the Response recites that the Trustee’s proposed distribution contemplates Trustee compensation in the amount of \$81,976.67. Form 2, Cash Receipts and Disbursements Record, attached as Exhibit B to the Trustee’s Final Report, shows total net receipts in the amount of \$1,957,569.14. Using this figure, the maximum compensation under 11 U.S.C. § 326(a) is \$81,977.07, which is forty cents less than the amount requested. The Court will accept the Trustee’s figure, \$81,976.67, in considering the requested compensation under 11 U.S.C. § 326(a).

The Tenth Circuit concluded that the appropriate test for reasonableness of a trustee's requested compensation is the lodestar test, which may be enhanced under appropriate circumstances. *Id.* at 1243 (concluding “that the lodestar test, with appropriate enhancements under *Johnson* [*v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5<sup>th</sup> Cir. 1974)], is the appropriate method of calculation”). Under the lodestar test, the Court multiplies a reasonable hourly rate by the number of hours reasonably expended.<sup>14</sup>

In this case, Ms. Bloom, the Chapter 7 Trustee, obtained an order authorizing her employment as attorney for the Chapter 7 Trustee at an hourly rate of \$195.00. Because the Court previously approved the hourly rate of \$195.00 as compensation for legal work performed by Ms. Bloom as counsel for the Chapter 7 Trustee, the Court finds that the same hourly rate is reasonable for the Chapter 7 Trustee's services. *See* 11 U.S.C. § 330(a)(3)(F)(directing the court to consider whether the compensation is customary and comparable to the rates charged by other practitioners.).<sup>15</sup>

In assessing the reasonableness of requested compensation, 11 U.S.C. § 330(a)(3) directs the Court to “consider the nature, the extent, and the value” of the services provided, taking into account such factors as whether the time spent on the tasks performed was reasonable given the nature and complexity of the task. 11 U.S.C. § 330(a)(3). Upon review of the Timesheets, which documented the specific tasks performed by the Chapter Trustee over a four year period,

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<sup>14</sup> *See In re Reconversion Technologies, Inc.*, 216 B.R. 46, 52 (Bankr.N.D.Okla. 1997)(explaining generally that under the “lodestar” method, the “number of hours expended times a reasonable hourly rate, is used to determine attorney fees” such that “[t]he ‘total number of hours reasonably worked on the case’ is ‘multiplie[d] . . . by the reasonable hourly rate’”(citing *In re Cent. Metal Fabrication, Inc.* 207 B.R. 742, 748 (Bankr.N.D.Fla. 1997) and quoting *In re Cascade Oil Co.*, 126 B.R. 99, 103 (D.Kan. 1991)).

<sup>15</sup> The Court also relies on its knowledge and experience as a bankruptcy practitioner for many years, and its familiarity with the Trustee's level of experience and expertise in approving the Trustee's \$195.00 hourly rate as reasonable. *See In re Recycling Indus., Inc.*, 243 B.R. 396, 404 n.6 (Bankr.D.Colo. 2000)(noting that, when there is no other evidence before the Court of the prevailing market rates, the Court “in its own discretion, may use other relevant factors [to assess reasonableness], including its own knowledge to establish the rate.”)(citation omitted).

the Court finds that the Chapter 7 Trustee reasonably spent a total of 445.8 hours performing Chapter 7 Trustee work administering the estate following the conversion of the case to Chapter 7. The reasonable hourly rate of \$195.00 multiplied by the reasonable number of hours expended yields a lodestar calculation of \$86,931.00, which is greater than the amount requested by the Chapter 7 Trustee under 11 U.S.C. § 326(a). The Court, therefore, concludes that the percentage fee requested by the Chapter 7 Trustee as compensation for her services to the Chapter 7 estate is consistent with the reasonableness standards mandated by 11 U.S.C. § 330.

Finally, the Trustee has also requested expenses in the amount of \$250.50, consisting of postage in the amount of \$63.00, copy charges in the amount of \$37.50 (representing 150 copies at 25 cents per page), and four hours of paralegal assistance at the rate of \$25.00 per hour. Pursuant to 11 U.S.C. § 330(a)(1)(B), and 11 U.S.C. § 326(a), the Chapter 7 Trustee may recover from the estate “reimbursement for actual necessary expenses.” 11 U.S.C. § 330(a)(1)(B).<sup>16</sup> The Chapter 7 Trustee provided no documentation to support the rate for the requested photocopy charges, and did not provide a description for the paralegal work performed. In reviewing compensation requests in other cases, this Court has consistently disallowed undocumented copy charges in excess of 15 cents per page. Because the Chapter 7 Trustee has not provided documentation to support the requested copy charge, the Court will reduce the allowed expense for copies to \$22.50, representing 150 pages at 15 cents per page.<sup>17</sup> Similarly, because the Chapter 7 Trustee did not provide a description of the four hours of paralegal service performed,

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<sup>16</sup>Generally, paraprofessional fees incurred in performance of the trustee’s duties may be not be awarded under 11 U.S.C. § 330(a)(1)(B) as reimbursement of expenses in excess of the statutory cap authorized under 11 U.S.C. § 326(a). See *In re Santangelo and Co., Inc.*, 156 B.R. 62, 64 (Bankr.D.Colo. 1993)(concluding “that a trustee may not receive additional compensation in excess of the statutory limit for trustee duties rendered by a paralegal.”). Because the Trustee did not provide documentation for the paralegal expenses, those expenses cannot be allowed in any event. The Court, therefore, need not determine the issue of whether and under what circumstances a trustee can recover paralegal fees as a reimbursable expense under 11 U.S.C. § 330(a)(1)(B).

<sup>17</sup> Cf. *In re Stanley*, 120 B.R. 409, 416 (Bankr.E.D.Tex. 1990)(finding that trustee’s requested copy charges of 50 cents per page were excessive, and reducing the rate to 15 cents per page). See also, *Reconversion Technologies*, 216 B.R. at 59 (denying, without prejudice, unsubstantiated copy fee).

the Court is unable to assess its reasonableness.<sup>18</sup> Therefore, the expenses attributable to paralegal assistance will be disallowed. The total amount of the allowed expenses is \$85.50, consisting of postage in the amount of \$63.00 and copy charges in the amount of \$22.50.

#### Whether the Trustee's Final Report Should be Approved

After reviewing the Trustee's Final Report, the Court finds that the following mistakes and omissions should be corrected:

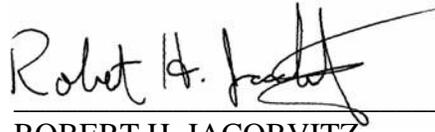
1. The Trustee's Final Report incorrectly references WO Broadcasting, LLC. WO Broadcasting, LLC should be changed to WP Broadcasting, LLC.
2. The Trustee's Final report does not identify allowed Chapter 11 administrative expenses, including the claim of The Davis Firm. The Trustee's Final Report should be corrected to properly identify all Chapter 11 administrative claims despite the fact that no distribution will be made from the estate to pay Chapter 11 administrative claims.
3. The Trustee's Final Report should correct the date when Ms. Bloom was appointed as Chapter 7 Trustee.

#### CONCLUSION

Based on the foregoing, the Court finds that The Davis Firm lacks standing to object to the Trustee's Final Report. Consequently, The Davis Firm's objection will be overruled. After independent review of the Chapter 7 Trustee's requested compensation, the Court finds that such compensation is reasonable and should be approved. The Trustee's Final Report is subject to approval pending the Trustee filing an amended final report that corrects the mistakes and omissions outlined above. Orders consistent with this Memorandum Opinion will be entered.

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<sup>18</sup> See *In re Perez Hernandez*, 73 B.R. 329 (Bankr.D.Puerto Rico 1987)(denying trustee's request for reimbursement of expenses where the trustee failed to submit documentation that would permit the court to determine whether such expenses were actual, necessary, and reasonable).



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ROBERT H. JACOBVITZ  
United States Bankruptcy Judge

Date entered on docket: December 1, 2009

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