

# MICHELLE H. CHOW, CPA

Chapter 7 Bankruptcy Trustee  
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March 8, 2012

Timothy W. O'Neal  
Assistant U.S. Trustee  
300 Plaza Tower  
110 N. College Avenue  
Tyler, TX 75702

Re: Kevin Robert and Jenessa Kathleen Myers, Bankruptcy Case # 09-42040 pending in the Eastern District of Texas, Sherman Division - analysis of gross case proceeds reconciled to net proceeds in proposed distribution to creditors

Dear Mr. O'Neal;

This correspondence is intended to provide additional detail to supplement the Trustee's Final Report in the above referenced case. Note that the gross case proceeds (other than bank interest) related to asset #4, a settlement on the pledged CD to DATCU.

Gross Proceeds for Estate:	
Settlement of unfiled action	\$4,500.00
Agreed Order #34 07/26/11	
Bank Interest	<u>\$0.16</u>
Total Gross Proceeds for Estate:	\$4,500.16
Administrative Claims	
General Counsel - Mark Agee	\$2,200.00
Order 12/15/11	
Note: Fee application voluntarily written down by \$1,973.36, or 54% reduction from full fee of \$3,599.00 portion. Full expenses paid.	
Trustee Compensation - Michelle Chow	\$1,395.61
11 U.S.C. §326; commission plus expenses	
Bank Service Fee	<u>\$15.36</u>
Remainder for Payment to Priority/Unsecured Creditors	<b>\$ 889.19</b>

In this case, multiple assets were investigated. Only the settlement with DATCU resulted in proceeds to the estate. The others assets investigated were possible tax refunds (mainly investigated by the Trustee, no billing from trustee attorney), and research and review on the two trusts referenced on the Debtors schedules and/or discussed with the Trustee. These were mainly investigated by Trustee attorney (also not included on the billing invoice nor included in the fee application, #39 11/17/11). Trustee attorney often will review specific assets for the Trustee; in many instances he is NOT hired, not even in every asset case, and often work is performed in advance of the filing of an application and, as in this case, is not included in the final billing.

The circumstances surrounding the pledge CD are as follows: The Debtor pledged his CD on behalf of a friend as collateral for a bank loan on a vehicle. While the Trustee could have pursued an adversary, the trustee also considered the cost of the adversary including attorney costs of no less than several thousand in fees, plus the likelihood of outcome in the Trustee's favor given possible DATCU defenses and rights of set-off. The settlement of \$4,500 represents a fair settlement for all parties involved.

Employment of an attorney for the trustee was appropriate and necessary to ultimately obtain a settlement. Given the complexity of facts and circumstances of the asset, the attorney fees at a 54% reduced rate, and excluding the hours spent reviewing the trusts, are reasonable and customary.

Trustee compensation is based on commission as noted above. No other professionals were hired by the estate and the sole professional was required and did not charge excessive fees to the estate.

Unlike a more simple asset such as collecting a tax refund or bank balance, significant thought, strategy, and negotiation were required in this case. Administrative claims totaling \$3,595.61 (exclusive of bank service fees), or 80%, and distribution to priority claimant (IRS) of \$889.19, or 20%, is a reasonably moderate distribution. Given the size of the IRS claim at \$131,581.60, it was unlikely that non-exempt scheduled assets would be sufficient to pay past the priority claim level.

In conclusion, this memo letter further explains the administrative claims balanced against the distribution to priority claimant. The Trustee's Final Report is a uniform report that does not allow for any further customization; therefore this letter will be attached as an Exhibit to the Trustee's Final Report.

Sincerely,

A handwritten signature in black ink that reads "Michelle H. Chow, Trustee". The signature is written in a cursive style with a large initial "M".

Michelle H. Chow, Trustee