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**UNITED STATES BANKRUPTCY COURT  
IN AND FOR THE DISTRICT OF ARIZONA**

<b>In re TOM ATKINSON,</b>	)	<b>In Chapter 13 proceedings</b>
	)	
<b>Debtor.</b>	)	<b>Case No.05-7606</b>
	)	
	)	<b>UNDER ADVISEMENT DECISION RE:</b>
	)	<b>ATTORNEYS FEES APPLICATIONS</b>
	)	

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At issue are six fee applications, three filed by Charles Firestein, P.C., as local counsel for creditor Select Portfolio Servicing, Inc., fka Fairbanks Capital Corporation (“Select Portfolio”) and three filed by the Sierra Law Group (“Sierra”) as general counsel for Select Portfolio. The fee applications seek a total of \$19,013.50 in fees and costs covering the time period of September 1, 2005, to July 28, 2006 – \$9,116 to Firestein and \$9,897.50 to Sierra. Debtor originally appeared *pro se* in this matter but has now retained counsel. Debtor objects to all the fee applications on three primary grounds: 1) duplication; 2) lumped billings; and 3) insufficient detail. Debtor contends that a reasonable fee award in this case would be \$9,000.

To resolve this matter, the Court has conducted a line by line review of all the billing statements and concludes that some of the fees charged are duplicative, contain insufficient detail or are lumped making it nearly impossible to determine the reasonableness of the work performed. However, the Court disagrees with Debtor on one critical point, which is his claim that counsel for the secured creditor waged an unjustified all out war against Debtor. While representing himself, Debtor advocated what can best be described as a novel legal position with respect to why he did not owe Select Portfolio anything on his underlying mortgage. What began as a routine motion to lift stay by Select Portfolio was turned into a major dispute by Debtor putting into question whether the secured creditor was owed any money. Debtor’s position had no basis in the law and required considerable work on the part of the Select Portfolio’s counsel to litigate. As noted by counsel at the hearing, the debtor’s challenge put Select’s complete loan and security at

1 risk. Even if the challenge is baseless, as this one turned out to be, that is not a matter to be taken  
2 lightly. Therefore, to a very large extent, the fees incurred by Select Portfolio are of Debtor's  
3 own making.

4 With that said, however, the Court finds that a reasonable fee to be awarded Firestein and  
5 Sierra is \$12,000, with \$5,500 to Firestein and \$6,500 to Sierra Law Group. In particular, the  
6 Court finds that Firestein's billing statements suffer primarily from a lack sufficient detail  
7 describing the legal work performed. The billing statements are full of entries that simply read  
8 "letter to client, review file, review motion, review pleadings, correspondence with . . . ." These  
9 entries provide the Court with no guidance upon which to determine their reasonableness or  
10 whether they are duplicative. Several entries also suffer from lumping; however, this particular  
11 problem is more pervasive and problematic in Sierra's billings. For example, several entries  
12 combine preparing correspondence to co-counsel, preparing correspondence to other individuals,  
13 preparing fee application, and researching a legal issue. There are clearly entries in both counsels'  
14 billings that appear to overlap and support a reduction for duplication, although a precise dollar  
15 figure is difficult to assign because of the lack of detail. To some extent, the Court has had to  
16 review all the entries for a general reasonableness as a result. Last, the Court agrees that due to  
17 a clerical error of counsel, approximately \$1,800 in legal fees were incurred to resolve an issue  
18 that should not be charged to Debtor.

19 As was discussed briefly at the hearing on these fee applications, a question still remains  
20 whether any of these fees are included in the underlying debt the secured creditor claims is  
21 currently owing and whether, correspondingly, interest is being charged on these amounts. The  
22 parties have indicated that this issue may be resolved by agreement once this underlying decision  
23 on the amount of the fees to be awarded is rendered.

24 Therefore, the Court awards Charles Firestein, P.C., \$5,500 in attorneys' fees and costs  
25 and the Sierra Law Group \$6,500 in fees and costs. No additional fees shall be sought by either  
26 counsel for any additional work performed with respect to any fee applications. The parties,  
27 moreover, shall attempt to resolve the issue of whether these \$12,000 in fees are already included  
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1 in the amount the secured creditor claims is due and owing on the underlying obligation and  
2 whether any interest has been charged on those amounts. If the parties are unable to resolve this  
3 issue among themselves, they may file the appropriate pleadings to bring the matter before the  
4 Court for resolution.

5 So ordered.

6 **DATED:** September 26, 2006

7   
8 CHARLES G. CASE II  
9 UNITED STATES BANKRUPTCY JUDGE

10 **COPY** of the foregoing mailed by BNC  
11 and/or sent by auto-generated email to:

12 United States Trustee  
13 230 N. First Avenue, Suite 204  
14 Phoenix, Arizona 85003-1706

15 Russell Brown  
16 P.O. Box 33970  
17 Phoenix, Arizona 85067-3970  
18 Trustee

19 Charles W. Nunley  
20 Sierra Law Group  
21 P.O. Box 187  
22 San Juan Bautista, California 95045-0187  
23 Attorneys for Select Portfolio Servicing, Inc.

24 Charles Firestein  
25 Charles Firestein, P.C.  
26 1300 E. Missouri Avenue, Suite D-200  
27 Phoenix, Arizona 85014  
28 Attorneys for Select Portfolio Servicing, Inc.

Dax Watson  
Watson Law Firm, P.C.  
2398 E. Camelback Road, Suite 690  
Phoenix, Arizona 85016  
Attorneys for Debtor

/s/ Shirley Dunbar