

1 U.S. BANKRUPTCY COURT
2 FOR THE DISTRICT OF ARIZONA
3

4 **In re**)
5 **JAMES C. and NORA D. HILL,**) In Chapter 13 proceedings
6 **Debtors**) Case No.: 2-10-BK-10863 CGC
7)
8) **MEMORANDUM DECISION RE FEES**
9)
10)

11 In April 2010 the Debtors filed for Chapter 13 counseled by Phillips &
12 Associates. Since filing, Phillips & Associates was purchased by Wroblewski &
13 Associates (“Wroblewski”) who promised better performance than its predecessor. Now,
14 over a year later, there still is no confirmed plan. Because of ongoing delays, the Trustee
15 has filed a Motion for Reduction in Attorney’s Fees. After reviewing the docket and the
16 pleadings, the Court agrees with the Trustee and orders a reduction in fees.

17 On January 15, 2010, the Debtors retained Phillips & Associates, agreeing to pay
18 a \$3,000.00 fee. On April 14, 2010, the Debtors filed for protection under Chapter 13 and
19 filed their first plan.

20 On July 9, 2010, the Trustee filed its first plan recommendation stating that:

21 If the debtor(s) attorney fails to file all the required statements and
22 schedules within the time set by the Code and any extension granted by
23 the Court, the Trustee will request the Court approve a \$750.00 reduction
24 in the fees requested by counsel. The Trustee will request a further
25 \$750.00 reduction in attorney fees’ if counsel for the debtor(s) fails to
26 timely respond to the Trustee’s Recommendation or submit a Stipulated
27 Order Confirming case within the time set by the Trustee.

28 On December 29, 2010 – four months after the Trustee’s deadline – the Debtors
filed their first amended plan. On February 23, 2011, the its corresponding
recommendation. In turn, on May 18, 2011, the Debtors submitted an incomplete

1 proposed stipulated order confirming the plan that the Trustee was unwilling to sign
2 because it did not address all the issues raised in the recommendation.

3 The Trustee received the requested information about the existence of co-debts
4 only a month later on June 27, 2011.

5 On July 8, 2011 the Debtors filed a Second Amended Chapter 13 Plan reflecting
6 the eliminations of the co-debts in order to give adequate notice to the creditors.

7 Because of the repeated delays in this and many other cases, the Trustee asked the
8 Court to grant a Motion for Reduction in Attorney's Fees. The Trustee also attached a
9 proof of Phillips & Associates – now Wroblewski – history of unconfirmed plans with
10 more than two hundreds cases unconfirmed in the period 2008-2010.

11 Wroblewski objected that: i) their delays were an inescapable consequence of the
12 purchase of Phillips & Associates made on January 1, 2011; ii) they kept the Trustee
13 updated about the many steps taken to comply all Chapter 13 cases and iii) the delay
14 providing information about co-debts were caused by a fault of the debtors.

15 To receive compensation, a professional need not bring material benefit to the
16 estate, but “need demonstrate only that the services were reasonably likely to benefit the
17 estate at the time rendered” *In re Garcia*, 335 B.R. 717, 724 (9th Cir. BAP 2005).
18 Therefore a professional must demonstrate that its services were reasonably likely to
19 benefit the estate.

20 Wroblewski does not mention how and when their services provided this kind of
21 benefit. The Court believes that numerous delays did not benefit either the estate or the
22 creditors, Instead, Wroblewski and Associates' delay caused inefficiencies for the
23 Debtors, creditors, Trustee and the Court alike.

24 The Court believes that Wroblewski's justifications are an internal matter about
25 the everyday management of a law firm that should not affect the regular proceeding of
26 this case. For these reasons, the Court does not accept Wroblewski's excuses as a valid
27 objection.

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For the reasons stated, the Court grants the Motion for Reduction in Attorney's Fees.

Counsel for trustee is to submit a form of order allowing the fees as reduced.

So ordered.

Dated: September 14, 2011


CHARLES G. CASE II
UNITED STATES BANKRUPTCY JUDGE

COPY of the foregoing mailed by the BNC and/or sent by auto-generated mail to:

All interested parties