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Flat Fee
Treatise

February 11, 2010

U.S. Bankruptcy Administrator
P.O. Box 1828
Greensboro, N.C. 27402

Attn: Shannon Gray, Bankruptcy Analyst

Re: Response to attorney fee inquiry dated 3/2/10

Re: Debtors: [redacted]
Chapter 7
BA file no. [redacted]
Case no. [redacted]

Dear Ms. Gray:

I write to respectfully respond to your inquiry regarding the fees we charged in this case.

Sorry for the delay in responding. I had to wait for the file to come back from the Durham office.

To start with, I would like to bring to your attention some considerations as apply to "flat fees" generally, and how and why we set "flat fees" specific to practice under BAPCPA.

We have struggled on what and how to charge under BAPCPA. There are so many more issues to address and, most unfortunately, so much more, for lack of a better term, "red tape" to deal through. As a consequence, the amount of time spent on each client's Chapter 7 file has, even in some garden variety cases, probably doubled, and, in some cases, tripled or quadrupled.

One of the sequella of having to spend more time on every file is that it has driven up the cost of providing representation. The reality is that if we have to expend 2 to 4 times more attorney and staff time on even the "average" case than was necessary under the pre-BAPCPA law, it follows that in order to break even, we have to set attorney fees 2 to 4 times higher. Accordingly, to stay in business, we have had to increase the attorney fees we charge in Chapter 7 cases.

Initially, we tried to figure out, more or less, an average amount to charge all or most clients, with some small variations. However, doing so caused another, even bigger, problem. Many lower income clients, or clients who had to borrow the fees in order to file, simply could not afford the higher fees, or would not, weighing the benefit of filing against the cost.

To address this problem, I worked hard to break down our representation into its component parts, and to then place a value on each component. The value I placed on each component is based upon the average amount of work involved, in my experience, necessary to complete the tasks comprising the component and to encompass the ever present risk of additional, unanticipated work.

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By breaking down our representation into its component parts, I was able to implement a "sliding scale" system of flat fees that charges clients more or less, depending upon the required tasks involved.

What I came up with is a sort of "menu" system for computing flat fees that works similar to the menu used in most restaurants. I have attached as **Exhibit "A"** a copy of the "menu" we employ for Chapter 7. **Exhibit "A"** also details how we arrived at the flat fee charged of **$4,290.00** charged in this case under inquiry.

Parenthetically, the correct fee if **$4,090.00**, not $4,290.00. To explain, in reviewing the file, I noticed that we inadvertently overlooked recognizing the $200 discount to which the client was entitled. Accordingly, I have instructed our bookkeeper to immediately pay the client a $200 refund. Therefore the correct fee was $4,090 (computed as $4,290 minus $200).

As you can see, per our fee "menu" (**Exhibit "A"**), this was based on the client's situation as presented at the initial interview and which including the following components:

(1) a base attorney fee of **$1,390,** based upon a projection at the time of the initial interview that the case would end up being a "below median" income case for purposes of the Means Test,

(2) with a total projected (at time of initial interview) unsecured debt of approximately **$317,918.03**, which, per the menu, called for an add-on of $2,980. However, we only charged an add-on of **$2,900**,

(5) In addition, per our fee contract, we stated that the attorney fee was subject to decrease if the client satisfied the terms of our **$200 discount** program[1] (which she did)

I have attached a copy of our fee contract (entitled "Client Authorization For Legal Services - Chapter 7") as **Exhibit "B"** to further substantiate the terms involved, disclosures to our client, and the client's agreement thereto.

It may seem odd to set "flat fees" in this manner, but the fact is that, utilizing this sliding scale to

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[1] **Parenthetically, here is an explanation of our $200 discount program**:

We, like most debtor bankruptcy attorneys, have been having a devil of the time getting clients, in a timely manner, to both pay all the fees necessary to get their cases filed and provide us all the documentation we need to properly prepare their cases for filing. The real problem is that the longer the client takes to get fees and documentation in to us, the more work we end up having to do in terms of dealing with such things as updating the Means Test over and over to reflect the continually changing 6 month period involved, which in turn, forces us to keep getting and analyzing updated pay stubs and other evidence of income. Basically, because of how the Means Test works, we end of dealing with a moving target, and that takes extra work. Then, of course, we also have to keep updating all the other information in the file as may reflect the continuing changes in the client's legal and financial situation.

In any event, to help solve this problem, we instituted a $200 discount program. Basically, we increased the quoted fees by $200, and then offered a $200 discount if the client got us paid and provided all necessary documentation within 60 days of retaining us. We have had very good luck with this program. As expected, clients, like most people, are motivated by a discount.

On the other hand, if the client does not get us paid or does not provide all necessary documents within 60 days of retaining us, the extra $200 charged helps to offset the extra work involved in having to keep the client's file open, to provide representation over the longer period of time, and to do all the extra work caused by the consequent delay in filing (for example in having to keep getting from the client and reviewing additional income information and then updating Current Monthly Income (CMI) for purposes of the Means Test).

In this case, the client did get things done within the said 60 days, and therefore became entitled to receive the said $200 discount

compute attorney fees, we feel that we have, for the most part, solved the affordability and perceived cost/benefit problems referred to above.

Parenthetically, our clients seem to love this system for setting fees, as it presents them with a better understanding of the work involved in their particular case in relation to the cost, as opposed to simply throwing at them a total amount, like something grabbed out of a hat, regarding which they have no frame of reference. It also shows them what they are not getting charged for.

This menu system also serves to provide uniformity across my organization in setting flat fees, thereby avoiding the problem of different clients getting a different quotes for the same amount of work, depending upon who the attorney or interviewer is.

Sticking with "restaurant menu" metaphor, for purposes of this presentation, the menu begins with a fee for the "entree". The fee for the entree includes all payment for all the services generally required in every "garden-variety" Chapter 7 case. The price of the entree varies somewhat, only depending upon the income of the client (as will be explained below). Then, as in the case of a restaurant menu, there are "add-ons" offered in an a-la-carte fashion, which separately take into account and charge for various services which do not recur in every "garden-variety" Chapter 7 case. These add-ons are charged for, or not, depending upon whether or not the service represented by the add-on is necessary to properly and fully provide representation to the particular client.

Basic concepts taken into account in formulating our "menu" system of flat fees:

This menu system was formulated with at least 11 basic principles in mind:

(1) **Flat fees are a necessary evil in consumer debtor bankruptcy cases.**

Potential clients in dire financial straits do not take well to the uncertainty of hourly fees. These clients have limited funds and "selling" the concept of filing bankruptcy is hard enough without adding into the mix the uncertainty of not knowing how much the representation will ultimately cost. The bottom line is that consumer debtor attorneys who do not provide for a flat fee will attract no clients.

(2) **Flat fees must be set higher than the value of the "expected" services, to compensate for the "unexpected".**

Unfortunately, a "flat fee" system poses a two-edge sword for debtor attorneys, that is, one that cuts both ways.

As mentioned, to attract clients, we must provide the prospect of a flat fee. However, flat fees, by definition, also bring with them substantial risk of underpayment for services rendered for debtor attorneys. This stems from the fact that, by necessity, all flat fees must be set before, not after, the services are actually rendered. The problem is that not even the most experienced debtor attorney cannot anticipate the "unexpected". "Unexpected" can include a lot of different things, some of which are spelled out later in this response.

Since there is no way to know ahead of time which Chapter 7 cases will necessitate the handling of "unexpected" problems, it only makes good business sense to set a flat fee somewhat higher in all cases to compensate for those few cases where the unexpected services exceed, and in some cases grossly exceed, the flat fee charged.

In stock and bond parlance, the hope is that the winners at least offset the losers.

The bottom line is that no law firm can afford to stay in business and collect less money overall than needed to meet overall expenses.

What we are really talking about here is the same type of problem solved by "insurance". Insurance, at its core, is nothing more than a system which charges a small, affordable amount to many, to cover the large losses of a few.

It is hoped the Court will keep this problem, inherent in all flat-fee cases, in mind, and thereby conclude that it makes no sense to set an "average" fee in flat-fee cases, based solely upon an examination of hours expended.

The question then, is: "How much extra should be figured into the 'average' fee to insure against the 'unexpected'?" This is not easy to pin down without an extensive gathering and analysis of data, but, in my experience, an extra $200 factored into all cases, would be reasonable and appropriate. Whatever the correct number, my hope is that the Court will recognize that it makes no sense, at least in this regard, to examine any particular flat fee cases in isolation from other flat fee cases.

(3) **Not all clients should be charged the same fee:**

As mentioned above, clients should be charged more or less depending upon the elements of work (and the risk of potential additional work) involved. Accordingly, our "menu" of fees includes items to be included or excluded accordingly. Our menu system, by definition, provides a "sliding scale" for fees depending upon what all needs to be done and the results to be achieved.

(4) **The higher risk of BA and Court scrutiny, the higher the fee charged:**

The reality under BAPCPA is that higher the client's income and/or the higher the amount of unsecured, dischargable debt (especially credit card debt), the higher the chance of scrutiny by the Bankruptcy Administrator's office and/or the Court concerning issues as may be raised pursuant to section 707 (b)(1)(claimed failure to pass Means Test) and/or section 707(b)(3)(claimed abuse based upon a "totality of the circumstances"). What's more, in our experience, the higher the income, the higher the level (as opposed to chance) of scrutiny.

In turn, the higher the level of expected scrutiny, the more we dig, probe and prepare prior to the bankruptcy filing. That is, the higher the level of expected scrutiny, the higher we must set the standard of due diligence we employ "pre-filing" in terms of: (1) quizzing our clients and (2) gathering from our clients and analyzing those types of documents that would be called into evidence to answer inquiries and, if need be, formally to defend our clients on such issues.

In addition to preparing "pre-filing", we have found that responding to such inquiries "post-filing", even on an non-formal basis, requires us to spend anywhere from 1 to 6 hours of additional time, time and work that we generally treat, as a matter of course and without extra charge, as part and parcel of the services included in the flat fee.

And, as you know, if an informal inquiry turns into a formal Means Test or "bad faith" objection or even into a request for extensive documents disclosures, our work can multiply, a harsh reality for debtor attorneys working on a flat fee basis. In these situations, the flat fee case can quickly turn into a loser financially for the debtor attorney, almost no matter how high the flat fee was set. Furthermore, in our experience, and even if the client has agreed to pay additional fees in the event of a formal objection, the fact is that, in most cases, the client cannot afford to pay the additional fees. However, that does not relief the

debtor attorney from responsibility. As you know, we are generally required to fully address the objection (including advising our clients, working through additional document production, attending possible depositions, and providing representation at one or more hearings) regardless of whether or not (mostly not) we receive any additional compensation.

In our experience, if an inquiry results in a formal objection, we will end up spending anywhere from 5 and 20 hours in additional attorney time (at $250/hour, this adds up to an additional $1,250 to $5,000 worth of attorney time, not even taking into account the additional paralegal time).

Accordingly, we have tiered our base fee (the price of the "entree") for "under median cases" and "over median cases", and again, for purposes of "over median cases", based upon the level of monthly gross income. Admittedly, the breakpoints used in determining each tier are naturally somewhat arbitrary. However, in our experience so far under BAPCPA, the tiering as reflected on **Exhibit "A"** seems to reasonably reflect the varying degree of extra work involved (including risk of additional work involved) in order to deal appropriately with these issues.

Also accordingly, we have also set upon a sliding scale "add-on" to take into account the higher and higher risk of having to provide additional services which may be triggered by higher and higher amounts of unsecured, discharagable debt.

(5) **The more debts there are <u>and</u> the higher the total amount of the unsecured debt, the more work will likely have to be done:**

It stands to reason that the more unsecured debts the client has and the higher the overall amount of those debts (especially the unsecured debt the client is attempting to discharge), the higher the likelihood that we will hear from the creditors affected. Very simply, in our experience, the more creditors there are and the more creditors stand to lose, the higher the likelihood that we will hear from a bunch of the creditors in the course of handling a client's bankruptcy case. All of these inquiries need to be handled or addressed, and all the more so to the extent that one or more of these inquiries escalates into a more formal objection, as for instance in the case of an objection to discharge or the dischargability of a debt.

Since there will be, on average, more creditor inquiries, the more debts there are or the higher the amounts of the debts involved, it only makes sense, in setting a flat fee to charge somewhat more based on the total number of debts and the total amount of at least the unsecured debt involved.

To keep this add-on element of the flat fee formulation fair and reasonable, we have limited the add-on to $100 per $10,000 of unsecured, dischargable debt, above the first $20,000 (The first $20,000 being included in the price of the "entree", so to speak).

Importantly, by charging a little more to clients whose cases will generally generate more response from creditors, we are (as a business unit that must derive enough income to pay necessary expenses), correspondingly able to financially afford to charge less to those clients whose cases are likely to receive less of a response from the creditors.

(6) **Flat fees charged in cases filed must pay for and therefore subsidize the cost of all services provided to clients and potential clients who do NOT file:**

As every "consumer" debtor attorney knows, to stay in business, the debtor attorney must offer at least an initial free consultation. This reality of consumer debtor practice stems from the fact that people, already strapped with more debt than income, who do not want to

file bankruptcy in the first place, and who do not know, before coming to see us whether bankruptcy will help them at all, are loath to pay for an initial consultation, and thereby loath to risk putting "good money after bad". Therefore, the initial interview must be "free".

However, as every debtor attorney knows, free consultation are only free to the public. They are not free to the debtor attorney. Law firm associate attorneys and staff do not work for free. Debtor attorneys have to provide and pay for the attorney and staff time involved. And, this is substantial.

For our part, on average, we only file about 1 case for every 3 or 4 prospective clients we interview (We have closets full of "intake forms" to prove it.), and our interviews under the new law are taking about 2 hours each. What used to be about 1 hour under the old law, is now at least 2 hours, at least in our law firm, where we do a very in-depth initial interview, one that many times stretches into 2 free initial interviews, all provided for "free" to the public. The main reason for this change is the substantial extra work imposed by the Means Test and the explanation regarding the extra paperwork requirements the client must fulfill.

Doing the math, this means that, on average, just in terms of initial interviews, we have to invest about at least 6 hours of attorney and staff time for every 1 case filed. If all this time were provided by our attorneys, valued at $250 per hour, this would equate to $1,200 in services rendered before even "1 red cent" is received.

The sad truth is that the overall operation of a consumer debtor law firm, somebody has to pay for these services. The even sadder truth is that, as with all sectors of society, those who pay must subsidize those who don't. In terms of a bankruptcy practice, the ones who pay are the clients who actually file cases, at least in terms of Chapter 7.

It is my hope that the Court will keep this unfortunate reality in mind in assessing the value of all filed cases, including the case under inquiry, as being something much more than merely an analysis of the hours expended.

(7) **Flat fees charged must subsidize the cost of paying for staff during training:**

In terms of a consumer debtor bankruptcy law practice, there simply is no "pool" of trained personnel to draw from. As a result, in virtually every case, as an employer, we must train new personnel from "scratch". Having to do so, by definition, we must hire and pay for men and women who, during their training period, cannot contribute sufficient to justify their pay. This is simply a reality of running a consumer debtor bankruptcy practice. However, it is a reality that costs money, a lot of money, a cost which must be borne by the flat fees we charge, even though the cost involved may not directly involve or contribute to the handling of any particular case.

In our experience, it takes us upwards of 1 year to fully train a receptionist regarding how to handle and direct the various calls that come in. It takes up upwards of 2 years to fully train a processor. It takes us upwards of 3 years to fully train a paralegal interviewer. And, even with a law school education in hand, it takes us a minimum of 2 years to get a lawyer minimally trained on how to handle all the issues involved, and upwards of 3 to 5 years, in our experience, before we feel confident that a new lawyer is fairly, fully trained to handle all his or her duties.

Parenthetically, I am not taking the position that new staff do not contribute at all during their training. Obviously, the more trained they are, the more they contribute.

As every experienced debtor bankruptcy lawyer knows, this cost of training someone up to

the point where they can contribute sufficiently to justify their pay is not insignificant.

And, to makes things much worse, not all employees "work out". On average, in our experience, we hope that for every 2 people we hire, 1 will work out. In reality, the average over time is probably more like 1 out of 3. As all of us know, there are any number of reasons an employee does NOT "work out" and leaves. Therefore, by definition, we all spend a lot of time and money in the process of hiring and training employees who will not work out.

This cost must necessarily also be paid for out of whatever "flat fees" we charge, whether or not the cost relates to any particular case.

Problem made worse with enactment of BAPCPA: To make things even worse, the new bankruptcy law (BAPCPA) added layers and layers of "red tape", complexity, and frustration to the practice of law. The bottom line is that practice under the new law is considerably more tedious, frustrating, and difficult to fully master. These difficulties make it less likely that any particular new employee will "get it" sufficiently to justify keeping him or her on as an employee. These difficulties also make it more likely that new staff and established staff will, as we have experienced, in frustration, throw their hands in the air and quit.

The additional "red tape" requirements as concerns forms, pay stubs, tax returns, deadlines, certifications, and procedures is, in and of itself, overwhelming, and getting employees to understand all the complex and, in many ways, nonsensical law changes wrought by BAPCPA (especially, but not in any way limited to, the Means Test) can be very daunting.

The bottom line is that, due to enactment of BAPCPA, we are forced: (1) to hire, for lack of a better term, smarter employees than was the case under the "old" law, which, in turn, drove up the cost of salaries, and (2) to suffer the increased likelihood that new employees will either not "get it", in which case one of 2 things happens: Either we have to let them go or they get frustrated and quit, both of which drives up the cost involved, by forcing us to suffer yet additional in hiring and training costs.

For example, in January, 2010, we had 4 employees in the Raleigh office who, even after extensive training, were not "getting it", leaving us with no choice but to cut our losses by laying them off. I estimate that the overall expense of these 4 employees, incurred during the period of their unsuccessful training cost us well in excess of $100,000, money that ended up reaping no benefit to our law firm, nor our clients, but all of which money had to be paid, by definition, out of the only income our law firm receives, the fees we collect from flat fee cases.

To the degree that BAPCPA created this nightmare and, in turn, drove up our personnel costs, the additional cost must necessarily translate into higher "flat fees", which additional costs, once again, may or may not have any direct relationship to the handling of any particular case.

(8) **Flat fees charged must subsidize the payment of the fixed operating costs of running a law firm through the "ebb" and "flow" periods of each year:**

The reality is that during those times of the year when, for whatever reason, there is not enough work to keep all staff busy on a full-time basis, we still have to pay those staff. This is in addition to all our other fixed costs.

A good example of this is January, 2010, when the influx of new clients dropped by about 50%, leaving many of our staff without sufficient work to keep busy full-time.

Some businesses have the luxury of being able to easily increase the number of staff during peak times and decrease the number of staff during slow times. This presumes one of the 3 factors apply to that particular business: (1) The work requires only unskilled workers, (2) The work requires skilled workers, but only minimally skilled, meaning that the training involved to provide those skills only takes hours, days, or a couple of weeks, or (3) The work requires very skilled workers, but there is present in the economy a ready and constant "pool" of fully trained workers by reason of education or experience.

Such is not the case of terms of a consumer debtor bankruptcy law practice. All our staff must, of necessity, be highly skilled and, as alluded to above, there is no "pool" of trained employees to draw upon. In every case, we have to train staff "from scratch", even new associate attorneys.

As all experienced debtor attorneys know, there are "ebb" and "flow" periods throughout the year. However, we hire based on our past experience as to the volume of work we can expect during "flow" periods, that is, the periods of the year when we have enough work to keep our staff busy, full-time. The problem, and it is a big one, is that since there is no "pool" of personnel trained specifically for our unique type of practice, we must, of necessity, hold onto and pay our trained personnel even during the "ebb" periods of the year.

Some of these "ebb" periods occur at predictable times of the year as, for instance, right around Christmas, during the month of January (for some reason), at graduation time, in the dead of summer, and just before and just after every other major holiday. Others "ebb" periods occur unpredictably as a result of a myriad of known and unknown factors, including ever evolving "current events".

For example, from 2/1/09 to and through about 7/1/09, our office experienced an approximately 30% to 40% drop in new business. Why? There is no way to know for sure, but here are some possible reasons: Some indications were that the public was holding off coming in based on the hope of getting a "stimulus" check, more money in their pay checks (due to lowered tax rates) or more money in tax refunds. Others postulate that Obama's promise of hope and recovery was freezing potential clients in place, in wait for better times to come. Others pin it on Obama's encouraging words about interest rates and the possible savings from re-financing. For example, President Obama had been actively encouraging the public to look into re-financing their homes. Whether or not this was realistic for potential bankruptcy clients (it turns out it was not), it tended to sidetrack people in the march toward bankruptcy attorneys. Then, there are the mortgage re-financers credit counselors, scammers and non-scammers alike, who were and are bombarding the tv and radio airwaves with promises of lower payments, peppered with the admonition: "Whatever you do...don't file bankruptcy!". Whatever the cause (really, causes), the one thing I have learned over the years in terms of how potential clients think is that "any reason is a good reason to put off going to see a bankruptcy attorney".

The bottom line however is this: If we are to stay in business and to stay 'at-the-ready' for the next "flow" period of incoming business, we have to keep our highly trained staff in place, and to keep them in place, we have to keep paying them, whether there is currently enough work to keep them busy or not. This is a huge expense and an inherent reality for consumer debtor bankruptcy attorneys. Like so many other factors, existent but unrelated to any particular flat fee case, this factor is also not related to the handling of any specific "flat fee" case, but one which must necessarily be borne by the flat fees cases we file, and therefore, one which must necessarily be factored into the amount of the flat fees quoted.

The bottom line is this: Our only source of income is the "flat fees" we charge in Chapter 13 and Chapter 7 cases (we do virtually no hourly work and we only do bankruptcy work). Therefore, the flat fee charged in any particular case must, by default, subsidize and pay for all other law firm expenses, including all those not related to any particular case. In turn, this would include the expense of keeping our law firm open and running during "ebb" periods of the year.

(9) **Higher flat fees are allowed, the higher the amounts in controversy and the greater the "results obtained".**

The higher the amount in controversy and the greater the results obtained, the higher the permissible attorney fee. This is one of the 12 lodestar factors allowed for determining what is "reasonable" in terms of attorney fees. Robinson v. Equifax Information Services, 560 F.3d 235, 243 (4th Cir. 2009), citing Grissom v. The Mills Corp., 549 F.3d 313,320 (4th Cir. 2008)

Although most often applied in hourly cases, there is no reason that this factor should not also be applied in helping to determine reasonable attorney fees in flat fee cases.

Results to be obtained in case under inquiry: In the case under inquiry, as mentioned above, the flat fee was set, in part, based upon the amount of unsecured debt that appeared to be dischargable. As it turns out, the "results obtained" will include the discharge of up to **$317,918.03** in unsecured debt, plus interest. As we all know, the interest component is not insignificant. Taking projected interest into account paying minimum payments, the client will likely enjoy "results obtained" in the neighborhood of approximately twice that much, or a total of **$635,836.06** (= $317,918.03 x 2) in debt the client will never, ever have to pay back. **That is a lot of results for a mere $4,090 in attorney fees.**

(10) **Chapter 7 practice is, to a large degree, "self-regulating" in terms of the amount of attorney fees that can, as a practical matter, be charged. This point cannot be emphasized enough. Here are some of the reasons why:**

(i) **Clients can only afford just so much, and no more**:

By definition, our clients are tight on money. As a result, the amount of fees charged must never exceed what the potential clients can afford. Charging more than clients can afford naturally leads to the predictable result that the attorney will not be hired. As a result, all consumer debtor attorneys must keep their attorney fees fairly low. Consumer bankruptcy work (including Chapter 7 and 13) is unique in this regard. In certain other areas of practice, "what the client can afford" is not as big a factor, as might well be the case, for example, when representing more wealthy clients in non-bankruptcy corporate matters or in large Chapter 11 bankruptcy proceedings. Charging a Chapter 11 retainer of $5,000 to $20,000 or more, for example, is normal practice. Charging such a retainer in any kind of consumer bankruptcy case, whether Chapter 7 or 13, even if justified, would be the kiss of death for a consumer debtor bankruptcy attorney intent on staying in business, predictably resulting in the loss of a potential client for lack of affordability.

(ii) **Potential clients demand value for their money:**

To a large degree, bankruptcy clients are no different than other consumers. They have a right to, and do, demand value for their money. Like all consumers, bankruptcy clients must perceive that they are getting good value for their money and,

in turn, not getting ripped off, or they will either: (1) not file or (2) at a minimum, hire another attorney.

The truth is, no matter what an attorney charges, the amount charged comes with certain expectations in the mind of the potential client. The attorney who does not satisfy these expectation, in terms of the breadth and quality of the services provided (and personal attention and hand-holding expected), will inevitably encounter problems with his or her clients. Such problems can come to light in a number of ways including, without limitation, complaints to the State Bar, the Court, the Trustee, and the Bankruptcy Administrator's office. Less obvious, but as important, is the short and long-term negative effect on personal referrals from the client. A client who comes to perceive that he or she has been overcharged or unrepresented in terms of the flat fee charged is not only never going to refer the attorney another client, but will, in fact, take every opportunity to bad mouth the attorney.

All seasoned consumer debtor bankruptcy attorneys know these things to be true from experience. As a result, the debtor bankruptcy attorney must engage in a balancing act. Charge enough to stay in business and enough to provide good, quality services, but not so much as to lose the potential client as a paying customer.

In addition, as any seasoned attorney knows, the higher the charge, the higher the client expectations. We charge more than some law firms, but the perception and the reality is that we provide not only a high level of legal competence than some attorneys, but, perhaps of more importance to our clients, a higher level of hand-holding, responsiveness and follow up than is available from some (but by no means all) other attorneys.

(iii) **Flat fees must be set taking into account that many potential clients shop around for the cheapest (or cheaper) attorney.**

Attorneys who charge more than other attorneys lose potential clients. Pure and simple. That is a fact of life in debtor bankruptcy practice. Every consumer debtor bankruptcy attorney who charges more than a competing attorney is aware of this. This reality becomes painfully real when one sees potential clients, whom the attorney provided a "free" consult, sitting at the 341 Meeting table with another attorney who agreed to charge less.

Therefore, all consumer debtor attorneys who want to maintain enough work in the door to keep them and their staffs busy must set fees high enough to stay in business, but must, as a matter of business survival, make sure the fees they charge are not so high as to lose too many potential clients out the door.

It follows that the higher the fees quoted, the higher the number of potential clients lost, and the higher the risk of having too few clients to continue in business. In the extreme, charge a high enough fee and the attorney can guarantee that he or she will have virtually no clients.

The bottom line is that, even without Court intervention, the consumer debtor bankruptcy bar that provides representation in Chapter 7 cases already self-regulates itself. As a practical matter, this section of the bar has no choice.

(11) **Hand-holding, responsiveness, empathy and client follow-up are perhaps the most important services we provide, but providing these services necessarily drives up the**

cost of the flat fee.

When I hire new attorneys and new staff, one of the first lessons I teach them is that the clients care more about how we treat them, than what we do for them. This can seem counter-intuitive to attorneys and staff embroiled in massive amounts of paperwork and checklists, but, in my experience, it is always true.

I tell my staff that "yes", we are a law firm, and "yes", we need to get the paperwork right and deadlines met, and "yes", we must not miss or overlook important legal issues, but to also, always, always, keep focused on the human beings, who are kind enough to place their lives in our hands for safekeeping.

In my experience, most people, attorneys and staffers alike, do not really appreciate the gravity of this concept. The reason is simple. We tend to get focused on our core legal competency and all the forms, procedures, requirements and deadlines we have to deal with. This is especially so in practice under BAPCPA where there is so much more "red tape" involved. From our point of view, the value we provide is 95% paperwork and results, and only about 5% in terms of the contact we have with the clients.

The problem is that the opposite is true for our clients. Our clients "presume" we will get the paperwork and results right, and therefore, generally take that part "for granted". Ultimately, however, what the client really cares about is how he or she is treated. From the client's point of view, the value we provide is 5% paperwork and results, and 95% how we treat them.

In this regard, I tell my staff, we need to remember that the client is a customer and that, just like when we are ourselves customers of a business, clients want and expect to be treated with respect, to have their time valued, and to generally be treated as special. I suspect we are all like that.

When I was in for my open heart surgery, I took for granted that "medically" all things would be done right. But what made the experience good in some instances and horrible in others, and what I remember most, and what colors my thoughts in terms of whether or not I will recommend that hospital to other people, was how the hospital staff treated me.

Like our clients, I felt (and was) helpless, and I will remember most the hospital staff who came across like I was just another piece of meat and who clearly looked at their employment as just a "job". Had it not been for a few, what I call, "angels" here and there, I would surely have been left with a bad taste in my mouth, begrudging the experience and the money I paid.

The truth is that, if we really focus on it, bankruptcy clients are some of the most needy people on earth, and for good reason. They come to us beaten down by life and circumstance and lack of money. Many come to us "broken". They, more than other types of legal clients, desperately need us to treat them with love and respect. Parenthetically, if we do not, we should be ashamed and need to stop practicing consumer debtor bankruptcy law.

What am I driving at?

The problem is, providing this level of service (which we strive for and never stop trying to improve on) is costly and naturally drives up the price of the "flat fees" that must necessarily be charged.

Those attorneys who "get it": (1) know they must spend a significant portion of their resources on making sure they hire (and only keep) attorneys and staff who are kind, considerate, compassionate, likable, etc., etc., and (2) know they must factor into their costs the extra staff time necessary to provide the hand-holding, responsiveness, empathy and follow-up required.

This part of the service we provide is costly, very costly. And, almost by definition, almost impossible to document.

Conclusion regarding the merits and common-sense of our "menu" system:

We have found that our "menu" system methodology provides the fairest way possible to mete out among the various clients who employ us ALL the expenses of running our law firm, while still maintaining a system where we can provide quality and affordable services on a flat fee basis.

Estimate of actual number of hours expended in this case (to date):

Preface: As previously indicated, like most consumer debtor attorneys, we do not keep a record of our hours. There could literally be dozens of calls or contacts with any particular client to address a myriad of issues and concerns raised over the course of our representation, none of which are documented and none of which I can accurately pin down or even necessarily become aware of in addressing this type of inquiry. The problem is only made worse by the fact that our staff is so specialized that in the course of our representation, a client may well come in contact with a dozen or more of our staff, each serving a different function, depending upon the issue or stage of the case involved. We do keep notes on certain important issues, but this practice in focused on memorializing into the file information about certain key issues, concerns, advice and conclusions, rather than for the purpose of keeping any sort of detailed record of time spent on the dozens of issues addressed with or on behalf of the client during the course of our representation, much less the time we spend just listening.

As a result, in responding to this type of inquiry, I must necessarily estimate or, perhaps more accurately, "guesstimate" the actual time spent.

Having to estimate time spent puts us at a significant disadvantage in responding to your inquiry. I hope that the Court will take this reality into account, a problem understandably foreign to a tribunal used to reviewing attorney fees in Chapter 11 cases based upon time records which detail the specific service involved and the exact time spent.

Hopefully, the Court will also keep in mind that "keeping time" belies the nature a practice based on "flat fees"and would only increase the overall cost of providing quality services in Chapter 7 and 13 cases. Under a "flat fee" system, the extra cost of "keeping time" must ultimately be borne by the client, a reality that must either: (1) Increase the flat fee charged, or (2) Decrease the quality and/or extent of the services provided. Both of these results would seem to be undesirable, especially considering the already bankrupt nature of our consumer debtor clients.

That said, I will now try to provide additional information to justify the fees charged (and hopefully, the merits of our 'menu' system):

(1) **On average, BAPCPA requires at least twice or three times the work and, therefore, twice or three times the hours**:

I will start by pointing out to you what has become an obvious day-to-day reality for all

consumer debtor bankruptcy attorneys. Practice under BAPCPA requires that we address many more issues than under pre-BAPCPA practice. And, practice under BAPCPA requires the preparation and filing of many more forms. In addition to the forms which must be filed (and which the Court and Trustees see), successful practice and representation under BAPCPA necessitated the creation and use of a whole host of additional checklists, handouts, worksheets, and tracking sheets used behind the scenes to help gather and analyze all the information necessary to address the additional issues raised by and requirements mandated by BAPCPA.

Overall, we have found that practice under BAPCPA, whether that be Chapter 7 or Chapter 13 has more than doubled, and in many cases, tripled or quadrupled, the amount of work involved in order to properly and thoroughly handle a case to completion.

The Court, Trustees, Clerk of Court and others may have wondered why filings have not more quickly returned to pre-BAPCPA levels. I believe that, in the main, this has resulted from the fact that firms have generally had to allocate more than twice, and sometimes 4 times, the staff time to each case than was necessary under pre-BAPCPA practice. Simply put, if you have to spend between 2 and 4 times as much time on each case, you can only do a fourth or half as many cases. I will use my law firm as an example. Prior to BAPCPA, we filed an average of about 280 bankruptcy cases per month. As of on or about 10/1/08, even with more staff than we had prior to BAPCPA, we were more than maxing out our staff at an average of about 200 to 220 cases per month. The bottom line is that 2 to 4 times the time on a case, 2 to 4 times the cost.

Mindful that we could not merely double or quadruple the costs for all clients without making the cost of filing bankruptcy prohibitive, our menu approach generally allows us to charge less than 2 to 4 times as much to clients with lesser incomes and somewhat more than 2 to 4 times as much for those with much higher incomes, higher debt limits, and/or other more complex issues. We believe that this variance is justified by the difference in those cases as to both time spent and benefits received.

(2) **Estimates of actual time spent on the file under inquiry**:

(i) Approach taking into account only estimated attorney and paralegal time, to date:

The following is my estimate of time spent on this file by attorneys and paralegals. I arrived at this estimate by reviewing the entire file and by calling upon my experience in having personally handled thousands of cases.

I estimate that the preparation and handling of this filed (so far, but also including attendance at the upcoming 341 meeting, but not including handling of any other "post-filing" issues as may arise) involved about **4** hours of attorney time (including attendance at the 341 meeting) and approximately **25** hours of paralegal time (not including the time spent by other support staff such as office manager, receptionists, scanning staff, filing clerk, ECF filing clerk, IT staff, and our post-filing staff).

At $250/hour for attorney time, $75/hour for paralegal time, just taking into account attorney and paralegal time, this adds up to a value of services provided, so far, for this case of about **$2,875** (also not including the value of the services expended to respond to this inquiry).

IMPORTANT NOTE: Until the case is done, we won't know how much additional

attorney and/or paralegal time is required, but, as mentioned above, this does not at all take into account the additional work anticipated in this case, nor the cost to this client of a pro-rata share of the other support staff.

Time spent to address this fee inquiry. By the time I am done responding to this fee inquiry, up to the point of mailing out the response, I will have spent in excess of 2.5 hours. At $350/hour for my personal attorney time, this adds up to an additional $875 of attorney time, bringing the total, to date, up to approximately **$3,750** (again not including time spent by other support staff and not including services from this date forward), and not including extra, anticipated work that attorney-client privilege does not allow me to discuss.

Defining an arguably more correct "average" flat fee for competent representation in a average Chapter 7:

I would argue that the baseline "average" fee for competent and thorough representation under BAPCPA Chapter 7 practice should be in the range of at least $2,300 to $2,800, based upon the following:

To preface, I am here presenting an approach I hope you and the Court will find useful and which takes into account all available attorney and staff time, using my law firm as a model, pro-rated to determine total time that will be spent on the "average" Chapter 7 case.

Note: The following data was compiled effective October, 2008.

As of 10/08, my law firm employed 52 full-time staff (comprised of 5 attorneys (including myself), 37 paralegals, 7 receptionists, and 5 support staff (file clerk, ECF file clerk, scanner, in-house accountant, IT technician)). The attorneys work an average of at least 50 hours per week. The other staff work an average of 40 hours per week. This totals approximately 9,031 hours of available staff time per month.

Since, as of 10/08, we averaged filing about 200 cases per month, this equates to an average time spent by attorneys and staff of about 45.16 hours per case. On average, we file about 30% of our cases in Chapter 7 and the rest in Chapter 13. And, in our experience, we spend 'roughly' twice as many man-hours on the average Chapter 13, than we spend on the average Chapter 7. Taking these factors into account, the average amount of time spent on the average Chapter 7 case would be **26.56** hours per case (including attorney, paralegal, receptionist and other support staff time).

If we assume that the "**average**" Chapter 7 case involves about 3 to 5 hours of attorney time (to finish the case), 15 to 20 hours of paralegal time (to finish the case), and with the rest of the time being spent by our various other support personnel, the average of $2,303 to $2,628 is computed as follows:

Low "average"		
Attorney	$ 750	(3 hours x $250)
Paralegal	1,125	(15 hours x $75)
Support staff	428	(26.56 minus 18 x $50)
	$2,303	

High "average"		
Attorney	$1,250	(5 hours x $250)
Paralegal	1,500	(20 hours x $75)
Support staff	82	(26.56 minus 25 hours, x $50/hr)

$2,832

Parenthetically, I would point out that this analysis only offers a range for "average". It does not attempt to define either highs or the lows. Furthermore, as the Court can readily see upon a quick review of all the Chapter 7 cases filed by my office, hopefully to our credit, we file a ton of Chapter 7 cases for significantly less money than the proffered "average", a fact that stems from our recognition, as formalized into our "menu" system, that those clients who require less services, should be charged less. This reality is also reflected on **Exhibit "A"**, where representation can range as low as $1,190.00 ($1,390 minus the said $200 discount) as would be the case where the client is "under median", and has less than 20 debts and not more than $20,000 in dischargeable, unsecured debt.

Unexpected higher costs of practice due to BAPCPA:

I have already alluded to the fact that practice under BAPCPA necessitates expending at least twice, if not 3 times, as many "man-hours" as required for the same case filed under pre-BAPCPA law.

(1) **Greater Work Caused By Means Test**:

Perhaps the biggest factor in this regard, although by no means the only factor, are the issues necessary to insure compliance with the new Means Test requirements. Very simply, the Means Test alone accounts for anywhere from 3 to 20 extra hours per case, depending upon the income level involved, the deductions available, any pre-petition Means Test planning involved, the nature of the client's work, how many jobs the clients held in the last 6 months, whether or not there is a non-filing spouses income and expenses to account for, and how cooperative (or not) the client is in providing necessary pay stubs or other documentary verification of income (poorly organized self-employed clients are the worse). Merely explaining this weird thing called the Means Test to clients, and why, in essence clients have to provide 2 different budgets to the Court can take up to an hour, all by itself. And this is in addition to all the conversations and follow-up conversations we have to have with clients to explain the necessity of their providing and having to keep providing proof of their income, right up to the date of filing. If the goal of BAPCPA was to dissuade people from filing bankruptcy, it was certainly a success in this one regard. The document production requirements imposed on clients are a huge hassle for them and, consequently, a strong deterrent to following through with their bankruptcy filing. And then, every month that goes by, that the client delays or drags his or her feet in consummating the filing, is another month that we have to follow-up the client for additional pay stubs or other income verification and another month that we have to re-calculate the numbers for the Means Test. To put it lightly, the Means Test has posed a "red tape" nightmare for clients and debtor attorneys alike.

Bottom line: More work, more cost involved.

(2) **BAPCPA requires that we get and provide the BA and the Chapter 7 Trustee with "copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition". 11 U.S.C. 521(a)(B)((iv).**

For the Means Test, we must keep getting this documentation, but only up to and including the last day of the preceding month. For purposes of Section 521, however, we need to get from the client this pay information right up to the date the case is filed. Seems easy enough in theory, and with some clients, it is. With regard to many clients, this presents for our staff a never-ending nightmare, especially with respect to clients already feeling overwhelmed with all the paperwork requirements or who, by their nature, just aren't very organized. And,

just like with the Means Test, every month that passes requires us to call and bug the client to get and process into the math the newest pay info. If, for example, a client takes 8 months to pay all his or her fees, that's 8 months we have to hound the client for this pay information.

This problem is not unique to our office. From what we hear, every attorney in the country struggles with their clients over this issue.

Bottom line: More work, more cost involved.

(3) **Increased cost of staff**.

(i) **Starting salaries for employees are higher because of BAPCPA:**

The changes wrought by BAPCPA are many and complex, especially concerning the implementation of the Means Test, the requirements of which are complicated and difficult for the brightest of attorneys and staff to understand. As a result, we are forced to hire employees who, for a lack of a better term, have higher IQ's and better math skills. Lacking these qualities, we have found that employees simply do not "get it". The problem is that, in general, higher IQ, better-at-math, employees are generally more desirable and therefore more costly. After BAPCPA, our experience has been that, in order to obtain employees of the requisite caliber, we are having to pay starting salaries up to $5,000 to $7,000 more per year than was previously the case. Multiply this over the total number of employees, especially among the paralegals, which are the bulk of our employees, and we are talking about real money, money that did not have to be spent pre-BAPCPA.

(ii) **Raises**: Starting salaries are higher, but that is not the end of it. So valuable are employees who understand all the ins and outs of practice under BAPCPA, that we cannot afford to lose them, once they are trained, without severely limiting our capacity to provide and continue to provide quality services to our clients. As a result, we have to keep raising them up in salary at a fairly fast pace in to avoid losing them to other employers who may also willing to pay a premium for these quality employees. And this does not even take into account the extra cost of gas, food and other durable goods, which is gradually being worked into salary raise computations, whether I like it or not.

Bottom line: Higher salaries, more cost involved.

(4) **The increased cost of clients who simply give up and don't file**.

With all the extra document requirements that clients have to endure under BAPCPA, we have found there to be less likelihood that a client will actually follow-through with their filing. By definition, most of the people who come to us for help are already stretched to the max, physically, mentally and financially. I am always reminding my staff not to forget how mentally fragile our clients are by the time they come to see us. In most cases, they have already been through the ringer. They have lost jobs, suffered periods of unemployment, made bad life decisions, suffered medical expenses, or simply overspent and suffered the consequences of having to deal with bill collectors who constantly harangue them. Many have lost vehicles they desperately needed and homes, the ownership of which they had pinned much of their self-worth. They have spent endless nights without sleep worrying about how they were going to take care of their families, only to have things made that much worse with higher costs for food, gas and, more recently, all more durable goods. For many clients, the extra "red tape" involved in complying with all the many additional requirement imposed by BAPCPA is just more than they can bear, the proverbial "straw that breaks the

camel's back". As a consequence of this reality, debtor attorneys lose a lot of time spent on client files that never get filed and therefore never pay out enough to even recoup the cost and expense involved. Many times, we have spent 4 or 5 hours on a file, having only received $0 or $75 for our efforts, only to have the client, frustrated by the "red tape", disappear back into the woodwork and not file.

Bottom line: The more clients give up, the most lost revenue, and the more cost for those other clients who don't give up.

Risk involved in working for a "flat fee":

As explained earlier, offering services in consideration of flat fees is a practical necessity in building and maintaining a successful debtor bankruptcy practice. But that's not the end of it.

Providing services on a flat fee basis brings with it a great amount of financial risk. This cannot be overemphasized.

By definition, accepting representation on a flat fee basis obligates the debtor attorney on a full job basis, generally regardless of the extent of the services that need to be provided, rather than based on the amount of work involved. And, local rules make it difficult, if not impossible, for the debtor attorney to get off a case without completing the job, to wit: through the discharge and closing of the case.

The problem is that, in many cases, the amount of work that turns out to be more involved than anticipated, thereby exceeding the contemplated in setting the flat fee.

This risk must be taken into account in setting a flat fee, a risk that I hope the Court will take into account in looking at any isolated Chapter 7 case, as for instance the case in inquiry. The bottom line is that a flat fee needs to be set at a level high enough to account for this risk. Hopefully, you and the Court will take this into account in conducting inquires, as in this case, rather than merely looking at representation and reasonableness of fees in Chapter 7 as merely a function of hours and minutes.

And this is in addition to the fact that there is always the risk that other things will come up in the case that are unexpected and which will, in retrospect, result in the conclusion that the flat fee has, in fact, been set too low.

For example, specific to the case under inquiry:

(1) Case involves discharge of substantial debt: In this case, if all goes well, these clients will get rid of **$317,918.03** (See computation above) in unsecured, dischargable debt, plus save having to pay all the interest on that money that would have come due in the future. This represents a huge benefit for the client, but one which will likely not go unnoticed by the creditors involved. In this case, there are 8 creditors who stand to lose greater than $20,000 each and 3 creditors who stands to lose over $50,000 each. It stands to reason that the more debt a creditor stands to lose, the more likely the creditors involved, with or without benefit of counsel, will rear their heads in protest. We do not know which or if any of the creditors will cause a problem. At the same time, there is no guarantee we will not hear from all of them. Until the case is done and closed, we will not really know the money we charged is too much or way too little. We do know that, in accepting a case on a "flat fee" basis, whatever work comes up will have to be done. And, as all consumer debtor bankruptcy attorneys are painfully aware, some cases turn out to be nightmares, where the work and frustration far, far exceed the flat fee charged, no matter how big.

(2) This case involves factors and risks which can be reasonably anticipated to be cause for substantial additional services, however, undersigned counsel cannot is prohibited from here discussing or revealing same due to attorney-client privilege.

(3) Potential Trustee Problems: There is always the lingering possibility that a Trustee who will escalate the required work, justifiably or not, with document or information requests. When we sign on, we don't know which Trustee will be assigned, but in quoting a "flat" that we will be, for lack of a better term, "stuck with", it only makes sense to plan for the worse. Many times, by the time we have finished dealing with the Trustee and the upset client, we have most certainly lost money on the case, no matter how much we charged.

(4) Potential for having to deal with facts not revealed: There is also the possibility that, in spite of our thorough vetting of the client, that additional or disturbing facts will come to light as to fraud or additional property, debts, income or expenses, which will serve to trigger the need for extra work.

(5) Potentially needy client: There is always the possibility, inherent in every case, that the client will turn out to be, for lack of a better term, unusually "needy", meaning that we will have to field call after call after call, and letter after letter after letter, to get the client mentally through their case to completion.

(6) Time spent addressing this inquiry: Next, there is the time I am spending addressing this inquiry, which itself will result in at least 2.5 hours of my time, all uncompensated except as included in the flat fee.

(7) Potential for file audit: Lastly, although the chance is only 1 in 250, there is always the chance that this case will be the case subject to "audit", in which event we will be forced to expend anywhere from 5 to 25 extra hours for FREE.

The bottom line is that any and all of these issues, and others, are at risk of happening even in the case under inquiry, any one of which would, in hindsight, render the flat fee, as set, inadequate.

We would therefore respectfully ask that you, as Trustee, and the Court take these possible factors and risks in account, and accordingly figure into the calculations of what is "reasonable" some sort of, for lack of a better term, "fudge factor". The fact is that none of these risks can be fully dismissed as a possibility this early in the case, and any and all of which (and the extra work that would be caused thereby) would generally be considered to be subsumed in the flat fee, as set.

In addition, if this fee inquiry and the numerous other, prior fee inquiries is any indication of the likelihood of additional inquiries to come, my hope is that the Court will take into account the extra time each of these responses take to prepare, remembering, once again, that we are still working under on flat fee basis. As mentioned, I will have spent at least 2.5 hours responding to this one inquiry alone, and that only includes the time spent up to the point of mailing out this response.

We are not "average" attorneys:

With all due deference, I do not believe our law firm should be compared to the average or the typical.

Unlike many attorney who do consumer debtor bankruptcy work, we do nothing but consumer

debtor bankruptcy work, and as such, we have become specialists. This applies to our paralegals as well as our attorneys. As a consequence, our attorneys and paralegals are more versed, trained, skilled and experienced in providing representation, above and beyond what may be apparent in looking at hours spent or merely the information spelled out in filed documents. We believe we enjoy a reputation of having our clients come to the table knowledgeable and well prepared on the issues involved.

We have a good reputation for competent and thorough representation and for standing up for our clients as issues may arise, and in fact, for raising important issues that certain other attorneys do not, for whatever reason, ever raise.

As further evidence that we are above "average", there is the fact the we are very involved in the bankruptcy law appeals process, as evidenced by the many appeals we have handled since the enactment of the new bankruptcy law.

We are repeatedly asked to participate in seminars devoted to providing continuing legal education to the bankruptcy bar and paralegals alike, on both the local and national level.

It was our law firm that spearheaded the opposition to the recent promulgation of additional document disclosures by the Bankruptcy Administrator for the Eastern District.

In addition, we are very involved on the national level, being active members of the National Association of Consumer Bankruptcy Attorneys (NACBA). As an example of our involvement and commitment, one of the Board of Directors of NACBA is attorney Ed Boltz of my office).

Although it did not pass in Congress, we were also very involved in the process of trying to get the proposed "mortgage modification" bankruptcy bill through Congress. I personally offered up at least 3 amendments to the bill, which were incorporated by Senator Durbin's office into the bill as finally drafted, and Ed Boltz of our office spent countless hours working on the bill and trying to build support for its passage.

In addition, our attorneys, as members of NACBA personally participate every year in lobbying efforts in Washington, D.C. in an attempt to raise the awareness of Congressmen and women and Senators regarding issues important to our system of bankruptcy.

This is all part of what our clients get for their money.

The bottom line is that we believe we provide more thorough and skilled representation than that provided by certain (not by any means all) other attorneys. In this process, we believe we do more due diligence and a better job vetting the client and the client's situation. As a sample, I have attached as **Exhibit "C", "D", and "E",** some of the checklists from the file under inquiry as a sample. Hopefully, these forms will attest to the extent, quality and thoroughness of the representation we provide.

We also spend a lot of time educating our clients on the entire process and its effect on their lives. Some indication of this can be seen in the **Things To Do** and the **Important Notice To Client** forms we provide to our clients. See **Exhibit "F",and "G"**. Lastly, we also believe that, on par, we provide better protection for and also a better result for our clients than achieved by certain (but certainly not all) other attorneys. We see proof of this every time we attend Court hearings and 341 Meetings.

Although I cannot say for sure, my guess is that if the average fee that might well tend to be applied as a baseline for all attorneys is somewhat lower than what we would charge for the

"average" case, the average is being pulled down by attorneys who either do not provide the same quality of services or thoroughness of representation that we strive for or who simply underestimate the amount of work involved or who undercharge for their services.

Lastly, but not...by any means...least

The client knew right up front what the "flat fee" charged. The clients seem to be happy with our service, and have expressed no dissatisfaction whatsoever with the fees charged.

Respectfully submitted,

John Orcutt