

In the United States Bankruptcy Court
for the
Southern District of Georgia
Columbus Division

In the matter of:) Chapter 13 Case
)
NANCY L. HILLIS) Number 97-42591
)
Debtor)

MEMORANDUM AND ORDER
ON OBJECTION TO CLAIM OF MICHAEL H. GRAHAM

On January 8, 1998, Michael H. Graham (hereinafter "Graham") filed a proof of claim in the amount of \$39,131.90 secured, \$10,823.53 unsecured. The secured claim was asserted as a result of professional services rendered to the Debtor pre-bankruptcy. The unsecured claim is the estimated value of a Dickens Village collection which the claimant alleges the Debtor has wrongfully held in her possession. (Ex. D-9). On January 13, 1998, Graham filed a supplement to his proof of claim showing the current valuation of pieces in the Dickens Village collection and amending his valuation of that claim to \$6,800.00. (Ex. D-10). The exact location and existence of these and many other items of personal property of the Debtor remains unresolved and could not be resolved in the context of this hearing; the Court therefore advised the parties that any ruling on this element of Mr. Graham's claim would be deferred until a later time. Accordingly, what remains before the Court is consideration of the allowance of Mr. Graham's secured claim

of \$39,131.90. Graham asserts that his claim is secured first by an attorney's lien¹ in and to his legal file and second by a claim of lien against real estate formerly owned by the Debtor, filed in the Office of the Clerk of Superior Court of Chatham County, Georgia, on August 22, 1997, and a related assignment of partial interest in a security deed by Dr. Charles L. Hillis to Mr. Graham dated July 16, 1997. (Ex. MG-17).

The secured status of Graham's claim has been rendered moot by the cancellation of Dr. Hillis's security deed and has apparently been abandoned by Graham. *See* Brief Opposing Debtor's Objection to Claim, p.11 ("Graham admits that the partial assignment of Dr. Hillis's security interest may no longer be of secured status."). To the extent not abandoned, I rule that no remaining security exists to which the lien attaches. The real estate to which the lien attached was not the subject of any legal services rendered by Graham. Rather, in dealing with the Debtor's real property he acted only as a "mediator," as more fully discussed later. No attorney's lien on the real estate can result from his non-attorney services.

The Debtor asserts numerous defenses to the claim, including the following:

¹ O.C.G.A. § 15-19-14 provides:

(a) Attorneys at law shall have a lien on all papers and money of their clients in their possession for services rendered to them. They may retain the papers until the claims are satisfied and may apply the money to the satisfaction of the claims.

1) That the claimant was hired by the Debtor's ex-husband, Dr. Charles L. Hillis, and not by the Debtor;

2) That any of the work claimant performed that appeared to be for the benefit of Debtor, Ms. Hillis, was done voluntarily with no expectation of pay by the claimant because of a close personal relationship between Graham and the Debtor;

3) That the benefit of all of the work performed by the claimant on a file referred to as the "Cincinnati Insurance Matter" may be extinguished by virtue of the fact that the Cincinnati Insurance Company has revoked the policy in question, contending that the claims asserted by the Debtor were fraudulent; and

4) That the documentation of the services performed, the time devoted to those services, and their reasonableness and necessity are insufficient to support an award.

Mr. Graham contends that he spent hundreds of hours working in behalf of Dr. and Mrs. Hillis. He further contends:

1) That the representation occurred at the request of and with the knowledge and acquiescence of both of the parties;

2) That much of his work was consensually agreed to by the parties - largely his efforts to negotiate or mediate financial difficulties that had arisen between the Hillis', as a result of their failed marriage;

3) That over \$100,000.00 in proceeds were obtained from the Cincinnati Insurance Company as a result of the claimant's efforts; and

4) That the Debtor has realized over \$275,000.00 in net proceeds after payment of all mortgages against the Hamilton Turner Mansion as a direct result of claimant's mediation efforts.

Based on the evidence at trial I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

Debtor Nancy Hillis and claimant Michael Graham became socially acquainted sometime in 1994 and frequently traveled, dined out, and otherwise socialized with each other and their respective dates. Ms. Hillis was already divorced from Dr. Charles L. Hillis, and expected to receive a home, in which to live with their son, out of the proceeds of the sale of a residence she and Dr. Hillis formerly shared in North Georgia and of a condominium at St. Simons Island, Georgia. Ultimately Dr. Hillis agreed to purchase the Hamilton Turner Mansion, situated in the historic district of Savannah, to provide both a residence and a business opportunity to Ms. Hillis. At the time of acquisition, the mansion was appraised at approximately \$800,000.00 but due to undisclosed factors, Dr. Hillis was able to purchase it for \$425,000.00. Ms. Hillis intended to operate the mansion as a museum and tourist attraction because of its notoriety arising from the best selling novel MIDNIGHT IN THE GARDEN OF GOOD AND EVIL, by John Berendt.²

² Ms. Hillis intersects with "The Book" as it is widely known in these parts, in that the character Mandy in the book was loosely based on Ms. Hillis's personality and activities. This point is relevant to this Order in that some of the work performed by Mr. Graham (work which is uncontradicted to have been performed only for Ms. Hillis' benefit) was what Graham identified as the "Mandy file," a file which reflects her efforts to market her connection with characters identified by name in the book.

In October 1994, as a result of near catastrophic rainfall in the Savannah area, the roof of the Hamilton Turner Mansion failed and the mansion was flooded, resulting in substantial structural and contents damage. Ms. Hillis filed a claim with her property and casualty insurance carrier, the Cincinnati Insurance Company, acting *pro se*. J. T. Turner Construction Company was hired to begin repairs and received several advances from Cincinnati Insurance. The mansion was closed for at least four months and income derived from its operation was lost. At some point the inspections department of the City of Savannah observed that the porch on the mansion seemed to have shifted or become displaced from the main house, resulting in a potentially dangerous situation, and ordered repairs under threat of shutting down the business. Ms. Hillis acknowledges that she discussed the porch problems with Mr. Graham. Graham's letter dated August 30, 1995, to Cincinnati Insurance makes reference to an earlier August 17, 1995, letter to the company advising that he was representing the Hillis interests. (Ex. MG-1). Graham's billing records likewise indicate that as early as July 1995 he was conferring with both Dr. and Mrs. Hillis concerning the Hamilton Turner Mansion. Beginning in September 1995, he began communication with representatives of Cincinnati Insurance, Ms. Hillis, local contractors and others; he recorded numerous hours of effort on both files, which he separately established but billed to Charles L. Hillis, M.D.

Dr. Hillis's testimony was that in about October 1995 he hired Graham to represent him and Mrs. Hillis in the Cincinnati Insurance Company matter and to assist in mediating their differences over the use, occupancy, and disposition of the Hamilton Turner Mansion. Dr. Hillis also testified that Mr. Graham's fee was to be paid out of any insurance

recovery and out of any net proceeds from the sale of the mansion. Graham contends that this agreement is reflected in paragraph 7(b) of Exhibit MG-6, entitled “Hamilton Turner Mansion Sales Contract” and executed on April 29, 1996. That contract provides in relevant part that upon any sale and after payment of the existing mortgage on the property, the proceeds would be paid to cover “real estate sales commission, closing costs, and attorney’s fees.”

Graham testified that in June 1995 he conferred with both parties concerning their desire to obtain legal representation to effectuate the sale of the mansion and to deal with the insurance claim. He testified that he quoted a fee of \$150.00 per hour, but advised Dr. and Mrs. Hillis that although he needed them to pay what they were able to on a current basis, he would defer final payment until the insurance matters and sale of the mansion were consummated. Ms. Hillis denies that she ever agreed to those terms. She testified, and Mr. Graham does not dispute, that no engagement letter was ever written or executed by either Dr. or Ms. Hillis. Debtor denies that any bills were forwarded to her, notwithstanding Mr. Graham’s testimony and some documentary evidence that she was copied with much correspondence and at least some of the interim bills.

By all accounts, Graham became heavily involved in the handling of the Cincinnati Insurance claim and other matters. Ms. Hillis testified, however, that when Graham attended her depositions in connection with the insurance claim, she became concerned about the enormous amount of time he was spending and told Graham that she was worried about her inability to pay him. She alleges that he told her “not to worry, that

they were good friends, and he was just trying to help.” Graham disputes this account and states that he told her not to worry because the ultimate source of his repayment would be net proceeds of the mansion sale and/or the insurance claim.

CONCLUSIONS OF LAW

I. Did Debtor hire Graham to act in her behalf in any capacity or did he act solely as a result of Dr. Hillis’ hiring and/or as a volunteer?

In light of the testimony in dispute and the documentary evidence admitted, the capacity in which Mr. Graham acted is hotly disputed. At the risk of belaboring the obvious, this Court observes that this is precisely the type of situation easily avoided by counsel preparing a clear engagement letter when undertaking to represent parties, particularly where a personal relationship exists that can readily lead a lay person to believe the attorney’s services will be handled at a discounted rate or at no charge.

Nevertheless, that did not happen in this case and this Court is obliged to determine whether Ms. Hillis is legally obligated to compensate Mr. Graham for his efforts in her behalf or whether that is the sole and separate obligation of Dr. Hillis. Having considered all of the evidence, I conclude that the preponderance of the evidence establishes 1) that an attorney-client relationship existed between Mr. Graham and Ms. Hillis as it relates to the Cincinnati Insurance files, 2) that he acted by consent of both Dr. and Ms. Hillis as a “mediator” in connection with the Hamilton Turner Mansion issues, and 3) that he was expressly retained by Ms. Hillis to work on the “Mandy file.”

The parties' testimony on the Cincinnati Insurance issue has already been set forth and is clearly contradictory. The documentary evidence, however, supports Mr. Graham's claim that he performed compensable services on behalf of Ms. Hillis as follows:

- 1) As to the Hamilton Turner Mansion services, Exhibit MG-6 contains the following language in paragraph 10:

All three parties to this Agreement understand and acknowledge that Michael H. Graham, Attorney at Law, prepared this Agreement at the request of all three parties based on a verbal agreement previously entered into by all parties. The parties hereto acknowledge, agree and understand that in the preparation of this Agreement and the negotiations leading up thereof, Michael H. Graham acted only as a mediator, and did not and does not now legally represent any of the parties individually with respect to any existing or possible conflict or dispute that any of them may have, if any, against the other, and all of whom hereby release and forever discharge Michael H. Graham from any and all claims in the preparation of this Agreement which they may otherwise have against him arising out of any supposed attorney-client relationship. Each of the parties acknowledge that Michael H. Graham has advised them that they have the right to have the attorney of their choice to review this Agreement on their behalf.

- 2) As to the Cincinnati Insurance Company claims, Ms. Hillis signed a Limited Power of Attorney on February 22, 1996, which provides in relevant part:

... I, NANCY L. HILLIS, have named, constituted and

appointed . . . MICHAEL H. GRAHAM . . . my true and lawful Attorney in Fact . . . to do and perform all and every act . . . in connection with the construction and restoration of the Hamilton Turner Mansion and Museum . . . arising out of the damages sustained to the structure and contents from the storm of October 12 and 13, 1994, and the fire of January 8, 1996.

The Limited Power of Attorney goes on to authorize the execution of contracts, settlement statements, insurance drafts and checks, and other documents of any character necessary to the handling of insurance claims and the hiring and dealing with contractors to perform construction and restoration. It further provides:

I hereby ratify all acts which may have already been performed by my said Attorney in Fact in connection with these insurance claims and restoration work.

(Ex. MG-5 and D-18).

- 3) A March 28, 1996, letter from attorneys for Cincinnati Insurance to Michael Graham schedules examinations under oath of “both of your clients.” (Ex. MG-11).
- 4) A July 12, 1996, letter from Ms. Hillis to Graham acknowledges her previous execution of the limited power of attorney, terminates said power of attorney, disputes the propriety of certain payments Graham had made to a contractor on the job and directs Graham and the insurance company to begin working directly with the insured, Dr. Hillis. (Ex. D-21).

- 5) An August 11, 1996, letter from Hillis to Graham (Ex.D-23 and MG-12) reads in relevant part:

I have to move on. I have to start suit against everyone and every company that have set out to destroy me.

I want to relieve you of any legal responsibility in this matter.

I know you feel the need to watch after Charles [*sic*] interest in these matters, as well as mine. It has reached a time when I need my own attorney. Not someone who sits on the fence as a negotiator. I feel that in this situation this will no longer work.

- 6) An Attorney-Client contract dated August 22, 1996, between Nancy L. Hillis and Duffy, Feemster and Lewis engages that firm to handle her claim against Cincinnati Insurance for fire and water damage to the Hamilton Turner Mansion. (Ex. D-24).

- 7) An August 27, 1996, letter from Duffy, Feemster and Lewis to Michael H. Graham recites:

On August 12, 1996, you received the enclosed letter from Nancy Hillis terminating your services as her attorney.

(Ex. D-25).



Consideration of the entirety of the record compels the conclusion that Ms. Hillis (a) hired Mr. Graham to represent her interest, or alternatively, that Mr. Graham undertook, with Ms. Hillis' acquiescence and knowledge, her representation in connection with the Cincinnati Insurance matter and the City of Savannah Inspections Department problems; (b) that with the consent of both Dr. and Ms. Hillis, Graham was retained as mediator to work out the details of the sale of the Hamilton Turner Mansion from Dr. Hillis to Ms. Hillis as evidenced by Exhibit MG-6; and (c) hired Graham to handle the "Mandy" file.

II. What was the value to Ms. Hillis of the professional services rendered by Mr. Graham?

Georgia statute provides, in pertinent part:

Ordinarily, when one renders service or transfers property which is valuable to another, which the latter accepts, a promise is implied to pay the reasonable value thereof.

O.C.G.A. § 9-2-7. Although Graham testified that he quoted a fee of \$150.00 per hour and agreed to defer receipt of his compensation, I find no evidence in the record that Ms. Hillis ever agreed to that sum of money, even though Dr. Hillis apparently did. In assessing the amount of Mr. Graham's claim in this bankruptcy, therefore, the \$150.00 hourly rate will not be treated as a contractual obligation of the Debtor. Instead, the Court will determine the reasonable value of legal services for the representation Mr. Graham undertook.

The reasonable value of an attorney's services may be more or less than a contract rate, depending upon the facts and circumstances of the case. See Sosebee v. McCrimmon, 228 Ga. App. 705, 707, 492 S.E.2d 584, 588 (1997). The Court should award "reasonable compensation" for actual and necessary services rendered, to be determined by the "lodestar" method. In re Key Airlines, Ch. 11 No. 93-40226, slip op. (Bankr. S.D.Ga. Jun. 7, 1993) (Davis, J.). Under this approach, fees are calculated by multiplying the "attorney's reasonable hourly rate by the number of hours reasonably expected." Id. at 4 (quoting Norman v. Housing Auth. of City of Montgomery, 836 F.2d 1292, 1299 (11th Cir. 1988)). The rate and hours should be reasonable in light of the twelve factors set forth in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-719 (5th Cir. 1974). In re Concrete Products, 208 B.R. 1015, 1022 (Bankr. S.D.Ga. 1996) (Davis, J.).

In this district, the "current hourly fee for comparable legal services other than in the area of bankruptcy within the relevant legal community, the Southern District of Georgia, charged by lawyers of comparable skill, experience and reputation for basic legal services comparable to Chapter 13 debtor representation, is One Hundred Twenty-Five and No/100 (\$125.00) Dollars per hour." In re Barger, 180 B.R. 326 (Bankr.S.D.Ga. 1995) (Dalis, J.); *see also* Concrete Products, 208 B.R. at 1023 (\$125 per hour within acceptable range of prevailing market rate); *accord* Key Airlines, slip op. at 6. The lodestar fee is "presumptively accurate, and a party wishing to increase or decrease the lodestar must make a strong showing that the lodestar amount should be modified." Key Airlines, slip op. at 4. Absent a showing by Mr. Graham that the presumptive lodestar rate in this district should be modified, this Court holds that \$125.00 per hour is the reasonable hourly rate by

which to determine Mr. Graham's claim for his non-bankruptcy services of similar complexity to Chapter 13 representation.

Counsel cannot be compensated for expenditures of time which are "excessive, redundant, or otherwise unnecessary." Norman v. Housing Auth. of the City of Montgomery, 836 F.2d 1292, 1301 (11th Cir. 1988); *see also* Concrete Products, 208 B.R. at 1022. This Court must deduct time spent on discrete and unsuccessful claims and may make adjustments based upon results obtained. Concrete Products, 208 B.R. at 1023. If a claim of attorney's fees is not supported by adequate application, or is excessive, this Court may draw upon its knowledge and experience in forming an independent judgment as to what is reasonable. Id. This Court has wide discretion in exercising such judgment and a review of fee awards is made under an abuse of discretion standard. Id. (citing Gilmere v. City of Atlanta, Georgia, R.C., 864 F.2d 734 (11th Cir. 1989)).

Graham's proof of claim (Ex. D-9) totals \$36,607.78 for the Cincinnati Insurance matter and \$13,724.12 for the Hamilton-Turner Mansion mediation, less payments of \$11,200.00 for a net fee of \$39,139.90. In analyzing the reasonableness of the number of hours expended on the Cincinnati Insurance matter I first look to the total number of hours spent and the results obtained. At Mr. Graham's actual billing rate, which from the invoice appears to be \$135.00 per hour not the \$150.00 testified to, he spent approximately 270 hours on the Cincinnati Insurance Company matter.

Cincinnati Insurance File

The evidence is clear that Cincinnati Insurance advanced substantial sums of money for repairs to the Hamilton-Turner Mansion. Although the claim was initially filed *pro se* by Ms. Hillis, Mr. Graham became involved in the efforts to force Cincinnati Insurance to pay for a substantial damage to the premises over a period of time from approximately mid-August 1995 until the termination letter from Ms. Hillis of August 11, 1996, or roughly one year. Mr. Graham never filed suit against the Cincinnati Insurance Company and in the abstract, 270 hours appears to be an excessive amount of time devoted to communications between insurance adjusters, contractors, owners and the insurance company representatives themselves. However, it is clear that there was tremendous urgency felt by Ms. Hillis in having the necessary repairs made because of the interruption in her ability to operate the business. It is also clear by virtue of the execution of the limited power of attorney and the fact that Mr. Graham was authorized to execute documents, receive and disburse monies and deal on a day-to-day basis, not only with the insurance company, but with workers performing repairs, that he was involved in much more minute detail than might ordinarily be expected of an attorney.

The total amount received from Cincinnati Insurance Company was not established with specificity, but apparently amounted to at least \$113,000.00.³ The sum of money paid prior to the time that Cincinnati Insurance ceased funding repairs was substantial. It is contended that because Cincinnati Insurance has revoked the insurance policy, it might ultimately assert a claim against Ms. Hillis; as of the time of the hearing, however, this

³ In fact, there was some testimony that the total was in excess of \$200,000.00. Some of the funds were remitted prior to Mr. Graham's being hired, and some was remitted direct to contractors. In light of the lack of clarity in the record, I adopt the figure of \$113,000.00 argued on brief by Graham's counsel.

contention was nothing more than speculation. Accordingly, on the record before me, I conclude that through Mr. Graham's efforts, in whole or in part, Cincinnati Insurance Company did remit approximately \$113,000.00 and therefore the expenditure of roughly 270 hours of time is not, on its face, unconscionable given the amount of detail work that he was authorized by his client to perform. It is necessary, however, to review individual items to determine the adequacy of their documentation and whether individual services may or may not be compensable.⁴ Having done so I conclude that the following services should be reduced or disallowed as follows:

Date	Hours Billed	Hours Disallowed	Reason
January 9, 1996	7.5	3.0	Excessive time; inadequate explanation
January 11, 1996	12.5	4.5	Excessive hours;
January 12, 1996	3.7	2.0	Inadequate explanation;
January 15, 1996	8.5	3.5	Inadequate explanation;
February 2, 1996	8.0	4.0	Excessive time; inadequate explanation
March 25, 1996	2.4	2.4	Inadequate explanation - billing attorney's fees for services rendered in connection with mediation which parties agreed did not constitute legal services.

⁴ Debtor complains that Mr. Graham's fee application includes duplicate or overlapping hours and that the invoices submitted by Mr. Graham "lump" hours together. I have previously held that "lumping" time entries for individual telephone calls, conferences, research projects, or drafting documents does not result in a *per se* disallowance of the fees sought. Key Airlines, slip op. at 9-10. Some evidence must exist, however, which enables the Court to determine whether the time expended was reasonable; determinations must therefore be made on a case-by-case basis. Id. at 10-11. The essential test is whether "the format of the bill, including lumping of time entries, preclude[s] meaningful review of the reasonableness of the bill." Id. at 11.



March 26, 1996	3.1	3.1	Inadequate explanation - billing attorney's fees for services rendered in connection with mediation which parties agreed did not constitute legal services.
March 28, 1996	1.6	1.6	Inadequate explanation - billing attorney's fees for services rendered in connection with mediation which parties agreed did not constitute legal services.
July 16, 1996	3.1	2.0	Inadequate explanation
August 12, 1996 through October 4, 1996	18.1	18.1	Post termination by Ms. Hillis. Claimant working only for benefit of Dr. Hillis.
TOTAL	68.5	44.2	

Amount billed	\$36,607.78
Less amount paid	\$8,200.00
Less disallowed hours (44.2 hours @ \$135.00) ...	\$5,967.00
Subtotal	\$22,440.78

Debtor also disputes an additional 40 hours of billing which involve conferences with attorney LuAnn Roberts and Lyn Walsh, a mortgage broker and mutual friend of Graham and Debtor. Both Roberts and Walsh testified. Roberts kept no time records, but could establish only a one-hour meeting that was primarily related to Debtor. I therefore disallow an additional eight hours on these matters. Walsh was unable to verify that any of the time she was consulted was "legal" in nature. Graham described Walsh as an

“intermediary” and a friend of Dr. and Mrs. Hillis. I construe that testimony as an acknowledgment that most of the communication with Ms. Walsh was social or personal, not legal in nature. I conclude that 30 additional hours should be disallowed.

Subtotal	\$22,440.78
Roberts reduction (8 hours @ \$135.00)	\$1,080.00
Walsh reduction (30 hours @ \$135.00)	\$4,050.00
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Second Subtotal	\$17,310.78
Less \$10.00 per hour difference between billed and allowed rate for remaining allowable hours (\$10.00 X 187.80 hours)	\$1,878.00
	<hr/>
Net Fee Allowed	\$15,432.78

The possibility, however remote, that Cincinnati Insurance will assert a claim against Debtor exists. Should it do so, the provisionally allowed fee might need to be reduced further. I THEREFORE ORDER this fee allowance to remain subject to further review until that possibility is eliminated. The Trustee will not disburse this amount until further order of Court.

Hamilton-Turner Mansion File

As to the Hamilton-Turner Mansion file, I agree with the contention that the Debtor, as a result of the agreements worked out with Dr. Hillis, realized over \$275,000.00 in net proceeds to benefit her Chapter 13 estate after paying all outstanding mortgages and that this result was achieved substantially as a consequence of claimant's



mediation efforts which were agreed to and acquiesced in by both Dr. and Ms. Hillis. I do not find, however, that the language of the Hamilton-Turner Mansion sales contract insures that Mr. Graham will receive reimbursement of all his fees from the proceeds of the sale of the mansion. The language from Exhibit MG-6 only provides that proceeds would be paid to cover “real estate sales commission, closing costs, and attorney’s fees.” Mr. Graham’s role was expressly limited to that of a mediator and was expressly stated not to involve him in an attorney-client relationship with either Dr. or Ms. Hillis. Fees for mediation are not encompassed in the phrase “attorney’s fees.” Since the agreement is silent on the subject of payment for his mediation efforts, I conclude that each party is liable for one-half of the total cost of his services as a mediator. In this case he has billed a total of \$13,724.12 for work on the Hamilton-Turner Mansion mediation and Ms. Hillis’ responsibility is limited to \$6,862.06. Dr. Hillis has previously paid \$3,000.00 to Mr. Graham which will be credited to his one-half obligation and not to Ms. Hillis’. Therefore, this portion of Graham’s claim against the Debtor, Ms. Hillis, is allowed in the amount of \$6,862.06.

Art and Entertainment File

As to the “Art and Entertainment” file, the so-called “Mandy” file, Debtor engaged Mr. Graham’s services directly and it is her sole responsibility. Accordingly, his claim for this aspect of the work is allowed in the amount of \$4,023.53 the amount of Invoice Numbers 683 and 717 attached to Graham’s Exhibit MG-10.

Finally, Debtor’s counsel raises the possible disqualification of Mr.



Graham to collect any fee because of his alleged improper utilization of funds in his trust account, from which he applied \$8,200.00 to his fees for services rendered in connection with the Cincinnati Insurance matter. This allegation is quite serious, but in the context of the evidence I was presented, I find that the objection should be overruled. I have ruled that an attorney-client relationship existed and that the parties contemplated that the source of repayment of his fee would be the insurance proceeds in issue. As a result of this Court's ruling in this Order, Mr. Graham is entitled to more than \$8,200.00 on account of his representation in the Cincinnati Insurance matter. On these facts I do not find the record clear that he committed any act which should cause forfeiture of his fee. Where an attorney is owed a liquidated sum of money and has billed the client, the attorney may "apply the money to the satisfaction of the claims." O.C.G.A. § 15-19-14(a).

[A]n otherwise liquidated account for legal services cannot be rendered unliquidated by challenging the amount billed after the attorney has enforced his lien by disbursing sums from the trust account to his general operating account.

See Metropolitan Life Ins. Co. v. Price, 878 F.Supp. 219, 221 (N.D.Ga. 1993). This conclusion is without prejudice to any disciplinary action which the Debtor believes should be referred to the State Bar of Georgia in the event that additional information is available or that a more exhaustive inquiry into Mr. Graham's acts on this specific point might yield a different outcome.⁵

⁵ Debtor also contends that Graham wrongfully violated his duty to Debtor by filing an answer and counterclaim on behalf of Pat Tuttle in a landlord-tenant action. (Ex.D-32). While Debtor argues on brief that Graham advised Debtor concerning Ms. Tuttle, Debtor presented no clear evidence as to the timing of any such counsel or its relationship to the time of accrual of Ms. Tuttle's counterclaim. The pleading in

O R D E R

In light of the foregoing Findings of Fact and Conclusions of Law I hold that Mr. Graham is entitled to a claim for fees for services rendered in the amount of \$6,862.00 as mediator, and \$4,023.53 for the "Mandy" file. The claim will be treated as a general unsecured claim in these proceedings. The existence of any claim arising out of the Dickens Village collection is to be determined, if at all, in the context of other proceedings in this case. The allowed net claim for Cincinnati Insurance Company matters of \$15,432.78 remains subject to review as set forth above.

Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This ____ day of July, 1998.

question was served on August 26, 1997, over a year after Debtor fired Graham. On this record, it is not clear that Graham violated any duty to his former client.

