

The Report alleges that fees have been allowed to attorneys and fiduciaries based upon fees normally charged by licensed real estate brokers. Such is not the case. Again the Report mis-quotes in para-phrasing an Exhibit. (See Exhibit 11.)

The letter referred to states that if the attorney is the "catalyst" in a real estate lease he should clearly reveal in writing his position to the Bureau and the Court. The award will not be on a basis of dollars per hour, but according to a determination of value and worth to the Estate made by the Court but never exceeding the schedule for realtors. In other words, the Court has stated that it would determine the value of the services by the attorney but never would the attorney receive more money than a real estate broker would have had the real estate broker been the catalyst. This indicates that the estate will never be charged more for services by an attorney than it would have been charged had the attorney called in the services of a real estate broker and allowed him to put together any transaction.

On this question, however, of determination of fees in accordance with schedules, the Bureau itself has promulgated a Directive wherein fees are to be determined by income which is the same standard followed by real estate brokers, but the fees to be recognized by the Bureau were less than those charged by realtors.

This Directive is in the form of a letter dated Sept. 9, 1966, a copy of which is offered herewith.

While the Report criticizes the insertion of the practices of the market-place into fiduciary relationships, it is apparent that such is not the case in Court administered estates, yet such is the case when the Bureau's determination of value of services is involved.

On the question of duplication of services, the Report criticizes the fact that a layman, the fiduciary, attends business meetings for which he charges fees. At least the Report criticizes this conduct when the layman asks to be represented in business meetings by his attorney. Apparently the authors of the report feel that every layman should be well enough versed in legal matters to be able to negotiate on all forms of legal problems without the effective assistance of counsel, or if he needs effective assistance of counsel, either he or the attorney should go un-recompensed for the services performed by them.

The Report implies that the layman fiduciary and the attorney duplicate services. Such obviously is not the case. It is the universal, commercial practice throughout the United States for businessmen to be represented at business councils and conferences by their attorney or with their attorney.

In several instances where the attorney has been himself qualified to act as business advisor he has been appointed as Fiduciary and serves as his own attorney. Such practice has resulted in a savings to the Estate, not only in money but in time. Such practice obviously cannot be followed universally because not all attorneys are qualified businessmen.

The authors of the Report again exhibit their ignorance of legal services by classifying the obtaining of Ex-Parte Orders as being universally "purely routine".

The authors criticize alleged extra-ordinary fees by attorneys for services normally performable by a fiduciary but fail to give any assistance in which this situation has occurred.

If an attorney is representing three clients each of whom are involved in a transaction, the attorney will represent each of the three clients to the best of his ability. For each of the three clients he must perform some services. If the three clients happen to be estates and the transaction necessitates the obtaining of a Court Order for the completion of the transaction the attorney must perform services in connection with the obtaining of Court Orders for each of the three estates.

The example used in the Report, i.e. Exhibit 15, is a classic example. Each of the four estates referred to therein necessitated work by the fiduciary and the attorney. The time devoted to all of the problems involved was divided by the number of estates involved and each estate was charged for its aliquot proportion of the total services. There was no duplication of fees.

There does in fact appear to be a duplication of functions of the Bureau and of the Superior Court for each must approve a lease or a sale of land by an estate.

When the Superior Court functions as the reviewing authority the approval or disapproval is forth-coming within a matter of weeks. When the Bureau is: