

ACKERMANN BRIEF

§242(c) deals with a Trust to carry on a business and states a Trustee is not entitled to commissions on the gross receipts and disbursements and in the absence of a statute setting a definite rule, the Trustee is only entitled to the "fair value of his services in carrying on the business." The only analogous statute in Louisiana is for an executor who by statute only receives 2.5%. La.C.C.P. Art. 3351.

Ms. Ritchey testified that when a Trustee goes beyond the normal services included within the base fee, a commercial Trustee charges \$25.00 an hour. (Ritchey pg 13, PACER 118) Sue Bell charged \$55.00 an hour. Ritchey testified she has never seen \$55.00 per hour charged and found it rare to see a trustee actually charge for an "extraordinary" task as most lump it into their basic fee. (Ritchey pg 13-14, PACER 118) Appellants' expert Hood made no analysis of Bell's hourly rate! (Hood pg 138-139, PACER 118) Ritchey testified also that she never has seen a trustee charge a contingency fee or a bonus like Bell did and that doing so would not be reasonable. (Ritchey pg 26) Ritchey never has come across a situation where, like Bell, the Trustee paid herself in kind, with assets of the Trust. (Ritchey pg. 27, PACER 118) Same for Mr. Hood. (Hood pg. 148-149, PACER 118) The evidence showed that Bell had never received \$55.00 per hour for any service she performed for third parties. (Bell 2/20 pg 10-11, PACER 120)

Bell also double dipped. She billed the Trust while working for others. For the period 10/15/98 through 8/16/99 Bell worked full time for Chapter 7 Trustee, Elizabeth Andrus. (PE-70) Bell was paid \$900.00 semi-monthly for 40 hours a week. This translates into less than \$25.00 per hour. (See Andrus Trial depo, PE-70 and Exhibits thereto) During 3/3/00 through 6/7/01 Bell worked full time for WPS, Inc. commencing a full time salary of \$615.38 per week. (PE-37) At forty (40) hours per week her effective rate was \$15.38 per hour. Bell did present

