

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEBRASKA
ROMAN L. HRUSKA COURTHOUSE
111 South 18th Plaza
OMAHA, NE 68102

TIMOTHY J. MAHONEY
CHIEF JUDGE

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MEMO

To: DIANE ZECH
CLERK OF THE BANKRUPTCY COURT

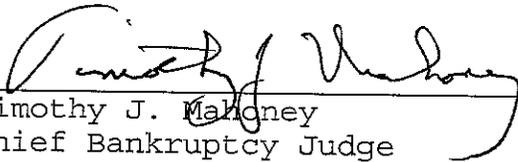
From: TIMOTHY J. MAHONEY
CHIEF BANKRUPTCY JUDGE

Date: MAY 12, 2003

Re: PROHIBITION ON REFUND OF FILING FEES

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It is my understanding that we have had several law firms that, when using the ECF system, have inadvertently filed duplicate petitions and have been charged for each petition. They have then requested refunds. When you brought this to my attention, I requested you to research the authority of the court to refund such payments. Attached to this memo is a copy of a number of subsections of the Bankruptcy Fee Compendium II dealing with the policy of the Judicial Conference of the United States concerning this subject.

Based upon my review of Judicial Conference policy, as attached, I find that neither the Clerk of the Bankruptcy Court nor the bankruptcy judges have the authority to permit refunds. Therefore, you are directed to inform each law firm requesting such refunds that you are not authorized to issue such refunds, and provide the law firm with a copy of this memo and the attached authority.



Timothy J. Mahoney
Chief Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEBRASKA**

Authority on Prohibiting Refunds

Fee Compendium II, Page 5, Exception to the Fee.

“Neither Congress nor the Judicial Conference has authorized exceptions to the fees due upon filing the original request for relief. The Judicial Conference has authorized some exceptions to the fees due for filing adversary proceedings and to the fees due for some of the services listed in the Bankruptcy Court Miscellaneous Fee Schedule.”

Fee Compendium II, Page 7, #9. Prohibitions Against Refunding Filing Fees.

“The Judicial Conference prohibits refunds of the fees due upon filing. The Conference prohibits the clerk from refunding these fees even if the party filed the case in error and even if the court dismisses the case or proceeding. Nevertheless, the clerk must refund any fee collected without authority. For example, the clerk has no authority to collect a fee to reopen a case unless the case is closed. Consequently, the clerk must refund a fee to reopen if the parties discover later that the case was open.”

Fee Compendium II, Page 12, #2. Waiving or Refunding Fee Prohibited.

“The Judicial Conference prohibits refunds of fees due upon filing. The Conference prohibits the clerk from refunding these fees even if the party filed the case in error and even if the court dismisses the case.”

Fee Compendium II, Page 27, #2. No Refund Upon Denial of the Motion.

“If the court denies a motion to convert to Chapter 7, the Judicial Conference prohibits the clerk from refunding the \$15 fee collected when the motion was filed. The Judicial Conference prohibits the clerk from refunding these fees even if the party filed the case in error, the court dismisses the case, or if no trustee is appointed. The fee is earned when the motion is filed.”

Fee Compendium II, Page 39, #2. Prohibition against Refunding the Filing Fee.

“The Judicial Conference prohibits waiving or refunding the fee for filing a complaint. The Conference prohibits refunding the fee even if the party filed the complaint in error or if the court dismisses the adversary proceeding.”

Fee Compendium II, Page 42, #2. Prohibition Against Refunding Either the Appellee Notice Fee or the Appellate Docketing Fee.

“All fees for bankruptcy appeals are due in full when the clerk receives the documents specified in U.S.C. § 1930(c), unless the party includes a motion for leave to appeal with the notice of appeal. The Judicial Conference prohibits refunding the fee even if the party files the document in error or if the court denies or dismisses the appeal.”