

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

THOMAS TUCK ZARUBA,

Debtor.

Case No. J07-00100-DMD

Chapter 11

**Filed On
3/11/08**

In re:

KOMA EQUIPMENT LEASING
COMPANY, LLC,

Debtor.

Case No. J07-00101-DMD

Chapter 11

In re:

KOMA SALES COMPANY, LLC,

Debtor.

Case No. J07-00103-DMD

Chapter 11

MEMORANDUM RE: ATTORNEY'S FEES

Cabot Christianson's application for attorney's fees and costs came before the court for hearing on February 5th and 6th, 2008. The original application sought \$82,827.50 in fees and costs of \$2,765.36. Huna Totem Corporation ("HTC") objected to the fees and sought a hold back of 35%. A stipulated order was entered which allowed fees of \$53,837.88 and the full amount of costs of \$2,765.36. Payment of the balance of fees, \$28,989.62, remains at issue, however. I choose not to award those fees at this time for two reasons.

The debtors' initial disclosure statement was filed October 1, 2007. Exhibit

“E” to the disclosure statement indicated that the debtor was contributing \$60,000.00 from his N.Y. Life IRA to pay for administrative expenses at confirmation of the plan. I relied upon this document in my memorandum of December 28, 2007, denying HTC’s motion to dismiss or convert. In an amended disclosure statement filed December 31, 2007, Zaruba withdrew his IRA contribution to the plan. The revised Exhibit “E” indicates Zaruba will retain the IRA after confirmation. This amendment troubles me, because it appears the debtors seek to transfer all risk of failure associated with their plans to HTC. I regard this change as fundamentally unfair to HTC.

In a separate memorandum, I have denied confirmation of the debtors’ plans. My view of the debtors’ future is poor. It would be improvident to award additional fees given the debtors’ tenuous state of affairs at this time. Therefore, I adopt the hold back provision suggested by HTC.

DATED: March 11, 2008.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: C. Christianson, Esq.
D. Bruce, Esq.
D. Schiffrin, Esq.
U. S. Trustee
3/11/08