IT IS SO ORDERED.

Dated: October 14, 2025

Tyson A. Crist
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re:	:	
	:	Case No. 25-30103
Christopher Williams,	:	Chapter 13
	:	Judge Crist
Debtor.	:	
	:	

ORDER ON APPLICATION FOR AWARD OF ITEMIZED ATTORNEY FEES (DOC. 20)

The matter now before the Court concerns what to do with the post-confirmation *Application for Award of Itemized Attorney Fees* (Doc. 20) (the "Application") filed by Debtor's counsel on June 24, 2025, given that this chapter 13 case was dismissed 20 days later, on July 14, 2025, pursuant to an *Agreed Post-Confirmation Dismissal Order with a 180 Day Bar to Refiling* (Doc. 21) (the "Agreed Dismissal Order").

Background

The Application seeks an award of attorney fees in the amount of $780 for services performed by Cope Law Offices, LLC (the "Cope Firm") in connection with their representation of the Debtor to respond to and resolve the *Chapter 13 Trustee's Motion to Dismiss for Cause and*

Notice of Hearing (Doc. 18) (the "Motion to Dismiss"), filed on May 5, 2025. In fact, the Cope Firm filed the *Response to Trustee's Motion to Dismiss (Doc. #18)* (Doc. 19) (the "Response") on May 14, 2025, briefly detailing how he intended to resolve the myriad of issues raised by the Chapter 13 Trustee concerning signing and moving bonuses, totaling $50,000, that Debtor had received on March 19, 2025, just eight (8) days after the § 341 meeting of creditors, from which he netted $32,175 and proceeded to pay unscheduled debts to his mother, brother, and the University of Dayton, and made a number of other expenditures, allegedly totaling $26,766.07, leaving only $5,408.93. These actions, the Chapter 13 Trustee justifiably asserted, violated Paragraph 9.2 of the confirmed *Chapter 13 Plan* (Doc. 9) (the "Plan"), under which nonpriority unsecured claims were to be paid 0%, and resulted in the Debtor dissipating "the majority of an asset of his bankruptcy estate to the detriment of unsecured creditors." Tr. Mot. to Dismiss at 2. Ultimately, the Debtor agreed to a dismissal of his case in resolution of the Trustee's Motion to Dismiss. *See* Application at 1.

As stated in Paragraph 5.1.7 of the Plan, and in the Disclosure of Compensation (LBR Form 2016-1(b)) filed with the Chapter 13 Voluntary Petition (Doc. 1 at 44-45), the Cope Firm received $953 prior to filing said Disclosure and agreed to accept $4,350 for legal services, leaving a balance due of $3,397 to be disbursed by the Trustee.

Exhibit A attached to the Application spans almost three pages of about 40 time entries by professionals with the Cope Firm, whose bullet point biographies were provided; namely, Attorney Adam Stout and Paralegals Max Unverferth and Bryar Holloway, whose hourly rates were $325, $162.50, and $162.50, respectively. During the period from April 30 to June 24, 2025, the professionals with the Cope Firm, inquired about the bonus, communicated with the Trustee, and communicated with the Debtor to work on rectifying the issues and resolving the Motion to Dismiss. The Cope Firm also worked on drafting the Response, amending Schedules E and F, drafting a motion to retain, amending Schedules I and J, moving to modify the Plan, communicating with the Debtor and Trustee about an agreed order to dismiss the case, and finally, .20 hours to draft and file this Application. Ultimately, the Cope Firm worked on several items that were never filed in this case, but were certainly related to counsel's efforts to address the issues created by the Debtor's receipt and use of the bonuses without, according to the Cope Firm's timesheet, disclosure to the Cope Firm or the Trustee.

Although the Debtor was successful in confirming his Chapter 13 Plan, through the *Order Confirming Chapter 13 Plan (Doc. 9) and Awarding Attorney Fees* (Doc. 14), entered on April 22, 2025, he was obviously not successful in complying with the Plan or, ultimately, in staying in his chapter 13 case. But unlike many other cases in which the Debtor could not financially comply with a chapter 13 plan, in this case it appears the Debtor chose to abandon the case after coming into money and willfully failing to comply with his Plan. And the dismissal was by Debtor's agreement, not only to have his case dismissed, but also to be barred from refiling bankruptcy for 180 days.

The Agreed Dismissal Order, which was approved by the Chapter 13 Trustee and counsel for the Debtor, Russ B. Cope with the Cope Firm, specifically provided that "[t]he Trustee will refund to the Debtor any balance on hand at the entry of this order." Agreed Dismissal Order at 2, ¶ 4. Ten days after the Agreed Dismissal Order was entered on July 12, 2025, the Cope Firm submitted a proposed *Order Granting Application for Attorney Compensation, Doc. No. 20* on July 22, 2025. And on August 15, 2025, the Chapter 13 Trustee filed his *Certification of Final Payment and Case History in a Dismissed by Court After Confirmation Case* (Doc. 25).

Analysis

The initial question presented in this unusual case is whether the Court should proceed to rule on the Application, even though the case has already been dismissed by agreement, albeit not yet closed. Even without delving into or revisiting the case law on whether this Court can order the payment of attorney fees from funds held by the Chapter 13 Trustee "for cause" upon dismissal of a chapter 13 case pursuant to 11 U.S.C. § 349(b)(3),[1] in this case the Court concludes that it cannot enter the proposed order submitted by the Cope Firm. The order proposed by the Cope Firm would directly conflict with the Agreed Dismissal Order by requiring the Trustee to pay $780 to the Cope Firm for the additional services covered by the Application, in conflict with the Agreed

[1] As explained in *In re Elms*, because of the Supreme Court's opinion in *Harris v. Viegelahn*, 575 U.S. 510 (2015), the Court has previously found that it cannot order the payment of attorney fees when a chapter 13 case is dismissed post-confirmation absent "cause" under § 349(b)(3) of the Bankruptcy Code to order otherwise as the default is that all estate funds held by the Chapter 13 Trustee are to be returned to the debtor upon entry of a post-confirmation dismissal order. 603 B.R. 11, 17-19 (Bankr. S.D. Ohio 2019) (noting in conclusion that "this court need not opine on what constitutes 'cause' for ordering otherwise under § 349(b).); *see also*, *In re Byers*, No. 19-31122, 2024 Bankr. LEXIS, at *3-4 (Bankr. S.D. Ohio Apr. 19, 2024) (citing *In re Elms*, 603 B.R. at 18-19 for the proposition that there is "an exception for the payment of attorney fees in a post-confirmation dismissed case for 'cause' under 11 U.S.C. § 349(b)(3) in 'the unique circumstances of each case.' ").

Dismissal Order's requirement that the remaining $879.12[2] be returned to the Debtor. Accordingly, whether this Court rules upon the Application would appear to only bear upon whether the Cope Firm would have potential recourse to recover the attorney fee under state law,[3] subject to the terms of the engagement agreement, given that this case has already been dismissed and the Agreed Dismissal Order specifically provided that the plan payments – the property of the estate – would be refunded to the Debtor. Thus, not only is there no asserted "cause" for this Court to "order otherwise" under § 349(b)(3) (to order the payment of funds to the Cope Firm), but Debtor's counsel signed off on the Agreed Dismissal Order which provides to the contrary. However, that still leaves the question of whether this Court should rule on the Application notwithstanding that any attorney fee approved cannot be paid from the estate.

Allowance and payment of compensation, although often sought together, are two different issues. *See, e.g.*, *In re Hirsch*, 550 B.R. 126, 148 (Bankr. W.D. Mich. 2016) (Gregg, J.) ("the allowance of an administrative expense is one thing, while payment of an administrative expense is another.") (citing *In re Sweports*, 777 F.3d 364, 366-67 (7th Cir. 2015) (bankruptcy court could approve fees and expenses even though no funds were available for distribution after dismissal pursuant to its " 'clean-up' jurisdiction ('ancillary' jurisdiction, it is commonly called) to take care of minor loose ends." (citing *In re 5900 Assocs., Inc.*, 468 F.3d 326, 330 (6th Cir. 2006)[4])); *In re Fox*, 140 B.R. 761, 765 (Bankr. D.S.D. 1992) (recognizing that no guarantee of payment exists even if administrative expense is allowed)). As the *Hirsch* court concluded, even though compensation is awarded it might not be paid, just as with other administrative expense claims.

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[2] This is the amount refunded to the Debtor as shown in the Trustee's *Certification of Final Payment and Case History in a Dismissed by Court After Confirmation Case* (Doc. 25), filed on August 15, 2025.

[3] "As a general proposition, nothing in the Bankruptcy Code or any applicable rule precludes the Applicant from seeking payment of previously approved fees and expenses directly from the Debtor after dismissal." *In re Hirsch*, 550 B.R. 126, 149-50 (Bankr. W.D. Mich. 2016). However, absent approval, counsel may not be able to pursue the fees outside of bankruptcy court.

[4] This Sixth Circuit opinion concluded that bankruptcy courts retain "jurisdiction to approve attorney's fees under 11 U.S.C. § 330 after the underlying case is dismissed."). *See id.* at 330-31 ("Dismissal of a case, or a private agreement between the debtor and its attorney, cannot abrogate the bankruptcy court's statutorily imposed duty of review." (citing, amongst other cases omitted herein, *In re Jeanes*, No. 01-00760, 2004 WL 1718093, at *2 (Bankr. N.D. Iowa June 17, 2004) (" 'Because § 330(a) requires court approval to create the obligation to pay the attorney's fees, absent court approval neither the debtor nor the estate is ever liable. Court approval under § 330(a) is what creates the liability, not the performance of the services.' ") (internal citations omitted)). However, bankruptcy courts have declined to rule on applications for attorney fees if filed after the completion of payments under a chapter 13 plan. *See, e.g.*, *In re Cripps*, 549 B.R. 836, 851-57 (Bankr. W.D. Mich. 2016) (finding a fee application filed after chapter 13 plan payments were completed to be untimely), *aff'd*, 566 B.R. 172 (W.D. Mich. 2017).

Bankruptcy courts retain "jurisdiction to approve attorney's fees under 11 U.S.C. § 330 after the underlying case is dismissed." *In re 5900 Assocs., Inc.*, 468 F.3d at 330-31 ("Dismissal of a case, or a private agreement between the debtor and its attorney, cannot abrogate the bankruptcy court's statutorily imposed duty of review." (citing, amongst other cases omitted herein, *In re Jeanes*, No. 01-00760, 2004 WL 1718093, at *2 (Bankr. N.D. Iowa June 17, 2004) (" 'Because § 330(a) requires court approval to create the obligation to pay the attorney's fees, absent court approval neither the debtor nor the estate is ever liable. Court approval under § 330(a) is what creates the liability, not the performance of the services.' ")). Bankruptcy courts, however, have declined to rule on applications for attorney fees in certain circumstances, such as when the application is filed after the completion of payments under a chapter 13 plan. *See, e.g.*, *In re Cripps*, 549 B.R. 836, 851-57 (Bankr. W.D. Mich. 2016) (finding a fee application filed after chapter 13 plan payments were completed to be untimely), *aff'd*, 566 B.R. 172 (W.D. Mich. 2017).

Conclusion

In this case, the Application was filed before the case was dismissed. And it concerned work the Cope Firm did for the Debtor in what appears to be an earnest effort to save the Debtor's chapter 13 case, notwithstanding what appears to have been some egregious conduct worthy of the bar to Debtor refiling any bankruptcy case. Accordingly, in this circumstance, the Court is exercising its "clean-up" jurisdiction to allow the compensation sought, even though it cannot be paid from the estate. What happens from here is beyond this Court's jurisdiction, and this might not be the result in every other post-confirmation dismissed chapter 13 case.

Accordingly, the Court finds the fees set forth in the Application to be reasonable and necessary and will allow the compensation in the amount of $780 for the services performed from April 30 to June 24, 2025, pursuant to 11 U.S.C. § 330(a)(4)(B) and LBR 2016-1(b)(3), in accordance with the analysis set forth in the governing Sixth Circuit case law. *See In re Boddy*, 950 F.2d 334, 337 (6th Cir. 1991) (adopting the loadstar approach in fee calculations); *In re Village Apothecary, Inc.*, 45 F.4th 940, 952-53 (6th Cir. 2022) (court can consider "results obtained" in reviewing bankruptcy fees pursuant to 11 U.S.C. § 330(a)(3)); *In re Vaughn*, 660 B.R. 827, 849 (Bankr. S.D. Ohio) (holding that *Village Apothecary* applies to Chapter 13 proceedings). But this amount cannot be paid from the estate. And whether it can otherwise be paid is an issue that is presently beyond this Court's jurisdiction.

IT IS SO ORDERED.

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