

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO**

In Re:)	
)	JUDGE RICHARD L. SPEER
George Rogers)	
)	Case No. 09-37030
Debtor(s))	
)	

ORDER

This cause comes before the Court after a Hearing on the Application of the Trustee, John N. Graham, to Employ Patricia B. Fugee as Attorney for the Trustee, and the Response filed by the Debtor. In his response, the Debtor opposes the application of the Trustee because there “are no assets that will be available to the Trustee from the estate to pay for employment of an attorney” (Doc. No. 30). As support for this position, the Debtor put forth that the Trustee’s interest in employing an attorney stems from the real property owned by his wife and to which he only maintains a dower interest. *Id.*

Section 327(a) governs applications by bankruptcy trustees to employ attorneys and other professional persons, and provides:

(a) Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

As with other matters concerning the administration of the estate, wide latitude is afforded to a trustee in choosing to employ an attorney under this provision. *In re Great Lakes Factors, Inc.*, 337 B.R. 657, 660 (Bankr. N.D.Ohio 2005). So long as there is a reasonable necessity for employing the attorney, the Court’s role is limited to determining whether the attorney should be disqualified from employment for those grounds set forth in the statute such as when the attorney holds an adverse interest or the attorney is not disinterested. *In re Computer Learning Centers, Inc.*, 272 B.R. 897, 903 (Bankr. E.D.Va. 2001).

In this matter, the Trustee related that he seeks to employ Patricia Fugee, as his attorney, because of the circumstances surrounding the Debtor’s potential interest in his wife’s residence. This is

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reasonable. Further legal investigation is often needed when, as here, a debtor with a large amount of debt lives in a home titled solely in the name of his or her spouse whom has no liability on the debt. *See, e.g.,* O.R.C. § 1336.01, *et seq.* (Ohio Uniform Fraudulent Transfer Act).

The fact that the estate may not ultimately benefit from the attorney's employment does not mean that a trustee, with the benefit of legal counsel, is not justified in initially investigating the matter. If no assets are ultimately realized for the estate, the trustee will not have assets available to pay the attorney. 11 U.S.C. § 326. The risk is, thus, borne by the trustee.

Also, the fact that the Debtor may only have a dower interest in his wife's property does not change matters. Dower interests become property of the estate. *In re Wycuff*, 332 B.R. 297, 301 (Bankr. N.D.Ohio 2005); *In re Martz*, 293 B.R. 409, 412 (Bankr. N.D.Ohio 2002). As such, the Debtor's dower interest in his wife's property, and its administration, falls within the purview of the Trustee. 11 U.S.C. § 323.

Accordingly, for these reasons, it is

ORDERED that the Application of the Trustee, John N. Graham, to Employ Patricia B. Fugee as Attorney pursuant to 11 U.S.C. § 327, be, and is hereby, APPROVED.

Dated: February 3, 2010

Richard L. Speer
United States
Bankruptcy Judge