

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re

Case No. 6:01-bk-00533-ABB
Chapter 11

EVERGREEN SECURITY LTD.,

Debtor.

ORDER

This matter came before the Court on the Request for Costs Pursuant to Federal Rule of Bankruptcy Procedure 8014 (Doc. No. 1819) filed by Evergreen Security Ltd. and the Opposition thereto (Doc. No. 1822) filed by Peter R. Ginsberg and Peter R. Ginsberg, P.C. (collectively, "Ginsberg").

Evergreen seeks an award of costs of \$1,461.55 incurred in connection with Ginsberg's appeal of various Orders to the United States District Court for the Middle District of Florida, Orlando Division ("District Court") consolidated as *Peter R. Ginsberg and Peter R. Ginsberg, P.C. v. Evergreen Security Ltd., Case No. 6:08-cv-46-Orl-22*. The Orders include a Sanctions Order awarding sanctions in favor of Evergreen and against Ginsberg. The District Court entered an Order on June 17, 2008 (District Court Doc. No. 56) and a Judgment on June 19, 2008 (District Court Doc. No. 57) affirming each of the Orders appealed, including the Sanctions Order, and providing Evergreen "shall recover its costs of appeal."

Evergreen incurred costs of \$1,461.55 relating to the appeal, which include transcript, copying, and research costs. Ginsberg objects asserting research fees are not recoverable costs and the copying costs are not itemized.

Federal Rule of Bankruptcy Procedure 8014 provides: "Except as otherwise provided by law, agreed to by the parties, or ordered by the district court or the bankruptcy appellate panel, costs shall be taxed against the losing party on appeal." The second portion of Rule 8014 lists various costs constituting taxable costs including copies of briefs, appendices, and the record, reporter's transcripts, bond premiums, and filing fees.

The allowance of costs pursuant to Federal Rule of Bankruptcy Procedure 8014 is discretionary. *Gwynn v. Walker (In re Walker)*, ___ F.3d ___, 2008 WL 2637649, at *3 (11th Cir. July 7, 2008).¹ A court may assess the costs specifically listed in Rule 8014 or other items; "Rule 8014 does not purport to set forth the items that constitute costs on appeal." 10 COLLIER ON BANKRUPTCY ¶ 8014.02, at 8014-3 (15th ed. rev. 2008).

Ginsberg cites to Federal Rule of Appellate Procedure 39(d)(1) and 28 U.S.C. Section 1920 in his Opposition. Neither of these provisions is relevant to Evergreen's Request. The Federal Rules of Bankruptcy Procedure do not contain a rule similar to Federal Rule of Appellate Procedure 39(d)(1), which requires an itemized and verified bill of costs.

The plain, unambiguous language of the District Court's Order and Judgment award Evergreen "its costs" and does not limit the types of costs it may recover. Evergreen was not required by the Federal Rules of Bankruptcy Procedure to present an itemized and verified bill of costs.

Ginsberg has established no basis for denying Evergreen's Request. The Request is due to be granted pursuant to the District Court's Order and Judgment and Federal Rule of Bankruptcy Procedure 8014.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that Ginsberg's Opposition is hereby **OVERRULED** and Evergreen's Request is hereby **GRANTED**; and it is further

ORDERED, ADJUDGED and DECREED that appellate costs of \$1,461.55 are hereby taxed against Peter R. Ginsberg and Peter R. Ginsberg, P.C., jointly and severally.

¹ The Eleventh Circuit Court of Appeals did not hold a court is limited to awarding the types of costs specifically enumerated in Rule 8014, as Ginsberg suggests. Its holding addresses a Bankruptcy Court's discretion: "The denial of fees for a consulting attorney and expert witness, expediting costs, and certain transcript costs was within the discretion of the court under Rule 8014." *Id.*

Dated this 5th day of August, 2008.

/s/Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge

NOT FOR PUBLICATION