

JAN 23 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In the Matter of: MARK DAVID BISHOP,

Debtor,

No. 08-60000

BAP No. AZ-06-1362-DNK

MARK DAVID BISHOP,

Appellant,

MEMORANDUM*

v.

DIANE M. MANN,

Appellee.

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Klein, Dunn, and Neiter, Bankruptcy Judges, Presiding

Submitted January 13, 2009**

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Mark David Bishop, a Chapter 7 debtor, appeals pro se from the Bankruptcy Appellate Panel's ("BAP") judgment affirming the bankruptcy court's order approving auctioneer's fees, denying Bishop's request for a refund of his appellate filing fee, and reversing the bankruptcy court's order authorizing surcharge of Bishop's homestead exemption. Appellee does not contest the BAP order regarding the surcharge. We have jurisdiction under 28 U.S.C. § 158(d). We review de novo the BAP's decision. *Arrow Elecs., Inc., v. Howard Justus (In Re Kaypro)*, 218 F.3d 1070, 1073 (9th Cir. 2000). We affirm.

The BAP properly upheld the bankruptcy court's order approving the auctioneer's fees because the fees were reasonable and did not exceed the rate fixed by the court. *See* Fed. R. Bankr. P. 6005 ("The order of the court approving the employment of an appraiser or auctioneer shall fix the amount or rate of compensation.").

The BAP properly upheld the bankruptcy court's order denying Bishop's request for a refund of his appellate filing fee because the fee waiver was no longer warranted after Bishop received the proceeds of his homestead exemption. *See* 28 U.S.C. § 1930(f) (allowing bankruptcy court to waive fees where the individual has

income less than 150 percent of the poverty line and is unable to pay that fee in installments).

Bishop's remaining contentions are unpersuasive.

AFFIRMED.