

170.0007.750**Memorandum**

To: Mr. Rick Slater
Supervisor of Collections

Date: September 14, 1995

From: Ronald L. Dick
Supervising Staff Counsel

Subject: Keeper Fees

This is in reply to your July 10, 1995, memorandum concerning the Ventura District Office's inquiry on the maximum keeper's fees permitted by the Government Code.

Government Code section 26722 provides:

“The fee for serving; executing, or processing any writ or order where the levying officer is required to take immediate possession of the property levied upon is seventy-five dollars (\$75.00).”

Government Code section 26726 provides:

“(a) The fee for keeping and caring for property under a writ of attachment, execution, possession, or sale shall not exceed seventy-five dollars, (\$75.00) when necessarily employed for any eight-hour period or any part thereof. If an additional keeper or keepers are required during these periods; the fee for the additional keeper or keepers shall be the same as fixed but, in no event shall any one keeper receive more than one hundred fifty dollars (\$150.00) during any 24-hour period when so employed.

“(b) In addition to the fees provided by section 26721, the fee for maintaining custody of property under levy by the use of a keeper is twenty-one dollars (\$21.00) for each day custody is maintained after the first day.

“(c) Notwithstanding any other fee charged, a keeper shall receive twenty one dollars (\$21.00) when pursuant to section 26738 a levying officer prepares a not found return.”

We believe a levying officer may charge the Board \$75.00 pursuant to Government Code section 26722 to install a keeper. The levying officer may charge for each eight-hour period, or fraction thereof, that a keeper performs his or her duties as provided in Government Code section 26726(a). If the levying officer installs a separate keeper for another eight-hour shift, up to a maximum of three separate keepers for a 24-hour period, the maximum amount that should

be charged pursuant to Government Code section 26726(a) is \$225.00 per day. After the first day that a keeper is installed, a separate charge of \$21.00 pursuant to Government Code section 26726(b) is applicable.

The maximum amount that should be charged to install a keeper and to provide 24-hour coverage (three separate keepers per day) is \$300.00 for the first day and \$246.00 for each additional day.

We note that Government Code section 26726(a) appears to give the levying officer discretion to decide how many persons are to be “necessarily employed” or “required” “for keeping and caring for property.” The levying officer may charge an additional \$75.00 for the expense of persons other than the keeper installed at the debtor’s premises to care for property levied upon. See *Nisbet v. Clio Min. Co.* (1905) 2 Cal.App. 436. In the fee schedule attached to Doug Carroll’s memorandum, fees are apparently charged for four separate keepers per day to provide 24-hour keeper coverage in addition to the \$75.00 Government Code section 26722 fee.

We note the fee schedule attached to Mr. Carroll’s memorandum is altered to change the \$21.00 fee authorized under Government Code section 26726(b) to \$24.00. We see no justification for that increased fee. Otherwise, we believe the schedule shows fees that would be authorized under the law.

RLD/TJC/cmm