

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Fredrick E. Clement
Bankruptcy Judge

2500 Tulare Street
Department A, Courtroom 11
Fresno, California

THURSDAY

JULY 16, 2015

1:30 P.M. CHAPTER 11 CASES

PRE-HEARING DISPOSITIONS

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

MATTERS RESOLVED BEFORE HEARING

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [10-12709](#)-A-11 ENNIS COMMERCIAL MOTION TO SELL
LRP-38 PROPERTIES, LLC 6-24-15 [[1540](#)]
DAVID STAPLETON/MV
PETER FEAR/Atty. for dbt.
JENNIFER BROOKS/Atty. for mv.

No tentative ruling

2. [10-62315](#)-A-11 BEN ENNIS MOTION TO SELL
LRP-49 6-24-15 [[1926](#)]
DAVID STAPLETON/MV
RILEY WALTER/Atty. for dbt.
WILLIAM FREEMAN/Atty. for mv.

No tentative ruling

3. [10-62315](#)-A-11 BEN ENNIS MOTION TO SELL
LRP-51 6-24-15 [[1933](#)]
DAVID STAPLETON/MV
RILEY WALTER/Atty. for dbt.
WILLIAM FREEMAN/Atty. for mv.

Final Ruling

Motion: Sell Real Property
Disposition: Denied without prejudice
Order: Civil minute order

SERVICE AND NOTICE INSUFFICIENT

The confirmed plan, as quoted in the motion at page 5, states that the sale of property purportedly securing the Nicholson parties' claims may be sold with Bankruptcy Court approval and *pursuant to Bankruptcy Code § 363*. Section 363(b) requires notice and a hearing preceding a sale outside the ordinary course. Moreover, Fed. R. Bankr. P. 2002(a)(2) requires notice of a proposed sale other than in the ordinary course of business to be noticed to all creditors and parties in interest in the debtor's bankruptcy case. Rule 6004(c) also requires service on the parties who have liens or other interests in the property to be sold.

Here, the proof of service is unsigned. Without a valid proof of service, the court cannot conclude that the confirmed plan, and the Code provisions and rules made applicable to this proceeding by the confirmed plan, have been satisfied by the procedures used.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The plan administrator David Stapleton's motion to sell real property has been presented to the court. Given the procedural deficiency noted by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

4. [15-10366](#)-A-11 ELLIOTT MANUFACTURING MOTION FOR COMPENSATION FOR
FLG-8 COMPANY, INC. TERENCE J. LONG, OTHER
TERENCE LONG/MV PROFESSIONAL(S)
6-5-15 [[121](#)]

PETER FEAR/Atty. for dbt.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Terrence J. Long, financial consultant, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$8,505.00 and reimbursement of expenses in the amount of \$87.75.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Terrence J. Long's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$8,505.00 and reimbursement of expenses in the amount of \$87.75. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

5. [14-11991](#)-A-11 CENTRAL AIR MOTION FOR COMPENSATION BY THE
KDG-29 CONDITIONING, INC. LAW OFFICE OF KLEIN, DENATALE,
GOLDNER, COOPER, ROSENLIEB AND
KIMBALL FOR HAGOP T. BEDOYAN,
DEBTORS ATTORNEY(S)
6-12-15 [[483](#)]
- HAGOP BEDOYAN/Atty. for dbt.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Approved
Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Klein DeNatale, counsel for the debtor in possession, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$16,703.00 and reimbursement of expenses in the amount of \$2,696.57. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

In this Chapter 11 case, Ward R. Stringham, counsel for the debtor in possession, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$7,515.00 and reimbursement of expenses in the amount of \$658.25. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ward R. Stringham's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$7,515.00 and reimbursement of expenses in the amount of \$658.25. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

7. [14-11991](#)-A-11 CENTRAL AIR MOTION FOR COMPENSATION FOR
KDG-31 CONDITIONING, INC. GILMAN, HARRIS AND TRAVIOLI,
GILMAN, HARRIS AND TRAVIOLI/MV ACCOUNTANT(S)
6-19-15 [[498](#)]
HAGOP BEDOYAN/Atty. for dbt.

Tentative Ruling

Application: Allowance of Final Compensation and Expense Reimbursement
Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved
Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Gilman, Harris has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$6,220.50 and reimbursement of expenses in the amount of \$0.00. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Gilman Harris's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$6,220.50 and reimbursement of expenses in the amount of \$0.00. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.