

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Modesto, California

August 27, 2020 at 2:00 p.m.

1. [20-90118-E-11](#) REYES DRYWALL, INC. CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
2-12-20 [1]

Debtor's Atty: David C. Johnston

Notes:
Continued from 6/18/20

The Status Conference is XXXXXXXXXXXX

AUGUST 27, 2020 STATUS CONFERENCE

The last pleading filed by the Debtor in Possession in this case was on March 18, 2020, which was the motion to employ Debtor in Possession counsel.

No proposed Chapter 11 plan has been filed and there is no indication that the Debtor in Possession is pursuing a "plan" in this case.

At the Status Conference, XXXXXXXXXXXX

June 18, 2020 Status Conference

This bankruptcy case was filed on February 12, 2020. On March 19, 2020, the court entered its order authorizing the Debtor in Possession's employment of general bankruptcy counsel. Dckt. 25. This is the same attorney that represented the Debtor in commencing this voluntary bankruptcy case.

No monthly operating reports have been filed in this case. The U.S. Trustee reports that the Debtor, individually and serving as the debtor in possession, and counsel for the Debtor in Possession

appeared at the March 16, 2020, First Meeting of Creditors. March 1, 2020 U.S. Trustee Docket Entry Report. It was continued to April 13, 2020.

The U.S. Trustee reports that neither the Debtor, Debtor in Possession or counsel for the Debtor in Possession appeared at the continued hearing. April 13, 2020 Docket Entry Report. As the court and California were in the throes of the COVID-19 pandemic, missing that continued meeting could be explainable. The Continued First Meeting was further continued to June 1, 2020.

The U.S. Trustee reports that the Continued First Meeting was concluded, but that neither the Debtor, Debtor in Possession, nor counsel for the Debtor in Possession appeared. It is not clear whether this was a “technical continuance” to allow the Debtor in Possession to provide documentation addressing a question or a substantive continuance.

At the June 18, 2020 Status Conference, counsel for the Debtor in Possession explained the Debtor in Possession has continued in seeking to enforce the large account receivable, with the general contractor that owes the obligation pursuing arbitration to obtain payment from the owner, and then the general contractor can then pay the Estate.

March 12, 2020 Status Conference

This Chapter 11 case was commenced by the Debtor on February 12, 2020. The Debtor in Possession filed a Status Report on March 4, 2020. Dckt. 18. It is reported that due to the failure of the general contractors to pay the Debtor for work and services provided, the filing of bankruptcy was necessary. Additionally, the inability to collect a large account receivable dating back to 2014 has added to the financial stress.

Debtor commenced this as a small business case and the Debtor in Possession intends to diligently prosecute this case, including getting a plan of reorganization on file within 90 days of the Petition date.

At the Status Conference, counsel reported that they are proceeding with the plan. For the accounts receivable, the Estate has lien rights, which will be enforced if the customer does not make adequate arrangements.

Review of Schedules

A review of Schedule A/B discloses that the estate has a large account receivables of 90 days or less, \$383,945, which Debtor lists as collectable in the face amount. This is the Bankruptcy Estate’s significant asset.

Debtor lists no creditors with secured claims on Schedule D. Debtor does list a significant priority and non-priority tax claim on Schedule E/F, and modest general unsecured claims. On the Statement of Financial Affairs, Debtor lists gross income of \$1.3MM+ for 2019 and 2018.

Debtor's Atty: David C. Johnston

Notes:

Debtor's Status Report filed 8/13/20 [Dckt 19]

[DCJ-1] Application of Debtor in Possession for Authority to Employ Attorney filed 8/16/20 [Dckt 24];
Order granting filed 8/17/20 [Dckt 27]

The Status Conference is XXXXXXXXXXXX

AUGUST 27, 2020 STATUS CONFERENCE

Joe Machado, the Debtor and now serving as the Debtor in Possession, commenced this voluntary Chapter 12 bankruptcy case on July 9, 2020. The Debtor in Possession filed a Status Report on August 13, 2020. Dckt. 19. The Debtor in Possession reports that he anticipates filing a Chapter 12 plan before the October 7, 2020 deadline.

Michael Meyers, the Chapter 12 Trustee, filed his Comments concerning the Status Report filed by the Debtor in Possession. The Trustee has reviewed the operations and believes that Debtor had a farming operation.

In looking at the Schedules, Debtor states having \$5,050 net income from his business operations and an additional \$1,128 in Social Security benefits. Schedule I, Dckt. 15 at 26-27. On Schedule J, Debtor states having only (\$2,928) a month in expenses. *Id.* at 27-28. These are expenses for both Debtor and his non-debtor spouse. Interestingly, Debtor does not have any expenses for self-employment taxes or state or federal income taxes on Schedule J. *Id.* Debtor also lists no expenses for real estate taxes, property insurance, or home maintenance and upkeep. *Id.*

However, the Trustee states that without evidence that the obligation to American Farm Mortgage arose out of farming operations, it is unclear if this is a farming debt. This debt is identified as relating back to a 1997 refinance.

The Trustee states that it appears that the Debtor in Possession is using cash collateral without court authorization. Specifically, proceeds of collateral of creditor Farm Services Agency.

Based on information provided at the First Meeting of Creditors, the Trustee states that it does not appear that the estate has sufficient income for restructuring the debt, but a sale of property would be necessary. But Debtor reports that he does not have records to establish the cost basis of assets.

At the Status Conference, XXXXXXXXXXXX

At the Status Conference, counsel for Plaintiff reported **XXXXXXXXXX**