

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

October 6, 2016, at 10:30 a.m.

1. <u>15-28108-E-11</u> RLC-7	WILLARD BLANKENSHIP Stephen Reynolds	MOTION FOR COMPENSATION BY THE LAW OFFICE OF REYNOLDS CORPORATION FOR STEPHEN M. REYNOLDS, DEBTOR'S ATTORNEY 8-29-16 <u>134</u>
--	--	--

Tentative Ruling: The Motion for Allowance of Professional Fees has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen (14) days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession, Debtor's Attorney, creditors, parties requesting special notice, and Office of the United States Trustee on August 29, 2016. By the court's calculation, 38 days' notice was provided. 28 days' notice is required.

The Motion for Allowance of Professional Fees has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen (14) days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties are entered.

The Motion for Allowance of Professional Fees is granted.
--

Stephen Reynolds, the Attorney (“Applicant”) for Willard J. Blankenship, the Debtor in Possession (“Client”), makes a First Interim Request for the Allowance of Fees and Expenses in this case.

The period for which the fees are requested is for the period October 17, 2015, through August 18, 2016. The order of the court approving employment of Applicant was entered on April 21, 2016. Dckt. 94. Applicant requests fees in the amount of \$33,950.00.

STATUTORY BASIS FOR PROFESSIONAL FEES

Pursuant to 11 U.S.C. § 330(a)(3),

In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

(A) the time spent on such services;

(B) the rates charged for such services;

(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

(i) unnecessary duplication of services; or

(ii) services that were not--

(I) reasonably likely to benefit the debtor’s estate;

(II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Benefit to the Estate

Even if the court finds that the services billed by an attorney are “actual,” meaning that the fee application reflects time entries properly charged for services, the attorney must still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors’ Committee v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 958 (9th Cir. 1991). An attorney must exercise good billing judgment with regard to the services provided as the court’s authorization to employ an attorney to work in a bankruptcy case does not give that attorney “free reign [sic] to run up a [professional fees and expenses] without considering the maximum probable [as opposed to possible] recovery.” *Id.* at 958. According the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

Id. at 959.

A review of the application shows that the services provided by Applicant related to the estate enforcing rights and obtaining benefits including filing a motion to incur debt to restore heat to Debtor’s residence; filing an answer to adversary proceeding No. 16-2010; preparing and filing Monthly Operating Reports; representing the Debtor at the Meeting of Creditors; filing an adversary proceeding; negotiating with creditors; drafting pleadings regarding violations of the automatic stay; opposing various motions by creditors; preparing Debtor’s Plan and Disclosure Statement; and obtaining Indiana property transferred pre-petition. The court finds the services were beneficial to the Client and bankruptcy estate and reasonable.

FEES REQUESTED

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

General Case Administration: Applicant spent 31.93 hours in this category. Applicant assisted Client with preparing Monthly Operating Reports; discussions and meetings with Debtor regarding case strategy; and attendance at status conferences.

Plan Statement: Applicant spent 42.15 hours in this category. Applicant prepared Debtor’s plan of reorganization and disclosure statement and negotiated with creditors resulting in the Plan’s acceptance.

Adversary Proceedings: Applicant spent 6.5 hours in this category. Applicant filed an answer to Adversary Proceeding No. 16-02010 and filed an Adversary Proceeding on behalf of Debtor No. 16-02068.

Significant Motions and Other Contested Matters: Applicant spent 36.2 hours in this category. Applicant prepared various motions and oppositions.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. Applicant requests to be compensated for slightly fewer hours than listed in his task billing. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

Names of Professionals and Experience	Time	Hourly Rate	Total Fees Computed Based on Time and Hourly Rate
Stephen M. Reynolds	113.18	\$300.00	\$33,954.00
Total Fees For Period of Application			\$33,954.00

OPPOSITION

Michael Kletchko and Patrick Ruedin (“Creditors”) filed an opposition reserving their right to contest the Instant Motion at the time of hearing. The Creditors believe that a substantial part of the work that Applicant billed for was unnecessary and a result of his own doing. However, no specific opposition is made to the fees requested.

FEES ALLOWED

This Chapter 11 case, in which the court has now confirmed a Plan, is an example of the efforts of adversaries, and their counsel, to work toward a common financial goal in a reorganization of the finances that works to the benefit of creditors and Debtor alike. In reviewing the general opposition, it is not clear whether the “he” referred to as some of the work caused by “his own doing” is the Debtor or counsel for the Debtor in Possession. As to the former, as with every debtor, it is the actions, decisions, strategies, and “breaks” along the way of the Debtor that leads to a bankruptcy filing. Those decisions do not place a limitation on the reasonable fees that counsel for a trustee or debtor in possession may be allowed by the court.

In looking at the task billing analysis, the two largest fee categories are the Chapter 11 Plan (\$12,645.00) and the Adversary Proceeding Litigation (\$7,590.00). In light of the issues, assets to be recovered by the Debtor in Possession (as the fiduciary of the bankruptcy estate), and success, these fees are not unreasonable. In the Process, time was spent constructively working with counsel for Creditors to pre-solve possible issues and recover the transferred property in Indiana. While adding some cost up front, it minimizes what would have been staggering legal expenses later.

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First Interim Fees in the amount of \$33,950.00, pursuant to 11 U.S.C. § 331 and subject to final review pursuant to 11 U.S.C. § 330, are approved and authorized to be paid by the Debtor in Possession from the available funds of the Plan in a manner consistent with the order of distribution under the confirmed Plan.

Applicant is allowed, and the Debtor in Possession is authorized to pay, the following amounts as compensation to this professional in this case:

Fees: \$33,950.00

pursuant to this Application as interim fees pursuant to 11 U.S.C. § 331 in this case.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Allowance of Fees and Expenses filed by Stephen Reynolds (“Applicant”), Attorney for the Debtor in Possession having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Stephen Reynolds is allowed the following fees and expenses as a professional of the Estate:

Stephen Reynolds, Professional Employed by Debtor in Possession

Fees in the amount of \$33,950.00

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.

IT IS FURTHER ORDERED that the Debtor in Possession is authorized to pay the fees allowed by this Order from the available funds of the Plan in a manner consistent with the order of distribution under the confirmed Plan.

2.

[12-28312](#)-E-7
HSM-3

MARIANNE GULLINGSRUD
Scott Shumaker

**MOTION FOR COMPENSATION BY
THE LAW OFFICE OF HEFNER, STARK
& MAROIS FOR HOWARD S. NEVINS,
TRUSTEE'S ATTORNEY(S)
9-13-16 [\[95\]](#)**

Tentative Ruling: The Motion for Allowance of Professional Fees was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on September 13, 2016. By the court's calculation, 23 days' notice was provided. 21 days' notice is required (Fed. R. Bankr. P. 2002(a)(6), 21 day notice requirement).

The Motion for Allowance of Professional Fees was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

The Motion for Allowance of Professional Fees is granted.
--

The law firm of Hefner, Stark & Marois, LLC ("Applicant"), counsel for Kimberly Husted the Chapter 7 Trustee ("Client"), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

The period for which the fees are requested is for the period June 3, 2015 through October 6, 2016. The order of the court approving employment of Applicant was entered on June 30, 2016, Dckt. 63. Applicant requests fees in the amount of \$25,521.50.

STATUTORY BASIS FOR PROFESSIONAL FEES

Pursuant to 11 U.S.C. § 330(a)(3),

In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

(A) the time spent on such services;

(B) the rates charged for such services;

(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

(i) unnecessary duplication of services; or

(ii) services that were not--

(I) reasonably likely to benefit the debtor's estate;

(II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Benefit to the Estate

Even if the court finds that the services billed by an attorney are “actual,” meaning that the fee application reflects time entries properly charged for services, the attorney must still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors' Committee v. Puget Sound Plywood*,

Inc. (In re Puget Sound Plywood), 924 F.2d 955, 958 (9th Cir. 1991). An attorney must exercise good billing judgment with regard to the services provided as the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign [sic] to run up a [professional fees and expenses] without considering the maximum probable [as opposed to possible] recovery." *Id.* at 958. According the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

Id. at 959.

A review of the application shows that the services provided by Applicant related to the estate enforcing rights and obtaining benefits including negotiating the purchase of the estate's interest in certain assets and post-conversion rents, researching legal issues related to the estate's interest in assets and appreciated equity, advising and representing the Trustee in matters, drafting and prosecuting a motion to approve the Trustee's and Debtor's agreement, attending the hearing on the sale motion, and drafting transactional documents to effectuate a sale to an overbidder. The court finds the services were beneficial to the Client and bankruptcy estate and reasonable.

FEES REQUESTED

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

Asset Investigation: Applicant spent 14.1 hours in this category. Applicant assisted Client with a review of Debtor's schedules and Statement of Financial Affairs. Applicant also analyzed and discussed with Debtor's counsel the legal issues relating to post-petition appreciation of real property, communicated with real property appraiser, reviewed other miscellaneous issues, and worked on issues related to a settlement proposal to Debtor's counsel.

Asset Disposition: Applicant spent 46.9 hours in this category. Applicant assisted Client with reviewing issues regarding valuation of properties, communicating with Debtor's counsel, preparing the settlement proposal for Debtor's counsel, corresponding between the Trustee and the Debtor, drafting and reviewing the agreement for sale of estate assets, drafting motion for approval of sale of estate assets, preparing for hearing on motion for sale of estate assets, reviewing procedural and legal issues related to sale of assets, drafting sale documents, communicating with Debtor's counsel regarding exemptions, and corresponding with Trustee in connection with resolution of certain closing matters.

General Case Administration: Applicant spent 18.7 hours in this category. Applicant assisted Client with performing case initiation services, reviewing exemption issues with Trustee, reviewing and analyzing Debtor's amended schedules, advising Trustee regarding amended schedules, communicating with CPA and Trustee regarding tax issues, and drafting and prosecuting first and final compensation application.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

Names of Professionals and Experience	Time	Average Hourly Rate	Total Fees Computed Based on Time and Hourly Rate
H. Nevins	19.90	\$400.00	\$7,960.00
H. Nevins	1.60	\$390.00	\$624.00
J. Levy	1.70	\$380.00	\$646.00
A. Avery	31.65	\$310.00	\$9,811.50
A. Avery	21.60	\$300.00	\$6,480.00
	0	\$0.00	\$0.00
	0	\$0.00	\$0.00
Total Fees For Period of Application			\$25,521.50

FEES ALLOWED

The court finds that the hourly rates reasonable and that Applicant effectively used appropriate rates for the services provided. Applicant seeks to be paid a single sum of \$25,521.50 for its fees incurred for the Client. First and Final Fees in the amount of \$25,521.50, pursuant to 11 U.S.C. § 331 and subject to final review pursuant to 11 U.S.C. § 330, are approved and authorized to be paid by the Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees: \$25,521.50

pursuant to this Application as final fees pursuant to 11 U.S.C. § 330 in this case.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Allowance of Fees and Expenses filed by the law firm of Hefner, Stark, Marois, LLC (“Applicant”), Attorney having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the law firm of Hefner, Stark, Marois, LLC is allowed the following fees and expenses as a professional of the Estate:

The law firm of Hefner, Stark, Marois, LLC, Professionals Employed by Trustee

Fees in the amount of \$25,521.50,

The fees pursuant to this Applicant are approved as final fees and costs, pursuant to 11 U.S.C. § 330.

IT IS FURTHER ORDERED that the Trustee is authorized to pay the fees allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7.

3. [12-36884](#)-E-7 JENNY PETTENGILL
Richard Hall

CONTINUED STATUS CONFERENCE
RE: VOLUNTARY PETITION
9-19-12 [\[1\]](#)

Final Ruling: No appearance at the October 6, 2016 Status Conference is required.

Debtor's Atty: Richard A. Hall

Notes:

Continued from 8/18/16 at the request of the Parties. Parties believe that the settlement will be documented and motions for approval of the settlement and for sale of other property will be set for hearing.

Trustee's Status Conference Statement filed 9/26/16 [Dckt 272]; requests further postponement of the hearing to 11/3/16.

The Status Conference is continued to 10:30 a.m. on November 3, 2016.
--

OCTOBER 6, 2016 STATUS CONFERENCE

The Trustee filed an updated Status Report on September 26, 2016. Dckt. 272. The Trustee reports that the Trustee and Corrigan Finance Limited have reached a settlement that is being documented. The Settlement will resolve the dispute and allow the Trustee to generate monies to make a distribution on general unsecured claims in this case and the related case *In re Lazutkine*.

Tentative Ruling: The Motion for Turnover was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, parties requesting special notice, and Office of the United States Trustee on September 22, 2016. By the court's calculation, 14 days' notice was provided. 14 days' notice is required.

The Motion for Turnover was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----
-----.

The Motion for Turnover is granted.
--

Kimberly Husted, the Chapter 7 Trustee, ("Movant") in the above entitled case and moving party herein, seeks an order for turnover as to:

- A. the real property commonly known as 9285 Pinehurst Drive, Roseville, California ("Property"),
- B. an Antique Slot Machine or its value in an amount not less than \$10,000.00, and
- C. \$12,000.00 in non-exempt petition date deposit funds.

In the event that Debtor does not turnover the real property by the court's specified date, the Trustee requests that the court apply Federal Rule of Bankruptcy Procedure 7070 to allow the Trustee to submit an ex parte application for issuance of a writ of assistance, to be enforced by the United States Marshal's Office or other appropriate enforcing agency and be awarded any associated costs or other sanctions against the Debtor deemed appropriate by the court in an amount subsequently determined by the court.

Debtor filed an Amended Schedule B that identified his interest in the Antique Slot Machine with a value of \$5,000.00, and he identified interest in bank deposits that are not subject to any claim of exemption. On November 30, 2015, the Trustee filed objection to the Debtor's claims of exemptions against the Property, the Antique Slot Machine, and other items of personal property. Dckt. 314.

On May 6, 2016, the court granted the Trustee's motion to approve settlement with the Debtor. Dckt. 398. Under the settlement, the Trustee's objections to the Debtor's exemption against the Property, the Antique Slot Machine, and other items of personal property were sustained, and the Debtor waived any claims of exemption against the same. The settlement allowed the Debtor to reside at the Property rent-free on condition that:

- A. All fixtures, lighting/chandeliers, drapes, window coverings, and built-in shelving remain at the Property for the benefit of the estate; Debtor is allowed to remove and retain the refrigerator;
- B. Debtor voluntarily vacates the Property the earlier of the close of escrow on the Trustee's sale or by June 30, 2016; and
- C. Debtor cooperates with the Trustee's efforts to market and sell the Property.

To date, and despite Trustee's demands, the Debtor has not vacated the Property. Additionally, the Debtor has failed to turnover the Antique Slot Machine as required to within fifteen (15) days of the court's order approving the settlement. Trustee has been unable to confirm the specifications and value of the Antique Slot Machine because of Debtor's delay. The Trustee's online review indicates that it is worth more than \$10,000.00 depending on its age. Lastly, no bank deposits have been turned over and no accounting has been provided despite the Trustee's demands.

DISCUSSION

11 U.S.C. § 542 and Federal Rule of Bankruptcy Procedure 7001(1) permit a motion to obtain an order for turnover of property of the estate if the debtor fails and refuses to turnover an asset voluntarily. Federal Rule of Bankruptcy Procedure 7001(1) defines an adversary proceeding as,

(1) a proceeding to recover money or property, other than a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b) or § 725 of the Code, Rule 2017, or Rule 6002.

In this case, Trustee has initiated this proceeding to compel Debtor deliver property to the Trustee. Federal Rule of Bankruptcy Procedure permits the Trustee to obtain turnover from the Debtor without filing an adversary proceeding. This Motion for the injunctive relief, in the form of a court order requiring that Debtor turnover specific items of property, is therefore appropriate under Federal Rule of Bankruptcy Procedure 7001(1).

The filing of a bankruptcy petition under 11 U.S.C. §§ 301, 302, or 303 creates a bankruptcy estate. 11 U.S.C. § 541(a). Bankruptcy Code Section 541(a)(1) defines property of the estate to include “all legal or equitable interests of the debtor in property as of the commencement of the case.” If the Debtor has an equitable or legal interest in property from the filing date, then that property falls within the Debtor’s bankruptcy estate and is subject to turnover. 11 U.S.C. § 542(a).

A bankruptcy court may order turnover of property to Debtor’s estate if, among other things, such property is considered to be property of the estate. *In re Hernandez*, 483 B.R. 713 (B.A.P. 9th Cir. 2012); *see also* 11 U.S.C. §§ 541(a), 542(a). Section 542(a) requires one in possession of property of the estate to deliver such property to the Trustee. Pursuant to 11 U.S.C. § 542, a Trustee is entitled to turnover of all property of estate from Debtor. Most notably, pursuant to 11 U.S.C. § 521(a)(4), the Debtor is required to deliver all of the property of the estate and documentation related to the property of the estate to the Chapter 7 Trustee.

A court may apply Federal Rule of Bankruptcy Procedure 7070 to allow for a writ of assistance to obtain possession of real property from a debtor after that debtor refuses to comply with the court’s turnover order. *See In re Kerlo*, 311 B.R. 256, 261–62 (Bankr. C.D. Cal. 2004). “A bankruptcy court has authority to enforce judgments for possession of property through writs and other orders under § 105.” *Id.* at 262 (citing *Toledano v. Kittay (In re Toledano)*, 299 B.R. 284, 299 (Bankr. S.D.N.Y. 2003) (stating that in the event that the debtor or any other individual occupying property of the estate does not voluntarily vacate the premises in accordance with the court’s order, the trustee is authorized to direct the United States Marshals Service to effectuate the terms of the order by evicting all occupants from the premises); *Stone v. White (In re Stone)*, No. 92-01383, 1998 W.L. 1819081, at *4 (Bankr. D.C. Nov. 4, 1998) (discussing a writ of possession issued to enforce a turnover order)).

No opposition has been filed to this motion by the Debtor or by other parties in interest.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Turnover of Property filed by the Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Turnover of Property is granted, and Debtor shall deliver on or before October 16, 2016, possession of the real property commonly known as 9285 Pinehurst Drive, Roseville, California (“Property”), with

all of personal property, personal property of any other person whom Debtor allowed access to the Property, and any other person that Charles Mills ("Debtor") allowed access to the Property removed from the Property.

IT IS FURTHER ORDERED that if Debtor does not turnover the real property by October 16, 2016, the Trustee shall be permitted to submit an ex parte application for issuance of a writ of assistance, pursuant to Federal Rule of Bankruptcy Procedure 7070, to be enforced by the United States Marshal's Service or other appropriate enforcing agency and be awarded any associated costs or other sanctions against the Debtor deemed appropriate by the court in an amount subsequently determined by the court.

IT IS FURTHER ORDERED that Debtor shall deliver on or before October 16, 2016, possession of the personal property known as an Antique Slot Machine or its value in an amount not less than \$10,000.00 and possession of the \$12,000.00 in non-exempt petition date deposit funds.