

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Tuesday, January 11, 2022  
Place: Department B – Courtroom #13  
Fresno, California

*The court resumed in-person courtroom proceedings in Fresno ONLY on June 28, 2021. Parties may still appear telephonically provided that they comply with the court's telephonic appearance procedures. For more information click [here](#).*

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called, **and all parties will need to appear at the hearing unless otherwise ordered.** The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

1:30 PM

1. [19-13374](#)-B-7     **IN RE: KENNETH HUDSON**  
[LNH-4](#)

MOTION TO SELL  
12-17-2021    [\[74\]](#)

JEFFREY VETTER/MV  
AHREN TILLER/ATTY. FOR DBT.  
LISA HOLDER/ATTY. FOR MV.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Continued to February 24, 2022 at 1:30 p.m.

ORDER:             The court will issue an order.

Chapter 7 trustee Jeffrey M. Vetter ("Trustee") seeks authorization to sell the estate's interest in certain oil, gas, mineral rights and overriding royalty interests ("Mineral Rights") to Cavtar Industries, LLC, a Delaware corporation ("Proposed Buyer"), for \$40,000.00, subject to higher and better bids. Doc. #74.

Trustee further seeks authorization to pay the lien held by Royalty Lending II LTD ("Royalty Lending") under the terms of the *Settlement and Release Agreement* between Trustee and Royalty Lending. *Id.* Lastly, Trustee requests waiver of the 14-day stay described in Federal Rule of Bankruptcy Procedure ("Rule") 6004(h). *Id.*

Creditor Michelle Brown ("Brown") opposes the sale. Doc. #91. Brown also filed opposition to the Trustee's related motion to compromise controversy. See LNH-3. The court continued the hearing on that motion to February 8, 2022. Doc. #99. Since the approval of the settlement will directly impact the terms of the sale, the hearing on this motion will be CONTINUED to February 24, 2022 at 1:30 p.m. to be heard after the hearing to approve the settlement agreement.

2. [20-12276](#)-B-7     **IN RE: FRANCISCO PEREZ AND ROSA ORNELAS**  
[JES-4](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)  
12-6-2021     [\[50\]](#)

JAMES SALVEN/MV  
BENNY BARCO/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in  
conformance with the ruling below.

James E. Salven ("Applicant"), in his capacity as certified public accountant employed by the estate in his capacity as chapter 7 trustee, seeks final compensation under 11 U.S.C. § 330 in the sum of \$2,751.81. Doc. #50. This amount consists of \$2,268.00 in fees as reasonable compensation and \$483.81 in reimbursement of expenses for actual, necessary services rendered for the benefit of the estate from November 9, 2021 through December 1, 2021. *Id.*

Applicant, in his capacity as chapter 7 trustee, has reviewed the application and supporting documents, and consents to the proposed payment. Doc. #54.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Francisco Ornelas Perez and Rosa Maria Ornelas ("Debtors") filed chapter 7 bankruptcy on July 6, 2020. Doc. #1. Applicant was appointed as interim trustee on that same date and became permanent trustee at

the first § 341(a) meeting of creditors on August 6, 2020. Doc. #2. Applicant, in his capacity as trustee, moved to employ himself as accountant on November 12, 2021 under 11 U.S.C. §§ 327, 330, and 331. Doc. #46. The court approved employment on November 22, 2021, effective November 1, 2021. Doc. #49. No compensation was permitted except upon court order following application pursuant to § 330(a). Compensation was set at the "lodestar rate" for accounting services at the time that services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). Acceptance of employment was deemed to be an irrevocable waiver by Applicant of all pre-petition claims, if any, against the bankruptcy estate. Applicant's services here were within the time frame prescribed by the employment order, as well as the presumptive 30-day period outlined in LBR 2014-1(b)(1) and Fed. R. Bankr. P. 2014(a).

Applicant performed 8.1 billable hours of accounting services at a rate of \$280.00 per hour, totaling **\$2,268.00** in fees.<sup>1</sup> Docs. #52; #53, Ex. A. Applicant also incurred **\$483.81** for the following expenses:

|                                  |                   |
|----------------------------------|-------------------|
| Copies (238 @ \$0.20)            | \$47.60           |
| Envelopes (4 @ \$0.25)           | + \$1.00          |
| Lacerte Tax Proc. (2 @ \$186.00) | + \$372.00        |
| Service: fee app (49 @ \$1.29)   | + \$63.21         |
| <b>Total Costs</b>               | <b>= \$483.81</b> |

*Id.*, Ex. B. These combined fees and expenses total **\$2,751.81**.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

Applicant's services included, without limitation: (1) conflict review and preparing the employment application (JES-3); (2) investigating the tax basis with respect to two parcels of real property; (3) analyzing and inputting data into tax software; (4) preparing and processing tax returns; (5) preparing prompt determination letters; and (5) preparing, filing, and serving the fee application (JES-4). Doc. #53, Ex. A. The court finds the services and expenses actual, reasonable, and necessary. As noted above, Applicant, in his capacity as chapter 7 trustee, has reviewed the fee application and consents to payment of the requested fees and expenses. Doc. #54.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Applicant shall be awarded \$2,268.00 in fees and \$483.81 in expenses on a final basis pursuant to 11 U.S.C. § 330. Applicant, in his capacity as chapter 7 trustee and in his discretion, will be authorized to pay Applicant, in his capacity as accountant, \$2,751.81 for services rendered to and costs incurred for

the benefit of the estate from November 9, 2021 through December 1, 2021.

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<sup>1</sup> Applicant waived fees for conflict review, preparing, and filing the employment application. Doc. #53, *Ex. A*.