

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: MAY 3, 2021
CALENDAR: 1:30 P.M. CHAPTERS 9, 11 AND 12 CASES

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g. nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [19-22025](#)-A-12 **IN RE: JEFFREY DYER AND JAN WING-DYER**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
2-2-2021 [\[206\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.
MICHAEL MEYER/ATTY. FOR MV.

No Ruling

2. [19-22025](#)-A-12 **IN RE: JEFFREY DYER AND JAN WING-DYER**
[RLC-10](#)

MOTION TO EMPLOY BILL HARTWIG AS REALTOR(S)
4-16-2021 [\[221\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.

Tentative Ruling

Application: Approval of Employment

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved

Order: Prepared by applicant

Professional: Bill Hartwig (real estate broker)

Unopposed applications 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).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment under § 327. No other relief shall be rewarded.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between Bill Hartwig and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

3. [20-23726](#)-A-11 **IN RE: AME ZION WESTERN EPISCOPAL DISTRICT
[JIG-3](#)**

MOTION TO EMPLOY BRAUN INTERNATIONAL REAL ESTATE AND
PREMIERE ESTATES INC. AS BROKER(S)
4-2-2021 [\[238\]](#)

GABRIEL LIBERMAN/ATTY. FOR DBT.
JEFFREY GOLDEN/ATTY. FOR MV.

Tentative Ruling

Application: Approval of Employment

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

Disposition: Approved, subject to clarification of commission
percentage

Order: Prepared by applicant

Professional: Braun International Real Estate ("Braun"), Premiere
Estates Inc. ("Premiere") and Todd Wohl (real estate brokers)

Commission: 6% of sale proceeds (Exhibit 1, ECF No. 242)

Unopposed applications 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 motion was required not less than 14 days
before the hearing on this motion. 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).

The court may approve a trustee's employment of "a professional
person under section 327 or 1103 of [Title 11] . . . on any
reasonable terms and conditions of employment, including on a
retainer, on an hourly basis, on a fixed or percentage fee basis, or
on a contingent fee basis." 11 U.S.C. § 328(a). Employment under
§ 328(a) must also meet the requirements of § 327 by the express
terms of § 328(a). Section 327(a) authorizes employment of only
professional persons who "do not hold or represent an interest
adverse to the estate, and that are disinterested persons." 11
U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested
person").

From the factual information provided in the motion and supporting
papers, the court will approve the employment under §328 and the
commission rate stated herein.

In addition, this ruling is subject to clarification as to the
commission percentage. The Sale or Lease Agreement filed in the
exhibits (Exhibit 1, Paragraph 5.1) states the commission is 6%.
However, the 10th clause of the attached Addendums (Exhibit 1, page
7) states the commission shall be "five (5%) of the sale price." The
motion also states the broker's commission shall be 5%, ECF No. 238.
The parties shall clarify which is the correct percentage for the
broker's commission at the hearing.

4. [20-23726](#)-A-11 **IN RE: AME ZION WESTERN EPISCOPAL DISTRICT
[JIG-4](#)**

MOTION TO EMPLOY HAHN FIFE & COMPANY, LLP AS ACCOUNTANT(S)
4-2-2021 [\[246\]](#)

GABRIEL LIBERMAN/ATTY. FOR DBT.
JEFFREY GOLDEN/ATTY. FOR MV.

Tentative Ruling

Application: Approval of Employment

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

Disposition: Approved

Order: Prepared by applicant pursuant to the instructions below

Professional: Hahn Fife & Company, LLP (accountants)

Unopposed applications 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 motion was required not less than 14 days before the hearing on this motion. 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).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); *see also id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment under § 327. No other relief shall be rewarded.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between Hahn Fife & Company, LLP and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

5. [20-23726](#)-A-11 **IN RE: AME ZION WESTERN EPISCOPAL DISTRICT**
[JIG-5](#)

MOTION TO EMPLOY DAVID M. GOODRICH AS ATTORNEY(S)
4-7-2021 [\[255\]](#)

GABRIEL LIBERMAN/ATTY. FOR DBT.
JEFFREY GOLDEN/ATTY. FOR MV.

Tentative Ruling

Application: Approval of Employment

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

Disposition: Approved

Order: Prepared by applicant pursuant to the instructions below

Professional: Weiland Golden Goodrich, LLP (attorneys)

Unopposed applications 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 motion was required not less than 14 days before the hearing on this motion. 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).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); *see also id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment under § 327. No other relief shall be rewarded.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between Weiland Golden Goodrich, LLP and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

6. [19-22247](#)-A-12 **IN RE: JERRY WATKINS**
[MHM-1](#)

MOTION TO DISMISS CASE
3-30-2021 [\[59\]](#)

MARK WOLFF/ATTY. FOR DBT.
MICHAEL MEYER/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

7. [19-22247](#)-A-12 **IN RE: JERRY WATKINS**
[WW-4](#)

MOTION TO CONFIRM CHAPTER 12 PLAN
3-18-2021 [[51](#)]

MARK WOLFF/ATTY. FOR DBT.

No Ruling

8. [19-23553](#)-A-11 **IN RE: SHAWN/HEATHER WHITNEY**
[UST-1](#)

MOTION TO RECONVERT CASE FROM CHAPTER 11 TO CHAPTER 7 ,
MOTION TO DISMISS CASE
3-24-2021 [[350](#)]

JOHN DOWNING/ATTY. FOR DBT.
JASON BLUMBERG/ATTY. FOR MV.

Final Ruling

The case converted to Chapter 7 the motion is dropped. A civil minute order will issue.

9. [11-17165](#)-A-11 **IN RE: OAKHURST LODGE, INC., A CALIFORNIA**
CORPORATION

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-12-2021 [[855](#)]

DONNA STANDARD/ATTY. FOR DBT.

No Ruling

10. [20-25294](#)-A-11 **IN RE: HILLIARD CHAPEL AME ZION CHURCH**

APPROVAL OF DISCLOSURE STATEMENT
3-22-2021 [[39](#)]

DAVID JOHNSTON/ATTY. FOR DBT.

Final Ruling

The plan having been withdrawn, the hearing is dropped from calendar.

11. [20-25396](#)-A-11 **IN RE: RACEDAY CYCLE, INC.**

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
12-1-2020 [[1](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.

No Ruling

12. [20-24098](#)-A-11 **IN RE: SLIDEBELTS, INC.**

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
8-25-2020 [[1](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.

Final Ruling

This Status Conference is continued to May 24, 2021 at 1:30 p.m. to coincide with the Plan Confirmation hearing.

13. [20-24098](#)-A-11 **IN RE: SLIDEBELTS, INC.**
[RLC-11](#)

MOTION TO VALUE COLLATERAL OF SHOPIFY CAPITAL, INC.
4-2-2021 [[161](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.

No Ruling

14. [20-24098](#)-A-11 **IN RE: SLIDEBELTS, INC.**
[RLC-12](#)

MOTION TO VALUE COLLATERAL OF U.S. SMALL BUSINESS
ADMINISTRATION
4-2-2021 [[166](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.

No Ruling

15. [20-24098](#)-A-11 **IN RE: SLIDEBELTS, INC.**
[RLC-9](#)

MOTION TO VALUE COLLATERAL OF AMAZON CAPITAL SERVICE, INC.
4-2-2021 [\[156\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.

No Ruling