

**Honorable Ronald H. Sargis**  
**Chief Bankruptcy Judge**  
**Sacramento, California**

**May 27, 2020 at 2:00 p.m.**

- ADRIAN, JR. V. MYERS

Notes:

Joint Status Conference Statement filed 5/18/20 [Dckt 19]

**May 27, 2020 at 2:00 p.m.**  
**Page 1 of 17**

## SUMMARY OF COMPLAINT

George Adrian, Jr., the Plaintiff, filed an Amended Complaint seeking a determination that a debt is nondischargeable based on 11 U.S.C. § 523(a)(2)(A) and (B). The allegations in the Amended Complaint (Dckt. 7) include:

A. Plaintiff has a state court action pending against Shawn Myers, the Defendant-Debtor. Superior Court, County of Sacramento, Case No. 34-2019-00267376. The claims include breach of contract, fraud, deceit, and for the sale of property.

B. The claim (which is subject to the pleadings requirements enunciated by the U.S. Supreme Court in *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868, 884 (2009); and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)), as set forth in the Amended Complaint are:

1. “4. On or about May and June of 2018, to present time the defendant has willfully cause injury by fraud and deceit of the Plaintiff.”
2. The State Court complaint was filed, includes claims for breach of contract, fraud, deceit, and for sale of property, and a copy of the State Court complaint is filed as an exhibit to the Amended Complaint. Amd. Complaint ¶ 5.
3. “ 8. The debt owed from Defendant to Plaintiff is non-dischargeable under section 523(a)(2)(A) & (B) and of the Bankruptcy code, and therefore, the automatic stay under Section 4001 of the Bankruptcy Code would not apply to Plaintiffs case described above.”

No other basis for the claim under federal law is stated. Additional, no basis for the automatic stay provisions of 11 U.S.C. § 362 not applying merely because it is asserted that a debt is nondischargeable are stated in the Complaint.

## SUMMARY OF ANSWER

Shawn Myers, the Defendant-Debtor has filed an Answer (Dckt. 11) to the Amended Complaint. The Answer admits and denies specific allegations in the Amended Complaint.

The Answer includes a narrative in paragraph 5 thereof stating the history of the transaction, from the Defendant-Debtor's perspective.

## FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff George Adrian and Defendant Shawn Myers alleges in the Complaint that jurisdiction for this Adversary Proceeding exists under 11 U.S.C. § 523(a)(2)(A) and (B), which are the federal substantive law for federal court jurisdiction to 28 U.S.C. §§ 1334 and 157(b)(2) exists, and that this is a

core proceeding. Determining the dischargeability of a debt arises under the Bankruptcy Code and is a core proceeding matter. Complaint ¶¶ 1, Dckt. 7. In the Answer, Defendant Shawn Myers admits the allegations of jurisdiction. Answer ¶¶ 1, Dckt. 11. To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.

## ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff George Adrian and Shawn Myers alleges in the Complaint that jurisdiction for this Adversary Proceeding exists under 11 U.S.C. § 523(a)(2)(A) and (B), which are the federal substantive law for federal court jurisdiction to 28 U.S.C. §§ 1334 and 157(b)(2) exists, and that this is a core proceeding. Determining the dischargeability of a debt arises under the Bankruptcy Code and is a core proceeding matter. Complaint ¶¶ 1, Dckt. 7. In the Answer, Defendant Shawn Myers admits the allegations of jurisdiction. Answer ¶¶ 1, Dckt. 11. To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.
- b. Initial Disclosures shall be made on or before ----, 2020.
- c. Expert Witnesses shall be disclosed on or before -----, 2020, and Expert Witness Reports, if any, shall be exchanged on or before -----, 2020.
- d. Discovery closes, including the hearing of all discovery motions, on -----, 2020.
- e. Dispositive Motions shall be heard before -----, 2020.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- p.m. on -----, 2020.

## FINAL RULINGS

2. [19-26112-E-13](#) MARCO PEDRAZA  
[20-2030](#)

STATUS CONFERENCE RE:  
COMPLAINT  
3-24-20 [[1](#)]

**PEDRAZA V. WELLS FARGO BANK,  
N.A. ET AL**

**Final Ruling: No appearance at the May 27, 2020 Status Conference is required.**  
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Plaintiff's Atty: Peter G. Macaluso

Defendant's Atty:

Adam N. Barasch [Wells Fargo Bank, N.A.]

John D. Rochelle [Auto Star Motors, Inc.]

Adv. Filed: 3/24/20

Answer: none

Nature of Action:

Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Notes:

Stipulation to Extend Responsive Pleading Deadline for Defendant Wells Fargo Bank, N.A. filed 4/23/20 [Dckt 8]; Order approving filed 4/27/20 [Dckt 9]

Stipulation to Extend Responsive Pleading Deadline for Defendant Auto Stay Motors, Inc. filed 4/30/20 [Dckt 11]; no order docketed

Reissued Summons 5/1/20 [Dckt 10]

**The Status Conference is continued to 2:00 p.m. on July 1, 2020, the parties having stipulated to an extension for the filing of an answer and a Reissued Summons setting the Status Conference for July 1, 2020 (Dckt. 10).**

3. [17-26125-E-7](#) **FIRST CAPITAL RETAIL,**  
[18-2030](#) **LLC**

**CONTINUED STATUS CONFERENCE**  
**RE: AMENDED COMPLAINT**  
**5-17-18 [\[39\]](#)**

**FIRST DATA MERCHANT SERVICES**  
**LLC V. MCA RECOVERY, LLC ET AL**

**Final Ruling: No appearance at the May 27, 2020 Status Conference is required.**  
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Plaintiff's Atty: Randye B. Soref; Andrew Joseph Nazar

Defendants' Atty:

Robert S. McWhorter [MCA Recovery, LLC]

Gabriel E. Liberman [First Capital Retail, LLC]

Jeffrey D. Ganz; J. Russell Cunningham [13<sup>th</sup> Floor/Pilot, LLC]

Adv. Filed: 3/22/18

Answer: 4/23/18 [First Capital Retail, LLC]

Amd. Cmplt. Filed: 5/17/18

Answer: 7/20/18 [13<sup>th</sup> Floor/Pilot, LLC]

7/20/18 [First Capital Retail, LLC]

7/20/18 [MCA Recovery, LLC]

Amd. Answer: 8/3/18 [MCA Recovery, LLC]

Cross-Claim Filed [by 13<sup>th</sup> Floor/Pilot, LLC]: 7/20/18

Answer: none

Cross-Claim Filed [by MCA Recovery, LLC]: 8/3/18

Answer: 8/22/18 [13<sup>th</sup> Floor/Pilot, LLC]

Amd. Cross-Claim Filed [by 13<sup>th</sup> Floor/Pilot, LLC]: 8/22/18

Answer: 10/23/18 [MCA Recovery, LLC]

Notes:

Continued from 3/26/20. The managing member and counsel for 13<sup>th</sup> Floor/Pilot, LLC, the managing member and counsel for MCA Recovery, LLC, and Kimberly Husted, Trustee, and her counsel ordered to appear at continued status conference set for 5/27/20. The Parties to file separate, updated Pretrial Conference Statements.

No pretrial conference statements filed as of 5/20/20.

<b>The Status Conference is continued to 2:00 p.m. on August 5, 2020.</b>
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On May 21, 2020, the Parties filed a Joint Undated Status Report advising the court that the remaining issues in this Adversary Proceeding have been resolved by stipulation, the written documentation of which is being circulated for signature and for which a motion pursuant to Federal Rule of Bankruptcy Procedure 9019 will be filed.

The Parties request that the court continue the Status Conference to allow them to consummate their resolution of this matter.

The court continues the Status Conference.

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 Status Conference having been scheduled, the Parties reporting that they have resolved all issues in this Adversary Proceeding, the stipulation documents are being executed, and a Federal Rule of Bankruptcy Procedure 9019 Motion will be filed; and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to 2:00 p.m. on August 5, 2020, to afford the parties sufficient time to document the settlement and obtain the order pursuant to the Rule 9019 Motion (taking into account the challenges with the court's calendar in the upcoming period of Circuit and other judicial meetings that limit the availability of the court).

GASSNER V. GASSNER ET AL

**Final Ruling: No appearance at the May 27, 2020 Status Conference is required.**  
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Plaintiff's Atty: Holly A. Estioko

Defendant's Atty:

Scott G. Beattie [Carol L. Gassner; Alfred M. Gassner]

Charles L. Hastings [Laura Strombom]

Adv. Filed: 3/12/19

Answer:

4/11/19 [Laura Strombom]

4/11/19 [Alfred M. Gassner; Carol L. Gassner]

Amd. Cmplt. Filed: 7/12/19

Answer:

8/5/19 [Alfred M. Gassner; Carol L. Gassner]

8/13/19 [Laura Strombom]

Amd. Answer: 8/13/19 [Alfred M. Gassner; Carol L. Gassner]

8/26/19 [Alfred M. Gassner; Carol L. Gassner]

Nature of Action:

Sanctions for willful violation of automatic stay (against Settlers and Strombom)

Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Declaratory judgment

Injunctive relief - other

Notes:

Continued from 3/5/20 to be conducted in conjunction with the Rescheduling Conference in *Husted v. MEPCO, et al.*

Status Conference Statement of Plaintiff Georgene Gassner filed 5/20/20 [Dckt 116]

**The Status Conference is continued to 2:00 p.m. on July 1, 2020,**  
to be conducted in conjunction with the Status Conference in the  
related Adversary Proceeding *Husted v. MEPCO et al.*

Plaintiff Georgene Gassner filed an Updated Status Report on May 20, 2020. Dckt. 115.  
Plaintiff suggests that the Status Conference should properly be conducted in conjunction with that for a  
related adversary proceeding, *Husted v. MEPCO et al.*, in which there will be substantial litigation,

including claims objections involving the Defendants.

Continuance is appropriate. If the Parties in these two adversary proceedings are not able to resolve their dispute by agreement, there will be substantial litigation between them. The “main show” (as described by the court) is in the *Husted v. MEPCO et al.* Adversary Proceeding, which will determine the interests and rights of the bankruptcy estate.

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 Status Conference having been scheduled, the court have set the status conference in the related *Husted v. MEPCO et al.* Adversary Proceeding that includes these Defendants and involves some common issues, the coordinating of this Adversary Proceeding with thre elated adversary proceeding, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to 2:00 p.m. on July 1, 2020.



DEBTOR DISMISSED: 01/30/2020

**Final Ruling: No appearance at the May 27, 2020 Hearing is required.**

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession and Office of the United States Trustee on April 9, 2020. By the court's calculation, 21 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days' notice when requested fees exceed \$1,000.00).

The Motion for Allowance of Professional Fees was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, 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 offer 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.

The court continued the matter and set a final hearing on May 27, 2020.

<p><b>The Motion for Allowance of Professional Fees is granted.</b></p>
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#### **Continuance and Filing of Opposition Schedule**

At the April 30, 2020 Initial Hearing on this Motion, the attorney for Raymond Zhang, the principal of the Debtor, appeared and indicated that he may have an opposition to the requested fees, believing that there was an agreement with Applicant for a lower capped amount.

A response was filed by Mr. Zhang's counsel of record (Dckt. 514), which the court addresses below.

#### **REVIEW OF THE MOTION**

Goodrich & Associates, the Attorney ("Applicant") for United Charter, LLC, the Debtor in

Possession (“Client”), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period May 31, 2017, through February 21, 2019. The order of the court approving employment of Applicant was entered on June 15, 2017. Dckt. 28. Applicant requests fees in the amount of \$214,235.00 and costs in the amount of \$1,378.80.

## **APPLICABLE LAW**

### **Reasonable Fees**

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney’s services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the attorney exercise reasonable billing judgment?

*In re Garcia*, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

### **Lodestar Analysis**

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

### **Reasonable Billing Judgment**

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 demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. An attorney must exercise good billing judgment with regard to the services provided because the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery," as opposed to a possible recovery. *Id.*; see also *Brosio v. Deutsche Bank Nat'l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) ("Billing judgment is mandatory."). According to 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?

*In re Puget Sound Plywood*, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant's services for the Estate include general case administration, assisting with asset recovery and disposition, business operations, cash collateral issues, defending motions for relief from the stay and a motion to dismiss or convert, claims objections, preparing fee and employment applications, determination of insurance proceeds, obtaining post-petition financing, and drafting plan and disclosure statements. The Clerk of the Court is presently holding the sum of \$198,779 for the purpose of paying Applicant's compensation and reimbursement of expenses to the extent allowed by an order of this court. The court finds the services were beneficial to Client and the Estate and were reasonable.

## **RESPONSE FILED BY RAYMOND ZHANG**

As discussed in the Civil Minutes from the April 30, 2020 Initial Hearing, counsel for Raymond Zhang appeared and stated that a possible opposition could exist. Civil Minutes, Dckt. 510.

Pursuant to Mr. Zhang's request, the court set a briefing schedule and deadline for any opposition to be filed by Mr. Zhang. The court's order requests that opposition, if any, be filed and served on or before May 22, 2020. Order, Dckt. 511.

On May 21, 2020, counsel for Mr. Zhang filed a Response. Dckt. 514. The Response does not state an opposition, nor present any evidence opposing allowance of the fees.

The Response states that Mr. Zhang had not communicated with his attorney (stating that Mr. Zhang "apparently") had been out of the country, and that Mr. Zhang "is now going in a different direction and obtaining new counsel." Opposition, p. 1:28, 2:1-3.

The Response then requests that, "in the interests of justice," Mr. Zhang be given yet another

thirty days to state an opposition, if any exists, for the allowance of fees for the counsel he chose to represent the Debtor in Possession in this case that is now three years old and for which there has been a successful Chapter 11 plan confirmed (notwithstanding some questionable conduct of Mr. Zhang and the Debtor in Possession along the bankruptcy way).

The court believes that if Raymond Zhang had any good faith opposition it would have been timely stated and clearly documented. Even in connection with the Response, there is no clear, documented reason why Mr. Zhang could not timely respond. Instead, he has his attorney of record merely state that "apparently" Mr. Zhang was out of the country.

As referenced above, Mr. Zhang's conduct, both prior to and in his fiduciary capacity as the representative of the Debtor in Possession have not been exemplary. The Debtor and Mr. Zhang are lucky that the court did not appoint a Chapter 11 trustee or convert the case based on Mr. Zhang's conduct.

Some examples of the conduct of Mr. Zhang and his representative acting at his direction that have been addressed by the court include, but are not limited to, in the Civil Minutes, Motion for Relief From the Stay (DCN: MET-2); p. 5; Dckt. 445.:

A. Civil Minutes, p. 5.

**Conflicting Statements and Positions  
Asserted in Court**

As noted above, the DIP [Debtor in Possession] has steered clear of asserting opposition to the Motion. It may well be that the DIP and Zhang have concocted a scheme for the DIP to continue to assert a value of \$5,330,000 for the DIP's battles with Bier, but have Zhang "personally" state, while wearing his equity holder hat, that the property is worth substantially more than Zhang, when wearing his hat as the responsible representative of the DIP, certifies to the court is the actual value of the Property.

Or, it may be that Zhang is admitting that he knowingly provided an inaccurate value in seeking to value the Bier claim at a lower amount than the full amount of the claim. Or it may be for Zhang that the more "convenient truth" when opposing the motion for relief is to, "personally, not as a representative of the DIP as the fiduciary of the bankruptcy estate," adopt the higher value asserted by Bier and disputed by the DIP.

B. *Id.*, p. 6.

The court has addressed in other ruling the failings of Mr. Zhang as the responsible representative of the Debtor in Possession (including making unauthorized payments of estate property to Mr. Bier and making additionally payments from purportedly non-bankruptcy estate monies, which may well have included monies paid from the Debtor to Mr. Zhang within the preference period) in this case. As came

out in the four day evidentiary hearing on the Objection filed by the Debtor in Possession to Mr. Bier's claim, both sides have a view of the "truth" that is not consistent with federal law. As the court's findings showed, Mr. Bier's belief is that one can say whatever they want, with the federal court proceedings being merely an extensive of aggressive, no holds barred, over the top, business "negotiations." Mr. Zhang and the prebankruptcy counsel for the Debtor and Mr. Zhang demonstrated that they would say whatever they thought was in their favor, without regard to the truth, including counsel preparing a document containing knowingly false information for Mr. Bier that he knew Mr. Bier would use to obtain benefits and advantage from a foreign government.

C. *Id.*, p. 11-12.

Clearly, both Bier and Zhang, as the responsible representative of the DIP, have been challenged when it has come to economic calculations. For the Evidentiary Hearing, the court made very pointed comments about the credibility of both Bier and Zhang based upon the evidence presented - concluding that both were challenged when it came to giving credible, accurate testimony under penalty of perjury. Additionally, evidence was presented concerning Bier and the DIP's pre-petition counsel, . . . , intentionally creating a document they knew contained false information so Bier could use it to obtain a visa, based on the false information, from a foreign government.

The court's oral findings of fact and conclusions of law stated orally on the record in ruling on the Objection to the claim of Wayne Bier concerning the creation of the false documents.

Raymond Zhang has demonstrated to this court on multiple occasions that "truth" is a flexible concept, being bent (or created) as he believes is to his advantage, and that he cannot be relied upon to act in good faith.

If Mr. Zhang had a good faith (consistent with Federal Rule of Bankruptcy Procedure 9011 certifications) opposition to the requested fees, they would have been stated by now.

No basis has been shown for further delay.

## **FEES AND COSTS & EXPENSES REQUESTED**

### **Fees**

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

Case Administration: Applicant spent 58.9 hours in this category. Applicant provided the following services but are not limited to: representing the DIP at the Initial Debtor Interview, the Section 341 hearing, and at each Status Conference; assisting the DIP in opening appropriate debtor in

possession bank accounts, filed operating reports and properly disclosed and performed its fiduciary duties to creditors; and maintained adequate insurance for all estate property.

Asset Recovery: Applicant spent 11 hours in this category. Applicant assisted DIP with the engagement of an appraiser and successfully negotiated a tolling agreement and, as part of its original reorganization plan, the transfer of such preference/fraudulent conveyance claims to a Liquidating Trustee.

Business Operations: Applicant spent 11.3 hours in this category. Applicant assisted the DIP in navigating legal issues arising in the operation of its leasing activities, such as lease disputes, lease negotiations and a “lot line adjustment” that the DIP initially hoped would allow sufficient liquidity for a partial sale of its multi-unit warehouse property.

Cash Collateral Issues: Applicant spent 106.8 hours in this category. Applicant assisted and communicated extensively with DIP and East West Bank’s (“EWB”) counsel in dealing with issues arising from East West Bank’s demands for all excess rents.

Relief from the Stay: Applicant spent 93.7 hours in this category. Applicant defended the estate from secured creditors attempting to foreclose on estate property. It also sometimes includes services in defending against companion motions, such as the three motions the East West Bank unsuccessfully added to their relief from stay motion (motion for turnover of cash collateral, motion to convert, motion to dismiss and motion for relief from stay).

Claims Objections: Applicant spent 170.1 hours in this category. Applicant assisted DIP in objecting to two claims, those of East West Bank and Wayne Bier (including the court’s four and half days evidentiary hearing over this claim).

Asset Disposition: Applicant spent 4.7 hours in this category. Applicant assisted DIP in efforts to liquidate the DIP’s real property or to collect rental income from the DIP’s tenants. In this case, the primary such activity was the failed attempt to sell the DIP’s real estate at public auction soon after the case was filed.

Fee/Employment Applications: Applicant spent 44.1 hours in this category. Applicant ensured DIP performed its fiduciary duties by obtaining court approval of the employment of all professionals. In this case, such professionals included Applicant, the Debtor’s prepetition accountants (Mok Accountancy), Team VRG/John Anderson, and Ten-X.

United States Trustee Motion to Dismiss/Convert: Applicant spent 40.9 hours in this category. Applicant opposed the motion by a single party in interest, the United States Trustee, which sought to dismiss or convert the case. Applicant successfully defended the motion, which was also opposed by both secured creditors.

Plan and Disclosure Statement: Applicant spent 123.3 hours in this category. Applicant assisted DIP with the two proposed plans filed during this case. The first plan was eventually supported by EWB after they tried unsuccessfully to obtain relief from the automatic stay and foreclose on the DIP’s property or, alternatively, to wrest control of it with the appointment of a trustee, either under Chapter 11 or Chapter 7. The second plan was filed in late 2019 after EWB received approximately \$3,660,000 of insurance proceeds and, as a result, the DIP was able to use the equity in its non-fire

damaged property to refinance both EWB's and Bier's remaining claims, even at a discount. The combined discount totaled over \$200,000, more than Applicant's fees and costs incurred over the past several years.

Insurance Proceeds: Applicant spent 7.5 hours in this category. Applicant assisted DIP in determining whether DIP should use a public adjuster or accept the settlement proceeds offered by Farmers. Applicant also assisted the DIP in determining that EWB was entitled to received the full insurance proceeds as its collateral if the DIP was unable or unwilling to rebuild. Applicant worked with the DIP's insurance agent, Sheila Quan, as well as with an outside consultant Applicant located, Guy Kornblum, who facilitated a prompt settlement of the DIP's insurance claim.

Financing: Applicant spent 46.6 hours in this category. Applicant worked to obtain Court approval of the refinance with Grand Pacific for post-petition financing and persuaded Grand Pacific to drop requirement that the case be dismissed prior to its loan being funded.

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:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
Jeffrey Goodrich	612.1	\$350.00	\$214,235.00
	0	\$0.00	<u>\$0.00</u>
<b>Total Fees for Period of Application</b>			\$214,235.00

### Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$1,378.80 pursuant to this application.

The costs requested in this Application are,

<b>Description of Cost</b>	<b>Per Item Cost, If Applicable</b>	<b>Cost</b>
PACER		\$959.50
Postage		\$419.30
		\$0.00
<b>Total Costs Requested in Application</b>		\$1,378.80

## FEES AND COSTS & EXPENSES ALLOWED

### Fees and Expenses

Applicant seeks to be paid a single sum of \$175,000.00 for its fees and expenses incurred for Client, after application of pre-petition retainer of \$25,000.00. First and Final Fees and Costs in the amount of \$200,000.00 are approved pursuant to 11 U.S.C. § 330 and \$175,000.00 are authorized to be paid by Debtor in Possession / Clerk of the Court from the available funds held by the Clerk of the Court in a manner consistent with the order of distribution in a Chapter 11 case. Applicant is authorized to apply the \$25,000.00 pre-petition retainer held.

Applicant is allowed the following as compensation as counsel for the Debtor in possession:

Fees and Expenses	\$200,000.00
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for which Applicant shall first apply the \$25,000.00 pre-petition retainer, the Clerk of the Court shall disburse \$175,000.00 from the \$198,779 of monies deposited with the Clerk pursuant to the Order of this Court (Dckt. 500) for the purpose of paying Applicant's compensation and reimbursement of expenses allowed by an order of this court, pursuant to this Application as final fees and costs 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 Goodrich & Associates ("Applicant"), Attorney for United Charter, LLC, the Debtor in Possession, ("Client") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Goodrich & Associates is allowed the following fees and expenses as a professional of the Estate:

Goodrich & Associates, Professional employed by the Debtor in Possession

Fees and Expenses in the amount of \$200,000.00,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for Debtor in Possession.

**IT IS FURTHER ORDERED** that the Clerk of the Court is authorized to pay Applicant the sum of \$175,000.00 from the funds held. The Clerk of the Court shall disburse any remaining monies deposited by the Debtors with the Clerk pursuant to the prior order of the court (Dckt. 500) back to the Debtors.



**IT IS FURTHER ORDERED** that Applicant shall apply the \$25,000.00 pre-petition retainer towards the fees and expenses allowed by this Order.

6. [19-22566](#)-E-11 JUANITO COPER0

**CONTINUED STATUS CONFERENCE  
RE: VOLUNTARY PETITION  
4-25-19 [1](#)**

**Final Ruling: No appearance at the May 27, 2020 Status Conference is required.**  
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Debtor's Atty: Arasto Farsad

Notes:

Continued from 3/4/20

[AF-7] Order granting Motion for Allowance of Fees and Expenses of Farsad Law Office filed 3/27/20 [Dckt 109]

[AF-8] Application for Final Decree filed 4/15/20 [Dckt 110], set for hearing 3/21/20 at 10:30 a.m.

**The court having confirmed the Chapter 11 Plan, the Status Conference is concluded, the case having been administratively closed, and removed from the calendar.**