

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

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY

DATE: JUNE 13, 2018

CALENDAR: 1:30 P.M. CHAPTERS 11 AND 9 CASES

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. 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. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 pm at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling because of the court's error under FRCP 60 (a) (FRBP 9024) ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 pm one business day before the hearing.

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.

1. [17-13112](#)-A-11 **IN RE: PIONEER NURSERY, LLC**
[FW-33](#)

MOTION FOR ADMINISTRATIVE EXPENSES
5-25-2018 [\[512\]](#)

PIONEER NURSERY, LLC/MV
PETER FEAR

Final Ruling

Motion: Allow Administrative Expense [Estate Taxes]

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

Disposition: Granted

Order: Civil minute order

Unopposed motions 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).

ALLOWANCE OF ADMINISTRATIVE EXPENSE

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Clooback*, 788 F.3d 1243, 1246 (9th Cir. 2015).

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, state taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Pioneer Nursery, LLC's motion for allowance of administrative expense has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court allows California state taxes of \$6,000 as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

2. [10-62315](#)-A-11 IN RE: BEN ENNIS
[FRC-11](#)

MOTION FOR AN ORDER APPROVING SEVENTH INTERIM DISTRIBUTION
5-9-2018 [[2266](#)]

DAVID STAPLETON/MV
RILEY WALTER
WILLIAM FREEMAN/ATTY. FOR MV.

Final Ruling

Motion: For an Order to Approve Seventh Interim Distribution

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

Disposition: Granted

Order: Prepared by the movant

Unopposed motions 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). Ben Ennis has filed a non-opposition to the motion. No opposition 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 plan administrator requests that the court approve a seventh interim distribution in accordance with the table provided in the motion. The total distribution equals \$1.25 million.

At Section V(R) of the confirmed plan, the plan administrator may seek court orders and instructions as the plan administrator deems necessary to carry out and further the purposes of the provisions of the plan. Other plan provisions provide support for the court's approval of interim distributions and reservations of funds as to unresolved claims. For the reasons stated in the motion, the court will approve the distribution in accordance with the amounts stated in the motion.

3. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
4-26-2018 [[1](#)]

RILEY WALTER

No Ruling

4. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-1](#)

CONTINUED INTERIM HEARING RE: MOTION TO USE CASH COLLATERAL
5-2-2018 [[64](#)]

GREGORY TE VELDE/MV
RILEY WALTER
RESPONSIVE PLEADING

Final Ruling

This matter is continued to July 11, 2018, at 10:00 a.m. in
Bakersfield.

5. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-3](#)

MOTION TO EMPLOY RILEY C. WALTER AS ATTORNEY(S)
5-8-2018 [[125](#)]

GREGORY TE VELDE/MV
RILEY WALTER
OST 5/29/18, RESPONSIVE PLEADING

No Ruling

6. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-4](#)

MOTION TO EMPLOY SCHUIL & ASSOCIATES AS BROKER(S)
5-8-2018 [[114](#)]

GREGORY TE VELDE/MV
RILEY WALTER
OST 5/29/18, RESPONSIVE PLEADING

No Ruling

7. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-5](#)

MOTION TO EMPLOY HOWARD SAGASER AS SPECIAL COUNSEL
5-9-2018 [[129](#)]

GREGORY TE VELDE/MV
RILEY WALTER
OST 5/29/18, RESPONSIVE PLEADING

No Ruling

8. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-6](#)

MOTION TO EMPLOY ELIZABETH E. HOWARD AS SPECIAL COUNSEL
5-22-2018 [[207](#)]

GREGORY TE VELDE/MV
RILEY WALTER
OST 5/29/18

No Ruling

9. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-8](#)

MOTION TO EMPLOY MICHAEL B. COLLINS AS SPECIAL COUNSEL
5-9-2018 [[133](#)]

GREGORY TE VELDE/MV
RILEY WALTER
OST 5/29/18, RESPONSIVE PLEADING

No Ruling

10. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-9](#)

MOTION TO EMPLOY GENSKE, MULDER & COMPANY, LLP AS
ACCOUNTANT(S)
5-8-2018 [[119](#)]

GREGORY TE VELDE/MV
RILEY WALTER
OST 5/29/18, RESPONSIVE PLEADING

No Ruling