

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: JULY 13, 2020
CALENDAR: 1:30 P.M. CHAPTERS 9, 11, 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. [19-27800](#)-A-11 **IN RE: EDUARDO/FLORINDA SAN ANTONIO**
[KK-4](#)

MOTION TO APPROVE AMENDED STIPULATION FOR PLAN TREATMENT ON
FIRST LIEN
6-11-2020 [[81](#)]

ARASTO FARSAD/ATTY. FOR DBT.
KELLY RAFTERY/ATTY. FOR MV.

Final Ruling

The stipulation is approved. 11 U.S.C. § 1125(b); *In re Synder*, 51 B.R. 432 (Bankr. D. Utah 1985) (defining "solicitation" narrowly); *Century Glove, Inc. v First American Bank*, 860 F.2d 94, 101-02 (3rd Cir. 1988). Finding that stipulation does not violate the anti-solicitation provisions of § 1125(b), the court will approve the stipulation as a proper exercise of the debtor in possession's business judgment. The movant shall upload an order consistent with the findings herein.

2. [19-27800](#)-A-11 **IN RE: EDUARDO/FLORINDA SAN ANTONIO**
[KK-4](#)

MOTION FOR APPROVAL OF AMENDED STIPULATION FOR PLAN
TREATMENT OF FIRST LIEN
6-12-2020 [[85](#)]

ARASTO FARSAD/ATTY. FOR DBT.
KELLY RAFTERY/ATTY. FOR MV.

Final Ruling

The stipulation is approved. 11 U.S.C. § 1125(b); *In re Synder*, 51 B.R. 432 (Bankr. D. Utah 1985) (defining "solicitation" narrowly); *Century Glove, Inc. v First American Bank*, 860 F.2d 94, 101-02 (3rd Cir. 1988). Finding that stipulation does not violate the anti-solicitation provisions of § 1125(b), the court will approve the stipulation as a proper exercise of the debtor in possession's business judgment. The movant shall upload an order consistent with the findings herein.

3. [20-22209](#)-A-11 **IN RE: BIMBO AND SONS CORPORATION**
[SW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-26-2020 [[33](#)]

CHINONYE UGORJI/ATTY. FOR DBT.
ADAM BARASCH/ATTY. FOR MV.
ALLY BANK VS.

No Ruling

4. [20-22413](#)-A-11 **IN RE: PAUL PINGOL AND RUBY LOZADA**
[AF-1](#)

MOTION TO VALUE COLLATERAL OF PHH MORTGAGE SERVICES AND/OR
MOTION TO VALUE COLLATERAL OF BANK OF AMERICA, N.A.
5-14-2020 [[8](#)]

ARASTO FARSAD/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Real Property; Not Principal Residence]

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 respondent 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).

VALUATION OF COLLATERAL

To value collateral, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. The motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j).

Under § 506 of the Bankruptcy Code, "a secured creditor's claim is to be divided into secured and unsecured portions, with the secured portion of the claim limited to the value of the collateral." *Assocs. Commercial Corp. v. Rash*, 520 U.S. 953, 961 (1997) (citing *United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 238-39 (1989)); *accord Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1168-69 (9th Cir. 2004) (citing 11 U.S.C. § 506). "To separate the secured from the unsecured portion of a claim, a court must compare the creditor's claim to the value of 'such property,' i.e., the collateral." *Rash*, 520 U.S. at 961.

"Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest." 11 U.S.C. § 506(a)(1). In the lien stripping context, a replacement-value standard is proper when the debtor proposes to retain and use the collateral. *Rash*, 520 U.S. at 962-63.

The moving party must provide factual grounds for the proposed value of the collateral. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally*, 368 F.3d at 1173.

The debtor requests that the court value real property collateral. The collateral is the debtor's property located at 401 Darragh Court, Lincoln, CA 95648.

FIRST DEED OF TRUST

Pursuant to a stipulation filed by the debtor and the creditor PHH Mortgage Services, ECF 32, the court values the collateral at \$410,000.00. The PHH Mortgage Services' claim is secured only to the extent of the collateral's value unencumbered by any senior liens. See 11 U.S.C. § 506(a).

SECOND DEED OF TRUST

Under § 506 and *Rash*, the court will value the collateral in light of the purpose of the valuation, and in conjunction with any hearing or disposition on a plan affecting a creditor's interest. The court values the collateral at \$410,000.00 in accordance with the above-mentioned stipulation agreement, ECF 32, and with § 506. The creditor Bank of America's claim will be classified as a general unsecured claim in the debtor's Chapter 11 plan.

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.

The debtor's motion to value real property collateral 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 real property collateral located at 401 Darragh Court, Lincoln, CA 95648 has a value of \$410,000.00. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. PHH Mortgage Services has a claim secured to the extent of the collateral's value unencumbered by any secured liens. Bank of America has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

5. [16-10015](#)-A-9 **IN RE: SOUTHERN INYO HEALTHCARE DISTRICT**
[GRS-3](#)

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES
4-17-2020 [[930](#)]

GARY MARSH/ATTY. FOR DBT.
GLEN SEGAL/ATTY. FOR MV.
WITHDRAWN BY M.P.

Final Ruling

The motion having been withdrawn, the matter is dropped as moot.

6. [19-25064](#)-A-11 **IN RE: SLIDEBELTS INC.**

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
8-12-2019 [[1](#)]

BRIAN ROTHSCHILD/ATTY. FOR DBT.

Final Ruling

The status conference is continued to August 17, 2020, at 1:30 p.m.

7. [19-25064](#)-A-11 **IN RE: SLIDEBELTS INC.**
[BMR-30](#)

MOTION FOR COMPENSATION FOR EISNERAMPER LLP, ACCOUNTANT(S)
6-22-2020 [[377](#)]

BRIAN ROTHSCHILD/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of First Interim Compensation and Expense Reimbursement

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

Disposition: Approved

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). 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).

COMPENSATION AND EXPENSES

In this Chapter 11 case, EisnerAmper LLP, accountant for the debtor in possession, has applied for an allowance of interim compensation

and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$37,065.50 and reimbursement of expenses in the amount of \$23.40.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

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.

EisnerAmper LLP's application for allowance of interim compensation and reimbursement of expenses 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 application, IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$37,065.50 and reimbursement of expenses in the amount of \$23.40. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that 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. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

8. [19-25064](#)-A-11 **IN RE: SLIDEBELTS INC.**
[RTD-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-29-2020 [[390](#)]

BRIAN ROTHSCHILD/ATTY. FOR DBT.
ROXANNE DANERI/ATTY. FOR MV.
FIRST U.S. COMMUNITY CREDIT UNION VS.

No Ruling