

**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: TUESDAY
DATE: AUGUST 9, 2016
CALENDAR: 1:30 P.M. CHAPTER 11 AND 9 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [10-62315](#)-A-11 BEN ENNIS
LRP-61

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF LANG, RICHERT &
PATCH FOR MICHAEL J. GOMEZ,
OTHER PROFESSIONAL(S)
6-30-16 [[2110](#)]

RILEY WALTER/Atty. for dbt.
MICHAEL GOMEZ/Atty. for mv.

Tentative Ruling

Application: Approval of Final Compensation and Expense Reimbursement under Confirmed Plan in Chapter 11

Notice: LBR 9014-1(f)(1); 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). Written opposition to this application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Lang, Richert & Patch, the applicant requests that the court approve final compensation in the amount of \$645,620.25 and reimbursement of expenses in the amount of \$79,466.67. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis. The applicant further requests that the court approve payment of the holdback amount of \$129,124.05.

Here, a plan has been confirmed. Once a plan has been confirmed, its provisions bind the debtor, creditors, equity security holders, and other parties in interest. 11 U.S.C. § 1141(a). An exception to this rule is made for the discharge provisions of § 1141(d)(2) and (3). *Id.* The plan's terms governing compensation of professionals, therefore, govern the court's decision on this matter. And the content of such provisions "is primarily up to the genius of the drafter." *In re Associated Vintage Grp., Inc.*, 283 B.R. 549, 560 (B.A.P. 9th Cir. 2002).

The confirmed plan in this case states that compensation for retained professionals is subject to bankruptcy court approval. It also provides that compensation paid for services rendered and expenses incurred must be "reasonable." The plan's reasonableness standard for payment of compensation makes sense in light of § 1129(a)(4).

Section 1129(a)(4) imposes, as a confirmation requirement, a reasonableness standard for compensation for services and for costs and expenses in connection with the case, or in connection with the plan and incident to the case. 11 U.S.C. § 1129(a)(4). This standard applies to the payments made by the plan proponent, by the debtor, or by a person acquiring property under the plan, such as a plan administrator.

Section 330 of the Code contains specific standards for determining the reasonableness of compensation. Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering the relevant factors. See *id.* § 330(a)(3). Although this standard is more exacting than the standard applicable in this case, the court may apply all or some of the elements of this standard as a guide to the extent appropriate.

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court further authorizes the payment of the holdback amount requested.

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.

Lang, Richert & Patch's application for approval of final 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 a final basis. The court approves final compensation in the amount of \$645,620.25 and reimbursement of expenses in the amount of \$79,466.67. The court approves the holdback amount of \$129,124.05. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

2. [10-62315](#)-A-11 BEN ENNIS
LRP-63
DAVID STAPLETON/MV

MOTION FOR COMPENSATION FOR
DAVID STAPLETON, OTHER
PROFESSIONAL(S)
6-30-16 [[2103](#)]

RILEY WALTER/Atty. for dbt.
MICHAEL GOMEZ/Atty. for mv.

Final Ruling

Application: Approval of Interim Compensation and Expense
Reimbursement under Confirmed Plan in Chapter 11

Notice: LBR 9014-1(f)(1); 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). Written opposition to this application was required not less than 14 days

before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 11 case, David Stapleton, the applicant requests that the court approve interim compensation in the amount of \$396,841.50 and reimbursement of expenses in the amount of \$7,809.27. The applicant further requests that the court approve payment of a holdback in the amount of \$79,368.30.

Here, a plan has been confirmed. Once a plan has been confirmed, its provisions bind the debtor, creditors, equity security holders, and other parties in interest. 11 U.S.C. § 1141(a). An exception to this rule is made for the discharge provisions of § 1141(d)(2) and (3). *Id.* The plan's terms governing compensation of professionals, therefore, govern the court's decision on this matter. And the content of such provisions "is primarily up to the genius of the drafter." *In re Associated Vintage Grp., Inc.*, 283 B.R. 549, 560 (B.A.P. 9th Cir. 2002).

The confirmed plan in this case states that compensation for retained professionals is subject to bankruptcy court approval. It also provides that compensation paid for services rendered and expenses incurred must be "reasonable." The plan's reasonableness standard for payment of compensation makes sense in light of § 1129(a)(4).

Section 1129(a)(4) imposes, as a confirmation requirement, a reasonableness standard for compensation for services and for costs and expenses in connection with the case, or in connection with the plan and incident to the case. 11 U.S.C. § 1129(a)(4). This standard applies to the payments made by the plan proponent, by the debtor, or by a person acquiring property under the plan, such as a plan administrator.

Section 330 of the Code contains specific standards for determining the reasonableness of compensation. Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering the relevant factors. *See id.* § 330(a)(3). Although this standard is more exacting than the standard applicable in this case, the court may apply all or some of the elements of this standard as a guide to the extent appropriate.

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. The court further authorizes the payment of the holdback amount requested.

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.

David Stapleton's application for approval 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 approves interim compensation in the amount of \$396,841.50 and reimbursement of expenses in the amount of \$7,809.27. The court approves the holdback amount of \$79,368.30 on an interim basis as well. The applicant is authorized to draw on any retainer held.

3. [10-62315](#)-A-11 BEN ENNIS
LRP-64
THE STAPLETON GROUP/MV

MOTION FOR COMPENSATION FOR THE
STAPLETON GROUP, OTHER
PROFESSIONAL(S)
6-28-16 [[2097](#)]

RILEY WALTER/Atty. for dbt.
MICHAEL GOMEZ/Atty. for mv.

Tentative Ruling

Application: Approval of Final Compensation and Expense Reimbursement under Confirmed Plan in Chapter 11

Notice: LBR 9014-1(f)(1); 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). Written opposition to this application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Stapleton Group, the applicant requests that the court approve final compensation in the amount of \$242,045.50 and reimbursement of expenses in the amount of \$1,368.85. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis. The applicant further requests that the court approve payment of the holdback amount of \$48,409.10.

Here, a plan has been confirmed. Once a plan has been confirmed, its provisions bind the debtor, creditors, equity security holders, and other parties in interest. 11 U.S.C. § 1141(a). An exception to this rule is made for the discharge provisions of § 1141(d)(2) and (3). *Id.* The plan's terms governing compensation of professionals, therefore, govern the court's decision on this matter. And the content of such provisions "is primarily up to the genius of the drafter." *In re Associated Vintage Grp., Inc.*, 283 B.R. 549, 560 (B.A.P. 9th Cir. 2002).

The confirmed plan in this case states that compensation for retained professionals is subject to bankruptcy court approval. It also provides that compensation paid for services rendered and expenses incurred must be "reasonable." The plan's reasonableness standard for payment of compensation makes sense in light of § 1129(a)(4).

Section 1129(a)(4) imposes, as a confirmation requirement, a reasonableness standard for compensation for services and for costs and expenses in connection with the case, or in connection with the plan and incident to the case. 11 U.S.C. § 1129(a)(4). This standard applies to the payments made by the plan proponent, by the debtor, or by a person acquiring property under the plan, such as a plan administrator.

Section 330 of the Code contains specific standards for determining the reasonableness of compensation. Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering the relevant factors. See *id.* § 330(a)(3). Although this standard is more exacting than the standard applicable in this case, the court may apply all or some of the elements of this standard as a guide to the extent appropriate.

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court further authorizes the payment of the holdback amount requested.

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.

Stapleton Group's application for approval of final 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 a final basis. The court approves final compensation in the amount of \$242,045.50 and reimbursement of expenses in the amount of \$1,368.85. The court approves the holdback amount of \$48,409.10. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

4. [10-62315](#)-A-11 BEN ENNIS
SHB-14

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF SHULMAN HODGES &
BASTIAN LLP FOR JAMES C.
BASTIAN, JR., SPECIAL
COUNSEL(S)
7-12-16 [[2126](#)]

RILEY WALTER/Atty. for dbt.
JAMES BASTIAN/Atty. for mv.

Tentative Ruling

Application: Approval of Final Compensation and Expense Reimbursement
under Confirmed Plan in Chapter 11

Notice: LBR 9014-1(f)(1); 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). Written opposition to this application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Shulman, Hodges & Bastian, LLP, the applicant requests that the court approve final compensation in the amount of \$46,019.50 and reimbursement of expenses in the amount of \$1,266.10. The applicant further requests that the court approve payment of the holdback amount of \$12,525.93 (\$12,119.10 compensation and \$406.83 costs).

Here, a plan has been confirmed. Once a plan has been confirmed, its provisions bind the debtor, creditors, equity security holders, and other parties in interest. 11 U.S.C. § 1141(a). An exception to this rule is made for the discharge provisions of § 1141(d)(2) and (3). *Id.* The plan's terms governing compensation of professionals, therefore, govern the court's decision on this matter. And the content of such provisions "is primarily up to the genius of the drafter." *In re Associated Vintage Grp., Inc.*, 283 B.R. 549, 560 (B.A.P. 9th Cir. 2002).

The confirmed plan in this case states that compensation for retained professionals is subject to bankruptcy court approval. It also provides that compensation paid for services rendered and expenses incurred must be "reasonable." The plan's reasonableness standard for payment of compensation makes sense in light of § 1129(a)(4).

Section 1129(a)(4) imposes, as a confirmation requirement, a reasonableness standard for compensation for services and for costs and expenses in connection with the case, or in connection with the plan and incident to the case. 11 U.S.C. § 1129(a)(4). This standard applies to the payments made by the plan proponent, by the debtor, or by a person acquiring property under the plan, such as a plan administrator.

Section 330 of the Code contains specific standards for determining the reasonableness of compensation. Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering the relevant factors. See *id.* § 330(a)(3). Although this standard is more exacting than the standard applicable in this case, the court may apply all or some of the elements of this standard as a guide to the extent appropriate.

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court further authorizes the payment of the holdback amount requested.

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.

Shulman, Hodges & Bastian, LLP's application for approval of final 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 a final basis. The court approves final compensation in the amount of \$46,019.50 and reimbursement of expenses in the amount of \$1,266.10. The court approves the holdback amount of \$12,525.93 (\$12,119.10 compensation and \$406.83 costs). The applicant is authorized to draw on any retainer held.

5. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE MOTION TO SET CLAIMS BAR DATE
 BH-13 DISTRICT 7-12-16 [[196](#)]
 SOUTHERN INYO HEALTHCARE
 DISTRICT/MV
 ASHLEY MCDOW/Atty. for dbt.

Final Ruling

Motion: Set Claims Bar Date

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

Disposition: Granted with minor changes

Order: Prepared by moving party

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).

Pursuant to Federal Rule of Bankruptcy Procedure 3003(c)(2), the claims bar date is set at and including September 30, 2016. Not later than August 17, 2016, the debtor shall serve a copy of the order granting this motion on all creditors and parties in interest and shall file a Certificate of Service so indicating.

6. [15-14045](#)-A-11 JAVIER/BARBARA JUAREZ MOTION FOR COMPENSATION FOR
HAR-5 HILTON A. RYDER, ESQ., DEBTORS
ATTORNEY(S)
7-12-16 [[104](#)]
- HILTON RYDER/Atty. for dbt.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); 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). Written opposition to this application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 11 case, McCormick, Barstow, counsel 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 \$11,320.50 and reimbursement of expenses in the amount of \$1,933.02.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession 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.

McCormick Barstow'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 \$11,320.50 and reimbursement of expenses in the amount of \$1,933.02. 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.

7. [15-10161](#)-A-11 FRESNO COUNTY DISCLOSURE STATEMENT FILED BY
 FW-7 SPORTSMEN'S CLUB DEBTOR FRESNO COUNTY
 SPORTSMEN'S CLUB
 6-22-16 [[166](#)]

PETER FEAR/Atty. for dbt.

[This matter will be called subsequent to the United States Trustee's motion to dismiss, UST-2.]

No tentative ruling.

8. [15-10161](#)-A-11 FRESNO COUNTY CONTINUED MOTION TO CONVERT
 UST-2 SPORTSMEN'S CLUB CASE FROM CHAPTER 11 TO CHAPTER
 TRACY DAVIS/MV 7 , MOTION TO DISMISS CASE
 5-18-16 [[135](#)]

PETER FEAR/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.
RESPONSE PLEADING

No tentative ruling.

9. [15-14274](#)-A-11 LOURIE FOLLAND
FW-3

PETER FEAR/Atty. for dbt.

No tentative ruling.

DISCLOSURE STATEMENT FILED BY
DEBTOR LOURIE LANETT FOLLAND
6-27-16 [[63](#)]