

**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: AUGUST 30, 2017
CALENDAR: 1:30 P.M. CHAPTER 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. [10-12709](#)-A-11 ENNIS COMMERCIAL
JTW-7 PROPERTIES, LLC
JANZEN, TAMBERI & WONG/MV

MOTION FOR COMPENSATION FOR
JANZEN, TABERI & WONG,
ACCOUNTANT(S)
7-28-17 [[1815](#)]

PETER FEAR/Atty. for dbt.

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, applicant Janzen, Tamberi & Wong requests that the court approve interim compensation in the amount of \$31,261.50 and reimbursement of expenses in the amount of \$53.82.

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 may be subject to bankruptcy court approval. Though court approval for such payment is not required, the plan administrator may seek approval for fees. Order Confirming Plan § V(N), filed June 25, 2014, ECF #961.

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.

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.

Janzen, Tamberi & Wong'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 \$31,261.50 and reimbursement of expenses in the amount of \$53.82. The applicant is authorized to draw on any retainer held.

2. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE CONTINUED STATUS CONFERENCE RE:
DISTRICT CHAPTER 9 VOLUNTARY PETITION
1-4-16 [\[1\]](#)
ASHLEY MCDOW/Atty. for dbt.

No Ruling

3. 16-10015-A-9 SOUTHERN INYO HEALTHCARE AMENDED DISCLOSURE STATEMENT
BH-19 DISTRICT 7-20-17 [[302](#)]
ASHLEY MCDOW/Atty. for dbt.

No Ruling

4. [17-11824](#)-A-7 HORISONS UNLIMITED MOTION TO EMPLOY WAYNE C. ALLEN
PSZ-2 AS CHIEF FINANCIAL OFFICER
KAVITA GUPTA/MV 8-2-17 [[122](#)]
CECILY DUMAS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

5. [11-17165](#)-A-11 OAKHURST LODGE, INC., A
CALIFORNIA CORPORATION
DONNA STANDARD/Atty. for dbt.
- CONTINUED STATUS CONFERENCE RE:
CHAPTER 11 VOLUNTARY PETITION
6-22-11 [[1](#)]

No Ruling

6. [11-17165](#)-A-11 OAKHURST LODGE, INC., A
[15-1017](#) CALIFORNIA CORPORATION
OAKHURST LODGE, INC. V.
FIRST-CITIZENS BANK & TRUST
DONNA STANDARD/Atty. for pl.
RESPONSIVE PLEADING
- CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT
4-6-16 [[151](#)]

No Ruling

7. [15-10366](#)-A-11 ELLIOTT MANUFACTURING
FW-29 COMPANY, INC.
ELLIOTT MANUFACTURING COMPANY,
INC./MV
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING
- OMNIBUS OBJECTION TO CLAIMS
7-14-17 [[375](#)]

No Ruling

8. [16-13271](#)-A-11 BLAIR GLADWIN AND TONETTA
SIMONE GLADWIN
PETER FEAR/Atty. for dbt.
- CONTINUED STATUS CONFERENCE RE:
CHAPTER 11 VOLUNTARY PETITION
9-6-16 [[1](#)]

No Ruling

9. [17-12389](#)-A-11 DON ROSE OIL CO., INC.
BRA-1
TARGA LIQUIDS MARKETING AND
TRADE, LLC/MV
RILEY WALTER/Atty. for dbt.
DAVID RILEY/Atty. for mv.
RESPONSIVE PLEADING
- MOTION FOR ADMINISTRATIVE
EXPENSES
8-2-17 [[167](#)]

No Ruling

10. [17-12389](#)-A-11 DON ROSE OIL CO., INC.
WW-2
DON ROSE OIL CO., INC./MV
RILEY WALTER/Atty. for dbt.
RESPONSIVE PLEADING
- CONTINUED MOTION TO EMPLOY
RILEY C. WALTER AS ATTORNEY(S)
6-28-17 [[33](#)]
- No Ruling**
11. [17-12389](#)-A-11 DON ROSE OIL CO., INC.
CLF-1
DONALD ROSE/MV
- CONTINUED MOTION TO APPOINT
TRUSTEE AND/OR MOTION TO
CONVERT CASE FROM CHAPTER 11 TO
CHAPTER 7
7-19-17 [[108](#)]
- RILEY WALTER/Atty. for dbt.
VONN CHRISTENSON/Atty. for mv.
RESPONSIVE PLEADING
- No Ruling**
12. [17-12389](#)-A-11 DON ROSE OIL CO., INC.
UST-1
TRACY DAVIS/MV
- CONTINUED MOTION TO APPOINT
TRUSTEE AND/OR MOTION TO
CONVERT CASE FROM CHAPTER 11 TO
CHAPTER 7
8-2-17 [[163](#)]
- RILEY WALTER/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.
- No Ruling**
13. [17-12389](#)-A-11 DON ROSE OIL CO., INC.
WW-4
DON ROSE OIL CO., INC./MV
- CONTINUED MOTION TO EMPLOY
BROWN ARMSTRONG AS
ACCOUNTANT(S)
7-12-17 [[86](#)]
- RILEY WALTER/Atty. for dbt.
RESPONSIVE PLEADING
- No Ruling**
14. [17-12389](#)-A-11 DON ROSE OIL CO., INC.
WW-6
DON ROSE OIL CO., INC./MV
- CONTINUED MOTION TO APPROVE
STIPULATION FOR RELIEF FROM THE
AUTOMATIC STAY
7-24-17 [[114](#)]
- RILEY WALTER/Atty. for dbt.
RESPONSIVE PLEADING
- No Ruling**

15. [17-12389](#)-A-11 DON ROSE OIL CO., INC.
WW-7
DON ROSE OIL CO., INC./MV

CONTINUED MOTION FOR APPROVAL
OF STIPULATION AND AGREEMENT
FOR ADEQUATE PROTECTION AND
MODIFICATION OF THE AUTOMATIC
STAY
8-7-17 [[179](#)]

RILEY WALTER/Atty. for dbt.

No Ruling