

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

September 5, 2019 at 10:30 a.m.

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| 1. | <u>19-22401</u> -E-7
<u>UST-1</u> | JOSEPH/CHRISTINA
BERTOLINO | MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR
7-19-19 [<u>39</u>] |
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The parties having filed a Stipulation to extend the deadline to object (Dckt. 41), and the court having issued Orders approving the Stipulation and extending the deadline (Dckts. 44, 45), **this Matter has been finally resolved and is removed from the calendar.**

Final Ruling: No appearance at the September 5, 2019, hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on July 30, 2019. By the court’s calculation, 37 days’ notice was provided. 28 days’ notice is required.

The Motion to Employ has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties’ pleadings.

<p>The Motion to Employ is granted.</p>
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The Chapter 7 Trustee, J. Michael Hopper (“Trustee”) seeks to employ Lebron Duran Law Offices (“Counsel”) pursuant to Local Bankruptcy Rule 9014-1(f)(1) and Bankruptcy Code Sections 328(a) and 330. Trustee seeks the employment of Counsel to perform legal and notarial services necessary to complete the sale of 19,957.452 square meters of real property of the Estate (approved by the court on May 3, 2019. Order, Dckt. 140.

An itemized estimate of costs was filed as Exhibit A. Dckt. 157. The costs total \$807.00.

Trustee seeks preapproval of a flat fee of \$1,000.00 for the services provided by Counsel.

Jose Lebron Duran testifies that he is a licensed attorney in Peurto Rico, where the Estate’s property is located. Dckt. 156. Duran testifies he and the firm do not represent or hold any interest adverse to Debtor or to the Estate and that they have no connection with Debtor, creditors, the U.S. Trustee, any party in interest, or their respective attorneys.

Pursuant to § 327(a), a trustee or debtor in possession is authorized, with court approval, to engage the services of professionals, including attorneys, to represent or assist the trustee in carrying out the trustee’s duties under Title 11. To be so employed by the trustee or debtor in possession, the

professional must not hold or represent an interest adverse to the estate and be a disinterested person.

Section 328(a) authorizes, with court approval, a trustee or debtor in possession to engage the professional on reasonable terms and conditions, including a retainer, hourly fee, fixed or percentage fee, or contingent fee basis. Notwithstanding such approved terms and conditions, the court may allow compensation different from that under the agreement after the conclusion of the representation, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of fixing of such terms and conditions.

Taking into account all of the relevant factors in connection with the employment and compensation of Counsel, considering the declaration demonstrating that Counsel does not hold an adverse interest to the Estate and is a disinterested person, the nature and scope of the services to be provided, the court grants the motion to employ Lebron Duran Law Offices as Counsel for the Chapter 7 Estate on the terms and conditions stated in the Motion.

Additionally, the proposed \$1,000.00 flat fee is reasonable in light of the services proposed to be rendered. The flat fee of \$1,000.00 as the final allowance of fees and expenses is approved pursuant to 11 U.S.C. § 330. The Chapter 7 Trustee is authorized to pay the fees allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case

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 Motion to Employ filed by the Chapter 7 Trustee, J. Michael Hopper (“Trustee”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Employ is granted, and Trustee is authorized to employ Lebron Duran Law Offices as Counsel for Trustee on the terms and conditions as stated in the Motion.

IT IS FURTHER ORDERED that Lebron Duran Law Offices is allowed a flat fee of \$1,000.00 as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330.

IT IS FURTHER ORDERED that the Chapter 7 Trustee is authorized to pay the fees allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.