

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Fredrick E. Clement  
Bankruptcy Judge

2500 Tulare Street, Fifth Floor  
Department A, Courtroom 11  
Fresno, California

**Monday**

**September 8, 2014**

**PRE-HEARING DISPOSITIONS**

**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.

**MATTERS RESOLVED BEFORE HEARING**

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party 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 to be dropped from calendar 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.

**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 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 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.

1:30 p.m.

1. [10-12709](#)-A-11 ENNIS COMMERCIAL MOTION FOR COMPENSATION FOR  
JTW-5 PROPERTIES, LLC JANZEN, TAMBERI & WONG,  
JANZEN, TAMBERI & WONG/MV ACCOUNTANT(S).  
8-6-14 [[1273](#)]  
PETER FEAR/Atty. for dbt.

### **Final Ruling**

**Application:** Fourth Interim Compensation and Expense Reimbursement  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Approved  
**Order:** Civil minute order

**Applicant:** Janzen, Tamberi & Wong  
**Compensation approved:** \$8,770.00  
**Costs approved:** \$52.32  
**Aggregate fees and costs approved in this application:** \$8,822.32  
**Retainer held:** \$0.00  
**Amount to be paid as administrative expense:** \$8,822.32

### **DISCUSSION**

A Chapter 11 plan confirmed, payment is now controlled by the plan. Order Confirming Plan, filed June 25, 2014, ECF #961. The plan authorizes payment of professionals but provides no standard for considering applications for fees. *id.* at § VE. Section 330(a) applies by analogy. 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). Moreover, though court approval for such payment is not required, the Plan administrator may seek approval for fees. Order Confirming Plan § VN, filed June 25, 2014, ECF #961.

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. The moving party is authorized to draw on any retainer held.

### **CIVIL MINUTE ORDER**

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 for Final Compensation filed by Janzen, Tamberi & Wong having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) compensation of \$8,822.32 is approved on an interim basis; and (2) costs of \$52.32 are approved on an interim basis.

2. [10-12709](#)-A-11 ENNIS COMMERCIAL MOTION FOR COMPENSATION BY THE  
KAT-2 PROPERTIES, LLC LAW OFFICE OF KATTIN MUCHIN  
ROSENMAN LLP FOR WILLIAM B.  
FREEMAN, SPECIAL COUNSEL(S).  
8-7-14 [[1282](#)]

PETER FEAR/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

3. [10-12709](#)-A-11 ENNIS COMMERCIAL MOTION FOR COMPENSATION BY THE  
LL-1 PROPERTIES, LLC LAW OFFICE OF LOEB AND LOEB LLP  
FOR JEANNE C. WANLASS, SPECIAL  
COUNSEL(S).  
8-8-14 [[1308](#)]

PETER FEAR/Atty. for dbt.

### **Final Ruling**

**Application:** First Interim Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

**Applicant:** Loeb and Loeb, LLC

**Compensation approved:** \$6,442.50

**Costs approved:** \$0.00

**Aggregate fees and costs approved in this application:** \$6,442.50

**Paid:** \$1,322.00

**Unpaid:** \$5,120.50

### **DISCUSSION**

A Chapter 11 plan confirmed, payment is now controlled by the plan. Order Confirming Plan, filed June 25, 2014, ECF #961. The plan authorizes payment of professionals but provides no standard for considering applications for fees. *id.* at § VE. Section 330(a) applies by analogy. 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). Moreover, though court approval for such payment is not required, the Plan administrator may seek approval for fees. Order Confirming Plan § VN, filed June 25, 2014, ECF #961.

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. The moving party is authorized to draw on any retainer held.

#### **CIVIL MINUTE ORDER**

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 for Final Compensation filed by Loeb and Loeb, LLC having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) compensation of \$6,442.50 is approved on an interim basis; and (2) \$1,322.00 of that amount has been paid; and (3) there is now due and owing \$5,120.50.

4. [10-12709](#)-A-11 ENNIS COMMERCIAL  
LRP-12 PROPERTIES, LLC

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF LANG, RICHERT AND  
PATCH FOR MICHAEL J. GOMEZ,  
OTHER PROFESSIONAL(S).  
8-8-14 [[1289](#)]

PETER FEAR/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

5. [10-12709](#)-A-11 ENNIS COMMERCIAL  
LRP-21 PROPERTIES, LLC  
DAVID STAPLETON/MV

MOTION FOR COMPENSATION FOR  
DAVID STAPLETON, OTHER  
PROFESSIONAL(S).  
8-8-14 [[1296](#)]

PETER FEAR/Atty. for dbt.  
JENNIFER BROOKS/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

6. [10-12709](#)-A-11 ENNIS COMMERCIAL  
LRP-22 PROPERTIES, LLC  
THE STAPLETON GROUP/MV

MOTION FOR COMPENSATION FOR  
DAVID STAPLETON, OTHER  
PROFESSIONAL(S).  
8-8-14 [[1302](#)]

PETER FEAR/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

7. [10-62315](#)-A-11 BEN ENNIS  
JTW-3  
JANZEN, TAMBERI AND WONG/MV  
  
RILEY WALTER/Atty. for dbt.

MOTION FOR COMPENSATION FOR  
JANZEN, TAMBERI & WONG,  
ACCOUNTANT(S).  
8-6-14 [[1647](#)]

### **Final Ruling**

**Application:** Third Interim Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

**Applicant:** Janzen, Tamberi & Wong

**Compensation approved:** \$19,888.00

**Costs approved:** \$112.80

**Aggregate fees and costs approved in this application:** \$20,000.80

**Retainer held:** \$0.00

**Amount to be paid as administrative expense:** \$20,000.80

### **DISCUSSION**

A Chapter 11 plan confirmed, payment is now controlled by the plan. Order Confirming Plan, filed June 27, 2014, ECF #1203. The plan authorizes payment of professionals but provides no standard for considering applications for fees. *id.* at § VE. Section 330(a) applies by analogy. 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). Moreover, though court approval for such payment is not required, the Plan administrator may seek approval for fees. Order Confirming Plan § VR, filed June 27, 2014, ECF #1203.

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. The moving party is authorized to draw on any retainer held.

### **CIVIL MINUTE ORDER**

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 for Final Compensation filed by Janzen, Tamberi & Wong having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) compensation of \$19,888.00 is approved on an interim basis; and (2) costs of \$112.80 are approved on an interim basis.

8. [10-62315](#)-A-11 BEN ENNIS  
KAT-2  
DAVID STAPLETON/MV

MOTION FOR COMPENSATION FOR  
DAVID P. STAPLETON, OTHER  
PROFESSIONAL(S).  
8-7-14 [[1656](#)]

RILEY WALTER/Atty. for dbt.  
WILLIAM FREEMAN/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

9. [10-62315](#)-A-11 BEN ENNIS  
LL-1  
CHRISTOPHER CAMPBELL/MV

MOTION FOR COMPENSATION FOR  
LOEB & LOEB, SPECIAL  
COUNSEL(S).  
8-8-14 [[1683](#)]

RILEY WALTER/Atty. for dbt.  
CHRISTOPHER CAMPBELL/Atty. for mv.

### **Final Ruling**

**Application:** First Interim Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

**Applicant:** Loeb and Loeb, LLC

**Compensation approved:** \$29,997.50

**Costs approved:** \$6.88

**Aggregate fees and costs approved in this application:** \$30,004.38

**Paid:** \$812.00

**Unpaid:** \$29,192.38

### **DISCUSSION**

A Chapter 11 plan confirmed, payment is now controlled by the plan. Order Confirming Plan, filed June 25, 2014, ECF #961. The plan authorizes payment of professionals but provides no standard for considering applications for fees. *id.* at § VE. Section 330(a) applies by analogy. 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). Moreover, though court approval for such payment is not required, the Plan administrator may seek approval for fees. Order Confirming Plan § VR, filed June 27, 2014, ECF #1203.

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. The moving party is authorized to draw on any retainer held.

## CIVIL MINUTE ORDER

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 for Final Compensation filed by Loeb and Loeb, LLC having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) compensation of \$29,997.50 is approved on an interim basis; (2) reimbursement of costs of 6.88; (3) \$812.00 of that amount has been paid; and (4) there is now due and owing \$29,192.38.

10. [10-62315](#)-A-11 BEN ENNIS  
LRP-23

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF LANG, RICHERT &  
PATCH, P.C. OTHER  
PROFESSIONAL(S).  
8-8-14 [[1663](#)]

RILEY WALTER/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

11. [10-62315](#)-A-11 BEN ENNIS  
LRP-31  
DAVID STAPLETON/MV

MOTION FOR COMPENSATION FOR  
DAVID STAPLETON, OTHER  
PROFESSIONAL(S).  
8-8-14 [[1670](#)]

RILEY WALTER/Atty. for dbt.  
WILLIAM FREEMAN/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

12. [10-62315](#)-A-11 BEN ENNIS  
LRP-32  
THE STAPLETON GROUP/MV

MOTION FOR COMPENSATION FOR THE  
STAPLETON GROUP, OTHER  
PROFESSIONAL(S).  
8-8-14 [[1676](#)]

RILEY WALTER/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**