



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

**Chief Judge Fredrick E. Clement**  
Sacramento Federal Courthouse  
501 I Street, 7<sup>th</sup> Floor  
Courtroom 28, Department A  
Sacramento, California

**DAY: MONDAY**  
**DATE: SEPTEMBER 23, 2024**  
**CALENDAR: 10:30 A.M. CHAPTER 7 CASES**

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Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business** day prior to the hearing.

Information regarding how to sign up can be found on the **Remote Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>.

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by **ZoomGov** may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to the trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including screen shots or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

## PRE-HEARING DISPOSITION INSTRUCTIONS

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### 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. However, 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. [23-22917](#)-A-7     **IN RE: MIHAIL/SORINA VANGHELI**  
[BHS-1](#)

MOTION TO EMPLOY BARRY H. SPITZER AS ATTORNEY(S) AND/OR  
MOTION FOR COMPENSATION FOR BARRY H. SPITZER, TRUSTEES  
ATTORNEY(S)  
8-14-2024    [[46](#)]

MARK SHMORGON/ATTY. FOR DBT.  
GEOFFREY RICHARDS/ATTY. FOR MV.  
DEBTORS DISCHARGED: 12/07/23

### **Final Ruling**

**Application:** Approval of Employment; allowance of final compensation

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

**Disposition:** Approved

**Order:** Prepared by applicant

**Compensation:** flat fee of \$1,250

Unopposed applications 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).

In this Chapter 7 case, Barry Spitzer, attorney for the trustee Geoffrey Richards, has applied for approval of employment and an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the total amount of \$1,250.00. The trustee supports the application, ECF No. 49.

### **EMPLOYMENT**

The court may approve a trustee's employment of "a professional person under section 327 or 1103 of [Title 11] . . . on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis." 11 U.S.C. §328(a). Employment under §328(a) must also meet the requirements of §327 by the express terms of §328(a). Section 327(a) authorizes employment of only professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person").

### **COMPENSATION AND EXPENSES**

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 all relevant factors. See *id.* § 330(a)(3).

In this case the attorney drafted the motion for employment and compensation of an auctioneer to conduct a public auction to sell real property on behalf of the estate. The motion has been filed and is heard concurrently with this motion.

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

#### **EMPLOYMENT**

From the information provided in the motion and supporting papers, the court will approve the employment. The court further authorizes payment of the amount specified in the application without further hearing or order.

2. [23-22917](#)-A-7    **IN RE: MIHAIL/SORINA VANGHELI**  
[BHS-2](#)

MOTION TO EMPLOY CAROL SMITH'S ASSET SALES, LLC AS  
AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION  
AND AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES  
8-14-2024    [\[51\]](#)

MARK SHMORGON/ATTY. FOR DBT.  
GEOFFREY RICHARDS/ATTY. FOR MV.  
DEBTORS DISCHARGED: 12/07/23

#### **Final Ruling**

**Motion:** Sell Property and Compensate Auctioneer

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 16488 12th Avenue, Clearlake, California (parcel of bare land)

**Sale Type:** Public auction

**Auctioneer:** Carol Smith's Asset Sales, LLC

**Compensation:** 10% of gross sales proceeds; plus, additional \$250.00 to be paid by the buyer

**Reimbursement of expenses:** \$250.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), 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).

#### **FACTS**

Geoffrey Richards, Chapter 7 Trustee, seeks an order authorizing the sale of real property commonly described as 16488 12th Avenue, Clearlake, California. The property is a parcel of bare land with an estimated value of \$5,900.00. The trustee further seeks an order authorizing the employment of Carol Smith's Asset Sales, LLC, to market and sell the property at public auction. In addition to reimbursement of expenses of \$250.00 to be paid by the trustee the auctioneer shall receive 10% of the gross sale proceeds plus \$250.00 to be paid by the buyer.

The trustee also requests the order authorize the trustee to set and change auction dates as appropriate and allowing the auctioneer to conduct follow up auctions without further order of the court.

#### **SALE**

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

#### **EMPLOYMENT AND COMPENSATION OF AUCTIONEER**

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

3. [24-22526](#)-A-7    **IN RE: CYNTHIA JIMENEZ**  
[NF-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13  
8-14-2024    [\[36\]](#)

NIKKI FARRIS/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Convert Case from Chapter 7 to Chapter 13

**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 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).

The debtor seeks an order converting her case to Chapter 13. In support of the motion the debtor filed: (1) Chapter 13 Plan, ECF No. 40; (2) Amended Schedules I and J, ECF No. 44; and (3) a declaration, ECF No. 37.

The declaration indicates that the debtor's income from employment has substantially increased since the filing of the case. This is supported by the Amended Schedules I and J.

**CONVERSION UNDER § 706(a)**

Section 706 of the Bankruptcy Code gives chapter 7 debtors a qualified conversion right. See 11 U.S.C. § 706(a), (d). A debtor's right to convert a case from Chapter 7 to Chapter 11, 12, or 13 is conditioned on (i) the debtor's eligibility for relief under the chapter to which the case will be converted and (ii) the case not having been previously converted under §§ 1112, 1208, or 1307. 11 U.S.C. § 706(a), (d); see also *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 372-74 (2007) (affirming denial of debtor's conversion from Chapter 7 to Chapter 13 based on bad faith conduct sufficient to establish cause under § 1307(c)).

The secured and unsecured debt amounts shown in the debtor's schedules are below the debt limits provided in § 109(e). See 11 U.S.C. § 109(e). The case has not been previously converted under § 1112, 1208, or 1307 of the Bankruptcy Code. See *id.* § 706(a). No party in interest has questioned the debtor's eligibility for relief under Chapter 13.

**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 convert this case from chapter 7 to chapter 13 has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The court converts this case from chapter 7 to chapter 13.

4. [23-23040](#)-A-7     **IN RE: CATHY DEIMEKE**  
[JCC-1](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH CATHY R. DEIMEKE  
8-27-2024    [[20](#)]

THOMAS AMBERG/ATTY. FOR DBT.  
JONATHAN CAHILL/ATTY. FOR MV.  
DEBTOR DISCHARGED: 12/18/23

**Final Ruling**

The Motion was withdrawn by the moving party on August 28, 2024, ECF No. 23. Accordingly, this matter will be removed from the calendar as moot. No appearances are required.

5. [24-21341](#)-A-7     **IN RE: CEDAR POINT RECOVERY, LLC**

MOTION BY AARON LIPTON TO WITHDRAW AS ATTORNEY  
9-2-2024    [[27](#)]

AARON LIPTON/ATTY. FOR DBT.

**No Ruling**



6. [24-21341](#)-A-7     **IN RE: CEDAR POINT RECOVERY, LLC**  
[BJ-1](#)

MOTION FOR TURNOVER OF PROPERTY  
9-9-2024   [\[36\]](#)

AARON LIPTON/ATTY. FOR DBT.  
THOMAS MOUZES/ATTY. FOR MV.

**No Ruling**

7. [23-20547](#)-A-7     **IN RE: MARTIN BERKEY**  
[NBF-2](#)

MOTION FOR COMPENSATION FOR MICHAEL GABRIELSON,  
ACCOUNTANT(S)  
8-22-2024   [\[59\]](#)

MARK BRIDEN/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 08/08/24

**Final Ruling**

**Application:** Allowance of First and Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

**Compensation:**   \$1,646.50

**Reimbursement of expenses:**   \$69.15

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 7 case, Gabrielson & Company, accountant for the trustee, has applied for an allowance of fist and final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1,646.50 and reimbursement of expenses in the amount of \$69.15.

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 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 a final 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.

Gabrielson & Company's application for allowance 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 allows final compensation in the amount of \$1,646.50 and reimbursement of expenses in the amount of \$69.15.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

8. [24-23047](#)-A-7     **IN RE: REGINA JACKSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
9-4-2024     [[38](#)]

**Tentative Ruling**

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.