# UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF CALIFORNIA

Honorable Fredrick E. Clement Fresno Federal Courthouse 2500 Tulare Street, 5<sup>th</sup> Floor Courtroom 11, Department A Fresno, California

#### PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY

DATE: OCTOBER 31, 2018

CALENDAR: 1:30 P.M. CHAPTERS 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.

**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. 17-13112-A-11 IN RE: PIONEER NURSERY, LLC

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION 8-11-2017 [ $\underline{1}$ ]

PETER FEAR

#### No Ruling

2. 18-11651-A-11 IN RE: GREGORY TE VELDE

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION 4-26-2018 [1]

MICHAEL COLLINS RILEY WALTER/ATTY. FOR MV.

#### No Ruling

3.  $\frac{18-11651}{\text{MB}-1}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY JOHN H. MACCONAGHY AS ATTORNEY(S) 9-28-2018 [883]

RANDY SUGARMAN/MV MICHAEL COLLINS JOHN MACCONAGHY/ATTY. FOR MV.

### Final Ruling

Application: Employment of Counsel for Chapter 11 trustee Randy

Sugarman

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

Disposition: Approved
Order: Civil minute order

Unopposed applications 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).

#### **DISCUSSION**

The Chapter 11 trustee may employ counsel to advise and assist him in the discharge of their statutory duties. 11 U.S.C. § 327(a). Employment may be authorized if the applicant neither holds nor represents an interest adverse to the estate and is disinterested. *Id.* §§ 101(14), 327(a). The applicant satisfies the requirements of § 327(a), and the court will approve the application.

#### 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.

MacConaghy & Barnier, PLC's application 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,

- 1. the application is approved to the extent provided herein;
- 2. Randy Sugarman is authorized under 11 U.S.C. § 327 to employ MacConaghy & Barnier, PLC as his general counsel with respect to his duties as the chapter 11 trustee and ancillary matters;
- 3. Employment is authorized only under 11 U.S.C. § 327 and MacConaghy & Barnier, PLC's entitlement to, and the amount of, compensation for services rendered and reimbursement for actual, necessary expenses incurred shall be determined by the court under 11 U.S.C. § 330;
- 4. MacConaghy & Barnier, PLC's employment is subject to the applicable terms and conditions of 11 U.S.C. § 329-331;
- 5. except as expressly provided otherwise in this order, (A) the terms and conditions, of any agreement between Randy Sugarman and MacConaghy & Barnier, PLC, including terms pertaining to MacConaghy & Barnier, PLC compensation, are disapproved; and (B) all other relief requested in the application for employment is denied; and
- 6. this order applies to services rendered and costs incurred on or after September 21, 2018.

## 4. $\frac{18-11651}{\text{MB}-2}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY RILEY C. WALTER AS SPECIAL COUNSEL  $9-28-2018 \quad [896]$ 

RANDY SUGARMAN/MV MICHAEL COLLINS JOHN MACCONAGHY/ATTY. FOR MV.

#### Final Ruling

Application: Employment of Special Counsel for Chapter 11 trustee

Randy Sugarman

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

Disposition: Approved
Order: Civil minute order

Unopposed applications 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).

Here, the U.S. Trustee has "reserved" its rights but has not opposed the application. As a consequence, this court deems the application unopposed.

### **DISCUSSION**

The Chapter 11 trustee may employ counsel to advise and assist him in the discharge of their statutory duties. 11 U.S.C. § 327(a),(e). Employment may be authorized if the applicant neither holds nor represents an interest adverse to the estate and is disinterested. Id. §§ 101(14), 327(a). Employment must be in the best interests of the debtor and the estate. 11 U.S.C. § 327(e). The applicant satisfies the requirements of § 327(a), and the court will approve the application.

## 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.

Walter Wilhelm Law Group's application 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:

- 1. the application is approved to the extent provided herein;
- 2. Randy Sugarman is authorized under 11 U.S.C. § 327 to employ Walter Wilhelm Law Group as his special counsel for those matters specified in the Application to Employ ¶ 5, September 28, 2018, ECF # 896;
- 3. Employment is authorized only under 11 U.S.C. § 327 and Walter Wilhelm Law Group entitlement to, and the amount of, compensation for services rendered and reimbursement for actual, necessary expenses incurred shall be determined by the court under 11 U.S.C. § 330;
- 4. Walter Wilhelm Law Group's employment is subject to the applicable terms and conditions of 11 U.S.C. § 329-331;
- 5. except as expressly provided otherwise in this order, (A) the terms and conditions, of any agreement between Randy Sugarman and Walter Wilhelm Law Group, including terms pertaining to Walter Wilhelm Law Group compensation, are disapproved; and (B) all other relief requested in the application for employment is denied; and
- 6. this order applies to services rendered and costs incurred on or after September 21, 2018.

## 5. $\frac{18-11651}{MB-3}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY ELIZABETH E. HOWARD AS SPECIAL COUNSEL 10-3-2018 [908]

RANDY SUGARMAN/MV
MICHAEL COLLINS
JOHN MACCONAGHY/ATTY. FOR MV.

### Final Ruling

Application: Employment of Special Counsel for Chapter 11 trustee

Randy Sugarman

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

Disposition: Approved
Order: Civil minute order

Unopposed applications 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).

## **DISCUSSION**

The Chapter 11 trustee may employ counsel to advise and assist him in the discharge of their statutory duties. 11 U.S.C. § 327(a),(e). Employment may be authorized if the applicant neither holds nor

represents an interest adverse to the estate and is disinterested.  $Id. \S\S 101(14)$ , 327(a). Employment must be in the best interests of the debtor and the estate. 11 U.S.C.  $\S 327(e)$ . The applicant satisfies the requirements of  $\S 327(a)$ , and the court will approve the application.

#### 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.

Schwabe Williamson & Wyatt's application 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,

- 1. the application is approved to the extent provided herein;
- 2. Randy Sugarman is authorized under 11 U.S.C. § 327 to employ Schwabe Williamson & Wyatt as his special counsel for those matters specified in the Application to Employ  $\P$  5, October 3, 2018, ECF # 908;
- 3. Employment is authorized only under 11 U.S.C. § 327 and Schwabe Williamson & Wyatt entitlement to, and the amount of, compensation for services rendered and reimbursement for actual, necessary expenses incurred shall be determined by the court under 11 U.S.C. § 330;
- 4. Schwabe Williamson & Wyatt's employment is subject to the applicable terms and conditions of 11 U.S.C. § 329-331;
- 5. except as expressly provided otherwise in this order, (A) the terms and conditions, of any agreement between Randy Sugarman and Schwabe Williamson & Wyatt, including terms pertaining to Schwabe Williamson & Wyatt compensation, are disapproved; and (B) all other relief requested in the application for employment is denied; and
- 6. this order applies to services rendered and costs incurred on or after September 21, 2018.

## 6. $\frac{18-11651}{MB-4}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY MICHAEL B. COLLINS AS SPECIAL COUNSEL 9-28-2018 [899]

RANDY SUGARMAN/MV MICHAEL COLLINS JOHN MACCONAGHY/ATTY. FOR MV.

#### Final Ruling

Application: Employment of Special Counsel for Chapter 11 trustee

Randy Sugarman

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

Disposition: Approved
Order: Civil minute order

Unopposed applications 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).

#### **DISCUSSION**

The Chapter 11 trustee may employ counsel to advise and assist him in the discharge of their statutory duties. 11 U.S.C. § 327(a),(e). Employment may be authorized if the applicant neither holds nor represents an interest adverse to the estate and is disinterested. Id. §§ 101(14), 327(a). Employment must be in the best interests of the debtor and the estate. 11 U.S.C. § 327(e). The applicant satisfies the requirements of § 327(a), and the court will approve the application.

### 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.

Collins & Collins, LLP's application 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,

- 1. the application is approved to the extent provided herein;
- 2. Randy Sugarman is authorized under 11 U.S.C. § 327 to employ Collins & Collins, LLP as his special counsel for those matters

specified in the Application to Employ  $\P$  5, September 28, 2018, ECF # 899;

- 3. Employment is authorized only under 11 U.S.C. § 327 and Collins & Collins, LLP entitlement to, and the amount of, compensation for services rendered and reimbursement for actual, necessary expenses incurred shall be determined by the court under 11 U.S.C. § 330;
- 4. Collins & Collins, LLP's employment is subject to the applicable terms and conditions of 11 U.S.C. § 329-331;
- 5. except as expressly provided otherwise in this order, (A) the terms and conditions, of any agreement between Randy Sugarman and Collins & Collins, LLP, including terms pertaining to Collins & Collins, LLP compensation, are disapproved; and (B) all other relief requested in the application for employment is denied; and
- 6. this order applies to services rendered and costs incurred on or after September 21, 2018.

## 7. $\frac{18-11651}{MB-5}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY IAN B. WIELAND AS SPECIAL COUNSEL  $10-2-2018 \quad [903]$ 

RANDY SUGARMAN/MV MICHAEL COLLINS JOHN MACCONAGHY/ATTY. FOR MV.

## Final Ruling

Application: Employment of Special Counsel for Chapter 11 trustee

Randy Sugarman

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

Disposition: Approved
Order: Civil minute order

Unopposed applications 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).

## DISCUSSION

The Chapter 11 trustee may employ counsel to advise and assist him in the discharge of their statutory duties. 11 U.S.C. § 327(a),(e). Employment may be authorized if the applicant neither holds nor represents an interest adverse to the estate and is disinterested. Id. §§ 101(14), 327(a). Employment must be in the best interests of the debtor and the estate. 11 U.S.C. § 327(e). The applicant satisfies the requirements of § 327(a), and the court will approve the application.

#### 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.

Sagaser, Watkins & Wieland, PC's application 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 to the extent provided herein;
- 2. Randy Sugarman is authorized under 11 U.S.C. § 327 to employ Sagaser, Watkins & Wieland, PC as his special counsel for those matters specified in the Application to Employ ¶ 5, October 2, 2018, ECF # 903;
- 3. Employment is authorized only under 11 U.S.C. § 327 and Sagaser, Watkins & Wieland, PC entitlement to, and the amount of, compensation for services rendered and reimbursement for actual, necessary expenses incurred shall be determined by the court under 11 U.S.C. § 330;
- 4. Sagaser, Watkins & Wieland, PC's employment is subject to the applicable terms and conditions of 11 U.S.C. § 329-331;
- 5. except as expressly provided otherwise in this order, (A) the terms and conditions, of any agreement between Randy Sugarman and Sagaser, Watkins & Wieland, PC, including terms pertaining to Sagaser, Watkins & Wieland, PC compensation, are disapproved; and (B) all other relief requested in the application for employment is denied; and
- 6. this order applies to services rendered and costs incurred on or after September 21, 2018.

## 8. $\frac{18-11651}{WW-17}$ -A-11 IN RE: GREGORY TE VELDE

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES 7-25-2018 [588]

GREGORY TE VELDE/MV MICHAEL COLLINS RILEY WALTER/ATTY. FOR MV.

#### Final Ruling

The motion is continued to November 29, 2018. Not later than November 5, 2018, the trustee shall serve notice of the continued hearing on Pascoe Farming and all parties in interest. Pasco Farming my augment the record not later than November 15, 2018. The trustee shall, and the U.S. Trustee or any other party in interest

may, file a statement of position (or if the matter is not ready for resolution a status report) not later than November 22, 2018.

9.  $\frac{18-11651}{WW-21}$ -A-11 IN RE: GREGORY TE VELDE

CONTINUED MOTION FOR COMPENSATION BY THE LAW OFFICE OF SCHWABE WILLIAMSON AND WYATT FOR ELIZABETH E. HOWARD, SPECIAL COUNSEL(S) 7-25-2018 [598]

MICHAEL COLLINS

## No Ruling

10.  $\frac{18-11651}{WW-26}$ -A-11 IN RE: GREGORY TE VELDE

CONTINUED MOTION FOR AN ORDER EXPANDING THE SCOPE OF THE RETENTION AND EMPLOYMENT OF GENSKE, MULDER AND COMPANY, LLP TO INCLUDE CENTAIN SERVICES AS FINANCIAL ADVISORS RETROACTIVE TO JULY 13, 2018 7-25-2018 [606]

GREGORY TE VELDE/MV MICHAEL COLLINS RILEY WALTER/ATTY. FOR MV.

## No Ruling

11.  $\frac{18-11651}{WW-27}$ -A-11 IN RE: GREGORY TE VELDE

CONTINUED MOTION TO EXTEND TIME 8-23-2018 [742]

GREGORY TE VELDE/MV MICHAEL COLLINS RILEY WALTER/ATTY. FOR MV.

### No Ruling

## 12. $\frac{18-11651}{WW-1}$ -A-11 IN RE: GREGORY TE VELDE

CONTINUED MOTION TO USE CASH COLLATERAL , AND/OR MOTION TO BORROW

 $5-2-2018 \quad [\underline{64}]$ 

GREGORY TE VELDE/MV MICHAEL COLLINS RILEY WALTER/ATTY. FOR MV.

## No Ruling

## 13. $\frac{18-11651}{\text{MB}-6}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY FRAZIER, LLP AS ACCOUNTANT(S) 10-17-2018 [968]

RANDY SUGARMAN/MV MICHAEL COLLINS JOHN MACCONAGHY/ATTY. FOR MV.

### Tentative Ruling

Application: Employment of Accountant for Chapter 11 trustee Randy

Sugarman

**Notice:** LBR 9014-1(f)(2); no written opposition required

Disposition: Approved
Order: Civil minute order

Unopposed applications 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).

## DISCUSSION

The Chapter 11 trustee may employ accountants to advise and assist him in the discharge of their statutory duties. 11 U.S.C. § 327(a). Employment may be authorized if the applicant neither holds nor represents an interest adverse to the estate and is disinterested. Id. §§ 101(14), 327(a). The applicant satisfies the requirements of § 327(a), and the court will approve the application.

## 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.

Frazer, LLP's application 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 to the extent provided herein;
- 2. Randy Sugarman is authorized under 11 U.S.C. § 327 to employ Frazer, LLP as his accountants for those matters specified in the Application to Employ  $\P$  3, October 17, 2018, ECF # 968;
- 3. Employment is authorized only under 11 U.S.C. § 327 and Frazer, LLP entitlement to, and the amount of, compensation for services rendered and reimbursement for actual, necessary expenses incurred shall be determined by the court under 11 U.S.C. § 330;
- 4. Frazer, LLP's employment is subject to the applicable terms and conditions of 11 U.S.C. § 329-331;
- 5. except as expressly provided otherwise in this order, (A) the terms and conditions, of any agreement between Randy Sugarman and Frazer, LLP, including terms pertaining to Frazer, LLP compensation, are disapproved; and (B) all other relief requested in the application for employment is denied; and
- 6. this order applies to services rendered and costs incurred on or after September 21, 2018.

## 14. $\frac{18-11651}{\text{MB}-8}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY TAMSEN L. LEACHMAN AS SPECIAL COUNSEL  $10-17-2018 \quad [979]$ 

RANDY SUGARMAN/MV MICHAEL COLLINS JOHN MACCONAGHY/ATTY. FOR MV.

Application: Employment of Special Counsel for Chapter 11 trustee

Randy Sugarman

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved
Order: Civil minute order

Unopposed applications 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).

#### **DISCUSSION**

The Chapter 11 trustee may employ special counsel to advise and assist him in the discharge of their statutory duties. 11 U.S.C. § 327(a). Employment may be authorized if the applicant neither holds nor represents an interest adverse to the estate and is disinterested. Id. §§ 101(14), 327(a). The applicant satisfies the requirements of § 327(a), and the court will approve the application.

#### 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.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.'s application 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,

- 1. the application is approved to the extent provided herein;
- 2. Randy Sugarman is authorized under 11 U.S.C. § 327 to employ Ogletree, Deakins, Nash, Smoak & Stewart, P.C.as his special counsel for those matters specified in the Application to Employ  $\P$  2, October 17, 2018, ECF # 979;
- 3. Employment is authorized only under 11 U.S.C. § 327 and Ogletree, Deakins, Nash, Smoak & Stewart, P.C. entitlement to, and the amount of, compensation for services rendered and reimbursement for actual, necessary expenses incurred shall be determined by the court under 11 U.S.C. § 330;
- 4. Ogletree, Deakins, Nash, Smoak & Stewart, P.C.'s employment is subject to the applicable terms and conditions of 11 U.S.C. § 329-331;
- 5. except as expressly provided otherwise in this order, (A) the terms and conditions, of any agreement between Randy Sugarman and Ogletree, Deakins, Nash, Smoak & Stewart, P.C., including terms pertaining to Ogletree, Deakins, Nash, Smoak & Stewart, P.C.'s compensation, are disapproved; and (B) all other relief requested in Ogletree, Deakins, Nash, Smoak & Stewart, P.C. the application for employment is denied; and
- 6. this order applies to services rendered and costs incurred on or after September 21, 2018.

# 15. $\frac{18-11651}{MB-7}$ -A-11 IN RE: GREGORY TE VELDE

MOTION TO EMPLOY TOPPENISH LIVESTOCK COMMISSION AS AUCTIONEER(S)  $10-17-2018 \quad \hbox{[ 972 ]}$ 

RANDY SUGARMAN/MV
MICHAEL COLLINS
JOHN MACCONAGHY/ATTY. FOR MV.

## No Ruling