

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

PRE-HEARING DISPOSITIONS

DAY: MONDAY
DATE: NOVEMBER 4, 2019
CALENDAR: 1:45 P.M. CHAPTER 7 CASE

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. [18-14920](#)-A-7 **IN RE: SOUTH LAKES DAIRY FARM, A CALIFORNIA
GENERAL PARTNERSHIP
[BMJ-10](#)**

MOTION TO EMPLOY RITCHIE BROS. AS AUCTIONEER, AUTHORIZING
SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT
OF AUCTIONEER FEES AND EXPENSES O.S.T.
9-24-2019 [[207](#)]

JACOB EATON

Tentative Ruling

Motion: Sell Property and Employ and Compensate Auctioneer
Notice: LBR 9014-1(f)(3) and order shortening time; no written
opposition required
Disposition: Granted
Order: Prepared by moving party

Property: Farm Equipment
Sale Type: Public auction

Unopposed motions 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).

SECTION 363(b) 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.

SECTION 328(a) EMPLOYMENT AND COMPENSATION

The Chapter 7 trustee may employ an auctioneer that does not hold or
represent an interest adverse to the estate and that is
disinterested. 11 U.S.C. §§ 101(14), 327(a). The auctioneer
satisfies the requirements of § 327(a), and the court will approve
the auctioneer's employment.

Federal Rule of Bankruptcy Procedure 6005, moreover, requires the
court to "fix the amount or rate of compensation" whenever the court
authorizes the employment of an auctioneer. Section 328(a)
authorizes employment of a professional on any reasonable terms and
conditions of employment. Such reasonable terms include a fixed or
percentage fee basis. The court finds that the compensation sought
is reasonable and will approve the application.