

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Chief Bankruptcy Judge

Modesto, California

December 14, 2017, at 2:00 p.m.

1. [16-90513-E-7](#) TIRZAH HAMILTON

[16-9012](#)

EDMONDS V. HAYES ET AL

**CONTINUED PRE-TRIAL
CONFERENCE RE: COMPLAINT TO
AVOID FRAUDULENT TRANSFERS AND
FOR RETURN OF PROPERTY OR ITS
VALUE; ACCOUNTING
8-24-16 [1](#)**

Final Ruling: No appearance at the December 14, 2017 hearing is required.

Plaintiff's Atty: Steven S. Altman

Defendant's Atty: Brian Hayes

Adv. Filed: 8/24/16

Answer: 9/22/16

Nature of Action: Recovery of Money/Property

The Pre-Trial Conference is concluded, and the court shall conduct a Settlement Status Conference at 2:00 p.m. on December 20, 2018.

Notes:

Continued from 2/9/17

Motion to Employ Jensen & Associates, Inc. As Appraisers filed 3/30/17 Dckt. 20

Order Granting Motion filed 3/30/17 Dckt. 34

Motion to Compel filed 4/6/17 SSA-1, Dckt. 35

Motion to Compel filed 4/6/17 SSA-2, Dckt. 41

Motion to Compel filed 4/6/17 SSA-3, Dckt. 47

Motion for Exclusion of Evidence by Debtor filed 4/6/17 SSA-3, Dckt. 47

Civil Minute Order Denying Without Prejudice Motion to Compel SSA-1 Dckt. 60

Civil Minute Order Denying Without Prejudice Motion to Compel SSA-2 Dckt. 61

Civil Minute Order Granting in Part Motion to Compel SSA-3 Dckt. 54

December 14, 2017, at 2:00 p.m.

- Page 1 of 17 -

Motion for Modification and Enlargement of Scheduling Order (Dckt. 25) filed 5/12/17 SSA-4 Dckt. 64
Order Granting Motion filed 5/12/17 SSA-4 Dckt. 68

Modified Scheduling Order filed 5/12/17 Dckt. 68

Motion to Compromise Controversy/Approve Settlement Agreement with Tirzah Hamilton, Brian Hayes
and Delores Dianne Hamilton filed 7/5/17 SSA-5 Dckt. 70

Order Granting Motion to Compromise Controversy/Approve Settlement Agreement with Tiraz Hamilton,
Brian Hayes and Delores Dianne Hamilton filed 8/16/17 SSA-5 Dckt. 78

DECEMBER 14, 2017 PRE-TRIAL CONFERENCE

The court entered its order on August 16, 2017, approving the agreement to settle this case. The Agreement provides that upon payment of the settlement sum (which will be over thirty-six months), the Plaintiff-Trustee will dismiss this Adversary Proceeding.

The December 13, 2017 Status Conference Statement reports that the settlement is being performed and requests that the Status Conference be continued.

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 court having approved a settlement in this Adversary Proceeding, the settlement requiring payments over thirty-six months, that period not yet expiring, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Pre-Trial Conference is concluded, and a Settlement Status Conference will be conducted at 2:00 p.m. on December 20, 2018.

IT IS FURTHER ORDERED that on or before December 6, 2018, Plaintiff-Trustee shall file with the court and serve a Settlement Conference Status Report advising whether the settlement is being performed, any anticipated proceedings, and a suggested date for a continued Settlement Status Conference.

2. [12-92723](#)-E-7 JOHN/KRISTINE ROBINSON CONTINUED STATUS CONFERENCE
[13-9004](#) RE: COMPLAINT
GRANT BISHOP MOTORS, INC. V. 1-17-13 [[1](#)]
ROBINSON, IV ET AL

Final Ruling: No appearance at the December 14, 2017 hearing is required.

Plaintiff's Atty: Steven S. Altman
Defendant's Atty: William Woolman, Ian Wieland

Adv. Filed:
1/17/13
Answer:
2/15/13

Nature of Action:
Objection /Revocation of Discharge, Dischargeability

Notes:
Continued from 12/15/16

Joint Status Conference filed 11/22/17 Dckt. 128

DECEMBER 14, 2017 STATUS CONFERENCE

The parties are performing a confidential settlement pending dismissal of this Adversary Proceeding. In the Status Conference Statement filed by the parties on November 22, 2017 (Dckt. 128), they report that the settlement is being performed.

The court continues the Status Conference.

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 Status Conference having been conducted by the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that a Settlement Status Conference will be conducted at 2:00 p.m. on December 20, 2018.

3. [13-90643](#)-E-12 GARY/CHRISTINE TAYLOR STATUS CONFERENCE RE:
VOLUNTARY PETITION
4-4-13 [[1](#)]

IT IS ORDERED that a continued Chapter 12 Plan Status Conference will be conducted at 2:00 p.m. on December 20, 2018.

IT IS FURTHER ORDERED that on or before December 6, 2018, the Chapter 12 Plan Administrator/Debtor and the Chapter 12 Trustee file with the court Status Conference Report advising the court of the performance of the Plan, whether a status conference is required and a suggested date for a continued Status Conference.

4. [13-92058-E-7](#) **SHERI HIEMSTRA** **STATUS CONFERENCE RE:**
[17-9016](#) **COMPLAINT**
NELSON V. HIEMSTRA **10-9-17 [1]**

Final Ruling: No appearance at the December 14, 2017 hearing is required.

Plaintiff's Atty: David C. Johnston
Defendant's Atty:

Adv. Filed:
10/9/17
Answer:
Nature of Action:
Validity, Priority or Extent of Lien, Injunctive Relief, Declaratory Judgment

The Status Conference is continued to 10:30 a.m. on January 11, 2017, (specially set time) to be conducted in conjunction with Defendant's Motion for: (1) Determination of Core Proceeding Status; (2) Dismissal for Lack of Subject Matter Jurisdiction; and (3) Discretionary Abstention.

Notes:

DECEMBER 14, 2017 STATUS CONFERENCE

The court continues the Status Conference because there is a pending motion that must be determined before the court proceeds with setting dates and deadlines in this case.

Summary of Complaint

The basic allegations of the complaint begin with Defendant having commenced her Chapter 7 bankruptcy case on November 19, 2013, and having obtained a discharge on February 24, 2014. On

Schedule A, it is alleged Debtor listed a residence property in Sonora, California. It is alleged that Plaintiff deeded the Property in 2005 in exchange for a promissory note and first deed of trust from Defendant. In 2009, Defendant gave Plaintiff a second promissory note that was secured by a second deed of trust.

In 2015, the loan was restructured, and new documents were prepared, with a new note and deed of trust issued.

In the first cause of action, Plaintiff seeks to rescind the reconveyances of the original deeds of trust, asserting that such rescissions were obtained by fraud. In the Second Cause of Action, Plaintiff seeks “Declaratory Relief” in the form of a determination that the post-discharge note and deed of trust are void and unenforceable because they relate to a discharged debt that was not reaffirmed.

5. [12-92479-E-12](#) **DAVID/ESPERANZA AGUILAR** **STATUS CONFERENCE RE :**
VOLUNTARY PETITION
9-17-12 [1]

Final Ruling: No appearance at the December 14, 2017 hearing is required.

Debtor’s Atty: Nelson Gomez

<p>The Status Conference is continued to 2:00 p.m. on February 15, 2018, to afford Debtor the opportunity to timely prosecute a motion for entry of discharge in this case.</p>
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Notes:

Continued from 12/01/16.

Order Rescheduling Status Conference filed 01/29/17 [Dckt 89], set for 12/14/17 at 2:00 p.m.

Trustee Report at Meeting of Creditors filed 05/05/17; Meeting held on 10/18/12, and Debtor and counsel appeared; Meeting concluded.

Trustee’s Final Report and Account filed 11/15/17 [Dckt 92].

Scheduling Order filed 11/16/17 [Dckt 93].

DECEMBER 14, 2017 CHAPTER 12 POST-CONFIRMATION STATUS CONFERENCE

The Chapter 12 Trustee’s Final Report, filed on November 15, 2017, states that the confirmed Plan was completed on September 27, 2017. Dckt. 92. The Chapter 12 Trustee requests that the court issue a final decree and discharge the Chapter 12 Trustee.

On November 16, 2017, the court issued a post-plan-completion Scheduling Order. Dckt. 93. It directs Debtor to file a motion for entry of a Chapter 12 discharge within thirty days of the entry of the order. That thirty-day period will not have expired as of the December 14, 2017 Status Conference.

The court continues the Status Conference to allow Debtor the full opportunity to prosecute the case and file the motion for entry of discharge before the case is closed.

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 Post-Confirmation Status Conference having been presented to the court, the Chapter 12 Trustee having filed his Final Report, the court having issued a Scheduling Order for Debtor to timely prosecute a motion for entry of discharge in this case, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Status Conference is continued to 2:00 p.m. on February 15, 2018, to afford Debtor the opportunity to timely prosecution a motion for entry of discharge in this case.

No Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession, Debtor in Possession's Attorney, creditors, parties requesting special notice, and Office of the United States Trustee on September 28, 2017. By the court's calculation, 63 days' notice was provided. 42 days' notice is required. FED. R. BANKR. P. 2002(b) (requiring twenty-eight days' notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition).

The Motion to Approve Disclosure Statement 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). The defaults of the non-responding parties and other parties in interest are entered.

The Motion to Approve Disclosure Statement is XXXXX.

REVIEW OF THE DISCLOSURE STATEMENT

Case filed: August 11, 2016

Background: Ronald Sundburg and Susan Sundburg ("Debtor in Possession") acquired loans to support a veterinary practice. Additionally, they incurred tax debts, trade debts, and credit card debts. They were not able to pay all of their obligations and filed this case.

Administrative Expenses

Type	Estimated Amount Owed	Treatment Under the Plan
Expenses arising in the ordinary course of business after petition	Estimated current at confirmation	Paid in full on the effective date of the Plan, or according to terms of obligation if later

Accountant's professional fees, as approved by the court	Estimated to be \$3,841.00	Paid in full on the effective date of the plan, and subject to court approval. Creditors may object to motion to approve interim or final fees.
Debtor in Possession's attorneys' fees, as approved by the court	Estimated to be \$60,000.00	Debtor in Possession's attorneys consent to payment after the effective date of the Plan, subject to court approval. Creditors may object to motion to approve interim or final fees.
Other administrative expenses	Estimated current at confirmation	Paid in full on the effective date of the Plan
Clerk's office fees	Estimated current at confirmation	Paid in full on the effective date of the Plan
Office of the U.S. Trustee fees	Estimated current at confirmation	Paid in full on the effective date of the Plan
Total	\$63,841.00	
Payment of administrative expenses on the effective date of the Plan	\$3,841.00	

Priority Tax Claims

Description of Tax Claim	Priority Under 11 U.S.C. § 507	Impairment	Treatment
Internal revenue Service (income taxes for 2011–15; forms 940 and 941 for 2014 and 2015)	Eighth	Impaired	Estimated to be \$141,951.77. Debtor in Possession will pay the balance with pre-petition penalties and accrued interest, and post-petition interest of 4.00%. Debtor in Possession proposes to pay \$1,437.19 per month, due on the fifth day of each month after the effective date of the Plan over ten years.
Franchise Tax Board (income taxes for 2013–15)	Eighth	Unimpaired	Estimated to be \$6,633.15 as a priority unsecured claim, and \$664.32 as a general unsecured claim. Amended Proof of Claim 4. Debtor in Possession will pay the entire balance of the priority claim, as reflected by the proof of claim on the effective date of the Plan. The Franchise Tax Board will be entitled to vote for the value of its Class 9 unsecured claim of \$664.32.
Employment Development Department (2016)	Eighth	Unimpaired	Estimated to be \$2,443.67 as a priority unsecured claim and \$366.09 as a general unsecured claim. Proof of Claim 11. Debtor in Possession will pay the entire balance of the priority claim, as reflected by the proof of claim, on the effective date of the Plan. The Employment Development Department will be entitled to vote for the value of its Class 9 unsecured claim of \$366.09.

Plan Classes

Creditor/Class	Treatment	
Class 1: Arthur D. and Catherine M. Jennison (secured claim)	Claim Amount	Not Stated
	Impairment	Unimpaired
	<p>Claim 15 filed by Jennisons secured by a first deed of trust against real property at Yosemite Blvd.</p> <p>Debtor is current on payments to Class 1, which will be maintained by the current contractual installment payments of \$874.02 per month. This claim will be paid pursuant to the terms of the documents upon which the claims are based and applicable non-bankruptcy law.</p>	
Class 2: Arthur D. and Catherine M. Jennison (secured claim)	Claim Amount	Not Stated
	Impairment	Not Stated
	<p>Claim 16 filed by Jennisons secured by a first deed of trust against real property at S. Abbie.</p> <p>Debtor is current on payments to Class 2, which will be maintained by the current contractual installment payments of \$314.65 per month. This claim will be paid pursuant to the terms of the documents upon which the claims are based and applicable non-bankruptcy law.</p>	
Class 3: Lendmark Financial Services (secured claim)	Claim Amount	Not Stated
	Impairment	Not Stated
	<p>The claim of Lendmark Financial Services secured by a lien against a 2007 Chevrolet Silverado.</p> <p>Debtor is current on payments to Class 3, which will be maintained by the current contractual installment payments of \$225.00 per month. This claim will be paid pursuant to the terms of the documents upon which the claims are based and applicable non-bankruptcy law.</p>	

Class 4: Wells Fargo Dealer Services (secured claim)	Claim Amount	Not Stated
	Impairment	Not Stated
	<p>The claim of Wells Fargo Dealer Services secured by a lien against a 2015 Dodge Ram.</p> <p>Debtor is current on payments to Class 4, which will be maintained by the current contractual installment payments of \$654.67 per month. This claim will be paid pursuant to the terms of the documents upon which the claims are based and applicable non-bankruptcy law.</p>	
Class 5: Wells Fargo Home Mtg (secured claim)	Claim Amount	Not Stated
	Impairment	Not Stated
	<p>The claim of Wells Fargo Home Mtg secured by a first deed of trust against real property at 7634 Adams Road.</p> <p>Debtor is current on payments to Class 5, which will be maintained by the current contractual installment payments of \$2,500.13 per month. This claim will be paid pursuant to the terms of the documents upon which the claims are based and applicable non-bankruptcy law.</p>	
Class 6: Stanislaus County Tax Collector	Claim Amount	\$4,114.25
	Impairment	Unimpaired
	<p>The claim of Stanislaus County Tax Collector. The claim is represented by Claim No. 21 filed on June 22, 2017. The claim was filed in the amount of \$4,114.25 and is secured by a lien against real property commonly known as 5132 Yosemite Blvd., Empire, California.</p> <p>Debtor will pay the entire balance of this claim on the effective date of the Plan.</p>	
Class 7: Secured Claim (Bank of America, N.A.)	Claim Amount	\$392,970.43
	Impairment	Impaired

	<p>The claim of Bank of America, N.A. This claim was scheduled as claim 2.3 in Debtor's petition and is represented by Claim No. 18 filed on December 8, 2016. The claim was filed in the amount of \$392,970.43 and is secured by deeds of trust against real property at Yosemite Blvd. and S Abbie, as well as business collateral.</p> <p>Debtor will pay the balance with pre-petition penalties and accrued interest, and post-petition interest of 7.00%. Debtor proposes to pay \$1,570.72 per month, due on the fifth of each month, over ten years. Plan payments will start in the first month following the effective date of the Plan.</p> <p>Class 7's claim is bifurcated into an allowed secured claim with a value of \$135,280.33 and is entitled to vote on confirmation of the Plan. The remainder of Bank of America's claim will be treated as a Class 9 general unsecured claim. Bank of America, N.A., is also entitled to vote on confirmation of the Plan as a Class 9 general unsecured claimholder.</p>	
Class 8: Secured Claim (Wells Fargo Bank NV, N.A.)	Claim Amount	\$42,789.90
	Impairment	Impaired
	<p>The claim of Wells Fargo Bank NV, N.A. This claim was scheduled as claim 2.5 in Debtor's petition and is represented by Claim No. 10 filed on October 3, 2016. The claim was originally filed in the amount of \$42,789.90 and is secured by a second deed of trust against real property commonly known as 7634 Adams Road, Valley Springs, California.</p> <p>Debtor will pay the balance of the Class 8 claim with pre-petition penalties and accrued interest, and post-petition interest of 5.00%, the original contract rate. Debtor proposes to pay \$453.85 per month, due on the fifth day of each month, over ten years. Plan payments will start in the first month following the effective date of the Plan.</p>	
Class 9: General Unsecured Claims	Claim Amount	Not Stated
	Impairment	Impaired
	<p>Proofs of Claim 1, 2, 6–9, 12–14, 17 parts 1–4, 19, and 20. All general unsecured claims are scheduled as claims 4.1–4.33 in Debtor's petition.</p> <p>Holders of general unsecured claims will not receive a distribution under the Plan.</p>	

A. C. WILLIAMS FACTORS PRESENT

Y Incidents that led to filing Chapter 11

N Description of available assets and their value

N Anticipated future of Debtor

N Source of information for D/S

Y Disclaimer

Y Present condition of Debtor in Chapter 11

Y Listing of the scheduled claims

Y Liquidation analysis

N Identity of the accountant and process used

N Future management of Debtor

Y The Plan is attached

In re A. C. Williams Co., 25 B.R. 173 (Bankr. N.D. Ohio 1982); *see also In re Metrocraft Pub. Servs., Inc.*, 39 B.R. 567 (Bankr. N.D. Ga. 1984).

OBJECTIONS

The United States Trustee filed an Objection on November 9, 2017. Dckt. 138. The U.S. Trustee argues that the disclosure statement does not provide adequate information because it does not provide detailed income and expense projections, which are relevant to determining the Plan's feasibility. *Id.* at 5. The U.S. Trustee notes that there is no analysis of whether the secured claims being paid outside of the Plan will complete before the Plan, thus reducing expenses.

Second, the U.S. Trustee notes that periodic reports for Empire Veterinary, Inc. have not been filed. Without that information, the U.S. Trustee argues that calculating income is difficult.

Finally, the U.S. Trustee points out that the Plan and disclosure statement do not address the filing of post-confirmation quarterly reports that are necessary to calculate quarterly fees and determine ongoing plan compliance.

NOVEMBER 30, 2017 HEARING

At the hearing, Debtor in Possession stated that it would address the objection by amending the Plan and Disclosure Statement. Dckt. 153. The court continued the hearing to 2:00 p.m. on December 14, 2017, to allow Debtor in Possession time to file an Amended Plan and Amended Disclosure Statement.

FILING OF AMENDED PLAN AND DISCLOSURE STATEMENT

Debtor in Possession filed an Amended Plan and Amended Disclosure Statement on December 8, 2017. Dckts. 156–59. Classes 1 through 5 are now paid through the Plan with specific monthly payment amounts listed (see redline in table above). Class 7 has also been amended to increase the interest rate and monthly payment.

Debtor in Possession adds in the Disclosure Statement that “disposable income is calculated after considering the ongoing payments to secured creditors in Classes 1–5. The Plan payments income, and expenses are projected in Exhibit iv, attached to [the] Disclosure Statement.” Dckt. 158 at 10.

Discussing the Plan’s feasibility, the Disclosure Statement provides that funding will be taken from “disposable income reflected by averaging the income on the most recently filed Monthly Operating Reports.” *Id.* at 25. Those payments are argued to cover “all household expenses included in Debtor in Possession’s monthly operating reports (which are now classified as Class 1 through 5 secured creditors) as well as payments to all other creditors.” *Id.*

The Disclosure Statement now includes a subsection entitled, “Post-Confirmation Duties of Reorganized Debtors” that calls for “Ronald C. Sundburg and Susan C. Sundburg, as reorganized debtors (“Reorganized Debtors”), [to] comply with all post-confirmation requirements, including filing post-confirmation quarterly reports with the United States Trustee.” *Id.* at 26.

APPLICABLE LAW

Before a disclosure statement may be approved after notice and a hearing, the court must find that the proposed disclosure statement contains “adequate information” to solicit acceptance or rejection of a proposed plan of reorganization. 11 U.S.C. § 1125(b).

“Adequate information” means information of a kind, and in sufficient detail, so far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, that would enable a hypothetical reasonable investor typical of the holders of claims against the estate to make a decision on the proposed plan of reorganization. 11 U.S.C. § 1125(a).

Courts have developed lists of relevant factors for the determination of adequate disclosure. *E.g., In re A. C. Williams, supra.*

There is no set list of required elements to provide adequate information per se. A case may arise where previously enumerated factors are not sufficient to provide adequate information. Conversely, a case may arise where previously enumerated factors are not required to provide adequate information. *In re*

Metrocraft Pub. Servs., Inc., 39 B.R. 567 (Bank. N.D. Ga. 1984). “Adequate information” is a flexible concept that permits the degree of disclosure to be tailored to the particular situation, but there is an irreducible minimum, particularly as to how the plan will be implemented. *Official Comm. of Unsecured Creditors v. Michelson*, 141 B.R. 715, 718–19 (Bankr. E.D. Cal. 1992).

The court should determine what factors are relevant and required in light of the facts and circumstances surrounding each particular case. *In re East Redley Corp.*, 16 B.R. 429 (Bankr. E.D. Pa. 1982).

The court begins its analysis with the statutory requirements of 11 U.S.C. § 1125 for a disclosure statement. Solicitation of an acceptance or rejection of a plan may be made with a written disclosure statement which was approved by the court. The disclosure statement must provide “adequate information.” The term “adequate information” is defined in 11 U.S.C. § 1125(a)(1) to be,

(1) “adequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;...

Determination of whether there is “adequate information” is a subjective determination made by the bankruptcy court on a case by case basis. *In re Texas Extrusion Corp.*, 844 F.2d 1142 (5th Cir. 1988), *cert. denied* 488 U.S. 926 (1988). Non-bankruptcy rules and regulations concerning disclosures do not govern the determination of whether a disclosure statement provides adequate information. 11 U.S.C. § 1125(d); *Yell Forestry Products, Inc. v. First State Bank*, 853 F.2d 582 (8th Cir. 1988).

DISCUSSION

Debtor in Possession has filed the amended plan and corresponding disclosure statement to address the objections raised by the U.S. Trustee. At the hearing **XXXXXXXXXXXXXXXXXX**.

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 Approval of the Disclosure Statement filed by Ronald Sundburg and Susan Sundburg (“Debtor in Possession”) 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 is **xxxx**.