

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

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

PRE-HEARING DISPOSITIONS

DAY: TUESDAY
DATE: DECEMBER 20, 2016
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

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.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S 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 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 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. [11-62509](#)-A-7 SHAVER LAKEWOODS
DEVELOPMENT INC.

CONTINUED TRUSTEE'S FINAL
REPORT
3-25-16 [[330](#)]

HENRY NUNEZ/Atty. for dbt.
LISA HOLDER/Atty. for mv.
RESPONSIVE PLEADING

Tentative Ruling

Objection: Trustee's Final Report

Notice: Order Fixing Deadline, March 25, 2016, ECF # 332; written
opposition required

Disposition: Overruled

Order: Civil minute order

Creditor Henry Nunez ("Nunez") has filed a timely opposition to Chapter 7 trustee Randell Parker's Trustee's Final Report, March 25, 2016, ECF #332. Though couched in terms of the completeness of administration and ripeness, Nunez's argument emanate from the fact that two appeals remain pending before the Bankruptcy Appellate Panel and, depending on the result of those, appeals could change the trustee's distribution scheme.

DISCUSSION

The argument, as it goes, is that Parker has unfinished business in the form of unresolved appeals pending before the Bankruptcy Appellate Panel and, therefore, the court should require Parker to wait to distribute estate funds. Those adversary proceedings are *Parker v. Gaines*, No. 14-1076 (Bankr. E.D. Cal. 2014), and *Parker v. Nunez*, No. 14-1005 (Bankr. E.D. Cal. 2014), are tied by a common thread. Each involves a creditor claim to be secured by estate assets. This court ruled against each creditor, e.g. *Gaines* and *Nunez*. Each creditor appealed.

Nunez's objection will be overruled for two reasons. First, pending appeals do not impeditment to this court approving the trustee's final report. No stay under Federal Rule of Bankruptcy Procedure 8007(a) was imposed. And more importantly, the doctrine of exclusive appellate jurisdiction does not preclude this court from making further orders in the case that are consistent with the trial court's ruling now on appeal. And the mere existence of a pending appeal does not preclude this court from enforcing its earlier judgment. *Wedbush, Noble, Cooke, Inc. v. SEC*, 714 F.2d 923, 924 (9th Cir. 1983); *Hill & Sanford, LLP v. Mirzai (In re Mirzai)*, 236 8, 10 (9th Cir. BAP 1999).

Second, even if such an argument was supported by law, the Bankruptcy Appellate Panel has resolved both appeals, affirming this court in each case. See *Gaines v. Parker (In re Shaver Lakewoods Development, Inc.)*, 2016 WL 3742812 (9th Cir. BAP 2016); *Parker v. Nunez*, 2016 WL 7188660 (9th Cir. BAP 2016). Even if the pending appeals were a basis to sustain Nunez' objection, they no longer are.

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.

Henry D. Nunez's objection has been presented to the court. Having considered the well-pleaded facts of the objection,

IT IS ORDERED that the objection is overruled.

IT IS FURTHER ORDERED that the Trustee's Final Report, March 25, 2016, ECF # 330, is approved.

2.	<u>11-62509</u> -A-7 KDG-9	SHAVER LAKEWOODS DEVELOPMENT INC.	CONTINUED MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN, DENATALE, GOLDNER, COOPER, ROSENLIB AND KIMBALL FOR LISA HOLDER, TRUSTEES ATTORNEY(S) 11-1-16 [<u>368</u>]
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HENRY NUNEZ/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Application: Allowance of Second and Final Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

Klein, DeNatale, Goldner, Cooper, Rosenlieb & Kimball, LLP ("Klein DeNatale"), counsel for Chapter 7 trustee Randell Parker files it Second and Final Application for compensation and expenses. [Concededly, the label "Second and Final Application for Compensation is a misnomer because Klein DeNatale's First Fee Application was denied without prejudice. Civil Minute Order, March 22, 2016, ECF # 327.] Among other things, it prays fees for five years of legal work, encompassing (1) the recovery and sale of five lots generating \$344,208.40 for the estate; (2) prosecution of four adversary proceedings (including trial in two of the cases); and (3) two appeals to the Bankruptcy Appellate Panel. Klein DeNatale prays fees of \$239,192.00 and expenses of \$4,581.46. Because the estate is only holding \$196,198.00 and because Klein DeNatale has agreed to subordinate its fees and costs to the fees and costs of the Chapter 7 trustee and the trustee's accountant, only \$175,000 remains available to pay Klein DeNatale's fee and costs award, and the case is administratively insolvent.

The application is opposed by Sierra Pines at Shaver Lake Homeowners Association ("Sierra Pines"), who holds a \$2.1 million unsecured claim, and Henry D. Nunez ("Nunez"), who holds a claim for \$88,500. As filed, Nunez's claim was secured by the debtor's real property; that claim was later adjudicated to be unsecured.

APPLICABLE LAW

After notice and a hearing the bankruptcy court may award "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). A request for court approval of fees and costs is sought by application. Fed. R. Bankr. P. 2016(a). The applicant bears the burden of proof as to both entitlement to compensation and as to the reasonableness of the fee. *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983); *In re Roderick Timber Co.*, 185 B.R. 601, 606 (B.A.P. 9th Cir.1995).

In calculating the reasonableness of the fee, the court should consider "the nature, the extent, and the value of such services" and should consider "all relevant factors." 11 U.S.C. § 330(a)(3). A court should disallow compensation for "unnecessary duplication of services" or services "not reasonably likely to benefit the debtor's estate" or necessary to the administration of the case."

A court has broad discretion in fixing a reasonable fee. Like most federal courts, bankruptcy courts ordinarily employ the lodestar method, which calls for the court to multiply "the number of hours reasonably expended" by "a reasonable hourly" rate. *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc.*, 924 F.2d 955, 960 (9th Cir. 1991); *In re Manoa Finance Co., Inc.*, 853 F.2d 687, 691 (9th Cir. 1988). Use of the lodestar method is predicated upon: (1) the existence of well-documented time records, *Roberts, Sheridan & Kotel, P.C. v. Bergen Brunswig Drug Co. (In re Mednet)*, 251 B.R. 103, 108 (9th Cir BAP 2000); (2) exclusion of non-compensable time and time billed upgrade, e.g. billing secretarial time at paralegal rates, *Missouri v. Jenkins*, 491 U.S. 274, 288 n. 10 (1989); (3) omission of time spent on "duplicative, unproductive, excessive or unnecessary" work, *In re Sullivan*, 454 B.R. 1, 4, (D. Mass. 2011); accord 11 U.S.C. § 330(a)(4)(A); and (4) exercise of prudent billing judgment by the applicant, *Hensley v. Eckerhart*, 461 U.S. 424, 434, 437 (1983); *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc.*, 924 F.2d 955, 958-59 (9th Cir. 1991).

The court's discretion in fixing the fee is not limited to the lodestar method. *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc.*, 924 F.2d 955, 958-59 (9th Cir. 1991). And departure from the lodestar method is frequently appropriate where one or more of the predicates are missing.

DISCUSSION

Sierra Pines Objections

Sierra Pines argues that Ninth Circuit law, *In re Strand*, 375 F.3d 854 (9th Cir. 2004), stands for the proposition that legal expenses that exceed the recovery to the estate are "per se" not reasonable within the meaning of 11 U.S.C. § 330(a). *Strand* established no such bright line test for the reasonableness of fees. Rather, the Ninth Circuit held that the bankruptcy court did not abuse its discretion in deciding that trustee's counsel failed to exercise prudent billing judgment in pursuing an adversary proceeding to recover funds from the Internal Revenue Service and, on that basis, reducing his fees by one-half. As the Ninth Circuit stated it, "The bankruptcy court's findings of fact are reviewed for clear error, while its conclusions of law are reviewed de novo. We will not disturb a bankruptcy court's award of attorneys' fees unless the bankruptcy court abused its discretion or erroneously applied the law." *In re Strand*, 375 F.3d 854, 857 (9th Cir. 2004) (citations omitted) (internal quotation marks

omitted). Finding neither use of an incorrect legal standard, nor an abuse of discretion, the court affirmed the reduction of fees. But did not establish a per se rule that fees in excess of the recovery to the estate were per se unreasonable. As a result, Sierra Pines opposition will be overruled.

Nunez Objections

Nunez also opposes Klein DeNatale's fees, arguing: (1) administration of the case has not been completed, i.e. two pending appeals and the absence of the Trustee's Final Report; (2) lack of prudential ripeness, i.e. two pending appeals and the absence of the Trustee's Final Report; (3) payment of administrative expenses, Klein DeNatale's fees, may not be made from a secured party's collateral; (4) the fees are per se unreasonable because those fees exceed the recovery to the estate, *In re Strand*, 375 F.3d 854 (9th Cir. 2004); (5) failure to exercise prudent billing judgment, e.g. improper time entries or pursuit of litigation, the cost of which exceeds any potential recovery.

Administration Complete

Administration of this case is complete. Parker has filed his final report. Trustee's Final Report, March 25, 2016, ECF # 330. Moreover, both appeals have been resolved in favor of the trustee. See *Gaines v. Parker (In re Shaver Lakewoods Development, Inc.)*, 2016 WL 3742812 (9th Cir. BAP 2016); *Parker v. Nunez*, 2016 WL 7188660 (9th Cir. BAP 2016). As a consequence, finality of administration is no reason to deny Klein DeNatale's application.

Prudential Ripeness

This matter is ripe for decision. Each of Nunez's factual foundations, e.g. lack of a final report and disposition of the appeals pending before the bankruptcy appellate panel, have been resolved in the trustee's favor.

Payment of Administrative Expenses from a Secured Creditor's Collateral

Nunez correctly notes that administrative claims may not be paid from a secured creditor's collateral, at least without the secured creditor's consent. *Hartford Underwriters Ins. Co. v Union Planters Bank, N.A.*, 530 U.S. 1, 5 (2000); *United Sav. Assn v. Timbers of Inwood Forest Assoc., Ltd.*, 484 U.S. 365, 378-379 (1988).

But the arguments runs aground because both this court and the Bankruptcy Appellate Panel have determined since claim to unsecured. *Parker v. Nunez*, 2016 WL 7188660 (9th Cir. BAP 2016). As a consequence, the argument is not an impediment to approving payment from the estate.

Unreasonable Per Se

Nunez proffers the same unreasonable per se argument as Sierra Pines offered. And this court rejects that argument for the same reasons as it rejects Sierra Pines' iteration of it.

Prudent Billing Judgment

Nunez argues that Klein DeNatale failed to exercise prudent billing judgment by (1) pursuing recovery of five lots from Gordon Loo ("Loo") and Angela Rodriguez ("Rodriguez") and avoidance of liens by Loo, Rodriguez and another creditor Verlyn Gaines ("Gaines"); or (2) inclusion of categories of billable time in this application. This court disagrees.

First, recovery of the five lots from Loo and Rodriguez and the decision to litigate the status of Loo, Rodriguez, Nunez and Gaines' secured status was not imprudent billing judgment. Trustee Parker, and his counsel Klein DeNatale, undertook the only course of action available to him that was consistent with his statutory duty to locate assets for the estate and, by extension, creditors. A trustee "shall collect and reduce to money the property of the estate for which such trustee serves as expeditiously as is compatible with the best interests of parties in interest." 11 U.S.C. § 704(a)(1). On the date of the petition, Shaver Lakewoods Development, Inc. claimed that it owned no assets. See Schedules A-H and Statement of Financial Affairs, ECF #15, December 12, 2011, ECF #15 (except for listing unsecured creditors in Schedule F, answering "none" to every inquiry); *but see* Amended Schedule B, January 6, 2012, ECF # 19 (adding "Contingent Claim for Fraudulent Transfer of Five Lots to Shareholders pursuant (sic) to collateral agreement on October 2, 2009 \$15,000.00" and Cross-Complaint against subcontractors value not known-indemnification for allege (sic) Breach of Warranty of Creditors setout (sic) in Sch F. (estimate-\$2,250,000.00) \$25,000)."

Within four months, trustee Parker entered into and Loo and Rodriguez entered into an agreement for return of the five lots to the estate. Exh. A (Settlement and Release) filed in Support of Motion to Compromise, March 28, 2012, ECF # 30; Order, April 26, 2012, ECF # 38. That agreement reserved to Loo, Rodriguez and Nunez the right to file claims in the Shaver Lakewoods estate and reserved objection to those claims to trustee Parker. Exh. A (Settlement and Release ¶¶ 2, 3). Trustee Parker and Klein DeNatale's efforts resulted in a benefit to the estate in the form of five lots, which were ultimately sold for \$344,208 for the estate. Trustee's Final Report ¶ 4, March 25, 2016, ECF # 330. Had the matter ended there, this case would have paid a sizeable dividend to unsecured creditors.

But it did not end there. Loo, Rodriguez and Nunez each exercised their rights and filed secured claims against the estate. Loo's claim was for \$577,214, and contended that he was secured by "real estate." Claim No. 3, April 10, 2012, ECF # 3. As proof of the validity of his claims, he attached promissory notes and security agreements purportedly executed as long as nine years prior to Shaver Lakewoods Development, Inc.'s bankruptcy petition. Rodriguez's claim was for

\$464,615 and was also purportedly secured by "real estate." Claim No. 4, April 10, 2012. It also attached supporting documentation, suggesting execution years before Shaver Lakewood's petition. Nunez also filed a secured claim; his was for \$88,501 and was also secured by "real estate." Claim No. 5, April 20, 2012. In support of his claim he attached a copy of a fee agreement, purporting to create a charging lien.

A fourth creditor, also affiliated with Shaver Lakewoods Development, Inc., Verlyn Gaines, for reasons not pertinent here, tried a different strategy. Rather than recording a deed of trust to perfect his interests, he convinced the debtor to sign an "Assignment of Proceeds," which was recorded. The assignment provided for payment of specified amounts to him each time the debtor sold one of its lots. When the trustee sold the property under 11 U.S.C. § 336(b), the title company involved did not identify the assignment, but Gaines later filed a secured claim for \$280,000, identifying the collateral as "real estate" and described perfection as "recorded assignment." Claim No. 8, March 18, 2014.

As the trustee, Parker had an affirmative obligation to challenge proofs of claim he believed not proper. A trustee shall "if purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper." Represented by Klein DeNatale, Parker did so, and believing each of the four improper, invoked his remedy. Fed. R. Bankr. P. 7001(2) (proceedings to challenge the validity, priority or extent of a lien must be presented by adversary proceeding). Four adversary proceedings followed: (1) *Parker v. Loo*, No. 14-1104 (Bankr. E.D. Cal. 2014); (2) *Parker v. Loo*, No. 14-1003 (Bankr. E.D. Cal. 2014); (3) *Parker v. Nunez*, No. 14-1005 (Bankr. E.D. Cal. 2014); and (4) *Parker v. Gaines*, No. 14-1076 (Bankr. E.D. Cal. 2014).

The Rodriguez and Loo adversary proceedings resolved by stipulation and judgment in favor of the trustee 15 months later.

Parker litigated his complaint against Nunez and Nunez counter-claim for almost the next three years. Almost 19 months after the complaint was filed, and after the usual but unsuccessful dispositive motions, the matter proceeded to trial. Judgement was entered for trustee Parker. Nunez appealed and the Bankruptcy Appellate Panel affirmed.

Parker litigated his complaint against Gaines for approximately two years. It also resulted in a trial and judgement for Parker. Gaines also appealed and the Bankruptcy Appellate Panel affirmed.

Klein DeNatale's actions in pursuing the adversary proceeding must be judged first by the information available at the time it decided to pursue a given course of action and again by the information that came to it along the course. 11 U.S.C. § 330(a)(4)(A)(ii)(I) (services must be reasonably likely to benefit the estate.) Here, the trustee correctly identified property to be recovered and claims objections as to four creditors' claim of secured status. Its actions generated \$344,208 for the estate, early in the case. But for four creditors', particularly Nunez and Gaines, decision to litigate the issue vigorously, these funds would have resulted in a sizeable distribution

to unsecured creditors. Were there a per se rule that disallowed compensation any time the costs of litigation outstripped recovery, an obstinate creditor could thwart every Chapter 7 trustee. Rather, the court reviews the trustee's actions under a rule of reason, gauged by the information available to the trustee at the commencement of the case and along the way.

Beyond that, this case does not present a *In re Strand*, 375 F.3d 854 (9th Cir. 2004) problem. Strand involved a case in which trustee's counsel knew or should have known that the cost of pursuing the adversary would outstrip the recovery. Here, Parker recovered the lots and sold them shortly after commencement of the case. See Reports of Sale, April 4, 2013, ECF # 138, 139. And it was the four creditors' assertion of secured claims that forced the trustee to undertake the litigation.

Finally, gauging Klein DeNatale's decision to engage in litigation with Loo, Rodriguez, Nunez and Gaines by those portions of the fee application directly associated with "bankruptcy litigation" or "claims administration and objections" Klein DeNatale's efforts were successful and resulted in a net gain to the estate. The trustee's efforts to recover and sell the property resulted in a gross value to the estate of \$344,208. Litigation and claims fees total \$206,962 (\$189,634 + \$17,328). Second and Final Application 3:5-6, November 1, 2016, ECF # 368. Without considering costs of sale, this generated \$137,246 for the estate. Payment of secured claims to taxing authorities and other administrative expenses absorbed the remainder of estate funds.

Second, Nunez calls to mind certain work by the trustee that he contends is improper, e.g failed motion practice, travel time, billing for research. Some of the applicant's work does not satisfy the standard for payment, 11 U.S.C. § 330(a)(4)(A)(ii)(I), and but for self-imposed and sizeable fee reductions, the court would have discounted fees. For example, significant fees were devoted to summary judgments in the Loo, Rodriguez and Nunez adversary proceedings. See Exh 4 in Support of Application, November 1, 2016, ECF # 372. These motions were based on inadmissible hearsay. Civil Minutes at p. 2, ¶ 7, June 25, 2014, ECF # 59 in *Parker v. Nunez*, No. 14-1005 (Bankr. E.D. Cal. 2014); Civil Minutes at 2, ¶ 5, June 25, 2014, ECF # 63, in *Parker v. Rodriguez*, No. 14-1003 (Bankr. E.D. Cal. 2014).

But the court finds that Klein DeNatale's self-imposed reductions more than setoff any unnecessary, unworkmanlike or other improper entries. Klein DeNatale wrote down \$32,391.50 during the case, Application at 3:8, n. 2 and by the \$24,952.50, incurred after the applicant cut off its billing for purposes of the fee application. *Id.* at 3:8-9. These reductions aggregate \$57,344.00 and are sufficient.

Compensation and Expenses

Klein DeNatale was employed by Parker and that employment approved by order of this court. Order, May 22, 2012, ECF #44. Employment was approved on an hourly basis and, having reviewed the application, opposition, and the complete files and records of this case, the court

finds the lodestar method an appropriate way to calculate reasonable compensation in this case.

The applicant prays \$239,192.00. Without consideration of fees not claimed, \$57,344, the applicant has billed 1,016.90 hours. Three paralegals worked on the case and charged rates of \$125-155 per hour. Three attorneys also worked on this case and charged rates of \$155-250 per hour. This results in a blended rate of \$235 per hour for the work actually charged and is consistent with the lodestar calculus. The application will be approved in toto.

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.

Klein DeNatale's application for allowance of final compensation and reimbursement of expenses has been presented to the court. 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 \$239,192.00 and reimbursement of expenses in the amount of \$4,581.46.

IT IS FURTHER ORDERED that Klein DeNatale's fees and expenses are subordinated to the trustee's fees (\$20,388.36) and expenses (\$578.00) and accountant M. Kathleen Klein's fees (\$2,374.50) and expenses (\$457.26).

3. 11-62509 -A-7 SHAVER LAKEWOODS MKK-2 DEVELOPMENT INC. M. KLEIN/MV	CONTINUED MOTION FOR COMPENSATION FOR M. KATHLEEN KLEIN, ACCOUNTANT(S), FEE: \$2374.50, EXPENSES: \$457.26 10-1-13 [106]
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HENRY NUNEZ/Atty. for dbt.
RESPONSIVE PLEADING

Tentative 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

M. Kathleen Klein ("Klein"), accountant for Randell Parker ("Parker"), Chapter 7 trustee, makes her first and final application for compensation and expenses. She prays fees of \$2,374.50 (21.90 hours by Klein and her staff; Klein billed her time at \$175/hour and her staff at either \$50 or \$60/hour). She also prays expense of \$457.26.

Creditor Verlyn Gaines ("Gaines") filed a limited opposition to the application. Gaines does not dispute the amounts requested by Klein.

Opposition at 1:24, March 25, 2016, ECF #333. Gaines did oppose payment from estate funds, which he contended were subject to a security interest in his favor. *Id.* at 1:24-26. It also argued that approval of Klein's fees was premature until the Bankruptcy Appellate Panel resolved his appeal in *Parker v. Gaines*, No. 14-1076 (Bankr. E.D. Cal. 2014). *Id.* at 2:11-14.

DISCUSSION

Gaines Appeal

On the date Shaver Lakewoods Development filed bankruptcy, it owned no assets. Soon thereafter, the trustee recovered five lots. Gaines contended that the lots, or more properly the proceeds of those lots, were subject to a security interest in his favor. Gaines filed a \$280,000 secured claim, claiming the lots and proceeds were collateral for his debt. Claim No. 8, filed March 18, 2014. The trustee disputed Gaines' claim, and the parties agreed that the lots be sold and that the proceeds of those sales be subject to a lien in Gaines' favor to the extent, priority and validity as the lots would have been.

Parker filed an adversary proceeding against Gaines seeking to resolve the nature, extent and priority of Gaines' lien. *Parker v. Gaines*, No. 14-1076 (Bankr. E.D. Cal. 2014). After trial the court found that Gaines did not hold a security interest in the lots or their proceeds and issued judgment for Parker. Gaines appealed. During the pendency of the appeal, the court declined to rule on Klein's fee application. Ultimately, the Bankruptcy Appellate Panel affirmed this court's ruling. *Gaines v. Parker (In re Shaver Lakewoods Development, Inc.)*, 2016 WL 3742812 (9th Cir. BAP 2016). No further appeals are pending.

Here, the court was not required to defer ruling on Klein's application for fees for two reasons. First, though this court has authority to stay its judgment, neither Gaines, nor anyone else, sought such a stay. Fed. R. Bankr. P. 8007(a). Second, the doctrine of exclusive appellate jurisdiction does not preclude this court from making further orders in the case that are consistent with the trial court's ruling now on appeal. And the mere existence of a pending appeal does not preclude this court from enforcing its earlier judgment. *Wedbush, Noble, Cooke, Inc. v. SEC*, 714 F.2d 923, 924 (9th Cir. 1983); *Hill & Sanford, LLP v. Mirzai (In re Mirzai)*, 236 F.3d 8, 10 (9th Cir. BAP 1999). Payment of professionals from estate funds now adjudicated unencumbered is such a consistent act. Rather, the court exercised its discretion to defer ruling on these issues until such time as the Bankruptcy Appellate Panel ruled. It has now done so, and there is no further reason to delay approving Klein's fees and costs.

Compensation and Expenses

After obtaining court approval, the Chapter 7 trustee may employ an accountant to perform accounting and estate work on the estate's behalf. 11 U.S.C. § 327. Parker employed Klein and obtained court approval for that employment. Order, August 2, 2012, ECF # 47.

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. It does so for two reasons. First, neither Gaines, nor any other party, argues that the fees are unreasonable. Second, and more importantly, the court independently finds the fees and costs prayed reasonable. Klein and her staff prepared: an application for employment; 2009-2013 federal and state income tax returns; and her first and final fee application. Her rates and her staff's rates are consistent with, or lower than, other accounting professionals. The fees and costs prayed will be approved in toto.

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.

M. Kathleen Klein's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a first and final basis. The court allows final compensation in the amount of \$2,374.50 and reimbursement of expenses in the amount of \$457.76.

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.

4. [11-62509](#)-A-7 SHAVER LAKEWOODS CONTINUED MOTION FOR
RP-1 DEVELOPMENT INC. ADMINISTRATIVE EXPENSES
RANDELL PARKER/MV 3-9-16 [[311](#)]
HENRY NUNEZ/Atty. for dbt.
LISA HOLDER/Atty. for mv.

Final Ruling

Motion: Allow Administrative Expense [Estate Taxes]

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).

ALLOWANCE OF ADMINISTRATIVE EXPENSE

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Clooback*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, state taxes in the amount specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

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 chapter 7 trustee's motion for allowance of administrative expense 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 motion,

IT IS ORDERED that the motion is granted. The court allows \$3,289.00 (state taxes) as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

IT IS FURTHER ORDERED that the 14 day stay of Federal Rule of Bankruptcy Procedure 6004(h) is waived.

5.	11-62509 -A-7 SHAVER LAKEWOODS RP-2 DEVELOPMENT INC. RANDELL PARKER/MV	CONTINUED MOTION FOR COMPENSATION FOR RANDELL PARKER, CHAPTER 7 TRUSTEE(S) 3-25-16 [335]
	HENRY NUNEZ/Atty. for dbt. LISA HOLDER/Atty. for mv. RESPONSIVE PLEADING	

Tentative Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

Randell Parker ("Parker"), Chapter 7 trustee, moves for approval of fees of \$20,388.36 and costs of \$724.61. LBR 2016-2(b)(1). Creditor Verlyn Gaines ("Gaines") and Creditor Henry D. Nunez ("Nunez") oppose contending that the court should defer approval of Parker's fees pending resolution of their respective appeals in *Parker v. Gaines*, No. 14-1076 (Bankr. E.D. Cal. 2014), and in *Parker v. Nunez*, No. 14-1005 (Bankr. E.D. Cal. 2014).

DISCUSSION

Appeals

During the pendency of these appeals exercised its discretion to defer ruling on professionals and Chapter 7 trustee fee applications. But it did not have to do so. First, though this court has authority to stay its judgment, neither Gaines, nor Nunez, sought such a stay. Fed. R. Bankr. P. 8007(a). Second, the doctrine of exclusive appellate jurisdiction does not preclude this court from making further orders in the case that are consistent with the trial court's ruling now on appeal. And the mere existence of a pending appeal does not preclude this court from enforcing its earlier judgment. *Wedbush, Noble, Cooke, Inc. v. SEC*, 714 F.2d 923, 924 (9th Cir. 1983); *Hill & Sanford, LLP v. Mirzai (In re Mirzai)*, 236 F.3d 8, 10 (9th Cir. BAP 1999). Payment of professionals from estate funds now adjudicated unencumbered is such a consistent act. Rather, the court exercised its discretion to defer ruling on these issues until such time as the

Bankruptcy Appellate Panel ruled on both appeals. See *Gaines v. Parker (In re Shaver Lakewoods Development, Inc.)*, 2016 WL 3742812 (9th Cir. BAP 2016); *Parker v. Nunez*, 2016 WL 7188660 (9th Cir. BAP 2016).

Compensation and Expenses

In this Chapter 7 case, the trustee has applied for an allowance of compensation and reimbursement of expenses. The court finds (1) that the compensation requested by the trustee is consistent with 11 U.S.C. § 326(a); (2) that no extraordinary circumstances are present in this case, see *In re Salgado-Nava*, 473 B.R. 911 (B.A.P. 9th Cir. 2012); and (3) that expenses for which reimbursement is sought are actual and necessary. Neither Gaines, nor Nunez, point to any extraordinary circumstance, as that term is used in *Salgado-Nava*. The court approves the application and allows compensation in the amount of \$20,388.36 and reimbursement of expenses in the amount of \$724.61.

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.

Randell Parker's application for allowance of 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 to the trustee compensation in the amount of \$20,388.36 and reimbursement of expenses in the amount of \$724.61.

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.

6. [15-13412](#)-A-7 BASILA CONSTRUCTION, MOTION FOR ADMINISTRATIVE
RHT-8 INC. EXPENSES
ROBERT HAWKINS/MV 11-18-16 [[153](#)]
RILEY WALTER/Atty. for dbt.
PETER FEAR/Atty. for mv.

Final Ruling

Motion: Allow Administrative Expense [Estate Taxes]

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).

ALLOWANCE OF ADMINISTRATIVE EXPENSE

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Clooback*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, state taxes in the amount specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

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 chapter 7 trustee's motion for allowance of administrative expense 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 motion,

IT IS ORDERED that the motion is granted. The court allows \$800.00 (owed to the California Franchise Tax Board) as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

7. [16-14025](#)-A-7 ARMANDO/ALEXANDRIA MOTION FOR RELIEF FROM
 JHW-1 VICENCIO AUTOMATIC STAY
 TD AUTO FINANCE LLC/MV 11-17-16 [[9](#)]
 MARK ZIMMERMAN/Atty. for dbt.
 JENNIFER WANG/Atty. for mv.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2012 Nissan Altima

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).

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

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.

TD Auto Finance LLC's motion for relief from the automatic stay 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 motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2012 Nissan Altima, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

8. [16-14025](#)-A-7 ARMANDO/ALEXANDRIA MOTION TO COMPEL ABANDONMENT
MAZ-1 VICENCIO 11-30-16 [[30](#)]
ARMANDO VICENCIO/MV
MARK ZIMMERMAN/Atty. for dbt.

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

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

Disposition: Continued to January 10, 2017, at 9:00 a.m. to coincide with the order to show cause for failure to pay the \$176.00 filing fee for this motion

Order: Civil minute order

Business Description: A. Vicencio Trucking, a sole proprietorship

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

RULE 9013

Rule 9013 provides in pertinent part: "The motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought." Fed. R. Bankr. P. 9013. Under this rule, a motion lacking proper grounds for relief does not comply with this rule even though the declaration, exhibits or other papers in support together can be read as containing the required grounds.

The motion does not state with particularity the grounds for the relief requested. Even read together with the declaration in support, and Exhibit A, the motion does not show with particularity the liens

and exemptions for each business asset that the debtor wants to abandon. The declaration states that Exhibit A contains the debtor's opinion of each asset's fair market value, the amount of any liens on any asset, and the amount of any exemptions on each asset. Exhibit A contains a partially typed and partially hand-written list of assets with dollar values beside each. The court cannot tell what the dollar figure represents—a lien, an exemption, or a value.

REVISED GUIDELINES FOR DOCUMENT PREPARATION

In addition, the declaration does not comply with the "Revised Guidelines for the Preparation of Documents" ("Revised Guidelines") for this court. Section I.C. of the Revised Guidelines requires all papers submitted for filing to be typewritten, printed, computer generated, or prepared by some other clearly legible process. Handwriting is not permitted by this court. Lastly, exhibits must be filed as a separate document under the guidelines as well.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the motion to compel abandonment is continued to January 10, 2017, at 9:00 a.m. The debtor may file a supplemental declaration augmenting the record by January 3, 2017.

9.	16-14131 -A-7 ALICIA FRANCO VVF-1 HONDA LEASE TRUST/MV TIMOTHY SPRINGER/Atty. for dbt. VINCENT FROUNJIAN/Atty. for mv.	MOTION FOR RELIEF FROM AUTOMATIC STAY 12-1-16 [9]
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Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: Leased 2015 Honda Civic

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).

STAY RELIEF

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest

in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor's Statement of Intention signals her desire to surrender the vehicle. The trustee has not opposed the motion. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

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.

Honda Lease Trust's motion for relief from the automatic stay 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 motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a Leased 2015 Honda Civic, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

10. [12-60054](#)-A-7 DWIGHT/NELLIE LONG
RHT-13
ROBERT HAWKINS/MV

MOTION FOR COMPENSATION FOR SAN
MAR PROPERTIES, INC., OTHER
PROFESSIONAL(S)
11-22-16 [[400](#)]

LAYNE HAYDEN/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

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

Disposition: Approved

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 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, the trustee, on behalf of San Mar Properties, Inc., a property manager for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation for property management services in the amount of \$8,216.19 and commissions on sales of managed properties in the amount of \$1962.50.

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.

San Mar Properties, Inc.'s application, brought by the trustee, 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 for property management services in the amount of \$8,216.19 and commissions on sales of managed properties in the amount of \$1962.50.

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.

11. [15-10966](#)-A-7 RODNEY HARON
FW-7

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER L. FEAR,
TRUSTEES ATTORNEY(S)
11-22-16 [[205](#)]

TIMOTHY SPRINGER/Atty. for dbt.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

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

Disposition: Approved

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 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, Fear Waddell, P.C., attorney for the trustee, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$106,352.00 and reimbursement of expenses in the amount of \$1360.93.

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 an interim basis as to the amounts requested. 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.

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.

Fear Waddell, P.C.'s application for allowance of interim 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. The court allows interim compensation in the amount of \$106,352.00 and reimbursement of expenses in the amount of \$1360.93. The fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

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.

12. [15-13184](#)-A-7 DEBBY RENNA
JRL-2
DEBBY RENNA/MV
JERRY LOWE/Atty. for dbt.

MOTION TO SELL
11-30-16 [[123](#)]

Final Ruling

This matter was resolved at the hearing on December 14, 2016, and will not be called again.