

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Wednesday, October 12, 2016

Hearing Room 1568

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10:00 AM

2:16-21248 Leevester Walton

Chapter 7

#1.00 Show Cause Hearing  
RE: **Order Requiring Petitioning Creditor To Appear And Show Cause Why Involuntary Petition Should Not Be Dismissed As Having Been Filed In Bad Faith** [1] Chapter 7 Involuntary Petition Against an Individual

FR. 9-21-16

Docket No: 1

**Tentative Ruling:**

10/11/2016: Dismiss the involuntary petition for the reasons set forth below.

**Pleadings Filed and Reviewed:**

- 1) Order Requiring Petitioning Creditor to Appear and Show Cause Why Involuntary Petition Should Not Be Dismissed as Having Been Filed in Bad Faith [Doc. No. 4]
- 2) Order Rescheduling Hearing on Order Requiring Petitioning Creditor to Appear and Show Cause Why Involuntary Petition Should Not Be Dismissed as Having Been Filed in Bad Faith to Take Place Concurrently with Status Conference in Involuntary Petition [Doc. No. 7]

Petitioning Creditor Roberto Rodriguez ("Petitioning Creditor") has failed to file a timely response to the concerns expressed by the Court in its Order Requiring Petitioning Creditor to Appear and Show Cause Why Involuntary Petition Should Not Be Dismissed as Having Been Filed in Bad Faith ("OSC"). The OSC required Petitioning Creditor to show why the involuntary petition was not filed in bad faith based upon the following:

- 1) The involuntary petition fails to state the amount of the indebtedness allegedly owed by Leevester Walton (the "Alleged Debtor") to the Petitioning Creditor.
- 2) The involuntary petition states that the Alleged Debtor is also known as "Nicholas L. Camacho" and is doing business as "Callie Whitmore Estate." An involuntary petition pending before Judge Russell, Case No. 2:16-bk-20426-BR, was filed shortly prior to the instant involuntary petition. In the involuntary petition pending before Judge Russell, the petitioning creditors list

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two of the same aliases as are listed in the instant case (Nicholas Camacho and Callie Whitmore Estate), even though the alleged debtor in the Judge Russell case is a different person. The use of the same aliases in two different involuntary cases suggests that the Petitioning Creditor did not file the petition to collect a legitimate debt, but rather filed the petition in collusion with Nicholas Camacho and Callie Whitmore Estate for the improper purpose of providing them with the protection of the automatic stay.

OSC at 1.

Based upon the Petitioning Creditor's failure to respond, the Court finds that this involuntary petition was filed in bad faith. The Court will dismiss the involuntary petition with prejudice. The Court will retain jurisdiction to hear the motion for relief from stay filed by U.S. Bank, N.A. (set for hearing on October 17, 2016). The Court will enter an appropriate order.

<b>Party Information</b>
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**Debtor(s):**

Leevester Walton

Pro Se

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**2:16-10799 BBeautiful, LLC, a California limited liability co**

**Chapter 11**

**#2.00** HearingRE: [125] Motion to Disallow Claims Motion for Order Disallowing Claim of Ocean Blue (Claim #2); Declaration of Helga Arminak in Support Thereof

Docket No: 125

**Tentative Ruling:**

10/11/2016: For the reasons set forth below, GRANT Motion.

**Pleadings Filed and Reviewed**

- Motion for Order Disallowing Claim of Ocean Blue (Claim #2); Declaration of Helga Arminak Jones in Support Thereof ("Motion") [Doc. No. 125]
- Notice of Objection to Claim ("Objection") [Doc. No. 126]
- Notice of Errata Regarding Debtor's Motion for Order Disallowing Claim of Ocean Blue (Claim #2) [Doc. No. 128]
- Notice of Motion and Motion for Order Setting Bar Date Filing Proofs of Claim [Doc. No. 75]
  - Order Setting Bar Date for Filing Proofs of Claim [Doc. No. 76]

**Facts and Summary of Pleadings**

BBeautiful, LLC ("Debtor") filed the instant Motion to disallow Claim No. 2-1 filed by Ocean Blue, Inc. ("Creditor"). For the reasons stated below, the Court GRANTS the Motion.

BBeautiful, LLC ("Debtor") filed a voluntary chapter 11 petition on January 22, 2016 ("Petition"). Doc. No. 1. On February 5, 2016, the Debtor filed a notice that the Petition falls within the definition of "small business debtor" pursuant to 11 U.S.C. § 101(51D)(A). Doc. No. 30. The Debtor, a California limited liability company, was established in 2006 by Helga Arminak, who is the current operating manager and owns a 99% interest in the Debtor. The Debtor's principal place of business is located at 1361 Mountain View Circle, Azusa, California 91702 ("Business"), where the Debtor operates pursuant to a lease. Since commencement, the Debtor has operated the Business as the debtor-in-possession. The Debtor is a

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brand-maker and retailer of a wide range of personal beauty products for skin, hand, nail, body, and hair. The Debtor formulates its own unique products and contracts with manufacturers to produce them. The Debtor arranges its own packaging to be delivered from China to the manufacturers, who then combine the merchandise and their packaging and deliver the finished products to the Debtor's office in Azusa, California. The Debtor distributes its products to retail stores and also sells the products directly through e-commerce.

On February 12, 2016, the Creditor filed a claim against the Debtor in the amount of \$26,213 based on "collection for services rendered and goods produced" ("Claim"). Claim No. 2-1. Subsequently, on April 20, 2016, the Court entered an order setting the bar date to file proofs of claims against the Debtor's estate for June 20, 2016. Doc. No. 76. On September 7, 2016, the Debtor filed the Objection, the Motion, and a notice of the motion and objection to the Claim. Doc. Nos. 124-126. The Debtor contends that the Claim is based on a breach of contract action filed in the Superior Court of California, County of Los Angeles ("State Action"). Motion at 3. The Debtor represents that the Creditor abandoned the case by failing to appear at a scheduled status conference on August 30, 2016, and the state court dismissed the State Action for lack of prosecution. Moreover, the Debtor represents that the Creditor's claim should be disallowed by failing to provide any evidence in support of its claim.

As of the date of this tentative ruling, the Creditor has failed to file a response.

**Findings of Fact and Conclusions of Law**

A claim is deemed allowed unless a party in interest objects. 11 U.S.C. § 502 (a). The term "party in interest" is not defined in the Code or the Federal Rules of Bankruptcy Procedure, but courts have held that standing in a bankruptcy context requires an "aggrieved person" who is directly and adversely affected pecuniarily by an order of the bankruptcy court. *In re Lona*, 393 B.R. 1, 3 (Bankr. N.D. Cal. 2008) (citing *Fondiller v. Robertson (In re Fondiller)*, 707 F.2d 441, 442-43 (9th Cir. 1983)). A chapter 11 debtor-in-possession has standing to object to a proof of claim because a trustee is considered a party-in-interest, with standing to objection. *See* 11 U.S.C. § 1107(a) (rights, powers, and duties of a debtor in possession); *In re G.I. Indus., Inc.*, 204 F.3d 1276, 1280 (9th Cir. 2000) (trustee has standing to object to a

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proof of claim under § 502(a) because a trustee is a "party in interest"); *In re Dominelli*, 820 F.3d 313, 317 (9th Cir. 1987). Here, the Court finds that the Debtor has standing to object to the Claim as a debtor-in-possession.

Bankruptcy Code § 502(b) sets forth nine paragraphs that can disallow a claim. To the extent that a claim falls within any of these paragraphs, upon proper objection, the Court will disallow the claim. Section 502(b)(1) mandates disallowance of a claim where "such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured." 11 U.S.C. 502(b). Here, the Creditor's claim is based on the State Action, which occurred pre-petition. There is no indication from the pleadings filed by the Debtor or the Claim that the State Action involves a contingent or unmatured interest. In fact, the Claim fails to attach any support. *See* Claim No. 2-1. Although a claim's evidentiary support is not necessarily required, as Ninth Circuit case law demands a basis in section 502 to "disallow a claim, and absent such basis, [the Court] must allow [the claim]," the lack of evidence fails to characterize the Claim within the contingent or unmatured interest exception. *In re SNTL Corp.*, 571 F.3d 826, 839 (9th Cir. 2009) (citing *Travelers Cas. & Sur. Co. of Am. V. Pacific Gas & Elec. Co.*, 549 U.S. 443, 452 (2007)). Additionally, the state court dismissed the State Action with prejudice for failing to appear at an order to show cause and failing to prosecute, further supporting the Claim's unenforceability through applicable state law. Finally, the Creditor's failure to file a response after the Debtor filed the Objection favors granting the Motion.

Based on the foregoing, the Debtor's objection to proof of claim number 2-1 filed by Ocean Blue, Inc., is SUSTAINED and the Claim is DISALLOWED pursuant to 11 U.S.C. § 502(b)(1).

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Nathaniel Reinhardt or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no

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later than one hour before the hearing.

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The Debtor shall lodge a conforming order within 7 days of the hearing.

<b>Party Information</b>
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**Debtor(s):**

BBeautiful, LLC, a California limited l

Represented By  
Steven Werth  
Steven Werth  
Michael Jay Berger  
Michael Jay Berger

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**2:14-31703 Ravinder Kumar Bhatia and Johanna Arias Bhatia**

**Chapter 11**

#3.00 Hearing  
RE: [137] Application for Compensation Final for Giovanni Orantes, Debtor's Attorney, Period: 11/20/2014 to 7/28/2016, Fee: \$54,187.00, Expenses: \$6,126.98.

fr. 9-20-16

Docket No: 137

\*\*\* VACATED \*\*\* REASON: CONTINUED 10-19-16 AT 10:00 A.M.

**Tentative Ruling:**

9/18/2016: The application is CONTINUED to October 12, 2016, at 10:00 a.m., to enable the applicant to provide appropriate notice.

Local Bankruptcy Rule 2016-1(c)(3)(C) requires a fee applicant to provide notice of the hearing on all parties in interest "entitled to notice under FRBP 2002." Bankruptcy Rule 2002(a)(6) provides that "all creditors" must receive 21 days' notice of "a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds \$1,000." Here, applicant gave notice of the hearing to the twenty largest unsecured creditors but did not give notice to *all* creditors as required by Bankruptcy Rule 2002.

**Party Information**

**Debtor(s):**

Ravinder Kumar Bhatia

Represented By  
Giovanni Orantes  
Giovanni Orantes  
Giovanni Orantes  
Giovanni Orantes  
Giovanni Orantes

**Joint Debtor(s):**

Johanna Arias Bhatia

Represented By  
Giovanni Orantes

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**Ravinder Kumar Bhatia and Johanna Arias Bhatia**

Giovanni Orantes

Giovanni Orantes

**Chapter 11**