

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 16, 2020

Hearing Room 303

11:00 AM

6:10-42994 Elizabeth Chacon

Chapter 7

#1.00 Motion to Allow Claim no. 2 of Midland Funding, LLC as Late Filed, Allowable Against Surplus Funds

EH____

Docket 22

Tentative Ruling:

12/16/2020

BACKGROUND

On October 12, 2010, Elizabeth Chacon ("Debtor") filed a voluntary petition for chapter 7 relief. Debtor received a discharge on January 26, 2011, and the case was subsequently closed on February 17, 2011.

The case was reopened on May 21, 2020 to enable Trustee to administer a refund Debtor was entitled to from a collateral protection insurance policy on her vehicle. On June 5, 2020, a Notice of Possible Dividend and Order Fixing Time to File Claims was served on all creditors. The claim bar date was September 7, 2020. On November 4, 2020, Midland Funding, LLC ("Claimant") filed a claim in the amount of \$3,767.58 ("Claim 2").

Trustee filed the instant motion on November 9, 2020 objecting to Claim 2 and seeking to allow payment on it to the extent of any surplus pursuant to 11 U.S.C. § 726(a)(3).

DISCUSSION

11 U.S.C. § 502(b)(9) provides:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency

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Elizabeth Chacon

Chapter 7

of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that –

(9) proof of such claim is not timely filed, except to the extent tardily filed as permitted under paragraph (1), (2), or (3) of section 726(a) of this title or under the Federal Rules of Bankruptcy Procedure, except that a claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide, and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required.

11 U.S.C. § 502(b)(9) (emphasis added). 11 U.S.C. § 726(a)(3) states:

(a) Except as provided in [section 510](#) of this title, property of the estate shall be distributed—

(3) third, in payment of any allowed unsecured claim proof of which is tardily filed under section 501(a) of this title, other than a claim of the kind specified in paragraph (2)(C) of this subsection;

11 U.S.C. § 726(a)(3).

Here, Claim 2 was filed late, and thus is only allowed to the extent there is a surplus left at the time it is entitled to distribution.

TENTATIVE RULING

For the foregoing reasons, there being no opposition filed, service appearing proper, the Court is inclined to GRANT the motion, SUSTAINING Trustee's objection to Claim 2 and ALLOWING Claim 2, as late filed, pursuant to 11 U.S.C. § 726(a)(3).

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

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CONT... Elizabeth Chacon

Chapter 7

Party Information

Debtor(s):

Elizabeth Chacon

Represented By
Omar Zambrano

Movant(s):

John P Pringle (TR)

Pro Se

Trustee(s):

John P Pringle (TR)

Pro Se

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6:11-12667 Maximino Romero Torres and Rebecca Anne Torres

Chapter 7

#2.00 Order to Show Cause why James Alderson should not be held in Contempt of Court for failing to comply with the Sanctions Order entered September 3, 2020

EH__

(Tele. appr. James Alderson, rep. Debtor)

Docket 141

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maximino Romero Torres

Represented By
James A Alderson

Joint Debtor(s):

Rebecca Anne Torres

Represented By
James A Alderson

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

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11:00 AM

6:13-22713 Abel Solorzano and Irma Solorzano

Chapter 7

#3.00 CONT Trustee's Final Report and Applications for Compensation
(Holding Date)

From: 4/1/20, 5/13/20, 9/9/20, 10/14/20

EH ____

(Tele. appr. Ivan Kallick, rep. movant Manatt)

Docket 464

***** VACATED *** REASON: CONTINUED TO 2/10/21 BY ORDER
ENTERED 12/7/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abel Solorzano

Represented By
Byron Z Moldo
Howard Camhi

Joint Debtor(s):

Irma Solorzano

Represented By
Byron Z Moldo
Howard Camhi

Trustee(s):

Howard B Grobstein (TR)

Represented By
Ivan L Kallick

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Wednesday, December 16, 2020

Hearing Room 303

11:00 AM

6:13-30133 Nabeel Slaieh

Chapter 7

#4.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

(Tele. appr. David Wood, rep. Trustee, Larry Simons)

Docket 513

Tentative Ruling:

12/16/2020

Service: Proper
Opposition: None

The applications for compensation of the Trustee and the Counsel for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$152.15
Trustee Expenses: \$39.02

Attorney Fees: \$19,813.84
Attorney Expenses: \$944.54

Trustee Insurance Agency: \$200

Court Costs: \$1,050

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

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CONT... Nabeel Slaieh

Chapter 7

Debtor(s):

Nabeel Slaieh

Represented By
George A Saba - INACTIVE -

Trustee(s):

Larry D Simons (TR)

Represented By
D Edward Hays
David Wood
Matthew Grimshaw

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6:17-10724 Bausman and Company Incorporated

Chapter 7

#5.00 CONT. Notice of Trustee's Final report and applications for compensation

EH__

Also #5.1

From: 11/4/20

(Tele. appr. Peter Bronson, rep. Claimant, Osnap Inc.)

(Tele. appr. Caroline Djang, rep. trustee, Robert Whitmore)

(Tele. appr. Ivo Keller, rep. creditor, RREEF American REIT II Corp.)

(Tele. appr. Robert Whitmore, chapter 7 trustee)

v

Docket 226

Tentative Ruling:

11/4/2020

No opposition has been filed.

Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 13,017.07

Trustee Expenses: \$ 0.00

Attorney Fees: \$ 45,000.00

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CONT... Bausman and Company Incorporated

Chapter 7

Attorney Costs: \$ 5,952.34

Accountant Fees: \$3,696.00

Accountant Costs: \$332.40

Franchise Tax Board: \$2,608.28, pursuant to Claim 60

Court Costs: \$1,050

Regarding the remaining distribution of funds, the Court notes two issues with the proposed distribution. First, noting that 11 U.S.C. § 726(b) subordinates the payment of administrative expenses incurred in a previous chapter to administrative expenses incurred during the pendency of the Chapter 7 case, it is unclear why the United States Trustee fees are being paid as a Chapter 7 administrative expense rather than a Chapter 11 administrative expense. Second, the Court notes that for many of the claims that are being paid as a Chapter 11 administrative expense, the proof of claim filed by the claimant states that the claim is not entitled to priority. It is unclear why Trustee would unilaterally change that designation to pay the claim as a priority claim rather than pay the claims in accordance with the treatment identified on the proof of claim (and pursuant to the applicable statutory scheme).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Bausman and Company Incorporated

Represented By
William A Smelko

Trustee(s):

Robert Whitmore (TR)

Represented By
Best Best & Krieger
Caroline Djang

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6:17-10724 Bausman and Company Incorporated

Chapter 7

#5.10 Omnibus Motion for Allowance of Administrative Expenses Claims no# 19, 33, 38 and 40, pursuant to 11 U.S.C. Section 503(B)(1)

Also #5

EH__

Docket 231

Tentative Ruling:

12/16/2020

Service proper on shortened notice

No opposition filed

TENTATIVE RULING

For the reasons set forth in the motion, no opposition having been filed, the Court is inclined to GRANT the motion and ALLOW claim numbers 19, 33, 38, and 40 as administrative claims pursuant to 11 U.S.C. § 503(b)(1)(a).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Bausman and Company Incorporated

Represented By
William A Smelko

Trustee(s):

Robert Whitmore (TR)

Represented By
Best Best & Krieger
Caroline Djang

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6:18-16149 Richard Garavito

Chapter 7

#6.00 Application by Trustee to employ accountants for the estate

EH__

Docket 280

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Todd L Turoci

Movant(s):

Steven M Speier (TR)

Represented By
Rika Kido

Trustee(s):

Steven M Speier (TR)

Represented By
Rika Kido

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6:18-19365 Beverly Murphy

Chapter 7

#7.00 Notice of Trustee's Final Report; Applications for Compensation

EH__

(Tele. appr. Lynda Bui, chapter 7 trustee)

Docket 62

Tentative Ruling:

12/16/2020

Service: Proper

Opposition: None

The applications for compensation of the Trustee and the Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$57,940.36

Trustee Expenses: \$955.05

Accountant Fees: \$3,442.50

Accountant Expenses: \$279.69

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Beverly Murphy

Represented By
Paul Y Lee

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CONT... Beverly Murphy

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Represented By
Jeffrey S Sheldon

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11:00 AM

6:20-15624 Lana Lu

Chapter 7

#8.00 Motion by Chapter 7 Trustee Objecting to Debtor's Claimed California Exemptions

EH__

(Tele. appr. Vanmai Nguyen, rep. Debtor)

(Tele. appr. Frank Ruggier, rep. trustee, Larry Simons)

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lana Lu

Represented By
Vanmai H Nguyen

Trustee(s):

Larry D Simons (TR)

Represented By
Frank X Ruggier
Larry D Simons

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2:00 PM

6:17-19647 Sean Karadas

Chapter 7

#9.00 Motion by Chapter 7 Trustee to close case with an unadministered asset

EH__

(Tele. appr. Charles W. Daff, chapter 7 trustee)

(Tele. appr. Robert Goe, rep. trustee, Charles Daff)

Docket 87

Tentative Ruling:

12/16/2020

Service proper

No opposition filed

BACKGROUND

In the instant motion, filed October 12, 2020, Trustee seeks to close Case 6:17-19647, In re Sean Karadas, filed on November 20, 2017 with an unadministered asset in the amount of \$327,653.00, plus attorney fees of \$3,896.05. The asset was ordered be turned over on October 24, 2018. Debtor has not complied with the order and there have been multiple orders to show cause, as well as contempt and body detention orders. As such, Trustee requests the Court except the asset from abandonment and that the turnover order remain fully enforceable should Trustee re-open the case.

DISCUSSION

11 U.S.C. § 704(1) requires that a trustee "close an estate as expeditiously as is compatible with the best interest of the parties in interest." The Handbook for Chapter 7 Trustees provides:

In order to ensure that a trustee complies with the duty to close cases expeditiously under § 704(1), the United States Trustee monitors the number and age of open cases and the reasons they remain open. For United States

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CONT...

Sean Karadas

Chapter 7

Trustee reporting purposes, an "old" case is one that has been open more than three years.

Vol. 2: Chapter 7 Case Administration, Pg. 33 *available at* [Volume 2: Chapter 7 Case Administration \(justice.gov\)](http://Volume 2: Chapter 7 Case Administration (justice.gov)).

11 U.S.C. § 554 allows the Court to prevent unadministered property from being abandoned to a debtor:

Unless the court orders otherwise, any property scheduled under section 521(a) (1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.

11 U.S.C. § 554(c).

The case having been opened for three years is an "old" case ripe for closure. Further, the Debtor having skirted the Court's orders is cause to order the asset remain unadministered until turned over.

TENTATIVE RULING

For the reasons set forth above, the Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sean Karadas

Represented By
Todd L Turoci

Trustee(s):

Charles W Daff (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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6:17-19647 Sean Karadas

Chapter 7

Adv#: 6:20-01171 Daff (TR) v. Karadas

#10.00 Status Conference re: Complaint by Charles W Daff (TR) against Sean Karadas). To Revoke and Deny Discharge of Debtor (Attachments: # 1 Summons # 2 Adversary Cover Sheet) Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Daff (TR), Charles)

EH__

(Tele. appr. Charles W. Daff, chapter 7 trustee)

(Tele. appr. Robert Goe, rep. trustee, Charles Daff)

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sean Karadas

Represented By
Todd L Turoci

Defendant(s):

Sean Karadas

Pro Se

Plaintiff(s):

Charles W Daff (TR)

Pro Se

Trustee(s):

Charles W Daff (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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6:19-10556 Timothy Mark Aitken

Chapter 7

Adv#: 6:20-01022 Grobstein v. Aitken

#11.00 Plaintiff's motion for Default Judgment against Defendant Alicia Aitken

Also #12

EH__

(Tele. appr. Larry Simons, rep. Plaintiff, Howard Grobstein)

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Timothy Mark Aitken Pro Se

Defendant(s):

Alicia Aitken Pro Se

Joint Debtor(s):

Esmeralda Aitken Pro Se

Plaintiff(s):

Howard Grobstein Represented By
Larry D Simons

Trustee(s):

Howard B Grobstein (TR) Represented By
Larry D Simons

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6:19-10556 Timothy Mark Aitken

Chapter 7

Adv#: 6:20-01022 Grobstein v. Aitken

#12.00 CONT Status Conference RE: [1] Adversary case 6:20-ap-01022. Complaint by Howard Grobstein against Alicia Aitken. (Charge To Estate). with adversary cover sheet Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 5/6/20, 6/10/20, 7/1/20, 8/19/20, 9/30/20,12/2/20

Also #11

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Timothy Mark Aitken Pro Se

Defendant(s):

Alicia Aitken Pro Se

Joint Debtor(s):

Esmeralda Aitken Pro Se

Plaintiff(s):

Howard Grobstein Represented By
Larry D Simons

Trustee(s):

Howard B Grobstein (TR) Represented By

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Timothy Mark Aitken

Larry D Simons

Chapter 7