

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Tuesday, June 29, 2021

Hearing Room 302

10:00 AM

1:00-00000

Chapter

#0.00 This calendar will be conducted remotely, using ZoomGov video and audio.

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Video/audio web address: <https://cacb.zoomgov.com/j/1618291449>

Meeting ID: 161 829 1449

Password: 998796

Dial by your location: 1 -669-254-5252 OR 1-646-828-7666

Meeting ID: 161 829 1449

Password: 998796

Docket 0

Matter Notes:

- NONE LISTED -

Tentative Ruling:

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1:18-12855 PB-1, LLC

Chapter 11

Adv#: 1:20-01116 PB-1, LLC et al v. CALPAC MANAGEMENT, INC., a California

**#1.00 Show Cause Why a Preliminary Injunction
Should not Issue.**

fr. 3/4/21; 5/3/21

Docket 1

***** VACATED *** REASON: Continued to September 9, 2021, at 10:00am**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Continued to September 9, 2021, at 10:00am. No appearance required.

Party Information

Debtor(s):

PB-1, LLC

Represented By
Jeffrey S Shinbrot

Defendant(s):

CALPAC MANAGEMENT, INC., a Pro Se

MED EQUITY LLC, a California Pro Se

JOSHUA RAYMOND KUKINI, an Pro Se

RYAN JUSTIN YOUNG, an Pro Se

FCI Lender Services, Inc., a Pro Se

Plaintiff(s):

PB-1, LLC

Represented By
Christopher E Ng

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1:18-12855 PB-1, LLC

Chapter 11

Adv#: 1:20-01116 PB-1, LLC v. CALPAC MANAGEMENT, INC., a California corporation

#2.00 Status Conference Re: First Amended Complaint

for:

1 - Violation of 18 U.S.C. Sec. 1962(C);

2 - Violation of 18 U.S.C. Sec. 1962(D)

by Conspiracy;

3 - Fraud - Intentional Misrepresentation;

4 - Fraud - Concealment

5 - Negligent Misrepresentation;

6 - Violation of Cal. Bus. & Prof.

Code Sections 17200, ET. Seq.;

7 - For Disallowance of Claim;

8 - Declaratory Relief/Injunction

fr. 4/21/21

Docket 3

***** VACATED *** REASON: Continued to September 9, 2021, at
10:00am.**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Continued to September 9, 2021, at 10:00am. No appearance required.

Party Information

Debtor(s):

PB-1, LLC

Represented By
Jeffrey S Shinbrot

Defendant(s):

CALPAC MANAGEMENT, INC., a Pro Se

MED EQUITY LLC, a California Pro Se

JOSHUA RAYMOND KUKINI, an Pro Se

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CONT... PB-1, LLC

Chapter 11

RYAN JUSTIN YOUNG, an

Pro Se

FCI Lender Services, Inc., a

Pro Se

Plaintiff(s):

PB-1, LLC

Represented By
Christopher E Ng

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1:18-12855 PB-1, LLC

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**#3.00 Post-Confirmation Status Conference and
Scheduling and Case Management Conference**

fr. 2/6/19, 3/13/19; 4/3/19; 6/17/19; 6/24/19, 7/18/19
12/11/19, 3/11/20, 8/26/20, 8/27/20; 10/7/20; 12/18/20,
1/13/21; 3/17/21; 5/3/21

Docket 1

***** VACATED *** REASON: Continued to September 9, 2021, at
10:00am.**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Continued to September 9, 2021, at 10:00am. No appearance required.

Party Information

Debtor(s):

PB-1, LLC

Represented By
Jeffrey S Shinbrot

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1:19-11422 Joe Kearney

Chapter 13

#3.01 Case Status Conference

fr. 6/3/21, 6/17/21

Docket 0

***** VACATED *** REASON: Trial Decision forth coming.**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

The Court will be issuing its ruling on the Objection to Claim trial prior to the scheduled status conference. As a result, the status conference is vacated.

No apperance required.

Party Information

Debtor(s):

Joe Kearney

Represented By
Robert M Aronson
Robert M. Aronson

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:12-10229 C.M. Meiers Company, Inc.

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**#4.00 Disclosure Statement Describing Trustee's
Chapter 11 Plan of Liquidation**

Docket 551

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Debtor was a privately held insurance brokerage firm in Woodland Hills, California, that offered various insurance products, including commercial, personal, health and life insurance, as well as high net worth and entertainment insurance. Debtor acted as broker for approx. 162 carriers and as an agent for approximately 18 insurance carriers. Prior to filing this bankruptcy, Debtor had over 50 employees.

Debtor had been in business since 1939. Herbert Rothman owned 89% of Debtor and was the Chief Executive Officer. Herbert's son, Eric Rothman, owned the remaining 11% of Debtor and acted as Vice President. Herbert's spouse, Rebecca Rothman, acted as Secretary. Debtor had satellite offices in Torrance, CA and Dallas, TX.

In or around November 2011, it was determined that Debtor was out of trust by as much as \$1.2 million and this chapter 11 bankruptcy was filed on January 9, 2012. Thereafter, on January 20, 2012, the appointment of Chapter 11 Trustee Bradley Sharp (Trustee) was approved by the bankruptcy court. Trustee is the proponent of this disclosure statement and plan and asserts that Debtor was insolvent as of the petition date.

The assets of the estate were its brokerage business accounts and litigation claims and other miscellaneous assets. In February 2012, Trustee sold Debtor's business accounts to BTJ Insurance Services, LLC ("BTJ") for approximately \$750,000 and an assumption of liabilities in the approximate amount of \$460,000.00.

In 2013, Trustee filed an action against Debtor's directors and officers (D&O's)

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for their errors and omissions in operating Debtor's business, among other claims. After Debtor's Errors and Omissions carrier refused provide a defense for the defendants and denied any obligation for coverage for the claims asserted, Trustee and D&O's and Debtor's D&O insurance carrier settled the lawsuit. The Court approved the settlement as being in good faith and in the best interests of the estate. ECF Docket 328. The settlement provided, among other things, a cash payment of \$500,000.00 by the D&O's and the D&O insurance carrier and an assignment of the D&O's claims against C.M. Meiers' Errors & Omissions insurance carrier, Evanston Insurance Company ("Evanston"), for its failure to provide the D&O's a defense and coverage for the claims Trustee asserted against the D&O's in his lawsuit. From this amount Trustee paid special litigation counsels approved contingency fees and costs in the amount of \$170,000.00.

Trustee then filed a lawsuit against Evanston for breach of contract, among other things, in March 2014. Prosecution of the lawsuit resulted in a judgment against Evanston in the principal amount of \$3,800,000 plus interest in the amount of \$1,270,150. Based thereon, the District Court entered judgment against Evanston in the total amount of \$5,314,150 (principal, interest and costs). Evanston and Trustee then resolved Trustee's breach of duty to defend claim for \$244,000.00, reducing the amount of the judgment to \$5,070,150.00. Evanston appealed the District Court's decision to the Ninth Circuit Court of Appeal. On August 5, 2020, the Ninth Circuit Court of Appeal issued its mandate affirming the District Court's decision. Thereafter Evanston paid the judgment in full plus interest at the federal interest rate. From this amount, Trustee paid special litigation counsel's approved contingency fees and costs in the amount of \$1,704,630.75.

Plan Summary

As explained above, the assets of the estate have been liquidated. As of April 1, 2021, Trustee asserts that the estate has a cash balance in excess of \$4,000,000.00. Debtor identifies all classes, except Class 2 Subordinated Claims and those claims it seeks to disallow, as unimpaired because each is to be paid in full under the proposed plan. Thus, the only Class of creditors entitled to vote under the proposed Plan is the Class 2 Subordinated Claims.

- **Administrative Claims:** Total to be paid in full **\$663,138.01**

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- **Priority Wage Claims:** 52 claims totaling \$137,987.85, to be paid in full

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- **Priority Tax Claims:**

- **Secured Tax Claims**

- Los Angeles County Treasurer & Tax Collector, total claim: \$45,944.68
 - Treatment: to be paid in full

- **Secured Claims**

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- **Class 1 – General Unsecured Claims**

- **Class 2 Subordinated Claims:** holders of subordinated claims will retain a right to receive cash that remains in the funds held by Disbursing Agent, after payment of all other Allowed Claims (IMPAIRED)

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Standard

References: *In re A.C. Williams*, 25 B.R. 173 (Bankr. N.D. Ohio 1982); See also *In re Metrocraft*, 39 B.R. 567 (Bankr. N.D.Ga. 1984); § 1125

1. 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).
2. "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).
3. Courts have developed lists of relevant factors for the determination of adequate disclosure. *E.g., In re A.C. Williams, supra.*
4. There is no set list of required elements to provide adequate information per se. A case may arise where previously enumerated factors are not

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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. Services, Inc.*, 39 B.R. 567 (Bankr. 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. *In re Michelson*, 141 B.R. 715, 718-19 (Bankr. E.D.Cal. 1992).

5. 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).

6. LBR 3017-1(a) requires at least 36 days notice to all parties in interest.

Service

Service of Debtor's *Notice of Hearing on Disclosure Statement Describing Trustee's Chapter 11 Plan of Liquidation* (ECF doc. 552) was properly served on May 18, 2021, exactly 42 days before the scheduled hearing in accordance with LBR 3017-1(a).

The Objection of Cosmo is overruled, for the reasons stated in the tentative ruling for the hearing on *Trustee's Objection to Claim 34-1 of Cosmo Ins. Service Corp.*, cal. no. 6.

The Rothman Objection is overruled. The Disclosure Statement provides sufficient information about how Trustee liquidated the assets of the Estate, the amount of money in the Estate to satisfy claims, and how and why the Estate funds are being distributed among the classes. This is the kind of detailed information 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. That is all that is required at this stage of the case.

Motion to Approve Disclosure Statement is GRANTED. Confirmation schedule to be set at Ch. 11 Status Conference (see next matter)

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Chapter 11

Debtor(s):

C.M. Meiers Company, Inc.

Pro Se

Trustee(s):

Bradley D. Sharp (TR)

Represented By
Stanley H Shure
Larry W Gabriel
Justin Santarosa

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#4.01 Status conference

fr. 2/21/12, 3/1/12, 4/10/12, 6/7/12, 6/12/12, 8/22/12,
9/27/12, 11/8/12, 1/17/13, 2/28/13, 4/4/13, 7/18/13,
1/9/14, 5/15/14, 6/11/14, 12/11/14, 2/18/15, 5/13/15,
12/9/15, 2/10/16; 2/17/16, 6/2/16, 12/8/16, 4/6/17;
4/12/17, 8/23/17, 12/13/17, 6/13/18, 9/26/18, 2/6/19; 4/8/19

Docket 1

Matter Notes:

- NONE LISTED -

Tentative Ruling:

The Disclosure Statement, Chapter 11 Plan of Reorganization (the"Plan"), and a ballot conforming to Official Form 14, shall be mailed, along with notice of all relevant dates, to creditors, equity security holders, the Office of the United States Trustee and other parties in interest, pursuant to Bankruptcy Rule 2002, no later than : _____

Ballots to be returned and objections to confirmation to be filed no later than: _____

Confirmation Brief stating why the Plan should be confirmed and admissible evidence supporting all applicable elements of 11 U.S.C. §1129, a ballot summary, and Debtor's response to any objections to be filed no later than: _____

Confirmation hearing to be held on: _____

DEBTOR TO LODGE CONFIRMATION SCHEDULING ORDER WITH THE DATES SET BY THE COURT WITHIN 7 DAYS.

FAILURE TO LODGE THE CONFIRMATION SCHEDULING ORDER MAY RESULT IN DISMISSAL OR CONVERSION.

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Chapter 11

Debtor(s):

C.M. Meiers Company, Inc.

Pro Se

Trustee(s):

Bradley D. Sharp (TR)

Represented By
David Gould

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#5.00 Trustee's Omnibus Motion for Order Disallowing Claims that were: (1) Assumed by Purchaser of Debtor's Assets; (2) Previously Satisfied in Full; or (3) Superseded by a Subsequent Claim

(Moved from 6/30/21)

Docket 562

Matter Notes:

- NONE LISTED -

Tentative Ruling:

In this Omnibus Objection, Trustee objects to the claims listed below (Objection, 6:18-7:17) as having been assumed and paid by the purchaser of assets of the Estate, and so there is not any money due and owing and thus the Claim is not an obligation of the Estate: **Claim 9-1; 16-1; 15-1 (secured, priority, unsecured); 36-1.**

Trustee also objects to the administrative or secured claims listed below (id., 7:20-28) on the grounds that each claim has been satisfied in full: **scheduled claims of Calif. Bank & Trust; Laurence and Elaine Friedman; Marvin Renshaw; Claim 50-1.**

Lastly, Trustee objects to the following claims on the grounds that each claim set forth below (id., 8:4 - 9:22) was superseded by the filing of a subsequent claim: **Claim 18-1 - 18-6; 20-1; 24-1 and 24-2; 25-1; 32-1; 37-1; 40-1; 41-1; 52-1; 17-1; 5-1; 28-1 (priority and general unsecured).**

Standard:

Under FRBP 3001(f), "a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." A proof of claim provides "some evidence as to its validity and amount" and prima facie validity is "strong enough to carry over a mere formal objection without more." Lundell v. Anchor Construction Specialists, Inc., 223 F.3d 1035 (9th Cir. 2000), quoting Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991). To be legally sufficient and prima facie valid under FRBP 3001, a claim must: (1) be in writing; (2) make a demand on debtor's estate; (3)

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express the intent to hold the debtor liable for the debt; (4) be properly filed; and (5) be based upon facts which would make the allowance equitable. 9 Collier on Bankruptcy (15th ed. Rev. 2004) ¶3001.05[2].

Under section 502, a proof of claim is deemed allowed, unless a party of interest objects. FRBP 3001(f) states that a Proof of Claim filed and executed in accordance with the rules shall constitute prima facie evidence of the validity and amount of the claim. FRBP 3001-3007. LR 3007-1.

Per In re Heath, 331 B.R. 424 (B.A.P. 9th Cir. 2005), it is not a sufficient objection to rely solely on an alleged lack of prima facie validity of the proof of claim and its documentation. In re Heath, 331 B.R. at 435, 437-38. Section 502 deems a claim allowed and directs that the bankruptcy court “shall” allow claims with limited exceptions (i.e. debtor was wrongly charged for goods or services, specific interest charges or fees were miscalculated or wrongly imposed). See, e.g., In re Heath, 331 B.R. 424, 437-438 (B.A.P. 9th Cir. 2005). “If there is no substantive objection to the claim, the creditor should not be required to provide any further documentation of it.” Id. at 436, citing In re Shank, 315 B.R. 799, 813 (Bankr. N.D. Ga. 2004). However, “creditors have an obligation to respond to formal or informal requests for information. That request could even come in the form of a claims objection.” In re Heath, 331 B.R. at 436. Under In re Campbell, 336 B.R. 430 (B.A.P. 9th Cir. 2005), any objection that raises a legal or factual ground to disallow the claim will likely prevail over a proof of claim lacking prima facie validity.

“The court, after notice and a hearing, shall determine the amount of such claim... as of the date of the filing of the petition, and shall allow such claim, except to the extent that – (1) such claim is unenforceable against debtor and the property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unliquidated.” 11 U.S.C. §502(b).

Should objection be taken, the objector is then called upon to produce evidence and show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves. But the ultimate burden of persuasion is always on the claimant. Thus, it may be said that the proof of claim is some evidence as to its validity and amount. It is strong enough to carry over a mere formal objection without more. 3 L. King, Collier on Bankruptcy § 502.02, at 502–22 (15th ed. 1991).

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An objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with FRBP § 3001. The evidence must demonstrate that the proof of claim should be disallowed, reduced, subordinated, re-classified, or otherwise modified. LBR § 3007-1(c).

Service of Omnibus Motion was proper. The only response filed to Trustee's Omnibus Motion was the Limited Response of Eric Rothman, wherein he noted that Trustee's objection to Claim 41-1 was based on it being superseded by the filing of Claim 41-2. ECF doc. 569. Having considered all relevant pleadings and evidence, the Court finds that Trustee has sustained his burden and the Omnibus Motion is GRANTED. The claims identified in the Omnibus Motion are disallowed on the basis identified therein.

TRUSTEE TO LODGE ORDER WITHIN 7 DAYS.

Party Information

Debtor(s):

C.M. Meiers Company, Inc.

Pro Se

Trustee(s):

Bradley D. Sharp (TR)

Represented By
Stanley H Shure
Larry W Gabriel
Justin Santarosa

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#6.00 Trustee's Motion for Order Disallowing Claim 34-1,
by Cosmo Insurance Services Corporation

(Moved from 6/30/21)

Docket 563

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Claim No. 34-1, which is the subject of this motion, is for \$128,828.00. The claim is signed by Stuart A. Wright, President, Cosmo Insurance Services Corp. dba Stuart Wright & Associates. Trustee argues that Claim 34-1 lacks of appropriate documentation and clarity to support the claim. Trustee notes that Claim 34-1 appears to be for commissions owed; however, the claimant does not attach to the claim any agreement demonstrating that an agency relationship exists between the Debtor and Cosmos.

Standard

A proof of claim is deemed allowed unless a party in interest objects under § 502(a) and constitutes “prima facie evidence of the validity and amount of the claim” pursuant to Bankruptcy Rule 3001(f). See also Fed. R. Bankr. P. 3007. The filing of an objection to a proof of claim “creates a dispute which is a contested matter” within the meaning of Bankruptcy Rule 9014 and must be resolved after notice and opportunity for hearing upon a motion for relief. See Adv. Comm. Notes to Fed. R. Bankr. P. 9014.

Upon objection, the proof of claim provides “some evidence as to its validity and amount” and is “strong enough to carry over a mere formal objection without more.” Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir.1991) (quoting 3 Collier on Bankruptcy § 502.02, at 502-22 (15th ed.1991)); see also Ashford v. Consolidated Pioneer Mort. (In re Consol. Pioneer Mort.), 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995), aff'd, 91 F.3d 151, 1996 WL 393533 (9th Cir.1996). To defeat the claim, the objector must come forward with

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sufficient evidence and “show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.” In re Holm, 931 F.2d at 623. Under In re Campbell, 336 B.R. 430 (B.A.P. 9th Cir. 2005), any objection that raises a legal or factual ground to disallow the claim will likely prevail over a proof of claim lacking prima facie validity.

“If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence.” In re Consol. Pioneer, 178 B.R. at 226 (quoting In re Allegheny Int'l, Inc., 954 F.2d 167, 173-74 (3d Cir.1992)). The ultimate burden of persuasion remains at all times upon the claimant. See In re Holm, 931 F.2d at 623.

The Claim breaks down as follows:

- Priority unsecured claim under § 507(a)(4) & (a)(5) for commissions from November 3, 2011 to January 8, 2012 not to exceed \$11,725.
 - Trustee's position is that Exhibits A-D to the Claim demonstrate that Cosmo was paid in full for these commissions
- Unsecured claim of \$36,114.00, based on the same Ex. A-D
 - Trustee's position is that Exhibits A-D to the Claim demonstrate that Cosmo was paid in full for these commissions
- Administrative Claim of \$80,986 for the period January 9, 2012 - July 31, 2012
 - Trustee's position is that Exhibits F-K, filed by Cosmo in support of its claim, appear to be statements by or from the Liberty Company Insurance Brokers” (the “Liberty Company” or “Liberty”), [Exh. 1, Claim 34-1, p.4 of 80], demonstrating that Cosmo was paid in full for these commissions

The substance of Claimant's opposition is that it is owed the amounts asserted in the Claim. In its opposition, Cosmo points to its pleading filed in response to Debtor's disclosure statement, ECF doc. 561, filed June 8, 2021. Cosmo's position seems to be that because the Court denied its Motion to Allow Claim 34 as an Administrative Claim without prejudice that the Court tacitly allowed the claim. In fact, Cosmo's position ignores that the Court

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previously found that Cosmo's contract with the Debtor terminated prior to the filing of the instant bankruptcy and that "there is no contract for the Chapter 11 Trustee to assume and assign." ECF Doc. 156. The Court also found that "the Book of Business referenced in the Motion is Cosmo's property and not an asset of the estate." Id. Trustee notes that Cosmo did not address the fact that Liberty has paid Cosmo all monies purportedly due as relates to the commission payments Liberty received from insurers re previous clients of the Debtor.

Trustee has provided sufficient evidence to shift the burden to the claimant to prove the validity of the claim by a preponderance of the evidence. None of the exhibits submitted by Claimant are supportive of the Claim 34-1 as against the Debtor's Estate. Cosmo's objection is overruled.

Trustee's Objection to Claim 34-1 is SUSTAINED.
Trustee to lodge order within 7 days.

Party Information

Debtor(s):

C.M. Meiers Company, Inc.

Pro Se

Trustee(s):

Bradley D. Sharp (TR)

Represented By
Stanley H Shure
Larry W Gabriel
Justin Santarosa