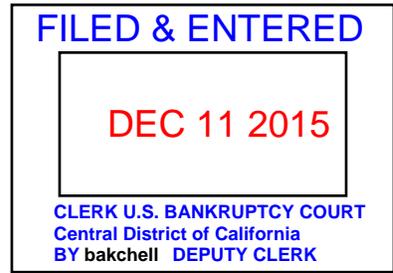


1 SAM S. LESLIE, CPA
2 3435 Wilshire Blvd.
3 Suite 990
4 Los Angeles, CA 90010
5 213/368-5000 – Telephone
6 213/368-5009 – Facsimile
7 Email: trustee@trusteeleslie.com

8 Proposed Accountant for Richard
9 K. Diamond, Chapter 7 Trustee



10 **ORDER NOT FOR PUBLICATION** CHANGES MADE BY COURT

11 UNITED STATES BANKRUPTCY COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 LOS ANGELES DIVISION

14 In re) Case No. 2:14-bk-10362-RK
15)
16 MARTHA FLORES,) Chapter 7
17)
18 Debtor.) **ORDER DENYING WITHOUT**
19) **PREJUDICE** CHAPTER 7
20) TRUSTEE'S APPLICATION TO
21) EMPLOY AND COMPENSATE LEA
22) ACCOUNTANCY, LLP AS
23) ACCOUNTANT
24)
25) [No Hearing Required]

26 The court, having reviewed and considered the Chapter 7 Trustee's
27 ("Trustee") Application to Employ and Compensate LEA Accountancy, LLP
28 ("LEA") as Accountant (the "Application"), and the Declarations of Richard K.
Diamond and Sam S. Leslie in support thereof (Docket No. 50), and the
Declaration of Non-Opposition (Docket No. 55); and good cause appearing,

IT IS HEREBY ORDERED that:

1. The Application is DENIED WITHOUT PREJUDICE as follows.

1 2. While it appears that LEA does not hold or represent any interest
2 adverse to the estate of debtor Martha Flores (“Debtor”) in the
3 matters on which it is to be employed as required by 11 U.S.C. §
4 327(a); that LEA is a disinterested person as required by 11 U.S.C.
5 § 327(a) and defined in 11 U.S.C. § 101(14); and that LEA’s
6 employment is in the best interest of this estate, and good cause
7 otherwise appearing therefor, the Application to employ LEA
8 pursuant to 11 U.S.C. §§ 327(a) and 330, nevertheless, the court
9 DENIES Trustee’s application to employ LEA which is contingent on
10 the court’s granting his request to “pay LEA a fee not to exceed
11 \$1,850 for its services upon acceptance of the estate’s final tax
12 return by the Internal Revenue Service, provided the [c]ourt
13 approves the employment and compensation of LEA without the
14 need for a formal fee application” pursuant to 11 U.S.C. § 330.
15 Application at 3, ¶¶ 6-7. 11 U.S.C. § 330(a)(1) expressly provides
16 that, “After notice . . . and a hearing, . . . the court may award . . . a
17 professional person employed under section 327 . . . (A) reasonable
18 compensation for actual, necessary services rendered . . .; and (B)
19 reimbursement for actual, necessary expenses.” Section 330(a)(3)
20 further provides that “the court shall consider the nature, the extent,
21 and the value of such services, taking into account all relevant
22 factors,” including those enumerated in section 330(a)(3), “[i]n
23 determining the amount of reasonable compensation to be
24 awarded.” Such review is an independent, nondelegable duty of the
25 court to review the reasonableness of compensation of bankruptcy
26 estate professionals pursuant to 11 U.S.C. § 330. *See, e.g., In re*
27 *Busy Beaver Building Centers, Inc.*, 19 F.3d 833, 840-844 (3rd Cir.
28 1994)(observing that “[d]isagreeable as the chore [of reviewing fee

1 applications] may be, the bankruptcy court must protect the estate,
2 lest overreaching attorneys or other professionals drain it of wealth
3 which by right should inure to the benefit of such secured
4 creditors.”). To approve the employment application and
5 compensation request in its proposed form would usurp the court’s
6 independent, nondelegable duty to review professional fee
7 applications under 11 U.S.C. § 330. *Id.* Additionally, Local
8 Bankruptcy Rule 2016-1(c)(4)(B) requires that “[a] professional
9 person seeking compensation *must* file and serve an application for
10 allowance and payment of final fees and expenses . . .” (Emphasis
11 added). And Local Bankruptcy Rule 2016-1(c)(4)(C) requires that
12 “[a]ll final fee applications by professional persons must be set for
13 hearing with the chapter 7 trustee’s final application for allowance
14 and payment of fees and expenses . . .” In essence, Trustee is
15 requesting that the court approve LEA’s fees on a “no look” basis
16 which does not fit into the “no look” fee categories of Local
17 Bankruptcy Rule 2016-2(a), (b) or (c) and which have been
18 sanctioned by the court by a vote of the judges to allow
19 compensation up to a certain minimal level without individualized
20 fee application scrutiny because the expense of preparing a fee
21 application was disproportionate to the minimal amount of fees
22 requested. While a similar argument may be made for this
23 individual employment application and compensation request, the
24 court declines to approve such application and request for an
25 amount exceeding the “no look” compensation limits approved by
26 the court as a matter of policy. Accordingly, Trustee’s request to
27 employ LEA and pay it a “reasonable” fee in his discretion on a final
28 basis pursuant to 11 U.S.C. § 330, without the filing of the required

1 application for fees and expenses and prior notice and a hearing on
2 such application, and without the court's statutory review of the
3 reasonableness of the compensation for the actual, necessary
4 services rendered under 11 U.S.C. § 330, is DENIED WITHOUT
5 PREJUDICE.

- 6 3. The application is DENIED WITHOUT PREJUDICE because Trustee
7 and Applicant may agree upon an employment arrangement that
8 would meet the requirements of the Bankruptcy Code and submit an
9 amended employment application on that basis.

10 **IT IS SO ORDERED.**

11 # # #
12
13
14
15
16
17
18
19
20
21
22

23
24 Date: December 11, 2015



25 Robert Kwan
26 United States Bankruptcy Judge
27
28