

|  |  |   |  |
|--|--|---|--|
| <div>Attorney or Party Name, Address, Telephone &amp; FAX<br/>Nos., State Bar No. &amp; Email Address</div> <div><input type="checkbox"/> Individual appearing without attorney<br/><input type="checkbox"/> Attorney for:</div> |  | <div>FOR COURT USE ONLY</div>   |  |
| <div>UNITED STATES BANKRUPTCY COURT<br/>CENTRAL DISTRICT OF CALIFORNIA - _____ DIVISION</div>  |  |   |  |
| <div>In re:</div> <div>Debtor(s).</div>  |  | <div>CASE NO.:</div> <div>CHAPTER: 11</div>   |  |
|  |  | <div>NOTICE OF MOTION AND MOTION IN<br/>INDIVIDUAL CHAPTER 11 CASE FOR ORDER<br/>AUTHORIZING DEBTOR IN POSSESSION TO<br/>EMPLOY PROFESSIONAL (OTHER THAN<br/>GENERAL BANKRUPTCY COUNSEL)<br/>[LBR 2014-1]</div>   |  |
|  |  | <div>This motion is being made under <u>ONLY ONE</u> of the following<br/>notice procedures:</div> <div><input type="checkbox"/> No hearing unless requested under LBR 9013-1(o)(4); or<br/><input type="checkbox"/> Hearing set on regular notice: LBR 9013-1(d):</div> <div>DATE:<br/>TIME:<br/>COURTROOM:<br/>ADDRESS:</div> |  |

**PLEASE TAKE NOTICE THAT** the Debtor in Possession (Debtor) seeks an order employing a professional other than general bankruptcy counsel in this case.

Your rights might be affected by this Motion. You may want to consult an attorney. Refer to the box checked below for the deadline to file and serve a written response. If you fail to timely file and serve a written response, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief. You must serve a copy of your opposition upon the Debtor, the Debtor's attorney, the United States trustee and on the judge pursuant to LBR 5005-2(d) and the Court Manual.

- a. ☐ **No Hearing Scheduled; Notice Provided Under LBR 9013-1(o):** This Motion is filed by the Debtor pursuant to LBR 9013-1(o), which provides for granting of motions without a hearing. The full Motion is attached, including the legal and factual grounds upon which the Motion is made. If you wish to oppose this Motion, you must file a written response and request for hearing with the court and serve it as stated above, **no later than 14 days after the date stated on the Proof of Service of this Motion** plus 3 additional days if you were served by mail, electronically, or pursuant to F.R.Civ.P. 5(b)(2)(D), (E), or (F). Your opposition must comply with LBR 9013-1(f) and (o).
- b. ☐ **Hearing Set on Regular Notice; Notice Provided Under LBR 9013-1(d):** This Motion is set for hearing on regular notice pursuant to LBR 9013-1(d). The full Motion and supporting documentation are attached, including the legal and factual grounds upon which the Motion is made. If you wish to oppose this Motion, you must file a written response with the court and serve it as stated above **no later than 14 days prior to the hearing**. Your response must comply with LBR 9013-1(f). The undersigned hereby verifies that the hearing date and time selected were available for this type of Motion according to the judge's self-calendaring procedures [LBR 9013-1(b)].
- c. ☐ **Other (specify):**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Debtor

Name: \_\_\_\_\_  
Printed name of Debtor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of attorney for Debtor, if any

Name: \_\_\_\_\_  
Printed name of attorney for Debtor, if any

**MOTION TO EMPLOY PROFESSIONAL  
OTHER THAN GENERAL BANKRUPTCY COUNSEL [LBR 2014-1]**

1. The Debtor seeks to employ, effective on (date) \_\_\_\_\_, (name of professional) \_\_\_\_\_ (Professional) pursuant to ☐ 11 U.S.C. § 327(a) or ☐ 11 U.S.C. § 327(e). (A separate motion is required for each professional.)
2. The following information and documents are provided in support of this Motion:
  - a) Professional seeks compensation pursuant to: ☐ 11 U.S.C. § 328 or ☐ 11 U.S.C. § 330.
  - b) The Debtor selected this professional because the Professional is well qualified to represent the Debtor in this proceeding and for the following additional reasons:

☐ The Professional is an attorney who has previously represented the Debtor. However, pursuant to 11 U.S.C. § 327(e), the proposed representation is in the best interest of the estate, and the Professional does not represent or hold any interest adverse to the Debtor or the estate with respect to the matter on which the Professional is to be employed.
  - c) The professional services to be rendered include (*check all that apply*):
    - (1) ☐ **(Special Counsel)** Assist the Debtor and general bankruptcy counsel with special legal matters that may arise during the pendency of the case. The scope of such services, including specific litigation matters if applicable, are detailed in a declaration of Professional attached to this Motion;
    - (2) ☐ **(Accountant)** Prepare and provide financial reporting to be made in connection with this case, including but not limited to income and expense reports, financial statements, tax returns, monthly operating reports and providing data necessary for interim statements and operating reports;
    - (3) ☐ **(Real Estate Broker)** Provide real estate brokerage services with respect to the real property/ies located at:
    - (4) ☐ **(Appraiser)** Appraise the real property located at:
    - (5) ☐ **Other** (*specify*):
  - d) A declaration of the Professional is attached and provides information on the following: identification/qualifications; disinterestedness; compliance with FRBP 2014 and FRBP 5002; and compensation arrangements.

- e) A declaration of the Debtor as to the source, amount and date of prepetition retainer paid to the Professional and provisions for replenishment, if any, and any post-petition retainer and source of payment of postpetition retainer(s), if any, is attached. No liens against the retainer have been granted in favor of the Professional or any other party.
- f) ☐ An optional Memorandum of Points and Authorities is attached to this Application.
- g) ☐ Other (*specify*):

The Debtor respectfully requests that it be authorized to employ and appoint the Professional to represent the Debtor in this proceeding and any additional relief requested above.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of attorney for Debtor, if any

Name: \_\_\_\_\_  
Printed name of attorney for Debtor, if any

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Debtor

Name: \_\_\_\_\_  
Printed name of Debtor

## DECLARATION OF PROFESSIONAL

I, (*name of Professional*) \_\_\_\_\_, have personal knowledge of the matters set forth in this declaration and, if called upon to testify, I could and would competently testify thereto.

### 1. Identification/Qualifications

- a) ☐ I am a licensed (certified) \_\_\_\_\_.
- b) ☐ I am a (*position with firm*) \_\_\_\_\_ with (*name of firm*) \_\_\_\_\_ (the Firm).
- c) I and the Firm, if any, maintain a principal office at (*specify*) \_\_\_\_\_
- d) I and the Firm, if any, seek to represent the Debtor with respect to the following services:
1. ☐ (**Special Counsel**) Assist the Debtor and general bankruptcy counsel with the following special legal matters that may arise during the pendency of the case:
  2. ☐ (**Accountant**) Prepare and provide financial reporting to be made in connection with this case, including but not limited to income and expense reports, financial statements, tax returns, monthly operating reports and providing data necessary for interim statements and operating reports, or (*specify any additional services*):
  3. ☐ (**Real Estate Broker**) Provide real estate brokerage services with respect to the real property/ies located at:
  4. ☐ (**Appraiser**) Appraise the real property located at:
  5. ☐ **Other** (*specify*):
- e) A copy of my resume is attached as **Exhibit 1**. I believe that I am qualified to represent the Debtor for the following reasons:
- f) Additional resumes for any and all professionals at my Firm, if any, who will work on this case are attached hereto as **Exhibit 2**.

## 2. Disclosures Re Connections and Adverse Interests

- a) ☐ If Authority is Sought Under 11 U.S.C. § 327(a)

The Firm and I are “disinterested persons” within the meaning of 11 U.S.C. § 101. We: (a) are not creditors, equity security holders, or insiders of the Debtor; (b) are not and were not, within 2 years before the date of the filing of the petition, directors, officers or employees of the Debtor; and (c) we do not have interests materially adverse to the interest of the estate, or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor or for any other reason. The Firm and I do not hold or represent any interest adverse to the estate.

- b) ☐ Special Counsel, if Authority is Sought under 11 U.S.C. § 327(e)

My Firm and/or I are attorney(s) and have previously represented the Debtor. However, pursuant to 11 U.S.C. § 327(e), my proposed representation is in the best interest of the estate, and I do not represent or hold any adverse interest with respect to the matter on which I am to be employed.

- c) FRBP 2014 Disclosure

Except as indicated below and other than representing the Debtor in this case, neither the Firm nor I ever represented the Debtor, and neither the Firm nor I have any connection with the Debtor, any insider of the Debtor, or insider of an insider of the Debtor, any creditor of the Debtor or any other party in interest herein, the United States trustee, persons employed by the United States trustee, persons employed by the Bankruptcy Court or a Bankruptcy Judge, or any of their respective attorneys or accountants. Other information relevant to relationships with the Debtor is as follows (*specify*):

- d) The Firm and I do not hold any prepetition claim against the Debtor or the Debtor's estate.

- e) The Firm and I have not made any arrangements for the sharing of fees with any other person.

## 3. Compensation Arrangements

- a) ☐ Prior to the chapter 11 petition date, the Firm and I received \$\_\_\_\_\_ from

☐ the Debtor

☐ Other (*specify source of funds*):

As of the date of this application, \$\_\_\_\_\_ of the retainer funds remain unexhausted.

- b) ☐ I have not yet been paid any compensation. Compensation will be paid postpetition from the following (*specify source of funds*):

- c) Pursuant to the Debtor's initial retainer agreement, the Debtor agreed to pay for services as they were performed. However, any payment of fees and expenses is subject to court approval. A true and correct copy of the Retainer Agreement is attached as **Exhibit 3**.

- d) The Firm and I will comply with the *Guide to Application for Retainers and Professional and Insider Compensation* promulgated April 2008 by the office of the United States trustee, as well as any other applicable employment guidelines and fee guidelines in withdrawing the prepetition or postpetition retainer funds, if any.

e) THE PROFESSIONAL'S COMPENSATION RATES ARE:

(1) Hourly rates

| Name | Position/Title | Hourly Rate |
|------|----------------|-------------|
|      |                |             |
|      |                |             |
|      |                |             |

☐ Optional: See **Exhibit 4** for compensation rates.

(2) Other

If the Professional's/Firm's compensation is set by other than by hourly rate (*specify*):

f) THE PROFESSIONAL'S EXPENSE REIMBURSEMENT RATES ARE:

Fax in & fax out \$\_\_\_\_\_ (Actual cost, not to exceed \$0.10 per page)

Messenger Actual cost

Photocopies \$\_\_\_\_\_ (Actual cost, not to exceed \$0.10 per page)

Postage Actual cost

Telephone No charge

Other: (*describe expense*)

\_\_\_\_\_ \$\_\_\_\_\_ (Actual cost)

\_\_\_\_\_ \$\_\_\_\_\_ (Actual cost)

g) Neither the Firm nor I request any lien on any retainer received in this case or on any property of the estate.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of proposed professional

Name: \_\_\_\_\_  
Printed name of proposed professional

This form is optional. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

## DECLARATION OF THE DEBTOR

I, (print name of the Debtor) \_\_\_\_\_, am the Debtor in Possession in this case.

1. To the best of my knowledge, all of the person's connections with the Debtor, creditors, or any party in interest, their respective attorneys and accountants, the United States trustee or any person employed in the office of the United States trustee are as stated in the attached Declaration of Professional.

2. a) ☐ I paid the following amounts to \_\_\_\_\_ as follows:

| <u>Amount</u> | <u>Date of Payment</u> | <u>Source of Funds</u> |
|---------------|------------------------|------------------------|
| \$            |                        |                        |
| \$            |                        |                        |

b) ☐ I caused to be paid \$ \_\_\_\_\_ to \_\_\_\_\_ pursuant to our initial retainer agreement, and have agreed that fees are to be billed against this amount.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Debtor in Possession

Name: \_\_\_\_\_  
Printed name of Debtor in Possession



## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION AND MOTION IN INDIVIDUAL CHAPTER 11 CASE FOR ORDER AUTHORIZING DEBTOR IN POSSESSION TO EMPLOY PROFESSIONAL (OTHER THAN GENERAL BANKRUPTCY COUNSEL) [LBR 2014-1]** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* \_\_\_\_\_, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On *(date)* \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature