

FILED & ENTERED

JAN 03 2022

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re: Robert W. Hunt, a medical
corporation,
Debtor.

Case No.: 2:11-bk-58228-ER

Chapter: 7

**MEMORANDUM OF DECISION
APPROVING THE TRUSTEE'S FINAL
REPORT AND AWARDED FEES AND
EXPENSES TO THE ESTATE'S
PROFESSIONALS**

[No hearing required pursuant to Federal Rule
of Civil Procedure 78(b) and Local
Bankruptcy Rule 9013-1(j)(3)]

I. Introduction

The Court has reviewed the Trustee's Final Report [Doc. No. 780] (the "TFR") and the associated applications for payment of fees and expenses filed by professionals employed by the estate (collectively, the "Fee Applications").¹ Peli Popovich Hunt ("Hunt"), who opposed almost

¹ The Court has reviewed the following papers in connection with this matter:

- 1) Trustee's Final Report [Doc. No. 780] (the "TFR");
 - a) Notice of Trustee's Final Report and Applications for Compensation and Deadline to Object [Doc. No. 781] (the "NFR");
 - b) Bankruptcy Noticing Center Certificate of Notice of NFR [Doc. No. 783];
 - c) Request for Court Costs [filed by the Chapter 7 Trustee] [Doc. No. 760];
 - d) Notice of Court Costs Due [Doc. No. 761];
 - e) Notice to Professionals to File Applications for Compensation [Doc. No. 759];

every single action to administer the estate taken by the Chapter 7 Trustee (the “Trustee”) before she was designated a vexatious litigant, has received notice of the TFR and the Fee Applications but has not filed a timely opposition thereto.² Pursuant to Civil Rule 78(b) and LBR 9013-1(j)(3),³ this matter is appropriate for disposition without a hearing. For the reasons set forth below, the Court will (1) approve the TFR in its entirety, (2) award the fees and expenses requested by the applicants, and (3) vacate the hearings on the TFR and Fee Applications that are set for January 4, 2022 at 11:00 a.m.

II. Findings of Fact and Conclusions of Law

A. Case History

Robert W. Hunt, M.D., a medical corporation (the “Debtor”) filed a voluntary Chapter 11 petition on November 23, 2011. The Debtor was in the business of operating a workers’ compensation medical clinic. The sequence of events precipitating the bankruptcy began when Dr. Robert W. Hunt, the Debtor’s principal, died on October 26, 2007. Subsequent to Dr. Hunt’s death, the Debtor ceased the practice of medicine, and its sole business was collecting workers compensation accounts receivable. A dispute with doctors formerly employed by the Debtor (the “Doctor Creditors”) led to entry of a judgment against the Debtor, and in favor of the Doctor Creditors, in the amount of \$3,509,617.23 (the “Doctor Creditor Judgment”).

On March 5, 2012, upon the motion of the Doctor Creditors, the Court appointed a Chapter 11 Trustee.⁴ The Court found that appointment of a Chapter 11 Trustee was required because

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- 2) Application for Payment of Final Fees and/or Expenses [filed by Gould & Gould, LLP] [Doc. No. 763];
 - a) Request for Judicial Notice in Support of Gould & Gould, LLP’s Final Fee Application [Doc. No. 764];
 - b) Client Statement Re Gould & Gould, LLP’s Final Fee Application [Doc. No. 779];
 - 3) First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses of Counsel for the Chapter 7 Trustee [filed by Weiland Golden Goodrich LLP] [Doc. No. 765];
 - 4) Third and Final Application by Menchaca & Company LLP, as Accountant to Chapter 7 Trustee, for Order Seeking Allowance and Payment of Fees and Reimbursement of Expenses on a Final Basis [Doc. No. 766].

² On March 17, 2021, Hunt filed a *Change of Mailing Address* form [Doc. No. 757], stating that she wished to receive notices at “106 1/2 Judge John Aiso St. #304, Los Angeles, CA 90012.” On November 18, 2021, the Bankruptcy Noticing Center mailed the *Notice of Trustee’s Final Report and Applications for Compensation and Deadline to Object* [Doc. No. 781] to Hunt at the address set forth on the March 17, 2021 *Change of Mailing Address* form. *See* Doc. No. 783 (Bankruptcy Noticing Center Certificate of Notice).

³ Unless otherwise indicated, all “Civil Rule” references are to the Federal Rules of Civil Procedure, Rules 1–86; all “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure, Rules 1001–9037; all “Evidence Rule” references are to the Federal Rules of Evidence, Rules 101–1103; all “LBR” references are to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California, Rules 1001-1–9075-1; and all statutory references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532.

⁴ Doc. No. 77 (order directing the appointment of a Chapter 11 Trustee).

Hunt was controlling the Debtor and had caused the Debtor to both mismanage the estate and violate its fiduciary duties to creditors.⁵ On July 24, 2012, upon the motion of the Chapter 11 Trustee, the Court converted the case from Chapter 11 to Chapter 7.⁶

The costs of administering the estate were substantially increased by Hunt's opposition to almost every action taken by the Chapter 11 Trustee and Chapter 7 Trustee (collectively, the "Trustee"). In connection with an appeal filed by Hunt, Judge Andrew J. Guilford of the U.S. District Court for the Central District of California entered an order imposing pre-filing restrictions against her. In that order, Judge Guilford described Hunt's behavior as follows:

[Hunt] has consistently imposed various significant burdens on the Court's resources and time by, among other things, filing numerous appeals from a bankruptcy adversary proceeding, incomprehensible documents, and countless errata. [Hunt's] actions continue to show that she does not listen to the Court and fails to effectively advocate on her behalf. She appears unwilling to accept *any* decision not in her favor. Appellant's unhindered onslaught on the Central District concerning the underlying bankruptcy stops now....

In many of the Court's Orders in this and other of [Hunt's] appeals, the Court has expressed its frustration with [Hunt's] filings. Many of her motions are frivolous. The Court has on numerous occasions told [Hunt] that her papers are incomprehensible, and has even encouraged her to retain counsel or at least visit the pro se clinic. A brief review of [Hunt's] actions show that she almost uniformly appeals decisions adverse to her in the underlying action. If she has an adverse decision on a motion filed in one of her appeals, she will often ... use portions of newly filed motions to reargue adverse decisions on earlier motions. The Court finds that a vast majority of [Hunt's] filings and actions are frivolous.

Order Finding Appellant a Vexatious Litigant and Imposing Pre-Filing Restriction, Issuing an Order to Show Cause Concerning Dismissal of Appeal, and Denying "Motion to Refiled Stay of Pending Appeal" at 1 and 4–5 [Doc. No. 46, Case No. 2:15-cv-00667-AG].

On October 16, 2014, the Court entered an order deeming Hunt to be a vexatious litigant and imposing pre-filing restrictions against her in the Bankruptcy Court.⁷

Notwithstanding the issuance of pre-filing restrictions by both Judge Guilford and the Bankruptcy Court, the Trustee was still required to incur significant costs defending against frivolous appeals filed by Hunt prior to the issuance of those pre-filing restrictions. Hunt appealed multiple orders entered by the Court, first to the District Court, and after this proved unsuccessful, then to the Ninth Circuit. None of Hunt's appeals resulted in any of the orders entered by the Court being overturned.⁸

⁵ Doc. No. 73 (ruling explaining the reasons for appointment of a Chapter 11 Trustee).

⁶ Doc. No. 192 (order converting case from Chapter 11 to Chapter 7).

⁷ Doc. No. 434.

⁸ A description of some—but by no means all—of the frivolous pleadings filed by Hunt is set forth in the Trustee's motion for entry of an order declaring Hunt to be a vexatious litigant [Doc. No. 401].

B. The Court Approves the TFR and Awards the Fees and Costs Requested by the Estate's Professionals

Section 330(a)(1) allows the Court to award “reasonable compensation for actual, necessary services rendered” by a professional. In determining the amount of compensation to award, the Court considers the

nature, the extent, and the value of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

§330(a)(3).

The Court “must calculate awards for attorneys’ fees using the ‘lodestar’ method, and the amount of that fee must be determined on the facts of each case. The ‘lodestar’ is calculated by multiplying the number of hours the prevailing party reasonably expended on the litigation by a reasonable hourly rate.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 978 (9th Cir. 2008) (internal citations and quotations omitted).

“The ‘prevailing market rates in the relevant community’ set the reasonable hourly rate for purposes of computing the lodestar amount.... ‘Generally, when determining a reasonable hourly rate, the relevant community is the forum in which the district court sits.’ Within this geographic community, the district court should ‘tak[e] into consideration the experience, skill, and reputation of the attorney [or paralegal].’” *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1205–06 (9th Cir. 2013) (internal citations omitted).

Section 326 allows the Court to award compensation to a Chapter 11 and Chapter 7 Trustee, and provides in relevant part:

In a case under chapter 7 ..., the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee’s services, payable after the trustee renders such services, not to exceed 25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims.

Section 330(a)(7) provides:

In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.

The Ninth Circuit Bankruptcy Appellate Panel (“BAP”) explains the proper application of §326(a) as follows:

Section 326(a) provides a formula for determining the maximum compensation a trustee may receive in a chapter 7 case. In our decision in *Salgado–Nava*, we analyzed the interaction between this maximum compensation formula and the provision of § 330(a)(7) that the bankruptcy court must “treat [a trustee's] compensation as a commission, based on section 326.” *In re Salgado–Nava*, 473 B.R. at 915–22. We held that a trustee’s request for compensation should be presumed reasonable as long as the amount requested does not exceed the statutory maximum calculated pursuant to § 326. “[A]bsent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review.” *Id.* at 921. If the court has found that extraordinary circumstances are present, only then does it become appropriate to conduct a further inquiry to “determine whether there exists a rational relationship” between the compensation requested and the services rendered.

Fear v. United States Trustee (In re Ruiz), 541 B.R. 892, 896 (B.A.P. 9th Cir. 2015).

1. Gould & Gould LLP

Gould & Gould LLP (“Gould”) served as the general bankruptcy counsel for both the Chapter 11 Trustee and the Chapter 7 Trustee. As discussed above, Gould was required to perform a significant amount of work representing the Trustee in defending against frivolous oppositions and appeals filed by Hunt. The Court finds that the services performed by Gould were beneficial to the estate, and that the time spent and rates charged for those services were reasonable. Among other things, Gould successfully represented the Trustee in (1) defeating a non-meritorious claim of exemption filed by Hunt, (2) obtaining a judgment finding that the Debtor’s accounts receivable were property of the estate and that Hunt was estopped from asserting an ownership interest in the accounts receivable, and (3) obtaining, over Hunt’s opposition, an order authorizing the employment of specialized professionals to collect the accounts receivable.

For work Gould performed in its capacity as counsel to the Chapter 11 Trustee, the Court awards, on a final basis, fees in the amount of \$23,715.00 and expenses in the amount of \$60.00. For work Gould performed in its capacity as counsel to the Chapter 7 Trustee, the Court awards, on a final basis, fees in the amount of \$368,025.00 (consisting of \$325,680.00 previously awarded on an interim basis and \$42,345.00 sought in connection with this application) and expenses in the amount of \$1,338.47 (consisting of \$1,292.47 previously awarded on an interim basis and \$46.00 sought in connection with this application).

2. Weiland Golden Goodrich LLP

Weiland Golden Goodrich LLP (“Weiland”) was employed as the Chapter 7 Trustee’s general bankruptcy counsel after David Gould, the principal of Gould & Gould LLP, retired from

the practice of law. The Court finds that the services performed by Weiland were beneficial to the estate, and that the time spent and rates charged for those services were reasonable.

The Court awards to Weiland, on a final basis, fees in the amount of \$20,924.00 and expenses in the amount of \$466.09.

3. Menchaca & Company, LLP

Menchaca & Company, LLP (“Menchaca”) was employed as the accountant for the Chapter 7 Trustee. Menchaca’s services included, without limitation, preparing the Debtor’s state and federal tax returns and reviewing the Debtor’s financial records to determine whether any preference payments were made. The Court awards to Menchaca, on a final basis, fees in the amount of \$60,676.00 (consisting of \$46,524.00 previously awarded on an interim basis and \$14,152.00 sought in connection with this application) and expenses in the amount of \$170.51 (consisting of \$97.71 previously awarded on an interim basis and \$72.80 sought in connection with this application).

4. David M. Goodrich, Chapter 11 Trustee and Chapter 7 Trustee

David M. Goodrich (“Goodrich”) served as the Chapter 11 Trustee and Chapter 7 Trustee. Pursuant to the formula set forth in § 326, Goodrich is entitled to compensation of \$12,214.43 for work performed as the Chapter 11 Trustee and \$75,493.57 for work performed as the Chapter 7 Trustee (consisting of \$27,069.33 previously awarded on an interim basis and \$48,424.24 sought in connection with this application). This case does not present any extraordinary circumstances warranting departure from the commission set forth in § 326.

In addition, in connection with the Chapter 7 case, Goodrich is entitled to expenses in the amount of \$1,031.47 (consisting of \$1,009.27 previously awarded on an interim basis and \$22.20 sought in connection with this application).

5. Prior Interim Awards to Other Professionals Are Now Confirmed as Final

The Court has previously awarded, on an interim basis, fees and expenses to the following professionals: (1) Rutan & Tucker LLP, (2) Seelig+Cussigh HCO LLC, (3) Jerry Seelig, and (4) R.L. Spear Co., Inc. The foregoing professionals do not seek any additional fees in connection with the TFR. The Court now confirms, as final, the fees previously awarded to these professionals on an interim basis.

6. Other Administrative Expenses

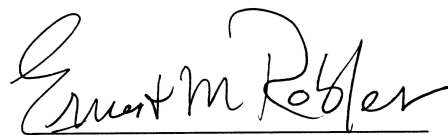
To the extent not already paid, the Court approves the payment of the following costs of administration set forth in the TFR: (1) \$293.00 in U.S. Bankruptcy Court charges; (2) \$650.00 in fees to the United States Trustee; (3) \$2,754.33 in bond payments to International Sureties, Ltd.; (4) \$49,500 in administrative rent to Elissa D. Miller, Chapter 7 Trustee for the estate of Peli Popovich Hunt; and (5) \$2,902.60 in state and local taxes.

III. Conclusion

Based upon the foregoing, the TFR is approved in its entirety, and the Court awards to each fee applicant the fees and expenses requested in those professional’s respective fee applications. The hearings on the TFR and Fee Applications that are set for January 4, 2022 at 11:00 a.m. are **VACATED**. The Trustee shall submit an order consistent with this Memorandum of Decision within seven days.

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Date: January 3, 2022

A handwritten signature in black ink, reading "Ernest M. Robles". The signature is written in a cursive style with a horizontal line underneath the name.

Ernest M. Robles
United States Bankruptcy Judge