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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re: ANTHONY C. WELLS, Debtor.	Case No. 2:16-bk-18163-RK Chapter 7 **ORDER APPROVING CHAPTER 7 TRUSTEE'S APPLICATION TO EMPLOY REAL ESTATE BROKER AND VACATING HEARING** Date: October 3, 2017 Time: 2:30 p.m. Courtroom: 1675

Pending before this court is the Application of Chapter 7 Trustee ("Trustee") Richard K. Diamond to Employ Real Estate Brokers and to Enter Exclusive Listing Agreement ("Application") (Docket No. 72) which has been noticed for hearing before the undersigned United States Bankruptcy Judge on October 3, 2017 at 2:30 p.m. Debtor Anthony C. Wells and Sayun Wells filed a late opposition ("Opposition") (Docket No. 74) to the Application on September 26, 2017, which was due 14 days before the

hearing, or by September 19, 2017. *See* Local Bankruptcy Rule 9013-1(f)(1). Trustee filed a reply on September 28, 2017 ("Reply") (Docket No. 76). Howard Kollitz and Aaron E. DeLeest, of the law firm of Danning, Gill, Diamond & Kollitz, LLP, represents the Trustee, and Gary A. Laff, of Law Offices of Gary A. Laff, represents the objecting parties, Debtor Anthony Wells, and his wife, Sayun Wells, who is not a joint debtor in this case.

Having considered the Application, late filed Opposition, and Reply, the court determines that pursuant to Local Bankruptcy Rule 9013-1(j)(3), oral argument on the Application is not necessary, dispenses with it, vacates the hearing on the Application, takes the Application under submission and rules as follows:

1. The Application is approved for the reasons stated in the Application and in the Reply, which demonstrate that the employment of the real estate brokers as estate professionals is within the reasonable business judgment of the Trustee, that is, to assist the Trustee is marketing and selling property of the bankruptcy estate.
2. As indicated by the Reply, the Chapter 7 Trustee obtained a state court judgment against Debtor and his non-debtor spouse on April 11, 2017 that the subject real property is community property, *see* Exhibit 1 to Reply, which shows that the property may be administered by the Trustee as an asset of the bankruptcy estate under 11 U.S.C. § 541(a) and may be sold pursuant to 11 U.S.C. § 363(b)(1) .
3. The substance of the Opposition to the Application goes to the objecting parties' opposition to any sale of the subject real property under 11 U.S.C. §

363(b)(1), which is a matter not before the court as yet, and thus, the opposition does not go to the merits of the Application to employ the real estate broker. Thus, the court determines that the Opposition lacks merit. Besides, the Opposition was not timely filed as required by Local Bankruptcy Rule 9013-1(f)(1), and the court may, and does, deem the failure of the objecting parties to file and serve a timely opposition to the Application as consent by them to the approval of the Application pursuant to Local Bankruptcy Rule 9013-1(h).

4. The hearing on the Application on October 3, 2017 at 2:30 p.m. is vacated, and no appearances are required.

IT IS SO ORDERED.

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Date: September 29, 2017

Robert Kwan
United States Bankruptcy Judge