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CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY Deputy Clerk

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

In re:	GENERAL ORDER 02-02
CHAPTER 11 PROCEDURES	

(a) APPLICABILITY

Except as provided herein, this general order relates to chapter 11 cases in all divisions of the bankruptcy court, including as to prospective matters, cases pending as of the effective date. The definitions set forth in the Local Bankruptcy Rules effective July 1, 1998, and any amendments thereafter, apply to all terms used in this general order. To the extent that this general order conflicts with any provisions of the Local Bankruptcy Rules, the provisions of this general order shall prevail. In all other respects, the Local Bankruptcy Rules shall apply in all chapter 11 cases.

(b) MOTIONS REQUIRING EMERGENCY OR EXPEDITED RELIEF

(1) Scope. The motions governed by this general order include all motions requiring an order on less than 2 court days notice. If a motion requires such emergency or expedited relief:

(A) Obtaining Hearing Date and Time. A hearing date and time may be obtained by telephoning the member of the staff of the court designated by the judge to schedule emergency or expedited hearings. The judge has discretion at the hearing to hear the matter or continue it to a different date and time. The identity of the designated member of the judge's staff shall be available from the clerk's office and posted on the court's Internet website.

(B) Contents of Motion. Each such motion shall begin with a summary not more than 1 page in length explaining what relief is requested and the reasons why granting such relief is appropriate.

(C) Filing the Motion. The motion shall be filed as soon as possible, but no later than 2 hours prior to the hearing. In the event that the motion is filed the day of the hearing, the movant shall submit with its motion evidence in the form of declarations setting forth the reasons why the motion could not have been filed earlier. Upon filing, a filed copy of the motion shall be delivered directly to chambers. In addition to applicable requirements of Local Bankruptcy Rule 9013-1(a)(4), the motion shall be accompanied by declarations of competent witnesses under penalty of perjury that:

(i) State with specificity the nature of the emergency and why there is a need for expedited treatment; and

(ii) Support the granting of the motion itself on the merits. No

separate motion for an expedited hearing under this rule is required.

(D) Scope of and Means for Notice Required. The moving party shall serve notice of the motion and hearing by personal delivery, messenger, telephone, fax, e-mail, or other proper mode of service to the debtor; debtor's attorney; any trustee appointed in the case; the United States trustee; the creditors' committee and its counsel, if any, or holders of the 20 largest unsecured claims if no committee has been appointed; all parties who have requested special notice; holders of secured claims; and co-owners or other parties with a specific interest in the property or matter at issue.

(E) Service of the Motion. The motion shall be served as soon as possible by delivering a copy to any party so requesting and to all parties as required by Federal Rule of Bankruptcy Procedure 4001.

(F) Response to Motion to be Presented at the Hearing. Any response, written or oral, including any opposition or objection to the motion may be presented before or at the time of the hearing on the motion.

(G) Proof of Notice to be Presented at the Hearing. At the hearing, the moving party shall present to the court a declaration of the efforts made to comply with the notice and service requirements of this general order. The declaration shall describe the efforts made to notify opposing parties and their counsel of the time and place of the hearing and the substance of the motion.

(2) Specific Types of Motions. The foregoing procedures govern the following types of motions:

(A) Motions to Limit Notice.

(B) Motions to Extend Time to File Schedules and Statements of Financial Affairs.

(C) Utility Motions pursuant to 11 U.S.C. § 366.

(D) Motions to Establish Procedures for Handling Multiple Reclamation Claims.

(E) Requests For Regularly Scheduled Hearing Dates. Upon request of a debtor, the court may establish a fixed date and time as the scheduled hearing date and time for hearing all motions and other matters in a chapter 11 case. Once ordered, the dates and time, and exceptions, if any, will be made available through the clerk's office and will be posted in advance on the court's Internet website.

(F) Motions to Pay Prepetition Payroll and to Honor Prepetition Employment Procedures. Such motions must be supported with evidence that establishes:

(i) The employees are still employed;

(ii) The necessity for payment;

(iii) The benefit of the procedures;

(iv) The prospect of reorganization;

(v) Whether the employees are insiders;

(vi) Whether the employees' claims are within the limits established by 11 U.S.C. § 507; and that

(vii) The payment will not render the estate administratively insolvent.

(G) Motions to Honor and Comply with Customer Obligations and Deposits. Such motions must be supported by evidence that relief

is essential to business operations and customer confidence or that the estate may suffer postpetition damages that would prejudice creditors, the reorganization, or the value of property of the estate.

(H) Motions to Pay Prepetition Taxes. Such motions must be supported by evidence that establishes:

(i) The necessity for payment;

(ii) The prospect of reorganization;

(iii) The means to pay;

(iv) That the taxes to be paid are entitled to priority pursuant to 11 U.S.C. § 507; and that

(v) The payment will not render the estate administratively insolvent.

(I) Motions for Emergency Use of Cash Collateral, Financing and/or Cash Management. See section (c) below.

(J) Motions for Orders Establishing Procedures for Sale of All or Substantially All of Estate's Assets. See section (d) below.

(K) Other Motions Where Special Circumstances Exist. Such motions must demonstrate with evidence that exigent circumstances exist justifying an immediate hearing.

(c) MOTIONS FOR EMERGENCY USE OF CASH COLLATERAL, FINANCING AND/OR CASH MANAGEMENT

(1) Motions. Motions requesting approval of cash collateral, financing and/or cash management under 11 U.S.C. §§ 363 and/or 364 must identify whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated below, including:

(A) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);

(B) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection, or amount of the secured creditor's prepetition lien or debt or the waiver of claims against the secured creditor;

(C) Provisions that seek to waive the estate's rights under 11 U.S.C. § 506(c);

(D) Provisions that grant to the prepetition secured creditor liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548, or 549.

(E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in 11 U.S.C. § 552(b);

(F) Provisions that provide disparate treatment for the professionals retained by a creditors' committee from that provided for the professionals retained by the debtor with respect to a professional fee carve out; and

(G) Provisions that prime any secured lien must:

(i) Identify the location of any such provision in the proposed form of order, cash collateral stipulation, and/or loan

agreement; and

(ii) Contain specific justification for priming.

(2) Summary of Essential Terms. The motion must include a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the interim borrowing limit, the maximum borrowing available on a final basis, borrowing conditions, interest rate, maturity dates, events of default, use of funds limitations, and protections afforded under 11 U.S.C. §§ 363 and 364).

(3) Use of Form for Cash Collateral and/or Financing Stipulations. Each motion requesting approval of a stipulation for use of cash collateral and/or financing must be accompanied by court-approved form F 4001-2, Statement Pursuant to Local Bankruptcy Rule 4001-2, or a statement consistent with court-approved form F 4001-2.

(4) Interim Relief. The court may grant interim relief to prevent immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the court will not approve interim orders that include any of the provisions described in subsection (1)(A) above.

(5) Final Orders. A final order will be entered only after notice and a hearing pursuant to Federal Rule of Bankruptcy Procedure 4001(b). Ordinarily, the final hearing will be held at least 10 days after the appointment of the creditors' committee contemplated by 11 U.S.C. § 1102.

(d) MOTIONS FOR ORDERS ESTABLISHING PROCEDURES FOR THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE ESTATE'S ASSETS

(1) Timing of Hearing. A hearing on a Motion to Establish Procedures for the Sale of All or Substantially All of the Estate's Assets ("Sale Procedure

Motion") may be scheduled on 5 court days notice to applicable parties.

(2) Procedures. The procedures for obtaining a hearing on such motion shall be governed by section (b) above.

(3) Contents of Notice. The notice must describe the proposed bidding procedures and include a copy of the proposed purchase agreement. If the purchase agreement is not available, the moving party shall describe the terms of the sale proposed and when a copy of the actual agreement will be available and from whom it may be obtained. The notice must describe the marketing efforts undertaken, the anticipated marketing plan, or explain why no marketing is required. The notice must provide that opposition shall be due on or before 1 court day prior to the hearing.

(4) Opposition. Any opposition and accompanying memorandum of points and authorities and declarations shall be filed and served at least one 1 court day prior to the hearing. Service of the opposition pleadings shall be by e-mail, fax, or personal delivery. A filed copy of the opposition shall be delivered directly to chambers the same day as filed.

(5) Service of the Motion. The motion shall be delivered as soon as possible to any party requesting a copy.

(6) Scheduling Hearing on the Sale. A date and time for a hearing on the motion to approve the sale itself may be obtained at or prior to the hearing on the Sale Procedure Motion. Such hearing shall be scheduled, if practicable, no more than 30 days following the hearing on the Sale Procedure Motion.

(7) Break-Up Fees. If a break-up fee or other form of overbid protection is requested in the Sales Procedure Motion, the motion must be supported by evidence establishing:

(A) That such a fee is likely to enhance the ultimate sale price; and

(B) The reasonableness of the fee.

(e) MOTIONS TO EMPLOY PROFESSIONALS

Each motion shall specify and highlight whether the employment is proposed pursuant to 11 U.S.C. § 327 or 11 U.S.C. § 328. Professionals may be employed on either an hourly rate basis, a contingency or success fee basis, or a combination thereof. If the court approves the terms of the professional's employment, including without limitation, the professional's hourly rate, monthly fee, and/or contingency or success fee, the court shall not reconsider such terms of employment at a subsequent time. The preceding sentence shall in no way limit the court in exercising its discretion pursuant to 11 U.S.C. § 330 (a) (2). If the court determines that a hearing is necessary to approve a professional's terms of employment, then the court shall set such hearing within 30 days of the expiration of the 15-day period of the notice of the motion to employ. Upon setting such hearing, the court also shall inform the professional as to the specific issues that the professional needs to address at the hearing. The professional may file supplemental pleadings addressing such issues not less than 3 court days prior to the hearing.

(f) MOTIONS TO APPROVE COMPENSATION PROCEDURES, INCLUDING MONTHLY DRAW-DOWNS AND CONTINGENCY OR SUCCESS FEE AGREEMENTS

Professionals may request approval for and modifications of draw-down procedures and an order allowing payment of compensation more frequently than once every 120 days.

(g) MOTIONS FOR JOINT ADMINISTRATION OF CASES PENDING IN THE SAME COURT

If 2 or more petitions are pending before the same judge by or against a partnership and any of its general partners, 2 or more general partners, or a debtor and an affiliate, the court may, upon motion, order a joint administration of the estates, without notice or hearing. An order of joint administration may be entered upon the filing of a motion for joint administration, together with a declaration establishing that the joint administration of the respective debtors' estates is warranted, will ease the administrative burden for the court and the parties, and protect creditors of the different estates against potential conflicts of interest. Joint administration pursuant to this general order shall not effect a substantive consolidation of the respective debtors' estates.

(h) PREPACKAGED PLANS

A hearing on confirmation of a plan upon which voting was conducted before commencement of the case pursuant to 11 U.S.C. § 1126 (b) shall be scheduled, if practicable, no more than 30 days after the order for relief.

(i) SEVERANCE COMPENSATION AND/OR EMPLOYEE INCENTIVE MOTIONS

(1) Notice. Motions for approval of severance compensation packages and/or employee incentive programs shall be heard on regular notice, absent exigent circumstances.

(2) Standard. Such motions must be supported with evidence that establishes:

(A) That the employees are still employed;

(B) Such severance compensation package and/or stay bonuses are necessary for the retention of personnel essential to a successful reorganization;

(C) Whether the employees are insiders; and

(D) How the proposed severance compensation package and/or stay

bonuses are beneficial to the estate.

(j) ELECTRONIC TRANSMISSION

Whenever a party is required by these rules or otherwise to serve a notice, a pleading, or a copy of an order and another party has requested service by electronic transmission, the sender may serve the notice, pleading, or order by electronic transmission. Service will be deemed to be completed upon receipt by the sender of an electronic confirmation of the electronic transmission.

Dated: April 17, 2002

GERALDINE MUND
Chief Judge, United States Bankruptcy Court