

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF IOWA

IN THE MATTER OF: ) Chapter 7 Bankruptcy  
) Case Number: 97-03618 DJ  
THOUSAND ADVENTURES, INC., )  
)  
Debtor. )  
)  

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ERIC W. LAM, exclusively in his capacity )  
as Trustee of the bankruptcy of: ) Adversary No. 99-99150  
THOUSAND ADVENTURES, INC., )  
Plaintiff, )  
)  
vs )  
)  
CLARKE ELECTRIC COOPERATIVE, INC., )  
COAST ELECTRIC POWER ASSOCIATION, and )  
CONSOLIDATED ELECTRIC COOPERATIVE, )  
INC., )  
Defendants. )

**MOTION TO APPROVE COMPROMISE SETTLEMENT  
AND MOTION TO PAY ATTORNEY FEES**

COMES NOW the Plaintiff in the above-captioned adversary and hereby moves that this Court approve a compromise settlement with Defendant, Consolidated Electric Cooperative, Inc., dismiss Counts 9 and 10 in the above-captioned adversary, and pay Plaintiff's attorney in this action, stating to the Court the following:

1. Extensive discovery has been conducted by Plaintiff herein. A review of the records of the Debtor and Defendant reveals that total transfers made by the Debtor to the Defendant herein were \$3,543.01. Of these transfers, \$1,623.45 were pre-petition and \$1,919.56 were post petition.
2. The Defendant asserts the typical preference defenses of ordinary course of business, contemporaneous exchange for value and subsequent new value.
3. Defendant, Consolidated Electric Cooperative, Inc., has offered the sum of \$2,150 in complete and full settlement of the action brought against it.
4. Trustee has concluded that there may be some merit to some of the defenses set forth above. In which case, if litigation were completed, the Trustee would risk receiving less than the entire amount of the transfer or, no judgment against the Defendant. In addition, if successful, the Trustee would still need to transfer the judgment to the Defendant's state and county in order to begin execution to collect any judgment.
5. Defendant has already tendered to counsel for the Plaintiff the sum of \$2,150, which will be deposited by the Trustee in his TAI account upon entry of the Court Order approving

the settlement. The Court order shall direct the Trustee to make payment to his attorney after deposit and clearing of the settlement check.

6. Trustee requests authority to execute the Mutual Release and Settlement Agreement listed as Exhibit "A" as demanded by Defendant, Consolidated Electric.
7. Counsel for the Plaintiff shall retain the settlement check until entry of the Court Order approving the compromise. If this settlement is approved, counsel for the Plaintiff will send the check to the Trustee to deposit in his trust account. If this settlement is not approved the check will be returned to the Defendant herein.
8. It is in the best interest of this estate that Plaintiff be authorized to accept the sum of \$2,150 as full and complete settlement of Counts 9 and 10 of the above-captioned adversary and that these counts be dismissed, with prejudice.
9. On the 16<sup>th</sup> day of March, 1999, the undersigned was authorized to pursue preference actions on behalf of the Trustee.
10. The terms of that engagement provided that at this point of the litigation, the undersigned would receive one-third of the proceeds, plus out-of-pocket expenses.
11. Assuming this Court approves the compromise settlement, counsel for the Plaintiff is entitled to one-third of the proceeds received, \$716.66.
12. Applications for out-of-pocket expenses have been made on a periodic basis for all of the preference actions and other matters being handled by this counsel for the Plaintiff.
13. If this Court approves this settlement, it is appropriate to enter an order directing the Trustee to pay the undersigned one-third of the settlement, as agreed when the undersigned was engaged to pursue the preference actions.

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order authorizing him to accept the compromise proposed by Defendant, Consolidated Electric Cooperative, Inc.; dismiss Counts 9 and 10 of this adversary, with prejudice; and, that he be authorized to execute the Mutual Release and Settlement Agreement attached hereto as Exhibit "A". Plaintiff further respectfully requests that if this settlement is approved, this Court enter an order directing the Trustee to forthwith pay the undersigned one-third of the settlement, \$716.66, and grant such other and further relief as the Court deems just and equitable, given the circumstances.

Dated this 2<sup>nd</sup> day of June, 2000.

/s/ Joseph A. Peiffer  
Joseph A. Peiffer IS9999471  
P.O. Box 2877  
Cedar Rapids, Iowa 52406-2877  
Telephone: (319) 365-0437  
FAX: (319) 365-5866  
ATTORNEY FOR CHAPTER 7 TRUSTEE

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the document on which this appears and all enclosures, was mailed the date indicated below, to the parties in interest listed below as required by the Bankruptcy Rules by Day Rettig Peiffer Johansen, P.C.

Dated: June 2, 2000.  
James Snyder  
Assistant U.S. Trustee  
Room 517  
210 Walnut Street  
Des Moines, IA 50309-2108

Signed: /s/ Joseph A. Peiffer

Eric W. Lam, Esq.  
Moyer & Bergman  
PO Box 1943  
Cedar Rapids, IA 52406-1943

Richard Stovall  
Thompson, Hine & Flory LLP  
10 West Broad Street  
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF IOWA

IN THE MATTER OF:	)	Chapter 7 Bankruptcy
	)	Case Number: 97-03618 DJ
THOUSAND ADVENTURES, INC.,	)	
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Debtor.	)	
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ERIC W. LAM, exclusively in his capacity	)	
as Trustee of the bankruptcy of:	)	Adversary No. 99-99150
THOUSAND ADVENTURES, INC.,	)	
Plaintiff,	)	
	)	
vs	)	
	)	
CLARKE ELECTRIC COOPERATIVE, INC.,	)	
COAST ELECTRIC POWER ASSOCIATION, and	)	
CONSOLIDATED ELECTRIC COOPERATIVE,	)	
INC.,	)	
Defendants.	)	

**ORDER APPROVING COMPROMISE AND PAYMENT OF ATTORNEY FEES**

THIS COURT having been presented with the Plaintiff's Motion to Approve Compromise Settlement with Defendant, Consolidated Electric Cooperative, Inc., and Motion to Pay Attorneys Fees, finds that the Motions were filed with this Court and served upon the parties as directed by this Court pursuant to prior Court order herein.

THE COURT FURTHER FINDS that the time for objections has passed and no objections to the settlement or payment of Attorney fees have been filed.

THE COURT FURTHER FINDS that it is in the best interests of the estate that the settlement proposed herein be approved and that the attorney fees be approved with the Trustee being directed to pay the attorney fees.

WHEREFORE, IT IS HEREBY ORDERED that the settlement proposed in the Trustee's Motion be approved and the Trustee is authorized to accept \$2,150 in full and complete settlement of his actions against the Defendant, Consolidated Electric Cooperative, Inc. herein.

IT IS FURTHER ORDERED that the Trustee is authorized to execute the Mutual Release and Settlement Agreement attached to the Motion to Approve Compromise.

IT IS FURTHER ORDERED that the Motion to Approve Attorney Fees is approved with the Trustee directed to forthwith pay his attorney the sum of \$716.66 from the settlement proceeds.

IT IF FURTHER ORDERED that Counts 9 and 10 of the above adversary are now dismissed, with prejudice. The clerk is directed to remove the name of Defendant, Consolidated Electric Cooperative, Inc., from the caption of this adversary.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
LEE M. JACKWIG, Bankruptcy Judge  
Southern District of Iowa

Order prepared by:  
Joseph A. Peiffer IS 9999471  
P.O. Box 2877  
Cedar Rapids, IA 52406-2877  
Telephone: (319) 365-0437  
FAX: (319) 365-5866  
ATTORNEY FOR CHAPTER 7 TRUSTEE



Rapids, Iowa 52406-1943 and Counsel for Trustee, Joseph A. Peiffer, P.O. Box 2877, Cedar Rapids, Iowa 52406-2877.

NOTICE IS GIVEN that if objections are filed a hearing shall be set by separate notice.

NOTICE IS FURTHER GIVEN that if no objections are timely filed the Court may enter an order consistent with the relief sought in the Motion.

Dated this 2<sup>nd</sup> day of June, 2000.

Eric W. Lam, Trustee

by /s/ Joseph A. Peiffer  
Joseph A. Peiffer IS 9999471  
P.O. Box 2877  
Cedar Rapids, IA 52406-2877  
Telephone: (319) 365-0437  
FAX: (319) 365-5866  
ATTORNEY FOR CHAPTER 7 TRUSTEE

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the document on which this appears and all enclosures, was mailed the date indicated below, to the parties in interest listed below as required by the Bankruptcy Rules by Day Rettig Peiffer Johansen, P.C.; it was also transmitted to Dan Hopper, Chairman of the Thousand Adventures, Inc. Members Committee for posting on the National Association of Members web site. In addition, this Notice was mailed to the parties listed on attached Exhibit B, which are the same parties listed in the Motion to Limit Notice filed in Bankruptcy Case #97-03618DJ on December 1, 1999 as amended on January 12, 2000.

Dated: June 2, 2000.

Signed: /s/ Susan Lancaster

Richard Stovall  
Thompson, Hine & Flory LLP  
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Columbus OH 43235

Thomas L. Flynn  
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Des Moines, IA 50309-3989

Dennis Puckett  
Sullivan & Ward, P.C.  
801 Grand Ave., Suite 3500  
Des Moines, IA 50309-2719

**MUTUAL RELEASE AND SETTLEMENT AGREEMENT**

This Mutual Release and Settlement Agreement (“Agreement”) is made and entered into on the date written below by Eric W. Lam, Trustee of the Chapter 7 bankruptcy estate of Thousand Adventures, Inc. (the “Trustee”), and Consolidated Electric Cooperative, Inc. (“Consolidated”).

**WITNESSETH:**

WHEREAS, there is pending in the Chapter 7 bankruptcy case of Thousand Adventures, Inc., Case No. 97-03618 DJ, (the “Estate”) before the United States Bankruptcy Court for the Southern District of Iowa (the “Bankruptcy Court”), an adversary proceeding case styled *Eric W. Lam, exclusively in his capacity as Trustee of the bankruptcy of: Thousand Adventures, Inc. vs. Clarke Electric Cooperative, Inc., Coast Electric Power Association, and Consolidated Electric Cooperative, Inc.*, as Adversary No. 99-99150 (the “Adversary Proceeding”), in which the Trustee has averred, among other things, that Consolidated was the recipient of a preferential transfer in the amount of \$3,543.01 from Thousand Adventures, Inc;

WHEREAS, the Trustee has demanded payment of \$3,543.01 from Consolidated;

WHEREAS, Consolidated disputes the Trustee’s entitlement to recovery of said preferential transfer;

WHEREAS, the Trustee and Consolidated desire to settle and release each other on all claims, disputes and differences between them subject to the approval of the Bankruptcy Court, on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and for good and valuable consideration, the parties, intending to be legally bound hereby, agree as follows:

1. The above-stated recitals are incorporated into this Agreement as if fully restated.

