

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.)
)

ERIC W. LAM, exclusively in his capacity)
as Trustee of the bankruptcy of:) Adversary No. 99-99159
THOUSAND ADVENTURES, INC.,)
Plaintiff,)
)
vs)
)
MIDAMERICAN ENERGY COMPANY,)
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, MidAmerican Energy Company, dismiss Counts 1 and 2 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 \$1,754.01. Of these transfers, \$1,754.01 were pre-petition.
2. The Defendant asserts the typical preference defenses of ordinary course of business, contemporaneous exchange for value and subsequent new value.
3. Defendant, MidAmerican Energy Company, has offered the sum of \$1,000 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 Plaintiff the sum of \$1,000, which is being held in Plaintiff's trust account. These funds will be retained by the Trustee, if this settlement is approved. If this settlement is not approved, all funds paid by the Defendant and deposited by the Trustee will be returned to the Defendant herein.

6. It is in the best interest of this estate that Plaintiff be authorized to accept the sum of \$1,000 as full and complete settlement of Counts 1 and 2 of the above-captioned adversary and that these counts be dismissed with prejudice.
7. On the 16th day of March, 1999, the undersigned was authorized to pursue preference actions on behalf of the Trustee.
8. 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.
9. Assuming this Court approves the compromise settlement, counsel for the Plaintiff is entitled to one-third of the proceeds received, \$333.33.
10. 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.
11. 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, MidAmerican Energy Company; and, dismiss Counts 1 and 2 of this adversary with prejudice. 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, \$333.33, and grant such other and further relief as the Court deems just and equitable, given the circumstances.

Dated this ____ day of _____, 1999.

/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 Peiffer Law Office, P.L.C.

Dated: December ____, 1999.

Signed: _____

James Snyder
Assistant U.S. Trustee
Room 517
210 Walnut Street
Des Moines, IA 50309-2108

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

Steven L. Nelson
Anderson & Nelson, P.C.
3725 Blackhawk Road, Suite 200
PO Box 3487
Rock Island, IL 61204-3487

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as Trustee of the bankruptcy of:) Adversary No. 99-99159
THOUSAND ADVENTURES, INC.,)
Plaintiff,)
)
vs)
)
MIDAMERICAN ENERGY COMPANY,)
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, MidAmerican Energy Company, 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 \$1,000 in full and complete settlement of his actions against the Defendant, MidAmerican Energy Company, herein.

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 \$333.33 from the settlement proceeds.

IT IF FURTHER ORDERED that Counts 1 and 2 of the above adversary are now dismissed with prejudice. The clerk is directed to remove the name of Defendant, MidAmerican Energy Company, from the caption of this adversary.

Dated this _____ day of _____, 1999.

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

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as Trustee of the bankruptcy of:) Adversary No. 99-99159
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Plaintiff,)
)
vs)
)
MIDAMERICAN ENERGY COMPANY,)
Defendants.)
)

**NOTICE OF MOTION TO APPROVE COMPROMISE SETTLEMENT WITH DEFENDANT,
MIDAMERICAN ENERGY COMPANY, NOTICE OF MOTION TO APPROVE
COMPENSATION FOR ATTORNEY AND NOTICE OF BAR DATE FOR OBJECTIONS**

TO ALL PARTIES IN INTEREST:

NOTICE IS HEREBY GIVEN that on the 14th day of December, 1999, the Plaintiff filed a Motion to Approve Compromise Settlement with Defendant, MidAmerican Energy Company, and to Approve Compensation of Attorney for the Trustee. The Motion to Compromise Settlement with Defendant, MidAmerican Energy Company, proposes that the Trustee accept the sum of \$1,000 in complete and total settlement of Trustee's claims against Defendant. Trustee has identified transfers of \$1,754.01 having been made to Defendant. Of these transfers \$1,754.01 are pre-petition. Defendant has asserted the typical defenses in preference actions: a) contemporaneous exchange for value; b) subsequent new value; and, c) ordinary course of business. Trustee has determined that some of these defenses may be meritorious. Therefore, Trustee has requested that this Court approve the compromise to ensure the estate receives some settlement without the risk and expense which trial would occasion.

NOTICE IS FURTHER GIVEN that Plaintiff's motion also seeks Court approval of compensation for his attorney of one-third of the settlement in the amount of \$333.33, as was agreed when he was hired to pursue these actions on March 16, 1999.

NOTICE IS GIVEN that the bar date for objection to this Motion to Approve Compromise Settlement and Motion to Compensate Attorney shall be the 3rd day of January, 2000. The original of all objections shall be filed with the Clerk of U.S. Bankruptcy Court, P.O. Box 9264, Des Moines, Iowa 50309-9264 with copies to James Snyder, Assistant U.S. Trustee, Room 517, 210 Walnut Street, Des Moines, Iowa 50309-2108, Trustee, Eric W. Lam, Moyer & Bergman, P.L.C., P.O. Box 1943, Cedar 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 _____ day of _____, 1999.

Eric W. Lam, Trustee

/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 Peiffer Law Office, P.L.C.; it was also transmitted to Dan Hopper, Chairman of the Thousand Adventures, Inc. Members Committee for posting on the Thousand Adventures, Inc. web site. In addition, this Notice was mailed to the parties listed on attached Exhibit A, which are the same parties listed in the Motion to Limit Notice filed in Bankruptcy Case #97-03618DJ on December 1, 1999.

Dated: December ____, 1999.

Signed: _____