

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. 99-99181 |
| THOUSAND ADVENTURES, INC., |) | |
| Plaintiff, |) | |
| |) | |
| vs |) | |
| |) | |
| WESTERN WATER COMPANY, |) | |
| Defendant |) | |

**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, Western Water Company, dismiss Counts 7 and 8 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 \$7,448.62. Of these transfers, \$1,679.69 were pre-petition and \$5,768.93 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, Western Water Company, has offered the sum of \$5,500.00 in complete and full settlement of the action brought against them.
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. Defendants has already tendered to Plaintiff the sum of \$5,500.00, 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 \$5,500.00 as full and complete settlement of Counts 7 and 8 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, \$1,833.33.
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, Western Water Company; and, dismiss Counts 7 and 8 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, \$1,833.33 and grant such other and further relief as the Court deems just and equitable, given the circumstances.

Dated this 14th day of August, 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 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: August 14, 2000.

Signed: /s/ Sandra L. Brock

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

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| WESTERN WATER COMPANY, |) | |
| Defendant |) | |

ORDER APPROVING COMPROMISE AND PAYMENT OF ATTORNEY FEES

THIS COURT having been presented with the Plaintiff's Motion to Approve Compromise Settlement with Defendant, Western Water 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 \$5,500.00 in full and complete settlement of his actions against the Defendants, Western Water 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 \$1,833.33 from the settlement proceeds.

IT IS FURTHER ORDERED that Counts 7 and 8 of adversary 99-99181 are now dismissed with prejudice.

Dated this _____ day of _____, 2000.

LEE M. JACKWIG, Bankruptcy Judge
Southern District of Iowa

Order prepared by:
Joseph A. Peiffer IS 9999471

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 14th day of August, 2000.

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

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