

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.)	
<hr/>		
ERIC W. LAM, exclusively in his capacity)	
as Trustee of the bankruptcy of:)	Adversary No. 99-99181
THOUSAND ADVENTURES, INC.,)	
Plaintiff,)	
)	
vs)	
)	
OMAHA PUBLIC POWER DISTRICT,)	
Defendant)	

**NOTICE OF MOTION TO APPROVE COMPROMISE SETTLEMENT WITH
DEFENDANT, OMAHA PUBLIC POWER DISTRICT, 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 13th day of July, 2000, the Plaintiff filed a Motion to Approve Compromise Settlement with Defendant, Omaha Public Power District (hereinafter referred to as OPPD), and to Approve Compensation of Attorney for the Trustee. The Motion to Compromise Settlement with Defendant, OPPD, proposes that the Trustee accept the sum of \$4,500.00 in complete and total settlement of Trustee's claims against Defendant. Trustee has identified transfers of \$11,264.97 having been made to Defendant. Of these transfers \$7,133.85 were pre-petition and \$4,131.12 were post-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. The Motion also contemplates that Defendant, OPPD, be allowed to file its Proof of Claim through September 1, 2000 with the Trustee reserving all rights to object to the claim except timeliness of filing.

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 \$1,500.00, 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 2nd day of August, 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 13th day of July, 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 USTEE

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: July 13, 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

Dwight Steiner
Fraser Stryker Vaughn Meusey Olson Boyer & Block, P.C.
500 Energy Plaza, 400 South 17th Street
Omaha NE 68102-2663

IN THE UNITED STATES BANKRUPTCY COURT
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IN THE MATTER OF:)	Chapter 7 Bankruptcy
)	Case Number: 97-03618 DJ
THOUSAND ADVENTURES, INC.,)	
)	
<u>Debtor.</u>)	
ERIC W. LAM, exclusively in his capacity)	
as Trustee of the bankruptcy of:)	Adversary No. 99-99146
THOUSAND ADVENTURES, INC.,)	
Plaintiff,)	
)	
vs)	
)	
OMAHA PUBLIC POWER DISTRICT,)	
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, Omaha Public Power District (hereinafter referred to as OPPD), dismiss Counts 3 and 4 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 \$11,264.97. Of these transfers, \$7,133.85 were pre-petition and \$4,131.12 were post-petition.
2. Defendant asserts the typical preference defenses of ordinary course of business, contemporaneous exchange for value and subsequent new value.
3. Defendant, OPPD, has offered the sum of \$4,500.00 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 \$4,500.00, 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 \$4,500.00 as full and complete settlement of Counts 3 and 4 of the above-captioned adversary and that these counts be dismissed with prejudice.
7. As part of the settlement Plaintiff has agreed that Defendant, OPPD, shall have until September 1, 2000 to file its Proof of Claim with the trustee reserving the right to contest it on all grounds except timeliness of filing.
8. the 16th day of March, 1999, the undersigned was authorized to pursue preference actions on behalf of the Trustee.
9. 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.
10. Assuming this Court approves the compromise settlement, counsel for the Plaintiff is entitled to one-third of the proceeds received, \$1,500.00.
11. 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.
12. 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, OPPD; and, dismiss Counts 3 and 4 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, \$1,500.00 and grant such other and further relief as the Court deems just and equitable, given the circumstances.

Dated this 13th day of July, 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: July 13, 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

Dwight Steiner
Fraser Stryker Vaughn Meusey Olson Boyer & Block, P.C.
500 Energy Plaza, 400 South 17th Street
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<u>Debtor.</u>)	
ERIC W. LAM, exclusively in his capacity)	
as Trustee of the bankruptcy of:)	Adversary No. 99-99146
THOUSAND ADVENTURES, INC.,)	
Plaintiff,)	
)	
vs)	
)	
OMAHA PUBLIC POWER DISTRICT,)	
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, Omaha Public Power District (hereinafter referred to as OPPD), 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 \$4,500.00 in full and complete settlement of his actions against the Defendant, Omaha Public Power District 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 \$1,500.00 from the settlement proceeds.

IT IS FURTHER ORDERED that Defendant, OPPD, shall have until September 1, 2000 to file its Proof of Claim with the Trustee having the right to object to the claim on all grounds except timeliness of filing.

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
P.O. Box 2877
Cedar Rapids, IA 52406-2877
Telephone: (319) 365-0437
FAX: (319) 365-5866
ATTORNEY FOR CHAPTER 7 TRUSTEE