UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re: Peli Popovich Hunt, Debtor.	Case No.: 2:11-bk-58222-ER Chapter: **MEMORANDUM OF DECISION (1) GRANTING MOTION TO APPROVE COMPROMISE AND (2) VACATING HEARING ON MOTION** **VACATED HEARING DATE:** Date: February 20, 2019 Time: 11:00 a.m. Location: Courtroom 1568 Roybal Federal Building 255 East Temple Street Los Angeles, CA 90012

The Court has reviewed the *Chapter 7 Trustee's Motion for Order Authorizing and Approving Stipulation Between Elissa D. Miller, Chapter 7 Trustee for the Estate of Peli Popovich Hunt, and David M. Goodrich, Chapter 7 Trustee for the Estate of Robert W. Hunt, M.D., a Medical Corporation, for Allowance of Administrative Expense Claims and Withdrawal and Disallowance of General Unsecured Claim* [Doc. No. 562] (the "Motion"), papers filed in opposition to the Motion by Peli Popovich Hunt ("Hunt"), Carmen E. Popovich, Gaston Popovich, and Miguel Popovich (collectively, the "Objectors"), and the Omnibus Reply filed in support of the Motion by the Chapter 7 Trustee (the "Trustee").[1] The Court finds this matter

[1] The Court reviewed the following papers in adjudicating this matter:
1) Chapter 7 Trustee's Motion for Order Authorizing and Approving Stipulation Between Elissa D. Miller, Chapter 7 Trustee for the Estate of Peli Popovich Hunt, and David M. Goodrich, Chapter 7 Trustee for the

appropriate for disposition without oral argument pursuant to Civil Rule 78(b)[2] and LBR 9013-1(j)(3).

I. Facts and Summary of Pleadings

Hunt commenced a voluntary Chapter 11 petition on November 23, 2011. On March 5, 2012, Elissa D. Miller was appointed as the Chapter 11 Trustee for Hunt's estate. Upon the Chapter 11 Trustee's motion, Hunt's case was converted to Chapter 7, and Elissa D. Miller was appointed as the Chapter 7 Trustee (the "Trustee").

On November 23, 2011, Robert W. Hunt, M.D., a medical corporation (the "Hunt Ccorporation") filed a voluntary Chapter 11 petition. On March 5, 2012, David M. Goodrich was appointed as the Chapter 11 Trustee of the Hunt Corporation's estate. The Hunt Corporation's case was subsequently converted to Chapter 7, upon motion of the Chapter 11 Trustee, and David M. Goodrich was appointed as the Chapter 7 Trustee (the "Hunt Corporation Trustee").

On November 26, 2012, the Trustee filed in the Hunt Corporation case a non-priority general unsecured proof of claim, in the amount of not less than $240,000, on account of (1) unpaid prepetition[3] rent owed by Hunt Corporation to Hunt, pursuant to a *Standard Multi-Tenant Office Lease—Gross* (the "Hunt Lease") under which Hunt leased office space to Hunt Corporation; (2) damages owed to Hunt's estate as a result of the Hunt Corporation Trustee's rejection of the Hunt Lease; and (3) contract damages owed to Hunt (the "Hunt Trustee Unsecured Claim").

On November 26, 2012, the Trustee filed in the Hunt Corporation case an administrative expense claim (the "First Hunt Trustee Administrative Claim"), in the amount of not less than $42,666.58, on account of post-petition date rent owed to Hunt's estate from the Hunt

---

Estate of Robert W. Hunt, M.D., a Medical Corporation, for Allowance of Administrative Expense Claims and Withdrawal and Disallowance of General Unsecured Claim [Doc. No. 562];
   a) Notice of Chapter 7 Trustee's Motion for Order Authorizing and Approving Stipulation Between Elissa D. Miller, Chapter 7 Trustee for the Estate of Peli Popovich Hunt, and David M. Goodrich, Chapter 7 Trustee for the Estate of Robert W. Hunt, M.D., a Medical Corporation, for Allowance of Administrative Expense Claims and Withdrawal and Disallowance of General Unsecured Claim [Doc. No. 563];

2) Notice of Opposition and Request for a Hearing [filed by Peli Popovich Hunt] [Doc. No. 565];
   a) Errata and Amended Notice of Opposition and Request for a Hearing [filed by Peli Popovich Hunt] [Doc. No. 573];
3) Notice of Opposition and Request for a Hearing [filed by Carmen E. Popovich] [Doc. No. 566];
   a) Errata and Amended Notice of Opposition and Request for a Hearing [filed by Carmen E. Popovich] [Doc. No. 572];
4) Notice of Opposition and Request for a Hearing [filed by Miguel Popovich] [Doc. No. 567];
   a) Errata and Amended Notice of Opposition and Request for a Hearing [filed by Miguel Popovich] [Doc. No. 574];
5) Notice of Opposition and Request for a Hearing [filed by Gaston Popovich] [Doc. No. 564];
   a) Errata and Amended Notice of Opposition and Request for a Hearing [Doc. No. 571]; and
6) Chapter 7 Trustee's Omnibus Reply to Oppositions to Chapter 7 Trustee's Motion for Order Authorizing and Approving Stipulation Between Elissa D. Miller, Chapter 7 Trustee for the Estate of Peli Popovich Hunt, and David M. Goodrich, Chapter 7 Trustee for the Estate of Robert W. Hunt, M.D., a Medical Corporation, for Allowance of Administrative Expense Claims and Withdrawal and Disallowance of General Unsecured Claim [Doc. No. 570].

[2] Unless otherwise indicated, all "Civil Rule" references are to the Federal Rules of Civil Procedure, Rules 1–86; all "Bankruptcy Rule" references are to the Federal Rules of Bankruptcy Procedure, Rules 1001–9037; all "Evidence Rule" references are to the Federal Rules of Evidence, Rules 101–1103; all "LBR" references are to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California, Rules 1001-1–9075-1; and all statutory references are to the Bankruptcy Code, 11 U.S.C. §§101–1532.

[3] Unless otherwise indicated, references to the petition date are to the petition date of Hunt's case.

Corporation estate under the Hunt Lease, for the period from July 24, 2012 through and including October 5, 2012.

On November 26, 2012, the Trustee filed in the Hunt Corporation case an administrative expense claim (the "Second Hunt Trustee Administrative Claim"), in the amount of not less than $96,499.80, on account of unpaid post-petition date rent owed to Hunt's estate from the Hunt Corporation under the Hunt Lease, for the period from November 23, 2011, through and including July 23, 2012.

On December 6, 2012, the Hunt Corporation Trustee filed in Hunt's case a non-priority general unsecured proof of claim (the "Hunt Corporation Trustee Unsecured Claim"), in the amount of $133,944.75, on account of monies due and owing to the Hunt Corporation by Hunt, pursuant to alleged loans between the Hunt Corporation and Hunt.

The Trustee and the Hunt Corporation Trustee seek approval of a stipulation (the "Stipulation") which provides for the following treatment of the claims filed by each Trustee:

1) The Hunt Trustee Unsecured Claim shall be withdrawn and disallowed in its entirety;
2) The First Hunt Trustee Administrative Claim shall be allowed in the total amount of $10,000;
3) The Second Hunt Trustee Administrative Claim shall be allowed in the total amount of $39,500; and
4) The Hunt Corporation Trustee Unsecured Claim shall be withdrawn and disallowed in its entirety.

The net effect of the Stipulation is an increase in distributions to creditors of Hunt's estate. Elimination of the Hunt Corporation Trustee Unsecured claim reduces the general unsecured claims pool by $133,944.75. Allowance of the First and Second Hunt Trustee Administrative Claims augments the Hunt estate by $49,500.

The Oppositions filed by Hunt, Carmen E. Popovich, Gaston Popovich, and Miguel Popovich are substantially identical, and do not meaningfully address the relief sought in the Motion. Instead, the Oppositions reiterate the Objectors' disagreements with the Court's previous rulings in this case.

II. Findings and Conclusions

Bankruptcy Rule 9019 provides that the Court may approve a compromise or settlement. "In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, the court must consider: (a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises." *Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Ore. 1993). In approving a settlement agreement, the Court must "canvass the issues and see whether the settlement 'falls below the lowest point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983). Applying the *A&C Properties* factors, the Court finds that the Stipulation is adequate, fair, and reasonable, and is in the best interests of the Hunt estate and creditors.

Paramount Interests of Creditors

In the context of this case, this is the most salient factor, and it weighs strongly in favor of approving the Stipulation. The Stipulation augments the distribution to be received by creditors of Hunt's estate. The only parties who have opposed the Stipulation are the Objectors. However, the arguments raised by the Objectors do not meaningfully address the relief sought in the Motion, and instead constitute an improper attempt to relitigate prior issues that have long since been decided. The arguments presented by the Objectors are overruled in their entirety.

The Stipulation benefits creditors because it eliminates the necessity of formal claim objections, which would involve contested factual issues and could result in costly and protracted litigation, which would inure to the detriment of both Hunt's estate and the Hunt Corporation's estate. Creditors of the Hunt estate have already been waiting almost eight years to receive a distribution on their claims. The Stipulation is in creditors' interest because it allows them to be paid more quickly.

Complexity of the Litigation

This factor weighs in favor of approving the Stipulation. As noted, adjudication of the claims would involve litigation over contested factual issues, which would be both time consuming and costly, particular relative to the comparatively small amount at issue.

Probability of Success on the Merits

This factor weighs in favor of approving both settlement agreements. Even if litigation could enhance the recovery to the Hunt estate, from the perspective of the estate and creditors, the victory would be pyrrhic given that the increased administrative costs would swamp any additional recovery for creditors.

Difficulties to Be Encountered in the Matter of Collection

This factor does not apply.

III. Conclusion

Based upon the foregoing, the Motion is GRANTED in its entirety. The hearing on the Motion, set for February 20, 2019, is VACATED. The Court will enter an order consistent with this Memorandum of Decision

###

Date: February 19, 2019

Ernest M. Robles
United States Bankruptcy Judge