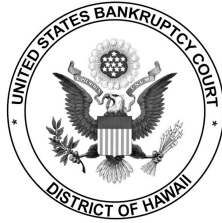


Date Signed:
September 16, 2014



SO ORDERED.

A handwritten signature in black ink, appearing to read "R. Faris", is written over a horizontal line.

Robert J. Faris
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII**

In re:

HAWAII OUTDOOR TOURS, INC.
dba Naniloa Volcanoes Resort and
Naniloa Volcanoes Golf Club,

Debtor.

Bk. No. 12-02279
(Chapter 11)

DATE: September 15, 2014

TIME: 9:30 a.m.

JUDGE: Hon. Robert J. Faris

Related Dkt # 752, 753, 754, and 761

REGARDING

**ORDER GRANTING FIRST-CITIZENS BANK AND TRUST
COMPANY'S MOTION TO DISMISS CHAPTER 11 CASE AND
FOR RELIEF RELATED TO DISMISSAL**

RJF

On August 11, 2014, First-Citizens Bank & Trust Company ("FCB"), filed First-Citizens Bank and Trust Company's Motion to Dismiss Chapter 11 Case and for Relief Related to Dismissal (Dkt No. 752) (the "Motion"). The Motion came on for hearing on September 15, 2014 at 9:30 a.m. before the Honorable Robert J. Faris. The Chapter 11 Trustee, David C.

Farmer, was present. Appearances of counsel are noted on the record. No other appearances were made.

The Court reviewed the Motion, all papers filed in support and in connection thereof, the records and files herein, and heard the arguments and representations of counsel at the hearing on the Motion. The Court finds that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) notices of the Motion were proper and sufficient in all respects; (d) cause for dismissal exists under 11 U.S.C. § 1112(b) and (e) approval of Motion is in the best interests of the Bankruptcy Estate, creditors of the Bankruptcy Estate, and good cause appearing therefor,

IT HEREBY IS ORDERED THAT the Motion is GRANTED as follows:

1. Trustee David C. Farmer's ("Trustee") Opposition to Motion to Dismiss (Dkt No. 761) has been withdrawn (Dkt No. 772) and any other opposition to the Motion is overruled.

2. The Trustee has withdrawn his Subpoena for Rule 2004 Examination of First-Citizens Bank & Trust Company (Dkt No. 769) and the Order Granting Motion for Rule 2004 Examination of First-Citizens Bank & Trust Company (Dkt No. 765) is null and void.

3. Debtor's case shall be dismissed by separate order, but without the need for further hearing, upon the Trustee's filing of a final report to which the Office of the United States Trustee advises the Court that it has no objection (the "Final Report").

4. The Trustee is authorized to disburse the \$250,000.00 Unsecured Creditor Fund (as defined in the Sale Order, Dkt No. 569) in accordance with the Stipulation for Distribution and Payment of the Unsecured Creditor Fund; Exhibit "A" (Dkt No. 771) filed herein on September 11, 2014.

5. Upon distribution of the Unsecured Creditor Fund, the funds in the Trustee's Utility Deposit Account that was established regarding post-petition utility claims, in the approximate amount of \$40,000 and constituting cash collateral of FCB, shall be released to the Trustee because the post-petition claims of the Utilities have been paid.

6. Proper notice was given to all Parties who may have a potential claim to receive a disbursement from monies of the Unsecured Creditor Fund and/or the Bankruptcy Estate.

7. Any and all potential claimants of the Bankruptcy Estate were (1) given the opportunity to have their respective claims determined, and

(2) have either failed to respond, or such claims have been properly adjudicated and/or resolved.

8. The Trustee shall pay any and all unpaid quarterly fees due and owing to the Office of the United States Trustee ("OUST Fees") from the cash collateral of FCB. The estimated amount of unpaid OUST Fees through December 31, 2014 is \$5,200.

9. After payment of approved expenses, First-Citizens Bank & Trust Company ("FCB") has agreed to a carve-out of its cash collateral constituting the remaining balance of monies held by the Trustee (including the Utility Deposit Account), in the sum of approximately \$63,125 (the "Carve-Out"), to be divided equally for payment of court approved professional fees and costs of the Trustee and Trustee's counsel.

10. The Trustee's (1) Order on First Interim Application for Compensation (Dkt No. 422) approved fees in the amount of \$65,476.09 and expenses in the amount of \$3,737.34; (2) Order on Second Interim Application for Compensation (Dkt No. 655) approved fees in the amount of \$119,129.63 and expenses in the amount of \$355.93; and (3) Order on Third Interim Application for Compensation (Dkt No. 746) (together the "Trustee Interim Orders") approved fees in the amount of \$11,733.70 and expenses in the amount of \$9.39 are deemed final orders. In addition to

the unpaid fees and expenses approved under the Trustee Interim Orders, the Trustee is entitled to compensation under 11 U.S.C. § 326(a) for moneys disbursed since May 31, 2014 and to be disbursed under this Order.

11. Trustee's Counsel's (1) Order on First Interim Application for Compensation (Dkt No. 424), approved fees in the amount of \$89,031.38 and expenses in the amount of \$388.09; (2) Order on Second Interim Application for Compensation (Dkt No. 653), approved fees in the amount of \$107,968.54 and expenses in the amount of \$835.64; and (3) Order on Third Interim Application for Compensation (Dkt No. 737) (Third Interim Order), approved fees in the amount of \$42,534.01 and expenses in the amount of \$41.20 are deemed final orders. As of the date of the Third Interim Order, Trustee's Counsel's unpaid fees and costs are \$79,032.35 and \$41.20, respectively.

12. Upon entry of this order, Trustee is authorized to disburse the Carve-Out to pay the unpaid fees and costs of Trustee and Trustee's counsel. Trustee and Trustee's counsel shall have no further claims against FCB or the Bankruptcy Estate for payment of fees, costs, or other compensation.

13. The Official Committee of Unsecured Creditors' Counsel's Interim Order on Application for Compensation (Dkt No. 582), which approved fees and taxes in the amount of \$100,059.44 and expenses in the amount of \$1,037.61 is deemed a final order.

14. Upon entry of this Order, the Official Committee of Unsecured Creditors' Counsel shall have no further claims against FCB or the Bankruptcy Estate for payment of fees, costs, or other compensation.

15. Upon entry of the separate order dismissing this case referred to in Paragraph 3 of this Order, the Official Committee of Unsecured Creditors shall be dissolved.

16. The prior interim cash collateral orders (Dkt Nos. 26, 89, 188, 207, 247, 327, 343, 361, 407, 631, 632, 659, 672, and 708) are deemed final orders.

17. Any remaining property of the Bankruptcy Estate constituting collateral of FCB that the Trustee has not administered or which otherwise has not been disposed of by Court order is deemed abandoned to FCB.

18. Upon the filing of the Trustee's Final Report certifying the disbursement of all Bankruptcy Estate funds, to which the Office of the United States Trustee advises the Court that it has no objection, the Trustee shall be deemed discharged and released from any further

responsibilities arising under or in connection with this case, without further hearing or Court order.

19. Upon entry of this Order, any claim of the Trustee against any person under 11 U.S.C. § 363(n), or claim against FCB in connection with the Sale Order (Dkt No. 569), shall be null and void.

20. Any and all claims against FCB or its collateral for unpaid compensation, fees, or expenses, by Debtor's counsel or Debtor's former counsel, counsel for the Official Committee of Unsecured Creditors (the "Committee") or members of the Committee, and any other party are barred.

21. The fourteen (14) day stay pursuant to Federal Rules of Bankruptcy Procedure Rule 6004 (h) is waived because the bankruptcy purpose for the Debtor's case no longer exists in that substantially all of Debtor's assets have been sold, and there has been, or under this Order will be, disbursement of all Bankruptcy Estate funds.

<<< END OF ORDER>>>

APPROVED AS TO FORM:

/s/ Timothy J. Hogan
TIMOTHY J. HOGAN
Attorney for Trustee
DAVID C. FARMER

CONTINUED APPROVED AS TO FORM:

/s/ Ted N. Pettit
TED N. PETTIT
DANA R. LYONS
RYAN M. HAMAGUCHI
Attorneys for Secured Creditor
FIRST-CITIZENS BANK

/s/ Christopher J. Muzzi
CHRISTOPHER J. MUZZI
Attorney for the OFFICIAL COMMITTEE
OF UNSECURED CREDITORS

/s/ Curtis B. Ching
CURTIS B. CHING
Attorney for the
OFFICE OF THE UNITED STATES TRUSTEE

SUBMITTED BY:

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Attorney for Secured Creditor
FIRST-CITIZENS BANK & TRUST COMPANY,
a North Carolina commercial bank

In re Hawaii Outdoor Tours, Inc., Case No. 12-02279 (Chapter 11); ORDER GRANTING
FIRST-CITIZENS BANK AND TRUST COMPANY'S MOTION TO DISMISS CHAPTER 11
CASE AND FOR RELIEF RELATED TO DISMISSAL