

Hearing for September 30, 2011 at 10:00 A.M. (ch. 11)

06-25454 TPA Le-Nature's, Inc. #3436 Mtn. for Approval of Settlement Agreements
(Trustee v Wachovia, et al.)

FILED
2011 OCT 4 P 3:37
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U.S. BANKRUPTCY
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Appearances:

Debtor: Bruce Grohsgal (no appearance)
Marc S. Kirschner, Trustee: James H. Joseph
Christopher P. Johnson (pro hac vice)

U.S. Trustee: Kathleen Robb (no appearance)
Krones Parties: Leonard F. Spagnolo

CIT Group/Equipment Financing: Gregory W. Hauswirth (no appearance)

Normandy Hill Capital, L.P.: Samuel R. Grego
Neal Brickman (pro hac vice) (telephone)
Ernst & Young, LLP: Barbara S. Scheib
Sarah P. Herlihy (pro hac vice) (telephone)
BDO Seidman, LLP: Timothy E. Hoeffner
David W. Lampl

Wachovia: Robert W. Fuller (pro hac vice)
Mark E. Freedlander

Bloomberg News: Steven Church (interested party) (telephone - listen only)

General Press Corp.: Michael A. Shiner (telephone - listen only)
Ad Hoc Noteholders' Committee: Jeffrey W. Spear (no appearance)

Ad Hoc Lenders' Committee: James G. McLean (no appearance)

Williams & Connolly LLP: Craig Singer (interested party) (telephone - listen only)
Various holders of interests in
Le- Nature's Credit Facility, and
Various former holders of
Le-Nature's Subordinated Notes: Robert S. Loigman (telephone)

Creditors' Committee: Stephen A. Broome (telephone)
David K. Rudov (no appearance)

Chris. Johnson: Four objections were made to the motion and three have been resolved by an

amendment to the proposed order. The remaining objection, from Normandy Hill, does not object to the reasonableness of the proposed settlement.

Marc Kirschner: Called as witness. Professional background of witness given. Background given on Le-Nature's ownership, structure and business. Brief history of the bankruptcy case. Membership of Trust Oversight Board named and described; Trustee's interaction with Board discussed. Board unanimously approved settlement. Interruption in testimony.

Jeff Kirshner: Called as witness via telephone. Professional background given. On Oversight Board since 2008. Appointed by Harbinger Capital. Trustee's communication with Board described. Board unanimously voted in favor of settlement. Board received regular updates as to attorney fee expenses of Trust. Board was concerned and focused on fees and expenses but concluded that under the circumstances arrangement with counsel could not be changed.

Marc Kirschner: Testimony resumed. Interviews with proposed litigation counsel described. Appalled at size of fees, but cases turned out to be far more complex than anticipated and defendants engaged in scorched earth defense. Intend to reserve \$9 million of settlement to fund litigation against CIT, Krones and K&L Gates. Trustee expenses described. Initiation of mediation and process to conclusion of settlement described.

Cross-exam by Grego: Witness knew Normandy Hill wanted to be part of settlement and suggested that be done but other parties disagreed. He personally would have turned over materials sought by NH. Non-parties in multi-district litigation cannot get confidential materials without consent of all parties or approval of court.

Redirect: NH is a creditor of the estate and is suing Wachovia and BDO on a private action.

Samuel Grego: Normandy Hill has not objected to the reasonableness of the settlement because it does not have the necessary information yet to be able to make that determination.

Outcome: Motion to approve settlement GRANTED. Normandy Hill Objection DENIED. Parties to submit proposed order approving settlement and chambers to enter order denying the objection.


dmr