



PROGRAM SUMMARY 7-10-21

By: Gary R. Wallace-Program Summary Committee Chair

CDCBAA Holds Seventh Meeting and MCLE Program of 2021: "Sales in Bankruptcy plus Non-Attorney Professionals in Bankruptcy"

On July 10, 2021, the CDCBAA held its seventh members meeting and MCLE program of the year. To help mitigate the spread of COVID-19, the meeting and program were conducted as a live webinar via Zoom video. The program topics were: "Sales in Bankruptcy plus Non-Attorney Professionals in Bankruptcy." The distinguished panels featured local practitioners Ron Bender, Esq., Stella Havkin, Esq., and Steven R. Fox, Esq. Also included were Richard J. Laski, founder and managing director of Wilshire Partners of CA, LLC. Additionally, Chapter 7 Trustees Jeffrey I. Golden, Wes Avery and Nancy Zamora appeared. CDCBAA President Hale Antico moderated.

The Sales in Bankruptcy presentation addressed a multitude of subtopics, including: (1) sections 724 and 726 issues (i.e., subordination of tax liens and avoidance of portions of liens), with *In re Bolden*, 327 BR 657 (Bankr. CD Cal. 2005) as a guide; (2) how to determine whether the debtor resides in a property for homestead purposes, using *In re Gilman*, 887 F.3d 956 (9th Cir. 2018) for guidance; (3) how to deal with community property interests; (4) post-petition appreciation which, according to *In re Viet Vu*, 245 BR 644 (9th Cir. BAP 2000), goes to the estate; and (5) the debtor's obligation to reinvest homestead proceeds, as discussed in *In re Jacobson*, 676 F.3d 1193 (9th Cir. 2012). The panel also discussed how auctioneers are employed pursuant to the guidelines set forth in the United States Trustee's supervisory instructions memorandum to trustees.

The program on Non-Attorney Professionals began with an explanation of how professionals are defined under bankruptcy law. It was observed that, while the Code does not provide a definition of what constitutes a "professional," section 327(a) is clear that an attorney, an accountant, an appraiser and an auctioneer do constitute "professionals." It is equally clear from that section that this is not all encompassing, since the phrase "or other professional persons" is included. The panel proceeded to explain how case law has further defined that term. Examples of additional persons not expressly identified in section 327, but nonetheless found to be professionals, were presented (e.g., an officer or a director of a corporate debtor, the general partner or the managing member of an LLC can be a "professional." See *Matter of Concrete Prod., Inc.*, 208 B.R. 1000 (Bankr. S.D. Ga. 1996)). The panel also explained that reason why the Code requires that professionals be employed with Court authorization is to control administrative expenses, prevent unwarranted and gratuitous claims and unqualified professionals, and avoid conflicts of interest and cronyism. It was further noted that the debtor is rarely in a good position to make these calls. The panel then explained the process to obtain court authorization for employment of non-attorney professionals, including dealing with objections and fee applications. Finally, the panel discussed practical issues involved in choosing and retaining professionals, such what skills are needed, how much the debtor can afford, and the interpersonal styles and compatibility of certain professionals.

Several detailed outlines were provided to all registered participants.



Central District
Consumer Bankruptcy
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The next CDCBAA members meeting and Zoom MCLE program will be held on September 18, 2021. The topic will be "Meet the Chapter 13 Trustee's Staff Attorneys." Our panelists will include Aki Koyama| Staff Attorney for Chapter 13 Trustee Kathy Dockery, Brian Wirsching|Staff Attorney for Chapter 13 Trustee Amrane Cohen, Masako Okuda|Staff Attorney for Chapter 13 Trustee Nancy Curry, and Renee Blume|Staff Attorney for Chapter 13 Trustee Elizabeth Rojas. We hope you will join us.



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