

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re:)
)
BURTON DOUGLAS MORRISS,) Case No. 12-40164-659
) Chapter 7
)
Debtor.)

ORDER

The matter before the Court is the First Amended Application for Order Pursuant to 11 U.S.C. Section 327 of the Bankruptcy Code Authorizing Employment and Retention of the Lane Law Firm as Counsel for the Debtor *Nunc Pro Tunc* to January 9, 2012, Affidavit of Leslie L. Lane in Support of First Amended Application for Order Pursuant to 11 U.S.C. Section 327 of the Bankruptcy Code Authorizing Employment and Retention of the Lane Law Firm as Counsel for the Debtor *Nunc Pro Tunc* to January 9, 2012, Response of the United States Trustee to the First Amended Application for Order Pursuant to 11 U.S.C. Section 327 of the Bankruptcy Code Authorizing Employment and Retention of the Lane Law Firm as Counsel for the Debtor *Nunc Pro Tunc* to January 9, 2012 and Trustee's Objection to First Amended Application for Order Pursuant to 11 U.S.C. § 327 of the Bankruptcy Code Authorizing Employment and Retention of the Lane Law Firm as Counsel for the Debtor *Nunc Pro Tunc* to January 9, 2012. The Court rules as follows.

On June 29, 2012, this Court denied the Application for Order Pursuant to 11 U.S.C. Section 327 of the Bankruptcy Code Authorizing the Employment and Retention of Lane Law Firm as Counsel for the Debtor *Nunc Pro Tunc* to January 9, 2012. This Court ordered that the retainer fee that was received by the Lane Law Firm, LLC in the amount of \$12,000.00 be disgorged and turned over to the Chapter 7 Trustee within 30 days. This Court further allowed

the Lane Law Firm, LLC 15 days to file an amended application to be employed.


Upon review of the First Amended Application for Order Pursuant to 11 U.S.C. Section 327 of the Bankruptcy Code Authorizing Employment and Retention of the Lane Law Firm as Counsel for the Debtor *Nunc Pro Tunc* to January 9, 2012 (hereinafter "Amended Application"), this Court maintains that there is a question as to the disinterestedness of the Lane Law Firm.

The Lane Law Firm reviewed a complaint, performed legal research and attended depositions in defense of Debtor as well as the entities Debtor was involved with in the case Ron Nixon and Wilmington Trust Company, as Co-Trustees of the Bailey Quin Daniel 1991 Trust, JBG Interests, LLC, and HEG Interests, LLC vs. Acartha Group, LLC, MIC VII, LLC and B. Douglas Morriss (hereinafter "Nixon Litigation"). The Lane Law Firm, LLC asserts that Debtor's interest was aligned with the interest of his co-defendants. See Amended Application, p. 3. Presently however, this does not appear to be the case.

The Lane Law Firm also assisted with the preparation of the barebones Chapter 11 petitions for Debtor's co-defendants in the Nixon Litigation which leads to further questions of disinterestedness. The Lane Law Firm submits that it was not involved in any substantive issues or determinations related to Debtor's co-defendants' Chapter 11 petitions, however, upon this Court's review of the billing statements submitted, this does not appear to be the case. For example, a cursory review of the billing statements show that with regard to the Nixon Litigation, the Lane Law Firm received and responded to emails, did legal research regarding the unfair insurance practices acts of both Missouri and New Jersey and was involved in conference calls regarding depositions and strategy. Therefore, upon review of the Amended Application, this Court cannot conclude that there is no conflict of interest in that the issue of whether the Lane Law Firm is disinterested remains. Therefore,

IT IS ORDERED THAT the First Amended Application for Order Pursuant to 11 U.S.C. Section 327 of the Bankruptcy Code Authorizing Employment and Retention of the Lane Law Firm as Counsel for the Debtor *Nunc Pro Tunc* to January 9, 2012 is **DENIED**; and

IT IS FURTHER ORDERED THAT all other requests are **DENIED**.


KATHY A. SURRETT-STATES
U.S. Bankruptcy Judge

DATED: August 2, 2012
St. Louis, Missouri
mtc

Copies to:

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