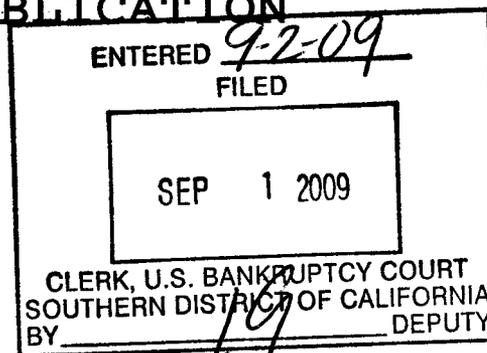


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2 **NOT FOR PUBLICATION**



9 UNITED STATES BANKRUPTCY COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11
12 In re

13
14 JULES BRISKIN,

15 Debtor.

16 Bankruptcy No. 08-10018-M7

17
18 ORDER DENYING TRUSTEE'S *EX*
19 *PARTE* MOTION TO DISMISS
20 CASE AND REQUIRING DEBTOR
21 TO COMPLY WITH CONVERSION
22 ORDER

23
24 The Trustee filed an *Ex Parte* Motion to dismiss this case because
25 the Debtor failed to appear and testify at the § 341(a) Meeting of
26 Creditors, which was scheduled for July 15, 2009. After reviewing the
27 docket in this case, the Court has determined that dismissal is not
28 appropriate at this time, and the motion is denied.

The Debtor filed a Chapter 11 petition on October 9, 2008,
without the assistance of counsel. The Debtor apparently had
difficulty preparing the necessary documents and hired attorney Thomas
C. Nelson to represent him in this case. Mr. Nelson filed the
certification to disclose compensation he received as attorney for the
Debtor on January 7, 2009, but there is no indication on the docket

1 that he ever submitted an application to be appointed as counsel for
2 the Debtor in Possession.

3 Over the next few months, a number of creditors were granted
4 relief from the automatic stay to foreclose on collateral, but nothing
5 was filed in the case to effectuate a reorganization. The Debtor did
6 not file a disclosure statement or plan of reorganization, or any
7 monthly operating reports as required by Bankruptcy Rule 2015. The
8 United States Trustee filed a motion to convert or dismiss the case
9 on April 23, 2009, which was joined by the Internal Revenue Service.
10 The motion was set for hearing on June 10, 2009, and the case
11 converted to one under Chapter 7 at that hearing.

12 The Order Converting Chapter 11 to Chapter 7 was entered on June
13 12, 2009. ("Conversion Order"). The Conversion Order is attached
14 hereto as "Exhibit A", and includes provisions which require the
15 Debtor to turnover records and property of the estate to the Chapter
16 7 trustee, and to file the schedules and reports required by
17 Bankruptcy Rules 1019 and 1007 within 15 days. The Court Certificate
18 of Notice shows that the Conversion Order was sent to the Debtor at
19 2025 Oceanview Road in Oceanside, Ca., and to Mr. Nelson at an address
20 on Raytheon Road in San Diego. The docket also contains an order sent
21 to the Debtor at the Oceanview address and returned as undeliverable
22 on February 3, 2009. On June 18, 2009, the Debtor filed a Notice of
23 Change of Address to 1200 Harbor Drive North in Oceanside. The only
24 documents filed by Mr. Nelson list his address as 550 West C Street,
25 Suite 1850 in San Diego. These facts raise a question as to whether
26 the Debtor and Mr. Nelson actually received the Conversion Order.

27 Given this background, the Court will not dismiss the case at
28 this time. The Debtor must comply with the terms of the Conversion

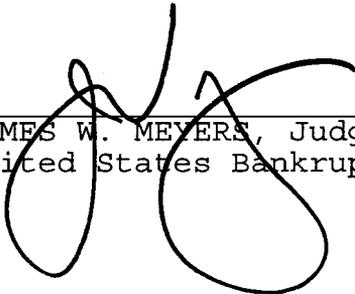
1 Order and cooperate with the Chapter 7 trustee before this case can
2 proceed or be dismissed. Without any operating reports, the Court
3 cannot determine whether the Debtor remitted the fees due under 28
4 U.S.C. § 1930. The Debtor voluntarily filed a Chapter 11 petition to
5 invoke the protections afforded by the automatic stay. He may not
6 extricate himself from the bankruptcy process without fulfilling his
7 obligations as a Debtor under Title 11.

8 Therefore, IT IS ORDERED that:

9 1) The Trustee's *Ex Parte* Motion to Dismiss this case is DENIED;
10 and

11 2) The Debtor is ordered to comply with the terms of the
12 Conversion Order within 14 days of entry of this Order, and is further
13 ordered to attend the continued § 341(a) meeting of creditors to be
14 scheduled by the Trustee. If the Debtor fails to comply with this
15 Order, the Trustee or other interested party may file a motion under
16 Rule 2005(a) for the issuance of an order to the Marshall to bring the
17 Debtor before the Court to allow examination of the Debtor and to
18 obtain his compliance with the orders of this Court.

19 Dated: **SEP 01 2009**



JAMES W. MEYERS, Judge
United States Bankruptcy Court

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EXHIBIT A

CSD 1001 [08/21/00]

Name, Address, Telephone No. & I.D. No.

DAVID A. ORTIZ, ATTORNEY #167587
OFFICE OF THE UNITED STATES TRUSTEE
402 WEST BROADWAY, SUITE 600
SAN DIEGO, CA 92101-8511
(619) 557-5013

UNITED STATES BANKRUPTCY COURT



SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

JULES ELLIOT BRISKIN

BANKRUPTCY NO. 08-10018-M11

Date of Hearing: 10 June 2009

Time of Hearing: 11:00 A.M.

Name of Judge: JAMES W. MEYERS

Debtor.

ORDER CONVERTING CHAPTER 11 CASE TO CHAPTER 7

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 2 with exhibits, if any, for a total of 2 pages, is granted. Motion/Application Docket Entry No. 69

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Judge, United States Bankruptcy Court

DATED: June 11, 2009

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Submitted by:

OFFICE OF THE UNITED STATES TRUSTEE

By: /s/ David A. Ortiz

DAVID A. ORTIZ

This matter came before the Court on the United States Trustee's Motion to Dismiss or Convert Case to Chapter 7 ("Motion"), on June 10, 2009, at 11:00 a.m., in Department One of the United States Bankruptcy Court for the Southern District of California, the Honorable James W. Meyers, Bankruptcy Judge, presiding. Jules Elliot Briskin appeared in *pro per*; David A. Ortiz, Esq., appeared on behalf of the United States Trustee. Sylvia L. Shaughnessy, Esq., appear on behalf of the Internal Revenue Service, who joined in the Motion. All other appearances were as noted on the record.

Based upon the Motion, the lack of opposition filed thereto, argument of counsel, and for cause;

IT IS HEREBY ORDERED that:

1. This chapter 11 case is converted to a case under chapter 7.
2. The debtor in possession shall:
 - a. forthwith turn over to the chapter 7 trustee all records and property of the estate under its custody or control as required by Federal Rule of Bankruptcy Procedure 1019(4);
 - b. within 15 days of the date of this order, file a schedule of all unpaid debts incurred after the commencement of the chapter 11 case including the name and address of each creditor, as required by Federal Rule of Bankruptcy Procedure 1019(5)(A); and
 - c. within 30 days of the date of this order, file and transmit to the United States Trustee a final report and account, as required by Federal Rule of Bankruptcy Procedure 1019(5)(B).
3. The debtor within 15 days of the date of this order shall file the statements and schedules required by Federal Rules of Bankruptcy Procedure 1019(1)(A) & 1007(b), if such documents have not already been filed.

IT IS FURTHER ORDERED that this Order may be submitted without lodgement or signatures of counsel, after same having been waived by the parties in open court.