

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**NOT FOR PUBLICATION**

ENTERED 8-24-09  
FILED  
AUG 21 2009  
CLERK, US BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re  
  
PRIZE PROPERTIES, LLC.,  
  
Debtor.

Bankruptcy No. 09-09817-JM11  
  
ORDER DENYING APPLICATION TO  
EMPLOY THOMAS C. NELSON AS  
GENERAL COUNSEL TO DEBTOR

The court has reviewed the Application to Employ Thomas C. Nelson as General Counsel to Debtor ("Application") and the remaining docket entries in this case. In addition, this Court is preparing a decision and order relating the Court's concerns about the professional practices of Mr. Nelson in another Chapter 11 case, In re Simplon Ballpark LLC., Case No. 08-01803-JM11, ("Simplon Case"), which will be issued forthwith.

The Application in the present case is inadequate. First, Mr. Nelson has not filed form CSD 1009, the required disclosure statement of attorneys fees. Second, the declaration he filed in support of the Application is incomplete. It fails to include information, to the best of his knowledge, of all of Mr. Nelson's connections with the

1 debtor, creditors, any other party in interest, their respective  
2 attorneys and accountants, the United States trustee, or any person  
3 employed in the office of the United States trustee, information  
4 specifically required by Bankruptcy Rule 2014(a). If he has no  
5 connections with anyone in the scope of those categories, he must  
6 include such a statement in his declaration under penalty of perjury.

7 Finally, the Court has serious concerns about the professionalism  
8 exhibited by Mr. Nelson, and his ability to competently represent a  
9 Debtor-in-Possession. The litany of tardy filings and lack of candor  
10 displayed by Mr. Nelson in the Simplon Case will be enumerated in the  
11 forthcoming decision, but it appears that Mr. Nelson is continuing the  
12 pattern here.

13 The petition in this case was filed July 9, 2009, as a "bare  
14 bones" filing. The § 341(a) meeting of creditors was scheduled for  
15 August 4, 2009, at 3:00 p.m. The balance of schedules were due by  
16 July 24, 2009. At 3:54 p.m. on July 24, Mr. Nelson filed an Ex Parte  
17 Application, "out of an abundance of caution", for an extension of  
18 time to file the schedules and statement of affairs to July 31, 2009.  
19 The Ex Parte Application contained an express condition requiring the  
20 Debtor to personally deliver the copies of the schedules to the Office  
21 of the United States trustee no later than 12:00 p.m. on July 31,  
22 2009. With that express condition, the United States trustee filed  
23 a Statement of No Opposition to the Ex Parte Application.

24 The Court is not aware of the timing of the delivery of the  
25 copies to the United States trustee, but notes that the Balance of  
26 Schedules and Statement of Affairs were not tendered to the Court  
27 until 12:13 p.m. on August 5, 2009. This delay violated the terms of  
28 the proposed order extending the time. And, unless the schedules were

1 received by all creditors and interested parties by July 31, had the  
2 effect of denying them any opportunity to review the schedules before  
3 the § 341(a) meeting.

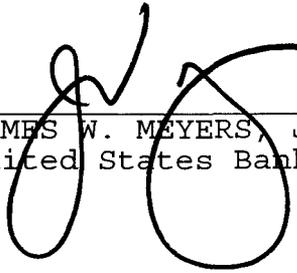
4 Therefore, given the procedural inadequacies associated with the  
5 Application, and the unresolved concerns about the professional  
6 ability of Mr. Nelson to fulfill his obligations as an officer of the  
7 court or counsel for a Debtor-in-Possession,

8 IT IS ORDERED that:

9 1) The Application is denied.

10 2) This Order is without prejudice to an amended Application  
11 upon cure of the procedural deficiencies in this case and a  
12 satisfactory showing of cause for the lack of candor and competence  
13 displayed in the Simplon Case.

14 Dated: **AUG 21 2009**

15   
16 \_\_\_\_\_  
17 JAMES W. MEYERS, Judge  
18 United States Bankruptcy Court  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28