

1 Thomas M. Robins, III (State Bar No. 054423)
Peter Csato (State Bar No. 089272)
2 Bernard R. Given, II (State Bar No. 134718)
FRANDZEL ROBINS BLOOM & CSATO, L.C.
3 6500 Wilshire Boulevard
Seventeenth Floor
4 Los Angeles, California 90048-4920
Telephone: (323) 852-1000
5 Facsimile: (323) 651-2577

6 Attorneys for Plaintiff Richard A. Marshack,
Chapter 7 Trustee for the Estate of Four Star
7 Financial Services, LLC

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **LOS ANGELES DIVISION**

11 In re
12 FOUR STAR FINANCIAL SERVICES, LLC,
13 Debtor.

Bankruptcy Case No. LA 03-37579 TD
Chapter 7

14 **NOTICE OF MOTION AND TRUSTEE'S**
15 **MOTION FOR ORDER:**

16 **1) APPROVING SETTLEMENT AND**
17 **COMPROMISE BETWEEN THE**
18 **CHAPTER 7 TRUSTEE AND DAVID**
19 **ROBERTS;**

20 **2) AUTHORIZING PAYMENT OF**
21 **COMPENSATION TO SPECIAL**
22 **LITIGATION COUNSEL, SUBJECT TO**
23 **FINAL FEE APPLICATION;**

24 **3) AUTHORIZING REIMBURSEMENT TO**
25 **CREDIT SUISSE**

26 **MEMORANDUM OF POINTS AND**
27 **AUTHORITIES, DECLARATIONS OF**
28 **RICHARD A. MARSHACK AND PETER**
CSATO IN SUPPORT THEREOF

[No Hearing Requested Pursuant to
Local Bankruptcy Rule 9013-1(o)(1)]

1 **TO THE HONORABLE THOMAS B. DONOVAN, UNITES STATES**
2 **BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, PARTIES**
3 **IN INTEREST AND THEIR COUNSEL OF RECORD:**

4 **NOTICE**

5 **PLEASE TAKE NOTICE** that Richard A. Marshack (the "Trustee"), the Chapter 7 trustee
6 for the bankruptcy estate of Four Star Financial Services, LLC (the "Debtor") brings this Motion
7 for Order Approving Settlement and Compromise Between the Chapter 7 Trustee and David
8 Roberts (the "Motion").

9 Through the Motion, the Trustee is also seeking approval for the payment of expenses
10 totaling \$269,311.97 to Credit Suisse and a contingency fee to his special litigation counsel of
11 \$926,111.61 based on a gross recovery of \$4,900,000, net of expenses, related to the settlement of
12 the litigation matter described in more detail below. In addition, the Trustee seeks to pay one-half
13 of the remaining net proceeds of recovery to Credit Suisse pursuant to the previously approved
14 Court arrangement described hereinbelow. This amount to Credit Suisse is \$1,852,223.21.

15 This Motion is made and based upon the allegations and representations set forth herein,
16 the attached Memorandum of Points and Authorities, the Declaration of Richard A. Marshack (the
17 "Marshack Declaration"), the pleadings and documents on file in this Chapter 7 case and all
18 supplemental evidence, both oral and documentary, which the Trustee may submit to the Court at
19 or before the time of the hearing on this Motion.

20 **IF YOU DO NOT OPPOSE THE RELIEF REQUESTED IN THE MOTION, YOU**
21 **NEED TAKE NO FURTHER ACTION. HOWEVER, IF YOU OPPOSE THE MOTION,**
22 pursuant to Local Bankruptcy Rule 9013-1(o)(1) objections and requests for hearing, if any, must
23 be filed no later than fifteen (15) days from the date of service of this Notice with the Clerk of the
24 above Court and a copy served upon Peter Csato of Frandzel Robins Bloom & Csato, L.C., 6500
25 Wilshire Boulevard, 17th Floor, Los Angeles, California 90048-4920, and the Office of the United
26 States Trustee, located at 725 South Figueroa Street, 26th Floor, Los Angeles, California 90017.
27 Failure to file a timely response may be deemed as acceptance of the proposed relief sought. **SEE,**
28 **LOCAL BANKRUPTCY RULE 9013-1(f) and 9012-1(h).**

1 In support of the Motion, the Trustee respectfully represents as follows:

2 I.

3 **BACKGROUND INFORMATION**

4 A. **Case Information**

5 An involuntary petition for relief under Chapter 11 of the Bankruptcy Code was filed
6 against the Debtor on October 24, 2004 (the "Petition Date").

7 On November 26, 2003, the Court entered an Order for Relief under Chapter 11 of the
8 Bankruptcy Code and directed that the Office of the United States Trustee appoint a Chapter 11
9 Trustee for the Debtor's bankruptcy estate ("Estate").

10 On or about December 11, 2003, the Office of the United States Trustee appointed Richard
11 A. Marshack as the Chapter 11 trustee for the Estate.

12 Upon the Chapter 11 Trustee's motion and pursuant to Court order entered on March 18,
13 2004, the Debtor's case was converted to one under Chapter 7 of the Bankruptcy Code.

14 Richard A. Marshack is the duly appointed, qualified and acting trustee for the Debtor's
15 Chapter 7 Estate.

16 B. **Potential Assets of the Estate**

17 As part of his duties pursuant to section 704 of the Bankruptcy Code, the Trustee
18 investigated the financial affairs of the Debtor and the potential assets of the Estate. Based on
19 investigation by the Trustee and his professionals, it appears that prior to the Petition Date the
20 Debtor may have raised as much as \$200,000,000 from numerous investors. It also appears that
21 the Debtor was operating a classic Ponzi scheme in which it used new investors' money to pay
22 previous investors. In connection with such a Ponzi scheme, the Debtor and its principals may
23 have misappropriated investors' funds totaling over \$15,000,000. Further, payments may have
24 been made by the Debtor to third parties for less than reasonably equivalent value. Finally, it
25 appears that the Debtor may have made transfers that are avoidable as preferences.

26 II.

27 **FINDINGS OF FACT**

28 The Motion relates to a settlement of a pending adversary proceeding, No. LA 05-02502

1 TD (the "Complaint") filed on November 23,2005 by the Trustee against Defendant alleging
2 claims for avoidance of intentional fraudulent transfers, avoidance of constructive fraudulent
3 transfers, recovery of avoided transfers and disallowance of claims. Defendant disputes the
4 allegations set forth in the Complaint and the settlement described herein below is without
5 admission of any liability thereunder. Through the proposed settlement, Defendant shall pay to
6 the Trustee the sum of Four Million Nine Hundred Thousand and 00/100 Dollars (\$4,900,000.00),
7 in immediately available funds (the "Payment"). The Payment shall be made to Trustee and shall
8 be held by him in a segregated trust account pending the entry of a final Non-Appealable Order
9 approving this Motion by the Court. The Payment shall be in full and final satisfaction of any and
10 all claims the Estate may have against Defendant and any claims Defendant may have against the
11 Bankruptcy Estate. While the settlement amount is less than the full amount sought in the
12 Complaint, it represents a significant recovery for the creditors of the Estate and avoids further
13 litigation and appeals. The Trustee has determined that given the expense and risks of litigation,
14 the proposed settlement is in the best interests of the Estate. In light of the uncertainties associated
15 with litigation of this type, the risk to the Estate far outweigh the benefits which will be realized in
16 connection with the substantial payment to be received by the Trustee hereunder. Accordingly,
17 the Trustee respectfully submits that approval of the motion is in the best interests of the Estate
18 and its creditors.

19 **A. THE ROBERTS LITIGATION**

20 As previously set forth, on November 23,2005, the Trustee filed the Complaint against
21 David Roberts for (1) avoidance of intentional fraudulent transfers, (2) avoidance of constructive
22 fraudulent transfers, (3) recovery of avoided transfers, and (4) disallowance of claims (the
23 "Roberts Litigation"). As alleged in the Complaint, David Roberts ("Roberts") solicited and
24 obtained investors on behalf of the Debtor and Roberts knew or should have known that the
25 Debtor was not a legitimate business, that the Debtor was operating a Ponzi-type scheme, and that
26 Roberts earned commissions and received transfers of funds from the Debtor in excess of
27 \$13,000,000.

28 The Roberts Litigation was initially filed by the law firm of Shulman, Hodges & Bastian,

1 LLP (the "Shulman Firm"). Under the terms of the Shulman Firm's employment, it was to receive
2 a 33% contingency if the matter was settled prior to the case first being assigned a trial date, and
3 an amount equal to 40% if the matter was settled or litigated after a trial date was set. In addition,
4 the Shulman Firm was entitled to reimbursement for its costs from the recoveries received.

5 The Trustee subsequently substituted in the law firm of Frandzel, Robins, Bloom & Csato,
6 L.C. (the "Frandzel Firm") in place of the Shulman Firm solely with respect to the Roberts
7 Litigation, to represent him as special litigation counsel in the Roberts Litigation pursuant to
8 section 327(e) of the Bankruptcy Code on a hybrid contingency/hourly fee basis described below.

9 **1. Hybrid Contingency/Hourly Fees.**

10 The hybrid arrangement, which has been approved by the Court, provided that the Frandzel
11 Firm would initially be compensated by Credit Suisse on an hourly basis, up to a total of
12 \$150,000.00. No hourly fees in excess of \$150,000.00 would be sought by the Frandzel Firm. In
13 addition, the Frandzel Firm is to receive a contingency fee equal to twenty percent (20%) of any
14 Net Recovery received in the Roberts Litigation, with the term "Net Recovery" being defined for
15 this purpose only as all sums paid to the Trustee on account of the Roberts Litigation by way of
16 settlement, compromise, arbitration, or judgment, less the costs and expenses of the Roberts
17 Litigation, including (i) all fees and costs advanced by Credit Suisse (which are to be reimbursed
18 to Credit Suisse out of the first dollars received by the Four Star estate from any recovery from the
19 Roberts Litigation), (ii) all costs incurred by the Four Star Estate solely in connection with the
20 Roberts Litigation (which costs shall not include any attorney's fees and expenses incurred by the
21 professionals that are employed by the Four Star Estate, other than the Frandzel Firm), and (iii)
22 reasonable fees and costs incurred solely in connection with the Roberts Litigation by the
23 accountants employed by the Estate (the Squar Milner firm), provided that such accountants
24 separately keep track of their time expended on the Roberts Litigation and provide appropriate
25 records of such time to the Frandzel Firm, and provided further that the activities of the Squar
26 Milner firm shall at all times be subject to the supervision and control of the Frandzel Firm as the
27 lawyers with responsibility for the Roberts Litigation.

28 The Frandzel Firm did not receive a retainer from the Trustee in this case.

1 **2. Expenses.**

2 In connection with the Roberts Litigation, the Frandzel Firm was to be paid its actual, out-
3 of-pocket expenses by Credit Suisse. These expenses include, but are not limited to, expert
4 witness fees, deposition costs, copying charges, court costs, and process service fees.

5 **3. Reimbursement of Fees and Expenses.**

6 Pursuant to the Order entered on March 15,2007, in the event that there was any recovery
7 of funds as a result of the Roberts Litigation (the "Funds"), Credit Suisse was to be first
8 reimbursed from the Funds for the attorneys' fees and expenses advanced by it to the Frandzel
9 Firm prior to any other disbursement of such Funds by the Trustee.

10 **4. Fee Applications.**

11 The Frandzel Firm must apply to the Court for approval of interim and final compensation
12 in accordance with the provisions of 11 U.S.C. §§ 330 and 331 as necessary. Any contingency fee
13 to which the Frandzel Firm is entitled shall not be paid from the recoveries of the Roberts
14 Litigation until so ordered by the Court, whether pursuant to a fee application or after noticed
15 motion, such as the Motion herein. In addition, although Credit Suisse advanced up to
16 \$150,000.00 for hourly compensation to the Frandzel Firm and also advanced the costs of the
17 Roberts Litigation, these fees and costs remain subject to final allowance by the Court in
18 accordance with the provisions of 11 U.S.C. §§ 330 and 331 (pursuant to one or more fee
19 applications to be filed by the Frandzel Firm, which fee applications will include not only the
20 hourly fees paid by Credit Suisse to the Frandzel Firm, but also the costs advanced by Credit
21 Suisse in connection with the Roberts Litigation). This reimbursement is also sought in the
22 Motion herein.

23 **5. The Modification to the Credit Suisse Compromise Order and Settlement**
24 **Agreement.**

25 In exchange for Credit Suisse's agreement to fund the costs of the Roberts Litigation as
26 well as to advance up to \$150,000.00 in hourly fees incurred by the Frandzel Firm, the Trustee and
27 Credit Suisse agreed to increase the percentage net recovery that Credit Suisse would be entitled to
28 receive under the terms of the Credit Suisse Compromise Order and the Settlement Agreement

1 from 15% of the net recoveries from the Roberts Litigation to 50% of the net recoveries from the
2 Roberts Litigation. As set forth in the Four Star Trustee/CSFBMC Side Letter Re Amendment to
3 Settlement Agreement Related to Sharing of Net Proceeds from Roberts Litigation (the "Roberts
4 Side Letter"), for purposes of the Roberts Litigation only, net recoveries is (1) net of the 20%
5 contingency fee to be paid to the Frandzel Firm, (2) net of all reimbursements paid to Credit
6 Suisse for amounts advanced by it to the Frandzel Firm up to the \$150,000.00 ceiling, (3) net of all
7 costs and expenses advanced by Credit Suisse to the Frandzel Firm in connection with the Roberts
8 Litigation, (4) net of all costs incurred by the Four Star Estate solely in connection with the
9 Roberts Litigation (which costs shall not include any attorney's fees and expenses incurred by the
10 professionals that are employed by the Four Star Estate, other than the Frandzel Firm), and (5) net
11 of all fees and costs incurred solely in connection with the Roberts Litigation by the accountants
12 employed by the Four Star Estate (the Squar Milner firm).

13 **III.**

14 **THE PROPOSED COMPROMISE BETWEEN THE TRUSTEE AND DEFENDANT**

15 Subject to Bankruptcy Court approval, the Trustee and Roberts (the "Parties") have
16 negotiated a settlement of all existing or pending claims between them relating to the Estate in
17 order to eliminate the need for further, costly litigation.

18 The parties desire to settle and resolve the dispute between them pursuant to the terms of a
19 Settlement Agreement and Mutual Release (the "Agreement"), a true and correct copy of which is
20 attached hereto as Exhibit 1 to the Declaration of Richard A. Marshack and incorporated herein by
21 this reference. The principle terms of the Agreement are as follows:

22 1. **Settlement Payment:** Concurrently with the execution of the Agreement,
23 Defendant paid the sum of Four Million Nine Hundred Thousand and 00/100 Dollars
24 (\$4,900,000.00) to the Trustee which is being held in a segregated trust account pending Court
25 approval of the Agreement.

26 2. **Mutual Releases:** As set forth in the Agreement, the Trustee and the Defendant, on
27 behalf of themselves and all other persons acting for or on their behalf, are mutually releasing and
28 discharging each other, and all persons acting for or on their behalf from any claims, demands,

1 damages, actions and causes of action, known and unknown, of whatever nature existing or arising
2 as a result of the acts or occurrences alleged in and arising out of the complaint, any similar, legal
3 or administrative proceeding, or which could have been alleged in the adversary proceeding.
4 Specific reference has been made to California Civil Code Section 1542 with respect to the mutual
5 releases herein.

6 3. Legal Fees and Costs: Pursuant to the Settlement Agreement, each party is bearing
7 its own legal costs and fees incurred in the adversary proceeding.

8 IV.

9 **GOOD CAUSE EXISTS TO APPROVE THE SETTLEMENT BETWEEN THE TRUSTEE**
10 **AND THE DEFENDANTS**

11 In evaluating the proposed settlement, the parties and their respective counsel have taken
12 into account the probability of success in the litigation and any appeal from any judgment which
13 the Court may infer in this cause. The Trustee has taken into account the complexity of the
14 litigation involved and the expenses, inconvenience and delay necessarily resulting from further
15 litigation. Most importantly, the Trustee has taken into account the best interests of the Estate and
16 its creditors in recovering the substantial sum provided for in the Settlement Agreement. As set
17 forth in the Declaration of Richard A. Marshack attached hereto, the Trustee believes that the
18 proposed settlement is fair and reasonable and in the best interests of the Estate and should be
19 approved by this Court.

20 Pursuant to the proposed agreement, no further litigation is required with regard to the
21 transactions which are the subject of the Complaint and the ability of the Defendant to fund the
22 terms thereunder have been evidenced by the deposit which has already been made into the
23 Trustee's segregated trust account. As previously set forth, subject to Court approval herein, the
24 Trustee will recover \$4,900,000.00 in full and final satisfaction of any and all claims which
25 Trustee may have against the Defendant and which the Defendant may have against the
26 bankruptcy Estate. The Trustee has determined that litigating this issue further will only result in
27 the accrual of additional administrative expenses, potentially without any additional benefit to the
28 Estate in the event that this Court, or an appellate court of competent jurisdiction, were to rule that

1 the Trustee is not entitled to any recovery in connection with the Complaint. Accordingly, the
2 substantial costs and risk associated with further litigation of this matter is a significant factor to
3 be taken into account by the Court.

4 V.

5 **REQUEST FOR AUTHORIZATION TO PAY CONTINGENCY FEE TO THE FIRM AND**
6 **REIMBURSE EXPENSES TO CREDIT SUISSE**

7 Pursuant to the terms of the Employment Order, the Trustee seeks authorization to pay the
8 Frandzel Firm compensation related to the settlement of the Adversary Proceeding as follows:

9 <u>Amount of Recovery</u>	10 <u>Total Contingency Fee</u>	11 <u>Expenses Incurred by</u>
	<u>Requested</u>	<u>the Frandzel Firm</u>
12 \$4,900,000.00	13 \$980,000.00	14 \$37,079.16

15 Attached as **Exhibit "1"** to the Declaration of Peter Csato ("Csato Declaration") are true
16 and correct copies of invoices reflecting the time spent and expenses incurred by the Frandzel
17 Firm in the Roberts Litigation. The expenses were paid by Credit Suisse and are sought to be
18 reimbursed pursuant to the Motion herein.

19 In the normal course of business, the Frandzel Firm maintains records of the expenses
20 incurred on behalf of its clients. The Frandzel Firm charges twenty cents (20¢) per page for
21 photocopies and charges for postage when there are multiple envelopes mailed at one time.
22 Records for messenger services are kept as they are incurred and input on the computer system.
23 Messenger services are only used when it is crucial that document delivery may be made
24 immediately or by the next day. The Frandzel Firm charges fifty cents (50¢) per page for
25 facsimile transmissions and keeps a daily log of the transmissions which is input on the computer
26 system.

27 **A. Summary of Contingency Fee Requested by the Frandzel Firm**

28 Through this Settlement Motion, the Trustee is seeking authorization to pay the Frandzel
Firm a contingency fee related to the settlement of the Adversary Proceeding and reimburse the
Frandzel Firm for expenses as follows: \$926,111.61 based on twenty percent (20%) of the net
recovery of \$4,900,000.00.

1 All fees and expenses paid to the Frandzel Firm shall be subject to a final fee application.

2 As a result of the services performed by the Frandzel Firm, a favorable settlement has been
3 reached as set forth above. Such result has been beneficial for the Estate and its creditors. To
4 date, the Frandzel Firm has received no compensation related to the Adversary Proceeding.

5 The Trustee currently has \$2,395,978.18 of funds on hand in addition to the \$4,900,000.00
6 in a segregated Trust Account as set forth hereinabove.

7 **B. Summary of Fees and Expenses Requested by Credit Suisse**

8 As set forth in Section II.A. hereinabove, Credit Suisse advanced fees and expenses to fund
9 the Roberts Litigation in exchange for the right to be reimbursed for said fees and expenses and
10 receive fifty percent (50%) of the remaining net proceeds from any recovery in the Roberts
11 Litigation. The fees and expenses which Credit Suisse are entitled to are as follows:

- 12 1. \$82,202.81 in fees advanced to the Squar Milner firm;
- 13 2. \$150,000.00 in fees advanced to the Frandzel Firm;
- 14 3. \$37,089.16 in costs incurred by the Frandzel Firm.

15 The total amount to be reimbursed to Credit Suisse off the top is \$269,311.97. In addition, Credit
16 Suisse is entitled to \$1,852,223.21 for its fifty percent (50%) of the remaining net proceeds from
17 the Roberts Litigation.

18 **VI.**

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **A. Entry of an Order Approving the Agreement is Proper**

21 The power of the Court to review and approve settlements is expressly recognized in
22 Federal Rule of Bankruptcy Procedure 9019(a) which provides:

23 On motion by the trustee and after notice and a hearing, the court
24 may approve a compromise or settlement. Notice shall be given to
25 creditors, the United States trustee, the debtor, and indenture trustees
as provided in Rule 2002 and to any other entity as the court may
direct.

26 Thus, upon notice to a debtor's creditors, the United States Trustee, debtors, and indenture
27 trustees, settlement of a claim of the estate is appropriate. The approval of a compromise is a core
28 proceeding under 28 U.S.C. § 157(b)(2)(a) and (O). *In re Carla Leather, Inc.*, 50 B.R. 764, 775

1 (S.D.N.Y. 1985).

2 **B. The Court has the Authority to Approve a Compromise Which is Fair and Equitable**

3 The purpose of a compromise agreement between a trustee and a creditor is to allow the
4 parties to avoid the expenses and burdens associated with litigation. *Martin v. Kale (In re A & C*
5 *Properties)*, 784 F.2d 1377, 1380-81 (9th Cir. 1986), *cert. denied sub nom. Martin v. Robinson*,
6 479 U.S. 854 (1986). The bankruptcy court has great latitude in approving compromise
7 agreements as long as it finds that the compromise is fair and equitable. *Id.* at 1382; *see also*,
8 *Woodson v. Fireman's Fund Ins. Co. (In re Woodson)*, 839 F.2d 610, 620 (9th Cir. 1988).
9 Generally, the benchmark in determining the propriety of a settlement is whether the settlement is
10 in the best interests of the estate and its creditors. *In re Energy Cooperative, Inc.*, 886 F.2d 921,
11 927 (7th Cir. 1989). To be approved, the settlement need not represent the highest possible return
12 to the estate, but merely must fall within the "range of reasonableness." *In re Walsh Construction,*
13 *Inc.*, 669 F.2d 1325, 1328 (9th Cir. 1992); *see also, In re Drexel Burnham Lambert Group, Inc.*,
14 134 B.R. 493 (Bankr. S.D.N.Y. 1991) (holding "the obligation of the court is to 'canvass the issues
15 and see whether the settlement falls below the lowest point in the range of reasonableness'"). In
16 making this determination, the bankruptcy court need not conduct a full evidentiary hearing, a trial
17 or even a "mini trial" on the merits. *Id.*

18 In determining the fairness, reasonableness and adequacy of a proposed settlement
19 agreement, the Court must consider the following factors:

20 (a) The probability of success in the litigation; (b) the difficulties, if
21 any, to be encountered in the matter of collection; (c) the complexity
22 of the litigation involved, and the expense, inconvenience, and delay
necessarily attending it; (d) the paramount interests of the creditors
and a proper deference to their reasonable views in the premises.

23 *A & C Properties*, 785 F.2d at 1381, *Woodson*, 839 F.2d at 620. In other words, the Court
24 must weigh certain factors in order to determine whether the compromise is in the best interests of
25 the bankrupt estate. *A & C Properties*, 784 F.2d at 1382.

26 **1. The Complexity, Expense, Inconvenience and Delay of Further Litigation**

27 If the Trustee were forced to litigate the claims against Roberts through the appellate
28 process, the Estate would incur substantial expenses, and would risk not prevailing at trial and/or

1 on appeal. The risks associated with fully litigating the claims through appeal outweigh any
2 additional benefit the Estate may achieve; especially given the risks attendant with a take nothing
3 judgment if the same were entered. Under the circumstances, the beneficial settlement reached is
4 appropriate, reasonable, and the Agreement should, therefore, be approved.

5 **2. The Interests of Creditors**

6 The Trustee has determined that the fees and costs of litigation would likely exceed any
7 additional benefit the Estate might achieve. The total amount of funds that will be paid to the
8 Estate pursuant to the settlement reached with Roberts is \$4,900,000.00. In addition, Roberts has
9 agreed to waive any and all claims against the Estate. The costs associated with further litigation
10 will likely outweigh any additional benefit the Estate might achieve. In light of the foregoing and
11 based on good business reasons, the Trustee believes that entry of Court order approving the
12 foregoing settlements is the most expedient and cost effective method for resolving any existing or
13 pending claims between the Trustee and such parties.

14 **3. Approving the Motion Without a Hearing is Proper**

15 Local Bankruptcy Rule 9013-1(0)(1) provides as follows:

16 (1) Matters That May Be Determined Upon Notice of Opportunity
17 to Request Hearing. Except as to matters specifically noted in
18 subsection (0)(2) below, and as otherwise ordered by the court, any
matter that may be set for hearing in accordance with LBR 9013-1
may be determined upon notice of opportunity to request a hearing.

19 (A) Notice. When the notice of opportunity for hearing procedure
20 is used, the notice must:

21 "(i) Succinctly and sufficiently describe the nature of the
22 relief sought and set forth the essential facts necessary for
a party in interest to determine whether to file a response
and request a hearing.

23 (ii) State that LBR 9013-1(o)(1) requires that any response
24 and request for hearing must be filed with the court and
served on the movant and the United States Trustee
25 within 15 days after the date of service of the notice; and

26 (iii) Be filed with the court and served by the moving party on
27 all creditors and other parties in interest who are entitled
to notice of the particular matter.

28 (B) Motion. The motion and supporting papers must be filed
with the notice, but must be served only on the United

