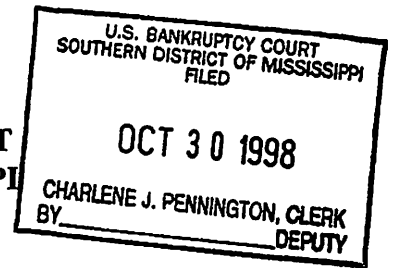


IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION



IN RE:

CHAPTER 7

EVAN DOSS, JR., CORPORATION

CASE NO. 94-03329-WEE

**FINDINGS OF FACT AND CONCLUSIONS OF LAW ON**  
**APPLICATION FOR AUTHORITY TO PAY ADMINISTRATIVE CLAIM**  
**AND**  
**MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT**

Before this Court for determination are an *Application for Authority to Pay Administrative Claim* and a *Motion for Approval of Settlement Agreement* filed by Eileen Shaffer Bailey, Trustee, and an *Objection to Notice of Application for Authority to Pay Administrative Claim* and a *Response to Motion for Approval of Settlement Agreement* filed by Evan Doss, Jr., *pro se* and acting in his individual capacity. After notice and a hearing on the Trustee's *Application* and *Motion*, and after considering the *Objection* and *Response* of Evan Doss, Jr., filed thereto, the testimony and arguments of the parties and witnesses, and otherwise being fully advised in the premises, the Court finds that the Trustee's *Application for Authority to Pay Administrative Claim* and *Motion for Approval of Settlement Agreement* are well taken and should be granted.

On March 16, 1998, the Chapter 7 Trustee in this case filed an *Application for Authority to Pay Administrative Claim*, seeking authority to pay a \$400 regulatory fee to the Federal Communications Commission (FCC) in connection with a radio license owned by the Evan Doss, Jr., Corporation for AM Radio Station WKPG, located in Port Gibson, Mississippi. On April 1, 1998, Evan Doss, Jr. filed an *Objection to Notice of Application for Authority to Pay Administrative*

*Claim*. On August 18, 1998, the Trustee also filed a *Motion for Approval of Settlement Agreement* to which Evan Doss, Jr. filed his *Response* on September 4, 1998.

On August 14, 1998, a *Notice of Trial Setting* was sent to the Debtor, the Evan Doss, Jr., Corporation; Eileen Shaffer Bailey, Chapter 7 Trustee; Joyce Funchess and Ahmad Muhammad, attorneys for Evan Doss, Jr. in his individual bankruptcy proceeding; and Shelia Sanders, Attorney for the United States Trustee, that the Trustee's *Application for Authority to Pay Administrative Claim and Objection to Notice of Application for Authority to Pay Administrative Claim* filed by Evan Doss, Jr., *pro se*, would be heard on September 25, 1998 at 9:30 a.m. On September 21, 1998, an *Amended Notice of Trial Setting* was sent by the Court to the aforementioned parties as well as to Robert McDuff, Counsel for Leola Dickey, and Frank Jazzo, Counsel for Ole Brook Broadcasting, Inc. The *Amended Notice* stated that the *Response to Motion for Approval of Settlement Agreement* would also be heard on September 25, 1998 at 9:30 a.m.

On September 25, 1998, the following parties appeared for the noticed hearing: Eileen Shaffer Bailey, Trustee; Derek Henderson, Attorney for the Trustee; Evan Doss, Jr., appearing *pro se*; Joyce Funchess, attorney for Evan Doss, Jr. in his individual bankruptcy proceeding; Robert McDuff, attorney for Leola Dickey; William Reynolds, President of Ole Brook Broadcasting, Inc.; and Robert Anderson, Assistant United States Attorney.

#### **APPLICATION**

At the beginning of the hearing, the Trustee presented to the Court her *Application for Authority to Pay Administrative Claim* to the FCC in the amount of \$400, to which Doss had filed his *Objection*. The Trustee also brought before the Court a *Motion to Dismiss Objection to Notice of Application for Authority to Pay Administrative Claim*, asserting that Doss lacked standing to

object to the *Application* in that he was not a creditor of the Evan Doss, Jr., Corporation bankruptcy estate. The Court declined to sustain the Trustee's *Motion to Dismiss* at that time, allowing the case to proceed on the merits.

The Trustee explained that the bankruptcy estate had incurred an administrative claim with the FCC in the amount of \$400, representing the 1997 regulatory fee for AM Radio Station WKPG in Port Gibson, Mississippi. The Trustee further explained that the 1997 regulatory fee, which is presently due, must be paid in order to facilitate the sale of the WKPG license and in order for the new owner to take possession of the radio station. Doss objected to payment of the fee, arguing that the Evan Doss, Jr., Corporation could not be responsible for the regulatory fee as the Corporation did not own the radio station. The Court, however, having previously determined in related adversary proceeding number 97-0043 that the Evan Doss, Jr. Corporation is the owner of WKPG and that any purported claim to ownership of that radio station by Leola Dickey has been released, finds that Doss's objection is without merit and that it is in the best interest of the bankruptcy estate that the Trustee's *Application to Pay Administrative Claim* to the FCC in the amount of \$400 should be granted and that the Trustee should be authorized to pay the \$400 administrative claim from available funds of the bankruptcy estate.

### MOTION

The Trustee presented her *Motion for Approval of Settlement Agreement*, to which Doss had also filed a *Response*. The Trustee urged the Court to grant her *Motion to Dismiss Response to Motion for Approval of Settlement Agreement*, once again on the basis that Doss lacked standing to file a *Response* to her *Motion*. The Court again declined to sustain the *Motion to Dismiss* at that time and permitted the case to continue on the merits.

The Trustee's *Motion for Approval of Settlement Agreement* pertains to an agreement reached between Leola Dickey, sister of Evan Doss, and Ole Brook Broadcasting, Inc., wherein Dickey has agreed to dismiss an application pending before the FCC for the purchase of a construction permit for a separate radio station, FM Channel 282C3, located in Bude, Mississippi, in exchange for a \$3000 payment from Ole Brook, which also has an application pending before the FCC for the purchase of the same construction permit. Ole Brook Broadcasting, Inc., President, William Reynolds, testified that Dickey and Ole Brook are the only two parties competing for the Bude station, that the FCC will auction the construction permit if an agreement is not reached between Dickey and Ole Brook, and that the FCC has been advised of the pending settlement agreement. Reynolds further testified that he considered the \$3000 payment to insure withdrawal of Dickey's application to be adequate consideration, particularly since the FCC would permit Ole Brook to reimburse Dickey only the actual expenses which she incurred in connection with the application. Moreover, the Trustee stated that, in exchange for Dickey's agreement to remit the \$3000 payment to the Evan Doss, Jr., Corporation bankruptcy estate, she will be released from any claims which the Trustee might have pursued against her on behalf of the Corporation bankruptcy estate.

Doss engaged in a protracted cross examination of Reynolds, questioning him as to the format he intended to use for the Bude station and in regard to various other conversations and transactions that had transpired between the Evan Doss, Jr., Corporation, Ole Brook, Dickey and the Trustee. Although Doss later declined to testify on his own behalf, during oral argument he explained to the Court that he was attempting to prove, through his cross examination of Reynolds, that the \$3000 payment offered by Ole Brook was considerably less than the true value of the Bude radio station permit and that, based on the proposed settlement as well as previous transactions, the

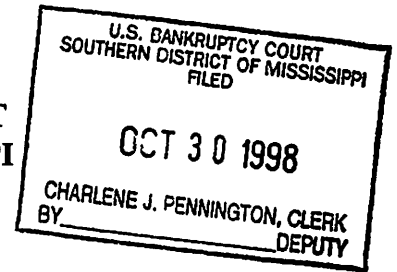
Trustee and Ole Brook were somehow engaging in behind-the-scenes, suspect dealings which operated to their mutual benefit. The Court, however, finds Doss's argument to be unsupported and wholly without merit and accordingly, concludes that it is in the best interest of the bankruptcy estate that the Trustee's *Motion for Approval of Settlement Agreement* be granted.

Separate final judgments consistent with this opinion will be entered in accordance with Rule 9021 of the Federal Rules of Bankruptcy Procedure.

SO ORDERED this 30<sup>th</sup> day of October, 1998.

  
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UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION



IN RE:

CHAPTER 7

EVAN DOSS, JR., CORPORATION

CASE NO. 94-03329-WEE

FINAL JUDGMENT ON  
APPLICATION TO PAY ADMINISTRATIVE CLAIM

Consistent with the Court's opinion dated contemporaneously herewith, it is hereby ordered and adjudged:

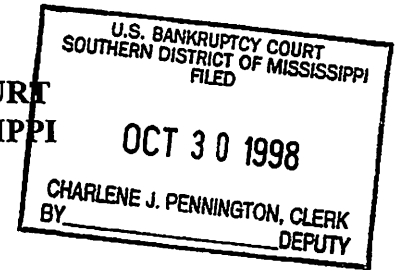
That the *Application to Pay Administrative Claim* should be and hereby is granted and that the Trustee is authorized to pay the \$400 administrative claim to the Federal Communications Commission from available funds of the bankruptcy estate.

This judgment is a final judgment for the purposes of Federal Rule of Bankruptcy Procedure 9021.

SO ORDERED this the 30<sup>th</sup> day of October, 1998.

  
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION



IN RE:

CHAPTER 7

EVAN DOSS, JR., CORPORATION

CASE NO. 94-03329-WEE

FINAL JUDGMENT ON  
MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

Consistent with the Court's opinion dated contemporaneously herewith, it is hereby ordered and adjudged:

That the *Motion for Approval of Settlement Agreement* should be and hereby is granted.

This judgment is a final judgment for the purposes of Federal Rule of Bankruptcy Procedure 9021.

SO ORDERED this the 30<sup>th</sup> day of October, 1998.

UNITED STATES BANKRUPTCY JUDGE