

IN RE:

BUTLER COUNTY CASES

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ORDER REMOVING TRUSTEE, APPOINTING NEW TRUSTEE
AND IMPLEMENTING TRANSFER OF CASES

WHEREAS, John J. Morgan, Esquire, has resigned from the Chapter 7 trustee panel; and

WHEREAS, John J. Morgan, Esquire, is desirous of being removed from the office of trustee in all open bankruptcy cases in which he has been so appointed;

It is hereby ORDERED and DECREED as follows:

I. TRUSTEE SUCCESSION

- (1) John J. Morgan, Esquire, is removed from the office of trustee in each and every open bankruptcy case in which he has been so appointed;
- (2) Carlota M. Bohm, Esquire, is appointed successor trustee in each and every case referenced in paragraph (1), supra;
- (3) Within forty days of the date of this Order, Carlota M. Bohm shall prepare and submit to the court, for purposes of reappointment, a list of those cases referenced in paragraph (1), supra, which she believes she cannot administer due to a conflict of interest or other reason. In the event there are no such cases, the report shall so state;
- (4) The Clerk of Bankruptcy Court shall appoint a successor trustee in each and every case named by Ms. Bohm in her report referenced in paragraph (3), supra;
- (5) John J. Morgan is removed from the position of counsel for the trustee in each and every case referenced in paragraph (1) in which Mr. Morgan has been so hired or appointed;
- (6) The firm of Schaffler & Bohm is hereby appointed counsel for the trustee in each and every case referenced in paragraph 5, supra, except those cases named by Ms. Bohm in her report referenced in paragraph (3), supra, in which case the successor trustee may seek court approval of the employment of the successor's choice of counsel;
- (7) Carlota M. Bohm, where acting as successor trustee, may seek court approval of the employment of her choice of

counsel in all cases other than those cases referenced in paragraph (6), supra, in which Schaffler & Bohm has been so appointed;

- (8) The Clerk of Bankruptcy Court shall file an individual order in each and every case referenced in paragraph (1), supra, implementing the terms of Part I of this Order;

II. TURNOVER OF FUNDS, PROPERTY AND PAPERS

- (9) Within ten days of the date of this Order, the Clerk of Bankruptcy Court shall prepare a current list of those bankruptcy cases referenced in paragraph (1), supra, and transmit the report to John J. Morgan and Carlota M. Bohm;
- (10) Within thirty days of the date of this Order, John J. Morgan shall prepare and submit to Carlota M. Bohm a general report, consisting of a short narrative of the status of each and every case referenced in paragraph (1), supra;
- (11) Within thirty days of the date of this Order, John J. Morgan shall prepare and transmit to Carlota M. Bohm an account detailing any and all receipts and disbursements of funds or other property for each and every case referenced in paragraph (1), supra;
- (12) Within thirty days of the date of this Order, John J. Morgan shall issue and transmit for deposit in trustee accounts separate checks for each and every case referenced in paragraph (1) supra, in which Mr. Morgan has acquired control of funds by virtue of acting as trustee or attorney for the trustee. Each such check shall be issued by Mr. Morgan in the amount of the balance on hand, bearing the appropriate case number and be made payable to "Carlota M. Bohm, Trustee";
- (13) Within thirty days of the date of this Order, John J. Morgan shall deliver to Carlota M. Bohm possession of all property of any sort of each and every bankruptcy estate of each and every case referenced in paragraph (1), supra, within Mr. Morgan's control or possession, held as trustee or attorney for the trustee;
- (14) Within thirty days of the date of this Order, John J. Morgan shall deliver to Carlota M. Bohm possession of all documents, records, contracts, correspondence, cancelled checks, bank statements and other papers held as trustee or attorney for the trustee, for each and every case referenced in paragraph (1), supra. Said documents shall be separated into appropriate files or folders on an individual case by case basis;
- (15) Within ten days, or sooner if necessary, of the date of this Order, John J. Morgan shall prepare and transmit to Carlota M. Bohm a report of all cases, if any, which

Mr. Morgan believes involve some element of urgency so as to require the attention of the trustee within forty-five days of the date of this Order. In the event there are no such cases, the report shall so state;

- (16) Within ten days of her submission of the report referenced in paragraph (3), supra, Carlota M. Bohm shall forward any and all funds, property and papers received from John J. Morgan, or held as trustee or attorney for the trustee, for each case listed in the report referenced in paragraph (3), supra, to her replacement successor trustee;
- (17) In the event that some person other than Carlota M. Bohm is appointed successor trustee in a case of the sort referenced in paragraph (1), supra, prior to the turnover of any funds, property and papers by John J. Morgan to Ms. Bohm for that case, and Mr. Morgan has knowledge of such appointment, then Mr. Morgan may turn funds, property, papers, accounts and reports held as trustee or attorney for the trustee in that case, over directly to the person appointed successor trustee, rather than to Ms. Bohm, otherwise according to the directives for turnover contained in this Order. John J. Morgan shall advise Ms. Bohm of any such direct turnover at the time it is accomplished;
- (18) For all closed bankruptcy cases in which John J. Morgan acted at any time as trustee or counsel for the trustee, Mr. Morgan shall retain, for a minimum of three years following their closing by the Clerk, custody and possession of all documents, records, contracts, correspondence and other papers;

III. TRUSTEE FEES

- (19) The maximum fee collectable by John J. Morgan on account of his service as trustee is fixed at twenty dollars in any and all open bankruptcy cases referenced in paragraph (1), supra, in which:
- (a) Mr. Morgan has filed both his S341 meeting proceeding memo and a report of no distribution; and
 - (b) Mr. Morgan has neither actually received nor disbursed any funds or property;
- (20) The maximum fee collectable upon application by John J. Morgan on account of his service as trustee is fixed at fifty percent of the statutory maximum amount of allowable trustee compensation in any and all open bankruptcy cases referenced in paragraph (1), supra, in which:
- (a) Mr. Morgan has received or disbursed any property or funds; and

- (b) Mr. Morgan has filed a proposed order of distribution but:
- (i) The proposed order of distribution has not been approved by the court; or
 - (ii) Not all property and funds have been distributed in accordance with a court approved order of distribution;
- (21) Unless this Court later orders otherwise, John J. Morgan may retain, in its entirety, any fee already paid to him on account of his service as trustee in any and all open bankruptcy cases referenced in paragraph (1), supra, in which:
- (a) Mr. Morgan has received or disbursed property or funds;
 - (b) Prior to the date of this order, the Court approved an order of distribution which provides for the distribution of all funds in the estate; and
 - (c) All property and funds have been distributed in accordance with the court order;
- (22) John J. Morgan shall collect no fee on account of his service as trustee in any and all other cases referenced in paragraph (1), supra, but not provided for in paragraphs (19) through (21), supra;
- (23) The maximum trustee fee collectable upon application by the successor trustee in those bankruptcy cases referenced in paragraph (20), supra, is fixed at fifty percent of the statutory maximum amount of allowable trustee compensation;

IV. TRUSTEE'S COUNSEL FEES

- (24) Payment of any approved claim for counsel fees of John J. Morgan shall be subordinated to any approved claim for counsel fees of the successor trustee;
- (25) The subordination of counsel fees referenced in paragraph 24, supra, shall in no way prejudice the pro-rata rights to distribution of any other creditors in the same class as the class of counsel so claiming such fees. In the event that counsel fees have been paid in full for counsel for the successor trustee, then the balance of the fees due to John J. Morgan shall be paid so that no other creditors of the same class shall receive more distribution pro-rata than such other creditors would have ordinarily received in the event that John J. Morgan remained as trustee and as counsel throughout the case and no successor trustee will have been appointed;

V. MISCELLANEOUS PROVISIONS

- (26) The report referenced in paragraph (9), supra, shall be prepared by the Clerk for informational purposes only, and any inadvertent omission of a case from that report shall not relieve John J. Morgan of his obligation to turn over any and all funds, property and papers, held as trustee or attorney for the trustee for such omitted case to the successor trustee as detailed in paragraphs (10) through (15) and (17), supra;
- (27) John J. Morgan shall cooperate fully with the successor trustee and respond promptly to all inquiries directed to him by the successor trustee;
- (28) The order of this court dated September 28, 1982, requiring John J. Morgan to retain an auditor is vacated, but any petition for approval of the employment of an accountant filed by the successor trustee in any case referenced in paragraph (1), supra, must contain, inter alia, a detailed statement of the need to employ an accountant;
- (29) The successor trustee shall file with the court within five months of the date of this Order a report listing any and all cases which require auditing by an independent public accountant;
- (30) The successor trustee shall report to the court any failure of John J. Morgan to comply with the terms of this Order;
- (31) The successor trustee and/or counsel for the successor trustee, upon accession to office or thereafter, shall not be liable for any of the acts, or failures to act, of the predecessor trustee; and
- (32) John J. Morgan shall refer to the successor trustee each and every inquiry, report, and other communication received by him after the date of this Order concerning any and all cases referenced in paragraph (1), supra.


DATE January 13, 1983

BY THE COURT


Consented to:



 John J. Morgan, Esq.



 Carlota M. Bohm, Esq.



 Gerald K. Gibson
 U.S. Bankruptcy Judge



 Joseph L. Cozetti
 U.S. Bankruptcy Judge