

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

IFC CREDIT CORPORATION,

Debtor.

Chapter 7

Case No. 09 B 27094

Hon. Jacqueline P. Cox

Hearing Date: September 26, 2013

Hearing Time: 10:30 a.m.

(OMNIBUS HEARING)

NOTICE OF HEARING

To: *U.S. Trustee William T Neary, Office of the U.S. Trustee
See attached service list

PLEASE TAKE NOTICE that on **September 26, 2013, at 10:30 a.m.**, we will appear before the Honorable Jacqueline P. Cox, Courtroom 680, Dirksen Federal Building, 219 S. Dearborn Street, Chicago, Illinois, and then and there present our **CHAPTER 7 TRUSTEE'S SECOND MOTION TO AUTHORIZE PAYMENT OF CERTAIN SECTION 507(a)(4) CLAIMS**, a copy of which is attached hereto and served upon you herewith.

Dated: September 12, 2013.

**DAVID P. LEIBOWITZ, CHAPTER 7
TRUSTEE FOR THE ESTATE OF IFC
CREDIT CORPORATION**

By: /s/ Jonathan T. Brand

One of the Trustee's Counsel

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CERTIFICATE OF SERVICE

On September 12, 2013, the undersigned certifies that on this date, she caused a copy of the above document to be served upon each person shown on attached Email Service List via electronic mail notification. Those marked with an * were served via the court's electronic notification system. ** Denotes party was served via U.S. Mail first class.

By: /s/ Maria Idalia Garcia

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

IFC CREDIT CORPORATION,

Debtor.

Chapter 7

Case No. 09 B 27094

Hon. Jacqueline P. Cox

Hearing Date: September 26, 2013

Hearing Time: 10:30 a.m.

(OMNIBUS HEARING)

**CHAPTER 7 TRUSTEE'S SECOND MOTION TO AUTHORIZE PAYMENT OF
CERTAIN SECTION 507(a)(4) CLAIMS**

David P. Leibowitz (“**Trustee**”), chapter 7 trustee for the estate of IFC Credit Corporation, files his second motion seeking authorization to pay certain former employee claims, pursuant to section 507(a)(4) of title 11 of the United States Code (“**Bankruptcy Code**”). In support of this Motion, the Trustee states the following:

REQUESTED RELIEF

1. The Trustee is in the process of examining the proof of claims filed in the above-captioned case. The Trustee reviewed the individual former-employee claims (“**Employee Claims**”) identified on **Exhibit A** and determined that there were issues with the Employee Claims. At this point, through a formal objection or by agreement, the Employee Claims have been adjusted to satisfy the Trustee’s concerns. Pursuant to section 507(a)(4) of the Bankruptcy Code, the Trustee seeks entry of an order allowing the Trustee to pay the specific administrative claims listed on **Exhibit A**.

JURISDICTION

2. This Court has jurisdiction over this Application pursuant to 28 USC § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

BACKGROUND

3. On July 27, 2009, the Debtor filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code and the office of the United States Trustee appointed the Trustee as chapter 7 trustee for the Debtor's estate.

4. The Court set March 1, 2010 as the bar date by which governmental and general entity creditors wishing to assert pre-petition claims against the Debtor must file proofs of claim ("**Claims Bar Date**"). *See* Docket No. 295.

5. Former employees filed the Employee Claims and have been awaiting payment on such pre-petition wage claims for over three years.

6. The Trustee, in connection with this case, secured post-petition financing from West Suburban Bank in that certain *Final Agreed Order Authorizing Borrowing, the Disposition of Certain Property, and Granting Other Relief to West Suburban Bank* dated September 29, 2010 ("**Financing Order**"). *See* Docket No. 827

7. A condition of such Financing Order prevented the Trustee from compensating any other creditors prior to West Suburban Bank being paid back in full.

8. The Trustee paid the outstanding balance of the post-petition loan provided by West Suburban Bank earlier this year.

9. On April 25, 2013, the Court entered an Order approving the Trustee's first motion to pay §507(a)(4) claims filed by certain former employees ("April 25th Order"). *See* Docket No. 1385.

10. The claimants covered by the April 25th Order received compensation for their claims shortly thereafter.

11. On August 22, 2013, the Court entered an Order (“August 22nd Order”) authorizing the Trustee, in his discretion, to issue Form 1099s (instead of W2s) to any remaining wage claimant that the Trustee seeks to compensate, or any wage claimant that seeks to void the check paid pursuant to the Court’s April 25th Order. *See* Docket No. 1453.

12. At this time, the Trustee seeks to pay out the Employee Claims to which any dispute has been adjudicated or resolved by the Trustee and claimant.

13. The Trustee proposes, consistent with the August 22nd Order, to treat the payments authorized by an order approving this motion as payments to independent contractors and will issue Form 1099s. This will greatly reduce the administrative time and expense for the estate, and allow the former employees to determine the appropriate amount of taxes that should be withheld.

THE RELIEF REQUESTED SHOULD BE APPROVED BY THE COURT

14. Section 507(a)(4)(A) of the Bankruptcy Code, as of the Petition Date, provided:

(a) The following expenses and claims have priority in the following order:

(4) Fourth, allowed unsecured claims, but only to the extent of \$10,950¹ for each individual or corporation, as the case may be, earned within 180 days before the date of the filing of the petition or the date of the cessation of the debtor’s business, whichever occurs first, for –

(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by the individual.

¹ This amount increased to \$11,725 on April 1, 2013. However, the amount provided above is the applicable amount in this case in relation to the Petition Date.

15. Here, the Trustee has reviewed the Employee Claims identified on **Exhibit A** and has determined: (a) these claims are priority section 507(a)(4)(A) claims; (b) the Trustee has no basis to object to these claims; and (c) such claims should be paid in full by the Debtor's Estate.

16. On this basis, the Trustee seeks an order of this Court authorizing the Trustee to pay the Employee Claims listed on **Exhibit A**.

NOTICE

17. The Trustee will serve a copy of this Motion and **Exhibit A** upon those creditors whose claims are affected by this Motion, and parties that requested notice or service in this case pursuant to CM/ECF and/or electronic mail. In light of the relief requested, the Trustee submits that no further notice is required.

WHEREFORE, for the reasons set forth herein, David P. Leibowitz, as the chapter 7 trustee of Debtor IFC Credit Corporation, respectfully requests entry of an order, granting the relief requested herein and such other and further relief as is just and appropriate.

Dated: September 12, 2013.

**DAVID P. LEIBOWITZ, CHAPTER 7
TRUSTEE FOR THE ESTATE OF IFC
CREDIT CORPORATION**

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