



City of Colusa City Council **STAFF REPORT**

DATE: August 17, 2010
TO: Mayor Critchfield and Members of the City Council
FROM: Jan McClintock, City Manager

AGENDA ITEM:

Consider claim submitted by Recovery Services, Inc. in the Colusa Community Hospital Association bankruptcy matter, and provide staff direction with regard to settlement of the \$2,873.36 claim

CITY COUNCIL PRIORITIES ADDRESS:

- Operate and manage the City in a fiscally responsible manner with open, accurate and comprehensible reporting.

REQUESTED ACTION:

Provide staff direction for claim submitted by Recovery Services, Inc. in the Colusa Community Hospital Association bankruptcy matter, and provide staff direction with regard to settlement of the \$2,873.36 claim.

BACKGROUND:

When the Colusa Community Hospital filed bankruptcy they filed under what is called "debtor in possession" provisions. They claimed that all payments made within 90 days of the bankruptcy filing should be deemed as debtors to the bankruptcy proceeding. This was not appropriate and had the City responded to the claim the City would have prevailed.

However, the City made no response to the claim in 2002. That may be because the service to the City was invalid. They addressed the service to the President of the City of Colusa. By Bankruptcy Court provisions this is invalid service. We are unable to determine what happened to the service or if it ever reached the City, but no response was filed.

Additionally utility service payments, which we believe this was, are not excluded from being considered preferential payments. Again, the city did not respond to the service.

Therefore, the City has a judgment against us. This is complicated because we don't know exactly what the charges were for, so if we paid the judgment, we could run afoul of other laws by paying from inappropriate funding sources. For example, if these were utility payments, any settlement should come from the utility funds – but the City should have back-up for charges incurred to those funds. The bankruptcy court has no such back-up for this judgment.

Therefore, staff has made an offer of settlement of \$500. At the time of writing this staff report, we have not received an answer to our offer. I will provide an update at the City Council meeting.

Staff seeks your further direction for settlement offers as well as direction on which funds to use to pay any settlement offer accepted.

BUDGET IMPACT:

The costs will come from whatever funds are identified by the City Council.

Recovery Services Inc.

Four Neshaminy Interplex • Suite 103 • Trevose, PA 19053
(215) 677-1727 Fax (215) 245-1972 • results@rsicollect.com

May 27, 2010

City of Colusa
Finance Department
425 Webster Street
Colusa CA, 95932

Re: **Chama Inc., et al., a Delaware Corporation**
Chapter 11, case No. 98-2522(MFW), Adv. Proc. No. 00-1385
Chapter 11 Trustee vs City of Colusa

Dear Sir / Madam,

We have tried unsuccessfully to contact you by letter and phone on more than one occasion. I represent Recovery Services Inc. We have been appointed by the US Bankruptcy Court Chapter 11 Trustee of Chama Inc. et al. with regard to one or more preferential transfers (payments) made to the City.

A Default Judgment has been obtained against The City of Colusa in the amount of \$2,876.36 plus interest from March 14th, 2002 and court filing costs of \$250.00 and filled with the **United States Bankruptcy Court** for the District of Delaware.

Enclosed is a copy of that **Default Judgment** for your review.

I would like to close our books on this small matter; we have waited long enough and need to recover these funds for the court. This case is from 2002 and must be paid in full plus costs, I can pass on the interest if paid now; otherwise we will go after the full amount including interest. Make check payable to; **Chapter 11 Trustee Case# 98-2522**. I need you to contact me As Soon As Possible to discuss this matter.

Thank you in advance for your quick response.

Best Regards,

Bob Brady
Recovery Services Inc.
rbrady@rsicollect.com
215-677-1727 Ext. 532

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	:	Chapter 7
	:	
CHAMA, INC., DCH, INC.,	:	Case No. 98-2252 (MFW)
CALLAWAY COMMUNITY HOSPITAL	:	
ASSOCIATION, MEDICAL CENTER OF	:	Jointly Administered
WINNIE, INC. and COLUSA COMMUNITY	:	
HOSPITAL ASSOCIATION,	:	
	:	
Debtors.	:	
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CHAMA, INC., et al.,	:	
	:	Adv. Pro. No. 00-1421
Plaintiffs,	:	
v.	:	
City of Colusa,	:	
	:	
Defendant.	:	

**JUDGMENT PURSUANT TO FED. R. BANKR. P. 7055
AND FED. R. CIV. P. RULE 55(b)**

It appearing that the Defendant, City of Colusa (the "Defendant"), is liable to Plaintiff in the amount of \$2,873.36; and

The Default of Defendant having been entered pursuant to Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55(a) on March 14, 2002;

JUDGMENT for Plaintiff and against Defendant is hereby ENTERED, pursuant to Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55(b), this 12th day of March, 2002.


Clerk, United States Bankruptcy Court for
the District of Delaware