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 U.S. DISTRICT COURT  
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 DISTRICT OF IDAHO  
 JERRY L. CLAPP, CLERK

UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF IDAHO

IN RE: )  
 )  
 ORDER REFERRING BANKRUPTCY ) AMENDED GENERAL  
 CASES AND PROCEEDINGS TO ) ORDER NO. 38  
 BANKRUPTCY JUDGES AND )  
 AUTHORIZING BANKRUPTCY )  
 APPEALS TO BE DECIDED BY THE )  
 NINTH CIRCUIT BANKRUPTCY )  
 APPELLATE PANEL, )  
 ----- )

PART I: REFERRAL OF BANKRUPTCY CASES AND PROCEEDINGS

The provisions of General Order No. 38, entered September 17, 1984, shall remain in full force and effect except as specifically amended herein:

1.01 CASES AND PROCEEDINGS UNDER TITLE 11, UNITED STATES CODE:

This Court hereby refers to the bankruptcy judges of this district all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to cases under Title 11.

1.02 CASES AND PROCEEDINGS UNDER THE BANKRUPTCY ACT OF 1898:

The bankruptcy judges of this district shall hear and determine cases and proceedings arising under the Bankruptcy Act of 1898, as amended, pursuant to Section 403(a) of the Bankruptcy Reform Act of 1978.

PART II: BANKRUPTCY APPEALS

2.01 BANKRUPTCY APPELLATE PANEL:

(a) Pursuant to 28 U.S.C. § 158(b)(2), this court hereby authorizes a bankruptcy appellate panel to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in subparagraphs (b)-(d).

(b) The bankruptcy appellate panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to paragraph 2.02 of this order.

(c) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges after September 17, 1984, and appeals transferred to this court from the previous Ninth Circuit bankruptcy appellate panel by Section 115(b) of The Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982, and July 10, 1984, under the Emergency Bankruptcy Rules of this district.

#### 2.02 FORM AND TIME OF CONSENT:

The consent of a party to allow an appeal to be heard and determined by the bankruptcy appellate panel shall be deemed to have been given unless written objection thereto is timely made within twenty-one (21) days from the date of the filing of the notice of appeal in accordance with Paragraph 2 of the Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit, a copy of which is attached to this Order and incorporated herein by reference.

#### 2.03 RULES GOVERNING BANKRUPTCY APPEALS

(a) Practice in such bankruptcy appeals as may come before this district court shall be governed by Part VIII of the Rules of Bankruptcy Procedure, except as provided in this Order or in rules subsequently adopted by this district court.

(b) Notwithstanding subparagraph (a), the time for filing appellant's, appellee's, and reply briefs for consideration by the district court shall be forty (40) days, thirty (30) days, and fourteen (14) days, respectively, in lieu of the time limits specified in Rule 8009(a) of the Rules of Bankruptcy procedure, provided, however, that the district court or the bankruptcy appellate panel may shorten these time limits in appropriate cases.

#### PART III: EFFECTIVE DATE

This Order shall become effective immediately and supersede all previous orders of this court regarding bankruptcy

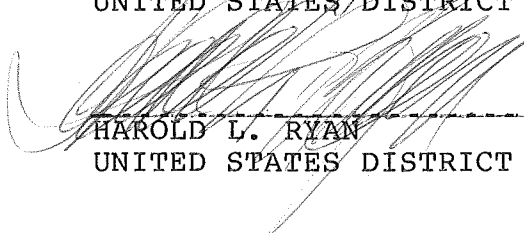
cases, proceedings, and appeals provided, however, that all prior actions of the bankruptcy appellate panel not inconsistent herewith are not affected by this Order.

IT IS SO ORDERED:

DATED this 9<sup>th</sup> day of December, 1986.



MARION J. CALLISTER, Chief  
UNITED STATES DISTRICT JUDGE



HAROLD L. RYAN  
UNITED STATES DISTRICT JUDGE

JUDICIAL COUNCIL OF THE NINTH CIRCUIT

AMENDED ORDER ESTABLISHING AND CONTINUING  
THE BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

1. ESTABLISHMENT OF BANKRUPTCY APPELLATE PANEL

(a) Pursuant to 28 U.S.C. § 158(b)(1), the judicial council hereby establishes and continues a bankruptcy appellate panel to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from districts within the Ninth Circuit, subject to the limitations set forth in subparagraphs (b)-(e).

(b) The bankruptcy appellate panel may hear and determine only those appeals arising from districts that have authorized such appeals to be decided by bankruptcy appellate panels pursuant to 28 U.S.C. § 158(b)(2).

(c) The bankruptcy appellate panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to paragraph (2) of this order.

(d) The bankruptcy appellate panel may hear and determine appeals from final judgments, orders, and decrees entered by bankruptcy judges and, with leave of the district court or the bankruptcy appellate panel, appeals from interlocutory orders and decrees entered by bankruptcy judges.

(e) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered after the district from which the appeal arises has issued an order referring bankruptcy cases and proceedings to bankruptcy judges pursuant to 28 U.S.C. § 157(a); and appeals transferred to the district court from the previous Ninth Circuit bankruptcy appellate panel by sec. 115(b) of P.L. 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982 and July 10, 1984 under the Emergency Bankruptcy Rule.

2. FORM AND TIME OF CONSENT

(a) When a notice of appeal is filed with the clerk of the bankruptcy court, the appeal shall be referred immediately to the bankruptcy appellate panel. All parties to the appeal shall be notified of the filing and reference within the time and in the manner provided for in Paragraph 3 of this order. Unless a party

to the appeal files a written objection with the clerk of the bankruptcy appellate panel within twenty-one (21) days from the date of the filing of the notice of appeal the parties will be deemed to have consented to the hearing and the disposition of the appeal by the bankruptcy appellate panel pursuant to 28 U.S.C. § 158(b)(1).

### 3. NOTICE OF IMMEDIATE REFERENCE TO BANKRUPTCY APPELLATE PANEL

(a) Within three days after the filing of a notice of appeal, the clerk of the bankruptcy court shall serve upon all parties to the appeal a copy of the notice of appeal and a copy of this order. A copy of the notice of appeal shall also be transmitted to the clerk of the bankruptcy appellate panel. Upon receipt of the notice of appeal, the clerk of the bankruptcy appellate panel shall notify the parties of the procedures and requirements relating to practice before the bankruptcy appellate panel.

(b) Upon timely receipt of a written objection to an appeal being heard and determined by the bankruptcy appellate panel, the clerk of the bankruptcy appellate panel shall forthwith transfer the case to the appropriate district court and shall notify all parties to the appeal and the clerk of the bankruptcy court of the transfer. Any question as to the timeliness of an objection shall be referred by the clerk to a bankruptcy appellate panel motions panel for determination.

### 4. MOTIONS DURING OBJECTION PERIOD

All motions relating to the appeal shall be filed with the bankruptcy appellate panel unless the case has been transferred to a district court. The bankruptcy appellate panel may not dismiss or render a final disposition of an appeal within twenty-one days from the date of the filing of the notice of appeal but may otherwise fully consider and dispose of all motions. During these 21 days, any party may request of the bankruptcy appellate panel that a dispositive motion be transferred to the appropriate district court for consideration and disposition.

### 5. PANELS

Each appeal shall be heard and determined by a panel of three judges from among those listed pursuant to paragraph 5, provided however that a bankruptcy judge shall not participate in an appeal originating in a district for which the judge is appointed or designated under 28 U.S.C. § 152.

6. MEMBERSHI OF BANKRUPTCY APPELLATE NEL

(a) The judicial council shall designate bankruptcy judges to serve on the bankruptcy appellate panel after considering the recommendation of the Bankruptcy Courts Advisory Committee of the judicial council. Before submitting its recommendations as to the number and identity of judges to be appointed, the committee shall survey the bankruptcy judges in the circuit and an appropriate selection of attorneys.

(b) When a three-judge panel cannot be formed from the judges designated under subparagraph (a) to hear a case because judges from that list have recused themselves, are disqualified from hearing the case because it arises from their district, or are otherwise unable to participate, the Chief Judge of the Court of Appeals for the Ninth Circuit may designate one or more other bankruptcy judge(s) from the circuit to hear the case.

7. PRESIDING JUDGE

The members of the bankruptcy appellate panel by majority vote shall select one of their number to serve as presiding judge.

8. RULES OF PROCEDURE

(a) Practice before the bankruptcy appellate panel shall be governed by Part VIII of the Rules of Bankruptcy Procedure, except as provided in this order or by rule of the bankruptcy appellate panel adopted under subparagraph (b).

(b) The bankruptcy appellate panel may establish rules not inconsistent with the Rules of Bankruptcy Procedure governing practice and procedure before the panel.

9. PLACES OF HOLDING COURT

(a) The bankruptcy appellate panel may conduct hearings at such times and places as it determines to be appropriate.

(b) The bankruptcy appellate panel is hereby authorized to use courtrooms of the United States Court of Appeals in San Francisco, Pasadena, and Portland, and courtrooms of the United States District Courts in all districts in the Ninth Circuit.

10. CLERK AND OTHER EMPLOYEES

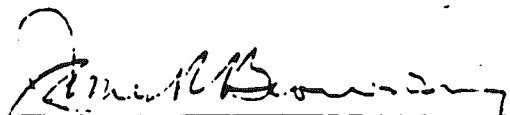
The bankruptcy appellate panel shall select and hire the Clerk of the bankruptcy appellate panel, staff attorneys, and other necessary assistants. The bankruptcy appellate panel shall determine the location of the principal office of the Clerk. The Clerk of the bankruptcy appellate panel may hire necessary assistants. Each judge on the bankruptcy appellate panel may hire an additional law clerk.

11. EFFECTIVE DATE

This amended order shall become effective on May 20, 1985, provided, however, that all prior actions of the bankruptcy appellate panel not inconsistent herewith are not affected by this order.

IT IS SO ORDERED.

DATED: 5-3-85

  
James R. Browning, Chief Judge.  
for the Judicial Council