

RIMON P.C.
Counsel to the Chapter 7 Trustee
Kenneth P. Silverman, Esq.
100 Jericho Quadrangle Suite 300
Jericho, New York 11753
Brian Powers
Courtney M. Roman

Hearing Date: July 15, 2025
Time: 10:00 a.m.
Objections Due: July 8, 2025
Time: 4:00 p.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,
Debtor.

Case No.: 24-10392 (DSJ)

-----X
**NOTICE OF HEARING ON CHAPTER 7 TRUSTEE’S MOTION FOR AN ORDER
PURSUANT TO SECTIONS 105, 363(b), AND 507(a)(8) OF THE BANKRUPTCY
CODE FOR AN ORDER AUTHORIZING PAYMENT OF TAXES DUE**

PLEASE TAKE NOTICE THAT, upon the motion (the “Motion”) of Kenenth P. Silverman, the chapter 7 trustee (the “Trustee”) for the bankruptcy estate of Buth-Na-Bodhaige, Inc. (the “Debtor”), by his counsel, Rimon P.C., will move before the Honorable David S. Jones, United States Bankruptcy Judge, for the United States Bankruptcy Court of the Southern District of New York, via Zoom for Government, on **July 15, 2025 at 10:00 a.m.** (the “Hearing”), or as soon thereafter as counsel can be heard, for entry of an order, substantially in the form annexed to the Motion as **Exhibit A**, pursuant to sections 105, 363(b), and 507(a)(8) of title 11, United States Code (the “Bankruptcy Code”), for signature, authorizing the payment of certain taxes due and granting certain related relief and such other and further as the Court deems just and proper under the circumstances.

PLEASE TAKE FURTHER NOTICE, that prior to the Hearing, any party wishing to appear at the Hearing is required to register their appearance by 4:00 p.m. one (1) business day in advance of the Hearing using the Court’s eCourt Appearances platform:

<https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl>.



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PLEASE TAKE FURTHER NOTICE, that objections to the relief sought in the Motion shall be in writing, conform to the requirements of the Bankruptcy Code, Bankruptcy Rules, and the Local Rules of this Court, must set forth the name of the objecting party, the basis for the objection and the specific grounds therefore, and must be filed electronically with the Bankruptcy Court in accordance with General Order M-399 (General Order M-399 and the User's Manual for the Electronic Case Filing System may be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court) by registered users of the Bankruptcy Court's case filing system, and by all other parties in interest on a disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with courtesy copies delivered directly to Chambers), and must be served upon (i) counsel to the Trustee, Rimon P.C., 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attn: Brian Powers, Esq. and (ii) The Office of the United States Trustee, Alexander Hamilton Custom House, One Bowling Green, Room 534, New York, New York, 10004-1408, Attn: Mark Bruh, Esq., no later than **July 8, 2025 at 4:00 p.m.**

PLEASE TAKE FURTHER NOTICE, that the Hearing may be adjourned without further notice other than the announcement of such adjournment in open Court or by the filing of such notice of adjournment on the docket sheet for the Debtor's case.

PLEASE TAKE FURTHER NOTICE, that you need not appear at the Hearing if you do not object to the relief requested in the Motion.

Dated: Jericho, New York
June 24, 2025

RIMON P.C.
Counsel to Kenneth P. Silverman, Esq.,
the Chapter 7 Trustee

By: *s/ Brian Powers*
Brian Powers
Partner
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753

RIMON P.C.
Counsel to the Chapter 7 Trustee
Kenneth P. Silverman, Esq.
100 Jericho Quadrangle Suite 300
Jericho, New York 11753
Brian Powers
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,

Case No.: 24-10392 (DSJ)

Debtor.
-----X

**CHAPTER 7 TRUSTEE’S MOTION FOR AN ORDER PURSUANT
TO SECTIONS 105, 363(b), AND 507(a)(8) OF THE BANKRUPTCY
CODE FOR AN ORDER AUTHORIZING PAYMENT OF TAXES DUE**

Kenneth P. Silverman, Esq., the chapter 7 trustee (the “Trustee”) for the bankruptcy estate of Buth-Na-Bodhaige, Inc. (the “Debtor”), submits this motion (this “Motion”) seeking entry of an order, pursuant to sections 105, 363(b), and 507(a)(8) of title 11 of the United States Code (the “Bankruptcy Code”) for entry of an order, substantially in the form annexed hereto as **Exhibit A**, authorizing the payment of certain taxes due and granting certain related relief and such other and further as the Court deems just and proper under the circumstances; and respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. The statutory predicates for relief requested herein are Bankruptcy Code §§ 105, 363, and 507.

BACKGROUND

The Bankruptcy

3. On March 8, 2024 (the “Petition Date”), the Debtor filed a voluntary petition for relief pursuant to chapter 7 of the Bankruptcy Code.

4. On March 9, 2024, Kenneth P. Silverman, Esq., was appointed the interim chapter 7 trustee of the Debtor’s estate. On April 9, 2024, the initial section 341 First Meeting of Creditors was held and the Trustee duly qualified and has become the permanent Trustee.

5. On April 11, 2024, an application to employ Held, Kranzler, McCosker and Pulice LLP (“HKMP”) as accountants to the Trustee was filed (ECF Doc. No. 34). On April 26, 2024, the Court approved the Trustee’s application to employ HKMP.

6. Additionally, by order dated August 27, 2024, the Trustee retained Ryan, LLC as accountants for the Trustee and the estate for the limited purpose of preparing and finalizing the Debtor’s property tax returns (ECF Doc. No. 102).

Taxes Due and Owing

7. Upon review of the Debtor’s books, records and various notices addressed to the Debtor, HKMP learned that the Debtor is subject to a variety of federal, state, and local taxes, which also include but are not limited to withholding, business and corporate taxes (collectively, the “Taxes”) incurred prior to the Petition Date.

8. During the investigation of HKMP into the Debtor’s financial affairs, HKMP determined that it was necessary to request an extension of the filing deadline for certain returns relating to the Taxes in order to protect the estate from accruing penalties and interest. Thereafter, the Trustee executed certain documents necessary to extend the deadline to file tax returns for the relevant Taxes.

9. Notably, the Taxes are due and owing to certain governmental taxing authorities, as set forth on **Exhibits B, C and D** annexed hereto (collectively, the “Taxing Authorities”).

RELIEF REQUESTED

10. By this motion, the Trustee respectfully requests that this Court enter an order pursuant to Bankruptcy Code Sections 105, 363(b) and 507(a)(8) authorizing, but not directing, the Trustee to pay the Taxes to various federal, state and local authorities.

The Court May Authorized the Trustee to Pay the Taxes Under the Bankruptcy Code and Applicable Case Law

11. Section 363(b)(1) provides, in relevant part, that the Trustee may, after notice and hearing, “use, sell or lease, other than in the ordinary course of business, property of the estate.” *See* 11 U.S.C. § 363 (b)(1). The terms of such use, sale, and/or lease are generally within the sound discretion of the Trustee’s business judgment. *See In re Eastman Kodak Company, et al.*, No. 12-10202 (ALG), 2013 WL 588965 (Bankr. S.D.N.Y. June 7, 2013) As recognized by the Second Circuit in *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063 (2d. Cir. 1983), a court may approve a section 363 application after expressly determining from the evidence presented at the hearing that a good business reason exists to grant such application.

12. The Trustee submits that payment of the Taxes from property of the Debtor’s estate is necessary to avoid late fees and penalties incurred by the Debtor’s estate if the Trustee is not authorized to pay the Taxes in a timely manner.

Certain of the Taxes Constitute Priority Claims

13. Additionally, the Taxes are likely afforded priority status under Bankruptcy Code § 507(a)(8).¹ Section 507(a)(8)(C) of the Bankruptcy Code provides priority status to a “tax

¹ Nothing contained herein shall be deemed an admission as to the appropriate classification of any Taxes and the Debtor reserves all rights to object to any claim, on any basis, with respect to the Taxes.

required to be collected or withheld and for which the debtor is liable in whatever capacity.” 11 U.S.C. § 507(a)(8)(C).

14. Furthermore, Bankruptcy Code § 507(a)(8)(E) of the provides priority status to an excise tax on a transaction that occurred within three years immediately preceding the bankruptcy petition. See 11 U.S.C. § 507(a)(8)(E). The Bankruptcy Code does not define “excise tax.” The legislative history of section 507(a)(8)(E), however, contains an explanation of “excise tax,” which provides that “[a]ll Federal, State or local taxes generally considered or expressly treated as excises are covered by this category, including sales taxes, estate and gift taxes” 124 Cong. Rec. H11113 (daily ed. Sept. 28, 1978); S17430 (daily ed. Oct. 6, 1978); remarks of Rep. Edwards and Sen. Deconcini (emphasis added).

15. An excise tax is commonly defined as “a tax imposed on the manufacture, sale, or use of goods . . . or on an occupation or activity” BLACK’S LAW DICTIONARY 585 (7th ed. 1999). Numerous courts have adopted the definition of excise tax found in Black’s Law Dictionary. See, e.g., *In re Marcucci*, 256 B.R. 685, 696 (D. N.J. 2000); *In re Templar*, 170 B.R. 562, 563 (Bankr. M.D. Pa. 1994); *New Neighborhoods, Inc. v. W. Va. Workers’ Comp. Fund*, 886 F.2d 714, 719 (4th Cir. 1989); *In re Trism, Inc.*, 311 B.R. 509, 516 (8th Cir. B.A.P. 2004); *In re Nat’l Steel Corp.*, 321 B.R. 901, 908 (Bankr. N.D. Ill. 2005); *In re Voightman*, 236 B.R. 878, 881-82 (Bankr. D. N.D. 1999); *In re Chateaugay Corp.*, 153 B.R. 632, 638 (Bankr. S.D.N.Y. 1993).

16. Accordingly, a significant portion, if not all, of the Taxes that accrued or were incurred prior to the Petition Date are priority claims pursuant to section 507(a)(8) of the Bankruptcy Code. The Trustee is holding sufficient funds to pay all priority claims in full, and intends to make an interim distribution to allowed general unsecured claims in the near future.

Thus, the payment of Taxes at this time would affect only the timing of the payments and not prejudice the rights of other unsecured creditors.

17. No previous motion for the relief sought herein has been made to this or any other court.

WHEREFORE, the Trustee respectfully requests that this Court enter an order, in substantially the form attached hereto as **Exhibit A**, allowing the Trustee to pay the Taxes and granting such other and further relief as may be just and proper.

Dated: Jericho, New York
June 24, 2025

RIMON P.C.
Attorneys for Kenneth P. Silverman, Esq.,
Chapter 7 Trustee

By: *s/ Brian Powers*
 Brian Powers
 Partner
 100 Jericho Quadrangle - Suite 300
 Jericho, New York 11753
 (516) 479-6300

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,

Case No.: 24-10392 (DSJ)

Debtor.
-----x

**ORDER GRANTING CHAPTER 7 TRUSTEE’S MOTION FOR AN ORDER
PURSUANT TO SECTIONS 105, 363(b), AND 507(a)(8) OF THE BANKRUPTCY
CODE FOR AN ORDER AUTHORIZING PAYMENT OF TAXES DUE**

Upon the motion (the “Motion”)¹ of Kenneth P. Silverman, Esq., the chapter 7 trustee (the “Trustee”) of the bankruptcy estate of Buth-Na-Bodhaige, Inc. (the “Debtor”), seeking the entry of an order, pursuant to sections 105, 363(b), and 507(a)(8) of title 11, United States Code (the “Bankruptcy Code”) authorizing the payment of certain taxes due and granting certain related relief and such other and further as the Court deems just and proper under the circumstances, and upon the Declaration of Kenneth P. Silverman, Esq. filed in support of the Motion, annexed to the Motion as Exhibit C; and upon the hearing on the Motion held before the Court on July 15, 2025 (the “Hearing”), the transcript of which is incorporated herein by reference; and notice of the Motion, the Hearing, and the relief sought in the Motion having been good and sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion establishing sufficient cause for the relief requested; now, therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. The Trustee is authorized to pay, from the Debtor’s estate, the various federal, state and local taxes as listed on Exhibits B, C and D to the Motion.

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

3. The Trustee is authorized to take any and all actions reasonably necessary to perform or enforce any and all obligations contemplated by this Order.

4. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
July __, 2025

HONORABLE DAVID S. JONES
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Federal Taxes

Taxing Authority	Amount to be Paid
Department of the Treasury and Internal Revenue Service	\$7,500.00
TOTAL:	\$7,500.00

EXHIBIT C

State, Business, Corporate and Withholding Taxes

Taxing Authority	Amount to be Paid
Alabama (Business Tax)	\$13.42
Connecticut	\$250.00
Delaware (Withholding Tax)	\$481.60
District of Columbia	\$100.00
Illinois (Business Tax)	\$2,360.69
Indiana	\$890.43
Kentucky	\$175.00
Massachusetts	\$817.00
New York State (Corporate Tax)	\$1,675.00
New York State	\$7,328.00
North Carolina	\$2,323.00
Portland, Oregon (Metro SHS Tax)	\$210.00
Rhode Island	\$400.00
San Jose, California (Business Tax)	\$1,675.61
Texas	\$4,231.75
Utah	\$100.00
Vermont	\$46.00
Wisconsin	\$25.00
TOTAL:	\$23,102.50

EXHIBIT D
Property Taxes

Taxing Authority	Amount to be Paid
McKinney, Texas	\$1,627.90
San Mateo, California	\$2,778.00
Santa Clara, California	\$6,376.69
Travis County, Texas	\$1,387.38
TOTAL:	\$12,169.97

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,

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Debtor.
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**DECLARATION OF KENNETH P. SILVERMAN, ESQ. IN SUPPORT
OF CHAPTER 7 TRUSTEE’S MOTION FOR AN ORDER PURSUANT
TO SECTIONS 105, 363(b), AND 507(a)(8) OF THE BANKRUPTCY
CODE FOR AN ORDER AUTHORIZING PAYMENT OF TAXES DUE**

I, Kenneth P. Silverman, Esq., declare as follows:

1. I am a partner of Rimon P.C. and the chapter 7 trustee (the “Trustee”) of the bankruptcy estate (the “Estate”) of Buth-Na-Bodhaige, Inc. (the “Debtor”), with offices located at 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753. I am duly admitted to practice before this Court and the courts of the State of New York.

2. I submit this declaration (this “Declaration”) in support of the motion (the “Motion”)¹ seeking entry of an order authorizing the payment of certain taxes due and granting certain related relief and such other and further as the Court deems just and proper under the circumstances.

3. I have reviewed the Motion and relevant documents thereto and certify that its contents are true and correct to the best of my knowledge, and those facts are incorporated herein by reference.

BACKGROUND

The Bankruptcy Case

¹ All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

4. On March 8, 2024 (the "Petition Date"), the Debtor filed a voluntary petition for relief pursuant to chapter 7 of the Bankruptcy Code.

5. On March 9, 2024, I was appointed the interim chapter 7 trustee of the Debtor's estate. On April 9, 2024, the initial section 341 First Meeting of Creditors was held and I was duly qualified and became the permanent Trustee.

6. On April 11, 2024, an application to employ Held, Kranzler, McCosker and Pulice LLP ("HKMP") as accountants was filed (ECF Doc. No. 34). On April 26, 2024, the Court approved my application to employ HKMP.

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RELIEF REQUESTED

11. By the motion, I respectfully request that this Court enter an order pursuant to Bankruptcy Code Sections 105, 363(b) and 507(a)(8) authorizing, but not directing, me to pay the Taxes to various federal, state and local authorities.

The Court May Authorized the Trustee to Pay the Taxes
Under the Bankruptcy Code and Applicable Case Law

12. I submit that payment of the Taxes from property of the Debtor's estate is necessary to avoid late fees and penalties incurred by the Debtor's estate if I am not authorized to pay the Taxes in a timely manner.

Certain of the Taxes Constitute Priority Claims

13. Accordingly, a significant portion, if not all, of the Taxes that accrued or were incurred prior to the Petition Date are priority claims pursuant to section 507(a)(8) of the Bankruptcy Code. I am holding sufficient funds to pay all priority claims in full, and intends to make an interim distribution to allowed general unsecured claims in the near future. Thus, the payment of Taxes at this time would affect only the timing of the payments and not prejudice the rights of other unsecured creditors.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Jericho, New York on June 24, 2025.

s/ Kenneth P. Silverman
Kenneth P. Silverman, Esq.