



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Accept Request from Landucci, Inc. (d/b/a Landucci's Market Place) to Compromise a Debt

MEETING DATE: April 13, 1999

PREPARED BY: Finance Director

RECOMMENDED ACTION: That the City Council accept a request from Landucci, Inc. to compromise a debt, and that the City Council direct staff to advise Counsel for Landucci, Inc. of that decision on or before April 15, 1999.

BACKGROUND INFORMATION: Landucci, Inc. presently owes the City of Lodi \$33,819.18 for electricity, \$144.77 for sewage, \$264.77 for refuse and \$428.98 for water for a total of \$34,657.70. Landucci, Inc. has ceased operation.

Through their Counsel, Landucci, Inc. has offered to pay the City of Lodi slightly in excess of one-third of their debt to the City. If all creditors of Landucci, Inc. do not accept this settlement proposal, Landucci, Inc. will be filing a Chapter 7 Petition in Bankruptcy. A filing in Chapter 7 would result in a liquidation of the Debtor's assets with payments made to Creditors from the liquidation proceeds. We do not have a complete understanding of the debts nor the assets of the Debtor. Therefore, we do not know if the City would secure more or less through a Chapter 7 filing.

FUNDING: None required.

A handwritten signature in cursive script that reads "Vicky McAthie".

Vicky McAthie
Finance Director

Prepared by Sandra Smith, Support Services Supervisor

:ss
Attachments

APPROVED: _____
H. Dixon Flynn -- City Manager



M E M O R A N D U M F R O M T H E
O F F I C E O F T H E C I T Y
A T T O R N E Y

DATE: April 6, 1999

TO: Dixon Flynn, City Manager

FROM: Randy Hays, City Attorney *Randy*

RE: Letter of March 31, 1999 Regarding Landucci's, Inc.

You forwarded to this office the letter, which is attached to this memorandum. I am not sure what response you wanted or anticipated from this office relative to the letter. However, based upon my review of the letter there are two areas which I will comment on.

The first area of comment has to do with the authority to compromise a debt, which basically is the request of the letter. It would appear that based upon the size of the debt, acceptance or rejection of the offer of compromise would be in the province of the City Council. The letter indicates that the total debt owed to the City of Lodi is \$34,657.70. The offer to compromise is one that basically offers to pay us slightly in excess of one-third of that amount.

My second area of comment relates to the last part of the letter that indicates that if all creditors do not accept the settlement proposal, that Landucci's, Inc., will be filing a Chapter 7 Petition in Bankruptcy. Of course at this point in time there is no way for us to know if all creditors will accept the settlement proposal. Assuming that they do not, a filing in Chapter 7 would result in a liquidation of the Debtor's assets with payments made to creditors from the liquidation proceeds. Subsequent to that point in time, the Debtor would be discharged and would owe nothing further. We do not at this time have a complete understanding of the debts nor the assets of the Debtor. It would be impossible to evaluate whether or not the City would secure more or less through a Chapter 7 filing.

If it is your business decision to accept the proposal, I would recommend that we advise Counsel for Landucci's of that business decision. I would additionally suggest that they be advised that the matter would be submitted to the City Council for their ratification at its regular meeting of Wednesday, April 21, 1999.

cc: ✓ Vicky McAthie

LAW OFFICES OF
KLEINFELD & HEISER, INC.
A PROFESSIONAL CORPORATION
949 NORTH CENTER STREET
SUITE A
STOCKTON, CALIFORNIA 95202

OSCAR BUDD KLEINFELD
JEFFREY D. HEISER

Apr 01 1999
City Manager's Office
AREA CODE 209
TELEPHONE 948-6400
FAX 948-6022

APR 01 1999

CITY ATTORNEY'S OFFICE

March 31, 1999

City of Lodi
Post Office Box 3006
Lodi, CA 95241-1910

Re: Landucci, Inc., a California Corporation,
d/b/a Landucci's Market Place, a/k/a Landucci's
1320 Lockeford, Lodi, California

Ladies and Gentlemen:

This office represents the above-named company whose records indicate that there is presently owed to you the sum of \$34,228.72 for electricity and the sum of \$428.98 for water, for a total amount due of \$34,657.70.

Due to financial circumstances beyond its control, Landucci, Inc. has ceased operation.

There is presently owed by said company a total of \$505,682.84 to its creditors. This sum does not include the \$1,204,532.53 owed to Certified Grocers of California, Ltd., and/or its subsidiary, Grocers Equipment Company, which sum is secured by a Financing Statement (UCC-1) collateralized by the equipment purchased from Certified Grocers.

Presently, Landucci's has approximately \$164,823.00 in cash and some remaining merchandise. On March 22, 1999 Northern California Collection Services representing four creditors attached Landucci's bank account and the bank is holding, pursuant to the writ of attachment, approximately \$28,000.00. If permitted to succeed, the attachment would reduce the debt owed to the creditors to \$477,083.00.

My client proposes the following offer to the creditors. In full settlement of all indebtedness it will pay to each of the creditors \$.35 on every dollar owed along with an additional pro-rata distribution from the sale of the remaining merchandise.

LAW OFFICES OF
KLEINFELD & HEISER, INC.
A PROFESSIONAL CORPORATION

City of Lodi
March 31, 1999
Page two

Re: Landucci, Inc., a California Corporation,
d/b/a Landucci's Market Place, a/k/a Landucci's
1320 Lockeford, Lodi, California

We must receive your acceptance or rejection of this offer on or before April 15, 1999. If the offer is not accepted by all of the creditors by that date then my client will file a Chapter 7 Petition in Bankruptcy, thereby nullifying the attachment and returning the attached funds to the bankrupt estate. Your immediate response would be appreciated.

Yours very truly,

KLEINFELD & HEISER, INC.
A Professional Law Corporation

OSCAR BUDD KLEINFELD

Oscar Budd Kleinfeld
Attorney for the Debtor

OBK:krh

CITY COUNCIL

KEITH LAND, Mayor
STEPHEN J. MANN
Mayor Pro Tempore
SUSAN HITCHCOCK
ALAN S. NAKANISHI
PHILLIP A. PENNINO

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807

H. DIXON FLYNN
City Manager
ALICE M. REIMCHE
City Clerk
RANDALL A. HAYS
City Attorney

April 13, 1999

Oscar Budd Kleinfeld, Attorney
Law office of Kleinfeld & Heiser, Inc.
949 North Center Street, Suite A
Stockton, CA 95202

RE: Landucci, Inc., a California Corporation,
d/b/a Landucci's Market Place, a/k/a Landucci's
1320 Lockeford, Lodi, California

The Lodi City Council, in a Special Meeting of April 13, 1999, considered the request of your firm on behalf of Landucci, Inc. regarding full settlement of all indebtedness to the City of Lodi. As stated in your letter, the debt is presently the sum of \$34,228.72 for electricity and the sum of \$428.98 for water, for a total amount due of \$34,657.70.

Following discussion, the City Council of the City of Lodi approved acceptance of your proposed offer for full settlement of all indebtedness to pay \$.35 on every dollar owed along with an additional pro-rata distribution from the sale of the remaining merchandise.

This letter shall serve as the City of Lodi's acceptance of your offer. If you have any questions or require further information regarding this matter, please do not hesitate to contact our office at (209) 333-6702.

Sincerely,


Alice M. Reimche
City Clerk

AMR/JLT

cc: City Manager Flynn
Finance Director McAthie

LAW OFFICES OF
KLEINFELD & HEISER, INC.
A PROFESSIONAL CORPORATION
949 NORTH CENTER STREET
SUITE A
STOCKTON, CALIFORNIA 95202

OSCAR BUDD KLEINFELD
JEFFREY D. HEISER

APR 01 1999
City Manager's Office
AREA CODE 209
TELEPHONE 948-6400
FAX 948-6022

APR 01 1999

CITY ATTORNEY'S OFFICE

March 31, 1999

City of Lodi
Post Office Box 3006
Lodi, CA 95241-1910

Re: Landucci, Inc., a California Corporation,
d/b/a Landucci's Market Place, a/k/a Landucci's
1320 Lockeford, Lodi, California

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KLEINFELD & HEISER, INC.
A PROFESSIONAL CORPORATION

City of Lodi
March 31, 1999
Page two

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d/b/a Landucci's Market Place, a/k/a Landucci's
1320 Lockeford, Lodi, California

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Yours very truly,

KLEINFELD & HEISER, INC.
A Professional Law Corporation

OSCAR BUDD KLEINFELD

Oscar Budd Kleinfeld
Attorney for the Debtor

OBK:krh

OSCAR BUDD KLEINFELD
JEFFREY D. HEISER

LAW OFFICES OF
KLEINFELD & HEISER, INC.
A PROFESSIONAL CORPORATION
949 NORTH CENTER STREET
SUITE A
STOCKTON, CALIFORNIA 95202

RECEIVED

APR 29 1999

CITY OFFICE

AREA CODE 209
TELEPHONE 948-6400
FAX 948-6022

April 27, 1999

Re: Landucci, Inc. d/b/a Landucci's Market Place, Landucci's
and Donald Landucci, Individually
1320 W. Lockeford Street, Lodi, CA 95240

Pursuant to your agreement with my above-named clients, I am
enclosing a cashier's check as payment in full for the moneys owed
to you.

Your cooperation is sincerely appreciated.

Yours very truly,

KLEINFELD & HEISER, INC.
A Professional Law Corporation

Oscar Budd Kleinfeld

Oscar Budd Kleinfeld
Attorney for the above-named Payees

OBK:krh
Enclosure

CITY COUNCIL

KEITH LAND, Mayor
STEPHEN J. MANN
Mayor Pro Tempore
SUSAN HITCHCOCK
ALAN S. NAKANISHI
PHILLIP A. PENNINO

CITY OF LODI

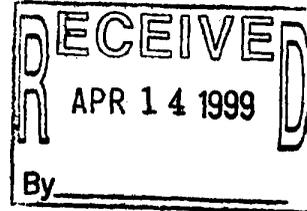
CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807

April 13, 1999

H. DIXON FLYNN
City Manager

ALICE M. REIMCHE
City Clerk

RANDALL A. HAYS
City Attorney



Oscar Budd Kleinfeld, Attorney
Law office of Kleinfeld & Heiser, Inc.
949 North Center Street, Suite A
Stockton, CA 95202

RE: Landucci, Inc., a California Corporation,
d/b/a Landucci's Market Place, a/k/a Landucci's
1320 Lockeford, Lodi, California

The Lodi City Council, in a Special Meeting of April 13, 1999, considered the request of your firm on behalf of Landucci, Inc. regarding full settlement of all indebtedness to the City of Lodi. As stated in your letter, the debt is presently the sum of \$34,228.72 for electricity and the sum of \$428.98 for water, for a total amount due of \$34,657.70.

Following discussion, the City Council of the City of Lodi approved acceptance of your proposed offer for full settlement of all indebtedness to pay \$.35 on every dollar owed along with an additional pro-rata distribution from the sale of the remaining merchandise.

This letter shall serve as the City of Lodi's acceptance of your offer. If you have any questions or require further information regarding this matter, please do not hesitate to contact our office at (209) 333-6702.

Sincerely,

Alice M. Reimche
Alice M. Reimche
City Clerk

AMR/JLT

cc: City Manager Flynn
Finance Director McAthie

34,657.70



**Bank
of Lodi**

NATIONAL ASSOCIATION
701 South Ham Lane
Lodi, CA 95240
1211

THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK PRINTED ON THE BACK; ABSENCE OF THIS FEATURE WILL INDICATE A COPY

16-4220
1220

458 0953544

DATE April 26, 1999

PAY TO THE ORDER OF * * * * * City of Lodi * * * * *

\$ *12,130.20*

BK 0491 1213031200

DOLLARS

Landucci Marketplace

OFFICIAL CHECK

1d
PAYABLE THRU
PREFERRED BANK
LOS ANGELES, CA

Jenny Waters

⑆ 122042205⑆00458 09535447⑆

A01

LAW OFFICES OF
KLEINFELD & HEISER, INC.
A PROFESSIONAL CORPORATION
949 NORTH CENTER STREET
SUITE A
STOCKTON, CALIFORNIA 95202

OSCAR BUDD KLEINFELD
JEFFREY D. HEISER

AREA CODE 209
TELEPHONE 948-6400
FAX 948-6022

May 11, 1999

City of Lodi
Post Office Box 3006
Lodi, CA 95241-1910

Attention: Alice M. Reimche, City Clerk

Re: Landucci, Inc.
Account No. 187.01-25.02

Dear Ms. Reimche:

My client received two "Second Notices", one for \$22,248.66, and the other for \$278.84.

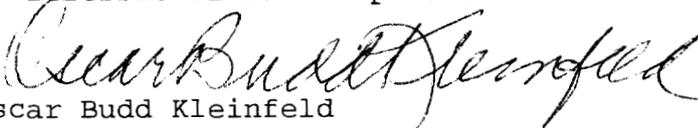
On April 13, 1999 the Lodi City Council, in a Special Meeting, approved acceptance of our proposed settlement offer of \$12,130.20. At that time the balance was \$\$34,657.70 (\$34,228.72 for electricity and \$428.98 for water).

On April 26, 1999 a cashier's check for \$12,130.20 was mailed to the City of Lodi. According to the endorsement this paid in full the debt owed to the City.

Your cooperation is appreciated; however, would you please advise your office to correct the records to reflect the settlement agreement.

Yours very truly,

KLEINFELD & HEISER, INC.
A Professional Law Corporation


Oscar Budd Kleinfeld
Attorney at Law

OBK:krh
Enclosures

cc: Donald Landucci

*See original calculation
check has been paid
to the Lodi City Clerk's
office advised
5/13/99
ac*

CITY COUNCIL

KEITH LAND, Mayor

STEPHEN J. MANN

Mayor Pro Tempore

SUSAN HITCHCOCK

ALAN S. NAKANISHI

PHILLIP A. PENNINO

CITY OF LODI

CITY HALL, 221 WEST PINE STREET

P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

(209) 333-6702

FAX (209) 333-6807

April 13, 1999

H. DIXON FLYNN

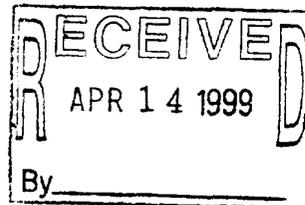
City Manager

ALICE M. REIMCHE

City Clerk

RANDALL A. HAYS

City Attorney



Oscar Budd Kleinfeld, Attorney
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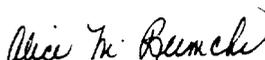
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d/b/a Landucci's Market Place, a/k/a Landucci's
1320 Lockeford, Lodi, California

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Following discussion, the City Council of the City of Lodi approved acceptance of your proposed offer for full settlement of all indebtedness to pay \$.35 on every dollar owed along with an additional pro-rata distribution from the sale of the remaining merchandise.

This letter shall serve as the City of Lodi's acceptance of your offer. If you have any questions or require further information regarding this matter, please do not hesitate to contact our office at (209) 333-6702.

Sincerely,


Alice M. Reimche
City Clerk

AMR/JLT

cc: City Manager Flynn
Finance Director McAthie



**Bank
of Lodi**
NATIONAL ASSOCIATION

701 South Main Lane
Lodi, CA 95240
1211

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15-4220
1220

458 0953544

DATE April 26, 1999

PAY TO THE ORDER OF ***** City of Lodi *****

\$ *12,130.20*

BK of Lodi
9639 12130002000

DOLLARS

Landucci Marketplace
OFFICIAL CHECK

1d
PAYABLE THRU
PREFERRED BANK
LOS ANGELES, CA

Jerry [Signature]

⑆ 1 2 2 0 4 2 2 0 5 1 0 0 4 5 8 0 9 5 3 5 4 4 7 1 ⑈

City of Lodi

212 West Pine Street
P.O. Box 3006
Lodi, CA 95241

*** 2ND NOTICE ***

BILL FOR UTILITY SERVICE

Telephone Inquiries 8:00 a.m. to 5:00 p.m.

Monday thru Friday

Customer Service - (209) 333-6719

CUSTOMER NAME: LANDUCCI MARKETPLACE
+LANDUCCI, DON
SERVICE ADDRESS: 1320 W LOCKEFOR ST

ACCOUNT NUMBER: 187.01-25.02
ELECTRIC METER: 29588
RATE SCHEDULE: G2

Total Amount Due

\$22,248.66

*This is your 2nd notice to pay this bill.
Please pay this bill before your credit is affected.
A deposit will be required to re-establish service
due to past credit history.*

Please tear at perforation and return lower portion with your payment

Account No.: 187.01-25.02



*** 2ND NOTICE ***

Please make check payable to:

City of Lodi

Please Pay This Amount

\$22,248.66

Past Due: \$22,248.66

LANDUCCI MARKETPLACE
1320 W LOCKEFOR ST
LODI CA 95240

187012502

City of Lodi

212 West Pine Street
P.O. Box 3006
Lodi, CA 95241

*** 2ND NOTICE ***

BILL FOR UTILITY SERVICE

Telephone Inquiries 8:00 a.m. to 5:00 p.m.
Monday thru Friday

Customer Service - (209) 333-6719

CUSTOMER NAME: LANDUCCI MARKETPLACE
+LANDUCCI, DON
SERVICE ADDRESS: 1320 W LOCKEFOR ST

ACCOUNT NUMBER: 187.01-90.03
ELECTRIC METER:
RATE SCHEDULE:

Total Amount Due \$278.84

*This is your 2nd notice to pay this bill.
Please pay this bill before your credit is affected.
A deposit will be required to re-establish service
due to past credit history.*

Please tear at perforation and return lower portion with your payment



*** 2ND NOTICE ***

Please make check payable to:

City of Lodi

Account No.: 187.01-90.03

Please Pay This Amount

\$278.84

Past Due: \$278.84

**LANDUCCI MARKETPLACE
1320 W LOCKEFOR ST
LODI CA 95241**



187019003