

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

January 28, 2014 at 1:30 p.m.

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1. [13-33513](#)-E-13 MARLON/REBECCA LAWAS MOTION FOR RELIEF FROM
JHW-1 Yasha Rahimzadeh AUTOMATIC STAY
12-20-13 [[47](#)]
**MERCEDES-BENZ FINANCIAL
SERVICES USA, LLC VS.**

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on December 20, 2013. By the court's calculation, 39 days' notice was provided. 28 days' notice is required.

The moving party is reminded that the Local Rules require the use of a new Docket Control Number with each motion. Local Bankr. R. 9014-1(c). Here, the moving party reused a Docket Control Number. This is not correct. The Court will consider the motion, but counsel is reminded that not complying with the Local Rules is cause, in and of itself, to deny the motion. Local Bankr. R. 1001-1(g), 9014-1(l).

Final Ruling: The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Relief from the Automatic Stay is granted. No appearance required.

Mercedes-Benz Financial Services USA LLC seeks relief from the automatic stay with respect to an asset identified as a 2007 Mercedes Benz GL450, VIN ending in A204775. The moving party has provided the Declaration of Anita Walter to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Walter Declaration states that the Debtor has not made two (2) post-petition payments, with a total of \$1,705.70 in post-petition payments past due. Movant also states that Debtors' Chapter 13 Plan provides for the surrender of the vehicle.

The Chapter 13 Trustee filed a non-opposition on December 30, 2013.

The court maintains the right to grant relief from stay for cause when the debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the debtor has not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

The court shall issue a minute order terminating and vacating the automatic stay to allow Mercedes-Benz Financial Services USA LLC, and its agents, representatives and successors, and all other creditors having lien rights against the asset, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

The moving party has not pleaded adequate facts and presented sufficient evidence to support the court waving the 14-day stay of enforcement required under Rule 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Automatic Stay filed by the creditor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Mercedes-Benz Financial Services USA LLC, its agents, representatives, and successors, and any other beneficiary or trustee, and their respective agents and successors under its security agreement, loan documents granting it a lien in the asset identified as a 2007 Mercedes Benz GL450, VIN ending in A204775, and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of said asset to the obligation secured thereby.

No other or additional relief is granted.

2. [14-20152-E-13](#) DONALD WRIGHT
HSM-1 Jamil L. White

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-13-14 [[11](#)]

EL DORADO SAVINGS BANK VS.

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on January 13, 2014. By the court's calculation, 15 days' notice was provided. 14 days' notice is required.

Tentative Ruling: The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The court's tentative decision is to grant the Motion for Relief from the Automatic Stay. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

El Dorado Savings Bank ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 3779 9th Avenue, Sacramento, California. The moving party has provided the Declaration of Sandy Rushforth, Loan Service Officer of El Dorado Savings Bank, to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Rushforth Declaration states that the Debtor has not made ten (10) pre-petition payments, with a total of \$7,879.60 in pre-petition payments past due. No post-petition payments have been due to date.

Movant alleges that causes exists under Section 362(d)(1) since the Debtor engaged in a sham transaction on the morning of the scheduled foreclosure sale by causing the borrower (Friendship Baptist Church of Sacramento, Inc., of which Debtor is the pastor) to transfer 5% of the title to the subject real property to himself, without consideration, and then filed this bankruptcy, all for the sole purpose of delaying the foreclosure sale. Movant states the purported transfer was ineffectual since the

borrower was a suspended by the Secretary of State before the execution and recordation of the quit claim deed. Movant states the insurance has lapsed and the real property taxes are delinquent for 2.5 years.

The court maintains the right to grant relief from stay for cause when the debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the debtor has not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

The court shall issue a minute order terminating and vacating the automatic stay to allow El Dorado Savings Bank, and its agents, representatives and successors, and all other creditors having lien rights against the property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the property.

The moving party has plead adequate facts and presented sufficient evidence to support the court waving the 14-day stay of enforcement required under Rule 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Automatic Stay filed by the creditor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow El Dorado Savings Bank, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 3779 9th Avenue, Sacramento, California.

IT IS FURTHER ORDERED that the fourteen (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is waived for cause.

January 28, 2014 at 1:30 p.m.

No other or additional relief is granted.

3. [13-30455-E-13](#) CHRISTOPHER SANCHEZ
John A. Tosney

MOTION FOR RELIEF FROM
AUTOMATIC STAY MOTION FOR
ADEQUATE PROTECTION, MOTION TO
CONFIRM TERMINATION OR ABSENCE
OF STAY
1-3-14 [[19](#)]

WILLIAM RAYMOND VS.

Local Rule 9014-1(f)(1) Motion - Response Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on December 31, 2013. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

Tentative Ruling: The Motion for Relief from the Automatic Stay was set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The court's tentative decision is to deny the Motion for Relief from the Automatic Stay without prejudice. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

Movant William F. Raymond and Patrick F. Mockler dba Tall Pines Estates seeks relief from the automatic stay with respect to the real property commonly known as 13943 Meda Drive, Space 52, Grass Valley, California. However, there are several defects with the present motion.

SERVICE

While the proof of service states the documents were filed on the parties on December 31, 2013, the documents were not filed with the court until January 3, 2014. However, Local Bankruptcy Rule 9014-1(e) requires that service of all pleadings and documents filed in support of a motion shall be made on or before the date they are filed with the court, not later.

DOCUMENTS

The moving party is reminded that the Local Rules require the use of a new Docket Control Number with each motion. Local Bankr. R. 9014-1(c). Here the moving party failed to use a Docket Control Number. This is not correct. The Court will consider the motion, but counsel is reminded that not complying with the Local Rules is cause, in and of itself, to deny the motion. Local Bankr. R. 1001-1(g), 9014-1(l).

The moving party filed the notice, points and authorities, declaration and exhibits in this matter as one document. This is not the practice in the Bankruptcy Court. "Motions, notices, objections, responses, replies, declarations, affidavits, other documentary evidence, memoranda of points and authorities, other supporting documents, proofs of service, and related pleadings shall be filed as separate documents." Local Bankruptcy Rule 9004(a) and *Revised Guidelines for the Preparation of Documents*, ¶(3)(a). Counsel is reminded of the court's expectation that documents filed with this court comply with the *Revised Guidelines for the Preparation of Documents* in Appendix II of the Local Rules, as required by Local Bankruptcy Rules 9004(a), 9014-1(d)(1). This failure is cause to deny the motion. Local Bankr. R. 1001-1(g), 9014-1(l).

These document filing rules exist for a very practical reason. Operating in a near paperless environment, the motion, points and authorities, declarations, exhibits, requests for judicial notice, and other pleadings create an unworkable electronic document for the court. (Some running hundreds of pages.) It is not for the court to provide secretarial services to attorneys and separate an omnibus electronic document into separate electronic documents which can then be used by the court.

RELIEF FROM STAY COVER SHEET

In addition, Creditor did not file a Relief From Stay Cover Sheet. Local Bankruptcy Rule 4001-1(a)(3) requires that movant file and serve as a separate document completed Form EDC 3-468. Failure to comply with local rules is grounds for denial of the motion.

MOTION

Furthermore, there does not appear to be an actual motion, stating with particularity the grounds for the relief sought. The pleading appears to be a motion is a combined motion and points and authorities in which the grounds upon which the motion is based are buried in detailed citations, quotations, legal arguments, and factual arguments (the pleading being a "Mothorities") in which the court and Plaintiff are put to the challenge of de-constructing the Mothorities, divining what are the actual grounds upon which the relief is requested (Fed. R. Civ. P. 7(b) and Fed. R. Bankr. P. 7007), restate those grounds, evaluate those grounds, consider those grounds in light of Fed. R. Bankr. P. 9011, and then rule on those grounds for the Defendant. The court has declined the opportunity to provide those services to a movant in other cases and adversary proceedings, and has required debtors, plaintiffs, defendants, and creditors to provide those services for the moving party.

The court has also observed that the more complex the Mothorities in which the grounds are hidden, the more likely it is that no proper grounds

exist. Rather, the moving party is attempting to beguile the court and other party.

In such situations, the court routinely denies the motion without prejudice and without hearing. Law and motion practice in federal court, and especially in bankruptcy court, is not a treasure hunt process by which a moving party makes it unnecessarily difficult for the court and other parties to see and understand the particular grounds (the basic allegations) upon which the relief is based. The court does not provide a differential application of the Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules as between creditors and debtors, plaintiff and defendants, or case and adversary proceedings. The rules are simple and uniformly applied.

On its face, the Motion states with particularity the following grounds upon which the requested relief is based:

- A. Movant will move the court for relief from the stay at the hearing.
- B. The motion is being heard on regular notice.
- C. Written opposition is due 14 days prior to the hearing.
- D. The motion is based on the notice of motion, memorandum of points and authorities, the declaration of Ralph Beatty, records and papers filed in this case, and such other evidence Movant chooses to present at trial. FN.1.

Motion, Dckt. 19 at 1-2.

This Motion does not comply with the requirements of Federal Rule of Bankruptcy Procedure 9013 because it does not plead with particularity the grounds upon which the requested relief is based. Consistent with this court's repeated interpretation of Federal Rule of Bankruptcy Procedure 9013, the bankruptcy court in *In re Weatherford*, 434 B.R. 644 (N.D. Ala. 2010), applied the general pleading requirements enunciated by the United States Supreme Court in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007), to the pleading with particularity requirement of Bankruptcy Rule 9013. The *Twombly* pleading standards were restated by the Supreme Court in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), to apply to all civil actions in considering whether a plaintiff had met the minimum basic pleading requirements in federal court.

In discussing the minimum pleading requirement for a complaint (which only requires a "short and plain statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ. P. 7(a)(2), the Supreme Court reaffirmed that more than "an unadorned, the-defendant-unlawfully-harmed-me accusation" is required. *Iqbal*, 556 U.S. at 678-679. Further, a pleading which offers mere "labels and conclusions" of a "formulaic recitations of the elements of a cause of action" are insufficient. *Id.* A complaint must contain sufficient factual matter, if accepted as true, "to state a claim to relief that is plausible on its face." *Id.* It need not be

probable that the plaintiff (or movant) will prevail, but there are sufficient grounds that a plausible claim has been pled.

Federal Rule of Bankruptcy Procedure 9013 incorporates the state-with-particularity requirement of Federal Rule of Civil Procedure 7(b), which is also incorporated into adversary proceedings by Federal Rule of Bankruptcy Procedure 7007. Interestingly, in adopting the Federal Rules and Civil Procedure and Bankruptcy Procedure, the Supreme Court stated a stricter, state-with-particularity-the-grounds-upon-which-the-relief-is-based standard for motions rather than the "short and plain statement" standard for a complaint.

Law-and-motion practice in bankruptcy court demonstrates why such particularity is required in motions. Many of the substantive legal proceedings are conducted in the bankruptcy court through the law-and-motion process. These include, sales of real and personal property, valuation of a creditor's secured claim, determination of a debtor's exemptions, confirmation of a plan, objection to a claim (which is a contested matter similar to a motion), abandonment of property from the estate, relief from stay (such as in this case to allow a creditor to remove a significant asset from the bankruptcy estate), motions to avoid liens, objections to plans in Chapter 13 cases (akin to a motion), use of cash collateral, and secured and unsecured borrowing.

The court in *Weatherford* considered the impact on the other parties in the bankruptcy case and the court, holding,

The Court cannot adequately prepare for the docket when a motion simply states conclusions with no supporting factual allegations. The respondents to such motions cannot adequately prepare for the hearing when there are no factual allegations supporting the relief sought. Bankruptcy is a national practice and creditors sometimes do not have the time or economic incentive to be represented at each and every docket to defend against entirely deficient pleadings. Likewise, debtors should not have to defend against facially baseless or conclusory claims.

Weatherford, 434 B.R. at 649-650; see also *In re White*, 409 B.R. 491, 494 (Bankr. N.D. Ill. 2009) (A proper motion for relief must contain factual allegations concerning the requirement elements. Conclusory allegations or a mechanical recitation of the elements will not suffice. The motion must plead the essential facts which will be proved at the hearing).

The Courts of Appeals agree. The Tenth Circuit Court of Appeals rejected an objection filed by a party to the form of a proposed order as being a motion. *St Paul Fire & Marine Ins. Co. v. Continental Casualty Co.*, 684 F.2d 691, 693 (10th Cir. 1982). The Seventh Circuit Court of Appeals refused to allow a party to use a memorandum to fulfill the particularity of pleading requirement in a motion, stating:

Rule 7(b)(1) of the Federal Rules of Civil Procedure provides that all applications to the court for orders shall be by motion, which unless made during a hearing or trial,

"shall be made in writing, [and] shall state with particularity the grounds therefor, and shall set forth the relief or order sought." (Emphasis added). The standard for "particularity" has been determined to mean "reasonable specification." 2-A Moore's Federal Practice, para. 7.05, at 1543 (3d ed. 1975).

Martinez v. Trainor, 556 F.2d 818, 819-820 (7th Cir. 1977).

Not pleading with particularity the grounds in the motion can be used as a tool to abuse the other parties to the proceeding, hiding from those parties the grounds upon which the motion is based in densely drafted points and authorities - buried between extensive citations, quotations, legal arguments and factual arguments. Noncompliance with Bankruptcy Rule 9013 may be a further abusive practice in an attempt to circumvent the provisions of Bankruptcy Rule 9011 to try and float baseless contentions in an effort to mislead the other parties and the court. By hiding the possible grounds in the citations, quotations, legal arguments, and factual arguments, a movant bent on mischief could contend that what the court and other parties took to be claims or factual contentions in the points and authorities were "mere academic postulations" not intended to be representations to the court concerning the actual claims and contentions in the specific motion or an assertion that evidentiary support exists for such "postulations."

TRUSTEE'S RESPONSE

The Trustee responded to the motion stating that the debtor is delinquent under the confirmed plan. The Trustee also notes that the filing does not comply with Local Bankruptcy Rule 9014-1, in that the documents were all filed as one document and did not include a docket control number. The Trustee also notes that the matter was set on less than 28 days notice.

REPLY BY MOVANT

After receiving the Trustee's statement, Movant filed a Reply. Dckt. 25. In the Reply Movant incorrectly states that Local Bankruptcy Rule 9014-1 "does not require that the points and authorities and supporting declaration be in separate documents." While Movant is correct that Local Bankruptcy Rule 9014-1 does not so provide, he ignores Local Bankruptcy Rule 9004-1.

As addressed above, the Rule does so require the filing of separate pleadings, and Movant's contentions to the contrary are not accurate. Movant also "blames" the Clerk of the Court for not telling him that a docket control number was required or rejecting the pleading because there was not docket control number. Movant appears to misunderstand the responsibilities of the Clerk of the Court and counsel for Movant.

DISCUSSION

Based on the multiple and substantial deficiencies noted above, as well as Movant misstating the Local Rules in the Reply, the court denies the motion for relief from the stay without prejudice.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Automatic Stay filed by the creditor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the motion is denied without prejudice.

4. [13-35954-E-11](#) **ICING ON THE CUPCAKE, LLC** **MOTION TO CONVERT CASE TO CHAPTER 7 O.S.T.**
ET-1 **Matthew R. Eason** **1-23-14 [30]**

Local Rule 9014-1(f) (3).

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on all creditors, parties requesting special notice, and Office of the United States Trustee on January 23, 2014. By the court's calculation, 5 days' notice was provided.

Tentative Ruling: The Motion to Convert has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (3). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The court's tentative decision is to grant the Motion to Convert. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Debtor-in-Possession seek to convert this case from Chapter 11 to Chapter 7. After a thorough review of all of its restructuring alternatives and only after it became clear that an out-of-court alternative would not be able to be completed sufficiently to reorganize the business, Debtor-in-Possession was not able to generate enough revenue to meet its ongoing expenses. Debtor-in-Possession states that it closed its business on January 19, 2014 and does not plan on reopening.

Section 1112(a) of the Bankruptcy Code appears to give the debtor an absolute right to convert the chapter 11 case to a case under chapter 7 unless (1) the debtor is not a debtor in possession, (2) the case was commenced as an involuntary chapter 11 case or (3) the case was previously converted to chapter 11 on request of some person other than the debtor. 11 U.S.C. § 1112(a); see 7 COLLIER ON BANKRUPTCY ¶ 1112.02 (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). Additionally, the debtor may not be able to exercise the right to convert the case to chapter 7 if the debtor is acting in bad faith.

Here, it appears the three limited exceptions do not apply, as the Debtor is the Debtor-in-Possession, the case was not an involuntary Chapter 11 case, and the case has not previously been converted. It appears the Debtor-in-Possession is eligible to be a debtor in a Chapter 7 case and no facts or circumstances of bad faith have been detected by the court.

Christee Owens, the managing member of the Debtor, has provided her declaration in support of the conversion. Dckt. 35. She provides testimony in support of the basic facts and grounds stated in the Motion. This case was commenced on December 20, 2013. No Official Committee of Creditors Holding General Unsecured Claims has been appointed in this case. Requests for special notice have been filed by CPF Renaissance Creek, LLC and BBC Blue Oaks, LLC. No other parties in interest have filed any pleadings in this case as of this time. Schedule A filed by the Debtor lists no interests in any real property. Dckt. 9. Schedule B lists personal property having a value totaling \$81,400.00. Dckt. 10. The Debtor lists creditors having secured claims (excluding the landlord holding a security deposit) totaling \$26,856.96. All of the listed claims are secured by the Debtor's vehicles. Dckt. 11.

For unsecured claims, the Debtor lists tax claims totaling \$93,341.54 on Schedule E. Dckt. 12. Of this, \$70,341.53 is stated to be priority taxes. On Schedule F the Debtors lists \$562,714.52 in general unsecured claims (with several listed as "unknown") Dckt. 13. The larger general unsecured claims are identified as being owed to members of this LLC Debtor. Statement of Financial Affairs, Dckt. 17.

In total, the conversion of this case to one under Chapter 7 appears to be based on the economic inability to continue as a Chapter 11, and not being done for an improper strategic reason.

Based on the foregoing, the court grants the motion to convert the Chapter 11 case to one under Chapter 7.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Convert having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Convert is granted and the case is converted to a proceeding under Chapter 7 of Title 11, United States Code.