

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Bakersfield Federal Courthouse  
510 19<sup>th</sup> Street, Second Floor  
Bakersfield, California

**PRE-HEARING DISPOSITIONS**

**DAY: WEDNESDAY**  
**DATE: APRIL 6, 2016**  
**CALENDAR: 10:00 A.M. CHAPTER 7 CASES**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**ORAL ARGUMENT**

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

**COURT'S ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [11-62509](#)-A-7 SHAVER LAKEWOODS MOTION FOR ADMINISTRATIVE  
RP-1 DEVELOPMENT INC. EXPENSES  
RANDELL PARKER/MV 3-9-16 [[311](#)]  
HENRY NUNEZ/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

**No tentative ruling.**

2. [11-62509](#)-A-7 SHAVER LAKEWOODS MOTION FOR COMPENSATION FOR  
RP-2 DEVELOPMENT INC. RANDELL PARKER, CHAPTER 7  
RANDELL PARKER/MV TRUSTEE(S)  
3-9-16 [[316](#)]  
HENRY NUNEZ/Atty. for dbt.  
LISA HOLDER/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

3. [15-14109](#)-A-7 BRUCE/BRENDA GORDON MOTION TO COMPEL ABANDONMENT  
PK-1 3-16-16 [[52](#)]  
BRUCE GORDON/MV  
PATRICK KAVANAGH/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Real Property Description:** 2 real properties located at 16225 Askin Drive, Pine Mountain Club, CA and 11627 Cross Road, Frazier Park, CA

**Business Assets:** Business assets of B. Gordon Co. Construction that are described on Schedule C, filed at docket no. 28: (1) "Office Equipment, Furnishings and Supplies" scheduled at a value of \$1000 and (2) "Machinery, Fixtures, Equipment and Supplies Used in Business" scheduled with a value of \$5000

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **ABANDONMENT GENERALLY**

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue

an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

#### **REAL PROPERTY**

The real property described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment is warranted. The order shall state that any exemptions claimed in the real property abandoned may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

#### **PERSONAL PROPERTY / BUSINESS ASSETS**

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion and on Schedule C filed at docket no. 28. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

4. [16-10517](#)-A-7 BILLY ROACH MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
SANTANDER CONSUMER USA, 3-17-16 [[11](#)]  
INC./MV  
STEVEN STANLEY/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

#### **Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2015 Fiat 500

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

#### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and

the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2015 Fiat 500, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

5. [10-10718](#)-A-7 GUILLERMO/ROSALVA GUILLEN CONTINUED MOTION TO AVOID LIEN  
RSW-3 OF FINANCIAL CREDIT NETWORK,  
GUILLERMO GUILLEN/MV INC.  
1-28-16 [[25](#)]
- ROBERT WILLIAMS/Atty. for dbt.  
SUSAN SALEHI/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

6. [15-11835](#)-A-7 JAMES/JAMIE CANNON  
KDG-17

TRUSTEE'S NOTICE OF INTENT TO  
ABANDON REAL PROPERTY  
2-16-16 [[353](#)]

ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Matter:** Trustee's Notice of Intent to Abandon Real Property

**Notice:** LBR 9014-1(f)(1); written opposition filed

**Disposition:** Granted

**Order:** Prepared by moving party pursuant to the instructions below

**Real Property Description:** 1812 Airport Drive, Bakersfield, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **SECTION 554(a)**

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

### **DEBTORS' OPPOSITION**

The opposition filed by the debtors fails to address any material fact required for relief under § 554(a). Instead, the opposition merely requests a hearing to compel the trustee to provide an accounting of rents. This opposition improperly seeks relief without the proper motion procedure. Fed. R. Bankr. P. 9013.

### **ANALYSIS**

Based on the notice and declaration in support, the real property described above is either burdensome to the estate or of inconsequential value to the estate. The total liens against the property, including interest and late charges through March 9, 2016, equal \$76,236.76. The property has been listed for \$90,000 since September 2015. This suggests the property is worth less than \$90,000. Costs of sale, including commission and escrow fees, will reduce the sale price by 8%. Assuming a sale price of \$90,000, costs of sale reduces the proceeds received to approximately \$82,800. Subtracting the liens totaling \$76,236.76, the net proceeds remaining equal approximately \$6,563.24. But the CPA for the estate has indicated a 30% capital gains tax will be owed by the estate on approximately \$40,000 of a sale price of \$90,000. This would be another \$12,000 owed out of the net proceeds of \$6,563.24, leaving the estate in a negative position.

An order compelling abandonment is warranted. The order shall state that any exemptions claimed in the real property abandoned may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f) (1).

7. [15-11835](#)-A-7 JAMES/JAMIE CANNON TRUSTEE'S NOTICE OF INTENT TO  
KDG-18 ABANDON REAL PROPERTY  
2-16-16 [[355](#)]  
ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Matter:** Trustee's Notice of Intent to Abandon Real Property

**Notice:** LBR 9014-1(f) (1); written opposition filed

**Disposition:** Granted

**Order:** Prepared by moving party pursuant to the instructions below

**Real Property Description:** 317 Wilson Avenue, Bakersfield, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **SECTION 554 (a)**

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

### **DEBTORS' OPPOSITION**

The opposition filed by the debtors fails to address any material fact required for relief under § 554(a). Instead, the opposition merely requests a hearing to compel the trustee to provide an accounting of rents. This opposition improperly seeks relief without the proper motion procedure. Fed. R. Bankr. P. 9013.

### **ANALYSIS**

The notice and supporting declaration indicate that the liens against the 317 Wilson Ave. property exceed the value of the property. Parker Decl. ¶ 6. An order compelling abandonment is warranted. The order shall state that any exemptions claimed in the real property abandoned may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f) (1).

8. [15-11835](#)-A-7 JAMES/JAMIE CANNON  
KDG-19  
RANDELL PARKER/MV

MOTION FOR ORDER AUTHORIZING  
SALE OF REAL PROPERTY SUBJECT  
TO OVERBID AND/OR MOTION FOR  
PAYMENT OF REAL ESTATE BROKER'S  
COMMISSIONS (610 WILSON AVE)  
3-7-16 [[391](#)]

ROBERT WILLIAMS/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

### **Tentative Ruling**

**Motion:** Sell Real Property and Compensate Real Estate Broker

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 610 Wilson Avenue, Bakersfield, CA

**Buyer:** KAA Properties, LP

**Sale Price:** \$56,000

**Sale Type:** Private sale subject to overbid opportunity

**Commission:** 6% commission on the final selling price; commission paid to Miramar International R.E., which it may then share with any cooperating broker under its agreement or custom

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

9. [15-11835](#)-A-7 JAMES/JAMIE CANNON  
KDG-20  
RANDELL PARKER/MV

MOTION FOR ORDER AUTHORIZING  
SALE OF REAL PROPERTY SUBJECT  
TO OVERBID AND/OR MOTION FOR  
PAYMENT OF REAL ESTATE BROKER'S  
COMMISSIONS (110 HARDING AVE)  
3-16-16 [[406](#)]

ROBERT WILLIAMS/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

### **Tentative Ruling**

**Motion:** Sell Real Property and Compensate Real Estate Broker

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 110 Harding Ave., Bakersfield, CA

**Buyer:** Group VIII Covina Properties, LP

**Sale Price:** \$67,000

**Sale Type:** Private sale subject to overbid opportunity

**Commission:** 6% commission on the final selling price; commission paid to Miramar International R.E., which it may then share with any cooperating broker under its agreement or custom

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.



10. [15-11835](#)-A-7 JAMES/JAMIE CANNON  
KDG-21  
RANDELL PARKER/MV

MOTION FOR ORDER AUTHORIZING  
SALE OF REAL PROPERTY SUBJECT  
TO OVERBID AND/OR MOTION FOR  
PAYMENT OF REAL ESTATE BROKER'S  
COMMISSIONS (704 WASHINGTON  
AVE)  
3-16-16 [[412](#)]

ROBERT WILLIAMS/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

### **Tentative Ruling**

**Motion:** Sell Real Property and Compensate Real Estate Broker

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 704 Washington Ave., Bakersfield, CA

**Buyer:** Group VIII Covina Properties, LP

**Sale Price:** \$68,600

**Sale Type:** Private sale subject to overbid opportunity

**Commission:** 6% commission on the final selling price; commission paid to Miramar International R.E., which it may then share with any cooperating broker under its agreement or custom

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

11. [15-11835](#)-A-7 JAMES/JAMIE CANNON  
RSW-2  
JAMES CANNON/MV

CONTINUED MOTION TO AUTHORIZE  
DEBTORS TO PROSECUTE OBJECTIONS  
TO PROOFS OF CLAIMS  
2-17-16 [[357](#)]

ROBERT WILLIAMS/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Authorize Debtors to Prosecute Claims Objections

**Notice:** Continued hearing date; originally noticed under LBR 9014-1(f)(2); written opposition filed

**Disposition:** Granted

**Order:** Prepared by the movant

In the court's civil minute from the original hearing on March 2, 2016, the court described the requirements for a debtor to have standing to bring claims objections in chapter 7. A debtor has standing to bring claims objections in chapter 7 only if the debtor has a cognizable prospect of receiving a distribution or having a nondischargeable debt affected by the objection. *Gilliam v. Speier (In re KRSM Props., LLC)*, 318 B.R. 712, 716 n.3 (B.A.P. 9th Cir. 2004). Other citations supporting the court's standards for standing were included in the court's civil minutes from March 2, 2016, and are incorporated here by reference.

A judgment denying both the debtors' discharge has been entered in this case. The court takes judicial notice of this judgment on its docket. Judgment, Mar. 14, 2016, ECF No. 431.

As a result of this judgment, all the debtors' debt is nondischargeable. If the debtors should succeed in their claims objections, their liability for nondischargeable debt would be reduced. The debtors, therefore, have standing because the outcome of any claims objection they bring affects the amount of debt for which they will be liable. The debtors have a personal interest (reduction of their own personal liability) in the outcome of any claims litigation.

Because all the debtors' debt is nondischargeable, giving them standing to file claims objections, the court need not reach the issue of whether the debtors have a cognizable prospect of receiving a distribution in this case.

12. [15-11835](#)-A-7 JAMES/JAMIE CANNON  
RSW-5  
JAMES CANNON/MV  
ROBERT WILLIAMS/Atty. for dbt.  
WITHDRAWN

CONTINUED MOTION TO COMPEL  
ABANDONMENT  
2-17-16 [[366](#)]

### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

13. [16-10440](#)-A-7 VANESSA BAZALDUA  
SW-1  
ALLY FINANCIAL/MV  
ADAM BARASCH/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-17-16 [[16](#)]

**Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f) (2); no written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2014 Jeep Compass

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

Section 362(d) (2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d) (2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ally Financial's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2014 Jeep Compass, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a) (3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

14. [15-14942](#)-A-7 JOSE SILVA CAZARES AND MOTION FOR RELIEF FROM  
JHW-1 NIDIA RODRIGUEZ DE SILVA AUTOMATIC STAY  
TD AUTO FINANCE LLC/MV 3-8-16 [[17](#)]  
NICHOLAS ANIOTZBEHERE/Atty. for dbt.  
JENNIFER WANG/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f) (1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2013 Toyota Sienna

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

Section 362(d) (2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d) (2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

TD Auto Finance LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2013 Toyota Sienna, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a) (3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

15. [16-10244](#)-A-7 BENJAMIN ATWOOD MOTION FOR RELIEF FROM  
CJO-1 AUTOMATIC STAY  
DITECH FINANCIAL LLC/MV 3-17-16 [[12](#)]  
LEONARD WELSH/Atty. for dbt.  
CHRISTINA O/Atty. for mv.

### **Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f) (2); no written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 219 and 219 ½ Harding Ave., Bakersfield, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

Section 362(d) (2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d) (2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived. No other relief will be awarded.

### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ditech Financial LLC f/k/a Green Tree Servicing LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 219 and 219 ½ Harding Ave., Bakersfield, CA, as to all parties in interest. The 14-day stay of the order under Federal Rule

of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

16. [10-11054](#)-A-7 RONALD/SUSAN SMITH OBJECTION TO DEBTOR'S CLAIM OF  
KDG-7 EXEMPTIONS  
RANDELL PARKER/MV 2-12-16 [[130](#)]  
NEIL SCHWARTZ/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

**No tentative ruling.**

17. [16-10273](#)-A-7 BRYAN/LISA MAYES ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
2-17-16 [[11](#)]  
  
PHILLIP GILLET/Atty. for dbt.  
\$335.00 FILING FEE PAID  
2/22/16

**Final Ruling**

The fee paid, the order to show cause is discharged and the case will remain pending.

18. [14-11478](#)-A-7 LANCE/JANICE ST PIERRE MOTION FOR COMPENSATION FOR D.  
DMG-2 MAX GARDNER, TRUSTEES  
ATTORNEY(S)  
2-24-16 [[112](#)]  
  
VINCENT GORSKI/Atty. for dbt.

**Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

## **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Law Offices of Young Wooldridge, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$3156.50 and reimbursement of expenses in the amount of \$214.65.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

## **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Law Offices of Young Wooldridge's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$3156.50 and reimbursement of expenses in the amount of \$214.65.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

19. [15-10784](#)-A-7 JESUS MOYA  
PK-2  
JESUS MOYA/MV  
VINCENT GORSKI/Atty. for dbt.

MOTION TO AVOID LIEN OF ALLY  
FINANCIAL INC.  
3-22-16 [[22](#)]

### **Tentative Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Notice:** LBR 9014-1(f) (2); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Liens Plus Exemption:** \$278,890.72

**Property Value:** \$219,304.29

**Judicial Lien Avoided:** \$19,053.72

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.



20. [15-12692](#)-A-7 MARIA LOPEZ  
MDE-1  
U.S. BANK NATIONAL  
ASSOCIATION/MV  
RAJ WADHWANI/Atty. for dbt.  
MARK ESTLE/Atty. for mv.  
DISCHARGED

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
2-23-16 [[18](#)]

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f) (1); written opposition required

**Disposition:** Granted in part, denied in part as moot

**Order:** Civil minute order

**Subject:** 11272 Mount Drive, Garden Grove, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**AS TO DEBTOR**

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c) (2). In this case, discharge has been entered. As a result, the motion will be denied in part as moot as to the debtor.

**AS TO ESTATE**

Section 362(d) (2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d) (2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

U.S. Bank National Association's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend

in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 11272 Mount Drive, Garden Grove, CA. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

21. [16-10397](#)-A-7 RANDY/JENNIFER FERRER MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
SANTANDER CONSUMER USA INC./MV 3-11-16 [[11](#)]  
NEIL SCHWARTZ/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

**Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2009 Chevrolet Traverse

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

## **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA, Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2009 Chevrolet Traverse, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.