

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

Honorable Michael S. McManus  
Bankruptcy Judge  
Sacramento, California

**April 9, 2018 at 9:30 a.m.**

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1. 18-21696-A-7      PARAMOUNT EDUCATION,      MOTION TO  
DNL-2              INC.                                      REJECT LEASE OR EXECUTORY CONTRACT  
O.S.T.  
3-29-18 [19]

**Tentative Ruling:**      The motion will be granted.

The trustee moves for retroactive rejection to March 23, 2018 of an unexpired nonresidential lease with Timothy Timmons at 4010 El Camino Avenue, Sacramento, California, pursuant to 11 U.S.C. § 365(a). The lease is due to expire on November 30, 2025. Prior to filing this bankruptcy case on March 23, 2018, the debtor ceased operation of his charter school business on the property. It ceased business operations on or about February 7, 2018.

Section 365(a) allows a trustee to assume or reject any executory contract or unexpired lease of the debtor. Section 365(d)(1) provides that "*In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.*"

As the debtor is not operating, rejection of the lease is in the best interest of the creditors and the estate.

The court will permit the rejection effective on March 23 because this motion was filed almost immediately upon the engagement of the trustee and his counsel in the case and the landlord already has access to the leased premises. Docket 21 at 2. See Pac. Shores Dev. v. At Home Corp. (In re At Home Corp.), 392 F.3d 1064, 1069, 1072 (9<sup>th</sup> Cir. 2004) (holding that bankruptcy courts have equitable authority to approve retroactive rejection of an unexpired nonresidential real property lease). The motion will be granted.

2. 18-21696-A-7      PARAMOUNT EDUCATION,      MOTION TO  
DNL-3              INC.                                      ABANDON O.S.T.  
3-29-18 [26]

**Tentative Ruling:**      The motion will be granted.

The trustee seeks an order abandoning the estate's interest in all the debtor's personal property located within the nonresidential real property located in Sacramento, California. The trustee further moves for authority to abandon all hazardous materials on the subject premises, including chemicals used in science curriculum, in any manner permitted by law, including to a vendor or any other appropriate party authorized by law to receive such materials. The

debtor is the lessee of the property and formerly operated a charter school from the premises. The landlord has access to the property.

11 U.S.C. § 554(a) provides that a trustee may abandon any estate property that is burdensome or of inconsequential value or benefit to the estate, after notice and a hearing.

The trustee has demonstrated that the personal property items and hazardous chemicals are burdensome or of inconsequential value to the estate. Docket 28. The scheduled assets of personal property inventory include, but are not limited to: chairs, desks, tables, bookcases, cupboards, file cabinets, lockers, computer equipment, printers, music equipment, science lab equipment, and televisions. (For a full list of the debtor's personal property inventory subject to abandonment, see Docket 3 at pages 14-6.) The trustee has been informed by an auctioneer that an auction of the personal property would likely result in gross proceeds of \$15,000-\$20,000. The costs associated with preserving and administering the personal property, such as attorney fees, auctioneer fees, and continued payment of rent at \$14,700 per month, would consume any proceeds realized from their sale. The personal property items are not required for the trustee to administer the estate, and they are of no monetary or otherwise beneficial value to the estate.

As for the hazardous materials, they have relatively little value and their presence on the leased premises exposes the estate to potential liability, especially considering that the landlord has access to the leased property and has previously been involved in an altercation on the premises with the debtor's former employees. Additionally, administering the hazardous chemicals would prove difficult given the associated legal requirements for such action.

Accordingly, the court will permit the trustee to dispose of the hazardous materials in a lawful manner. The court will not order the hazardous materials abandoned because it seems that the trustee is not abandoning them to the debtor, which is what abandonment under section 554(a) is about. He is rather disposing them.

The motion will be granted.