

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

April 14, 2015 at 1:30 p.m.

1. [15-22303](#)-E-13 KAO SAELEE
SC-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-30-15 [[11](#)]

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.

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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

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 (*pro se*), Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on March 30, 2015. By the court's calculation, 15 days' notice was provided. 14 days' notice is required.

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). 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. At the hearing -----

The Motion for Relief From the Automatic Stay is granted.
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Wedgewood ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 9275 Louis Street, Elk Grove, California (the "Property"). The moving party has provided the Declaration of Olivia

April 14, 2015 at 1:30 p.m.

Reyes to introduce evidence as a basis for Movant's contention that Kao Choy Saelee ("Debtor") do not have an ownership interest in or a right to maintain possession of the Property. Movant presents evidence that it was retained by CAM VII TRUST, the owner of the Property, to manage and obtain possession of the property. Movant asserts CAM VII TRUST purchased the Property at a pre-petition Trustee's Sale on November 19, 2014. Based on the evidence presented, Debtor would be at best tenant at sufferance. Movant commenced an unlawful detainer action in California Superior Court, County of Sacramento. Exhibit 3, Dckt. 16.

Movant has provided a certified copy of the recorded Trustee's Deed Upon Sale to substantiate its claim of ownership. Based upon the evidence submitted, the court determines that there is no equity in the property for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the property is *per se* not necessary for an effective reorganization. See *In re Preuss*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

The court shall issue an order terminating and vacating the automatic stay to allow Wedgewood, and its agents, representatives and successors, to exercise its rights to obtain possession and control of the real property commonly known as 9275 Louis Street, Elk Grove, California, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

The Movant has not alleged adequate facts and presented sufficient evidence to support the court waving the 14-day stay of enforcement required under Rule 4001(a)(3).

No other or additional relief is granted by the court.

The court shall issue an 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 Wedgewood ("Movant") 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 Wedgewood and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as 9275 Louis Street, Elk Grove, 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 not waived.

No other or additional relief is granted.

2. [14-31916](#)-E-13 RUPERT/JOSEFINA ARENAS
HRH-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-17-15 [[47](#)]

DE LAGE LANDEN FINANCIAL
SERVICES, INC. VS.

Final Ruling: No appearance at the April 14, 2015 hearing is required.

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 Debtor, Debtor's Attorney, Chapter 13 Trustee,, parties requesting special notice, and Office of the United States Trustee on March 17, 2015. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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 non-responding parties 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.

Rupert Fontelera Arenas and Josefina Pineda Arenas ("Debtor") commenced this bankruptcy case on December 8, 2014. De Lage Laden Financial Services Inc., ("Movant") seeks relief from the automatic stay with respect to an asset identified as a Cutera XEO B Laser with Titan, Prowave and 3 year warranty, serial number X12886 (the "Equipment"). The moving party has provided the Declaration of Russell Bender to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Bender Declaration provides testimony that Debtor has a judgement against them for \$99,543.31. Furthermore, Debtors acknowledge on Schedule B that they intend to surrender the Equipment to Movant.

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$99,543.31, as stated in the Bender Declaration, while the value of the equipment is determined to be \$8,000.00, as stated in Schedules B and D filed by Debtor.

RULING

The court maintains the right to grant relief from stay for cause when a 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 and the estate have 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).

Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). As stated in Debtors' Schedule B, Debtor intends to surrender the Equipment, and therefore it is not necessary for reorganization.

The court shall issue an order terminating and vacating the automatic stay to allow De Lage Laden Financial Services Inc., and its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, 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.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving 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 De Lage Laden Financial Services Inc. ("Movant") 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 Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a Cutera XEO B Laser with Titan, Prowave and 3 year warranty, serial number X12886 ("Equipment"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

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

Procedure, is not waived.

No other or additional relief is granted.

3. [11-48418](#)-E-13 MATTHEW HOGUE
DPC-1

CONTINUED NOTICE OF DEFAULT AND
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-19-14 [[72](#)]

Tentative Ruling: The Notice of Default and Motion to Dismiss Case For Failure to Make Plan Payments was properly 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.

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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(3) 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 February 6, 2015. By the court's calculation, 12 days' notice was provided.

The Notice of Default and Motion to Dismiss Case For Failure to Make Plan Payments was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing no appearance was made for Debtor.

The Notice of Default and Motion to Dismiss is granted and the case is dismissed.
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David Cusick, the Chapter 13 Trustee, served a Notice of Default and

Application to Dismiss on December 19, 2014 pursuant to Local Bankr. R. 3015-1(g). Dckt 72.

Trustee argues that the Debtor has failed to make all payments due under the plan. As of December 18, 2014, payments are delinquent in the amount of \$2,051.00. An additional payment of \$870.00 will become due on December 25, 2014.

On February 5, 2015, the court issued an Order for Hearing on Notice of Default setting the hearing for 10:00 a.m. on February 18, 2015. Dckt. 75.

APPLICABLE LAW

Local Bankr. R. 3015-1(g) provides the following:

(g) Dismissal Due to Plan Payment Defaults.

- (1) If the debtor fails to make a payment pursuant to a confirmed plan, including a direct payment to a creditor, the trustee may mail to the debtor and the debtor's attorney written notice of the default.
- (2) If the debtor believes that the default noticed by the trustee does not exist, the debtor shall set a hearing within twenty-eight (28) days of the mailing of the notice of default and give at least fourteen (14) days' notice of the hearing to the trustee pursuant to LBR 9014-1(f)(2). At the hearing, if the trustee demonstrates that the debtor has failed to make a payment required by the confirmed plan, and if the debtor fails to rebut the trustee's evidence, the case shall be dismissed at the hearing.
- (3) Alternatively, the debtor may acknowledge that the plan payment(s) has(have) not been made and, within thirty (30) days of the mailing of the notice of default, either
 - (A) make the delinquent plan payment(s) and all subsequent plan payments that have fallen due, or
 - (B) file a modified plan and a motion to confirm the modified plan. If the debtor's financial condition has materially changed, amended Schedules I and J shall be filed and served with the motion to modify the chapter 13 plan.
- (4) If the debtor fails to set a hearing on the trustee's notice, or cure the default by payment, or file a proposed modified chapter 13 plan and motion, or perform the modified chapter 13 plan pending its approval, or obtain approval of the modified chapter 13 plan, all within the time constraints set out above, the case shall be dismissed without a hearing on the trustee's application.
- (5) Rather than utilize the notice of default procedure authorized

by this paragraph, the trustee may file, serve, and set for hearing a motion to dismiss the case. Such a motion may be set for hearing pursuant to either LBR 9014-1(f)(1) or (f)(2).

FEBRUARY 18, 2015 HEARING

At the hearing, the court continued the hearing to 1:30 p.m. on March 3, 2015 at the request of the parties. Dckt. 76.

MARCH 3, 2015 HEARING

At the hearing, the court continued the hearing to 1:30 p.m. on April 14, 2015 in light of the fact that Debtor had substituted in new counsel prior to the hearing.

DISCUSSION

No supplemental pleadings have been filed in connection with this Motion. This being the third hearing on the instant Notice and Motion, the Debtor has had ample opportunity to respond with evidence that the Debtor has cured the delinquency. Unfortunately, the Debtor has not.

The Trustee seeks dismissal of the case on the basis that the Debtor is \$2,051.00 delinquent in plan payments, which represents multiple months of the \$870.00 plan payment. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Notice of Default and Motion to Dismiss Case For Failure to Make Plan Payments filed by Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Motion to Dismiss is granted and the case is dismissed.

4. 14-27618-E-13 JERRY WADLEY AND TRACY CONTINUED MOTION TO CONFIRM
EJS-1 URBANO-WADLEY PLAN
11-26-14 [[40](#)]

The Motion is denied without prejudice.

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

The Motion to Confirm having been presented to the court, the Debtors requesting that the bankruptcy case be dismissed (Dckt. 66), and upon review of the pleadings, evidence, arguments of counsel and good cause appearing,

5. [14-27618](#)-E-13 JERRY WADLEY AND TRACY CONTINUED MOTION TO DISMISS
MAS-2 URBANO-WADLEY CASE
10-28-14 [[31](#)]

The Motion to Dismiss is denied without prejudice.

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

The Motion to Dismiss having been presented to the court, the Debtors requesting that they be allowed to dismiss the

case voluntarily,, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied without prejudice, the court dismissing the case pursuant to the request of the Debtors.

6. [15-21327](#)-E-13 JOHN/AMANDA POE
SW-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-10-15 [[14](#)]

ALLY FINANCIAL VS.

Final Ruling: No appearance at the April 14, 2015 hearing is required.

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 Debtor, Debtor's Attorney, and Chapter 13 Trustee on March 11, 2015. By the court's calculation, 34 days' notice was provided. 28 days' notice is required.

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 non-responding parties 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.
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John and Amanda Poe ("Debtor") commenced this bankruptcy case on February 20, 2015. Ally Financial serviced by Ally Servicing LLC("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2013 Dodge Ram, VIN ending in 8233 (the "Vehicle"). The moving party has provided the Declaration of Mario Reese to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Reese Declaration provides testimony that Debtor has not made 1 post-petition payments, with a total of \$316.94 in post-petition payments past due.

From the evidence provided to the court, and only for purposes of this

Motion for Relief, the debt secured by this asset is determined to be \$45,161.05, as stated in the Reese Declaration, while the value of the Vehicle is determined to be \$36,400.00, as stated in Schedules B and D filed by Debtor.

Movant has also provided a copy of the NADA Valuation Report for the Vehicle. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. Fed. R. Evid. 803(17). The report lists the estimated clean retail and clean trade-in values of the Vehicle at \$40,850.00 and \$36,400.00, respectively.

David Cusick, the Chapter 13 Trustee, filed a non-opposition to the instant Motion on March 16, 2015.

RULING

The court maintains the right to grant relief from stay for cause when a 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 and the estate have 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).

Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2).

The court shall issue an order terminating and vacating the automatic stay to allow Ally Financial serviced by Ally Servicing LLC, and its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, 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.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving 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 Ally Financial serviced by Ally Servicing LLC ("Movant") 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 Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2013 Dodge Ram ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

IT IS FURTHER ORDERED that the fourteen (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is not waived.

No other or additional relief is granted.

7. [14-27264-E-13](#) DENNIS JACOPETTI
PGM-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-13-15 [[98](#)]

GARY CROW VS.

Final Ruling: No appearance at the April 14, 2015 hearing is required.

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 Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on March 13, 2015. By the court's calculation, 32 days' notice was provided. 28 days' notice is required.

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 non-responding parties 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.

Gary Crow ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 110 S. Cherokee Lane, Lodi, California (the "Property"). The moving party has provided the Declaration of Gary Crow to introduce evidence as a basis for Movant's contention that Dennis J. Jacopetti ("Debtor") does not have an ownership interest in or a right to maintain possession of the Property. Movant presents evidence that it is the owner of the Property in the form of a lease agreement and eviction notice. Dckt. 102. Based on the evidence presented, Debtor would be at best tenant at sufferance. Movant commenced an unlawful detainer action in California Superior Court, County of San Joaquin. Exhibit B, Dckt. 102.

Movant has provided a copy of the lease agreement between Debtor and Movant. Based upon the evidence submitted, the court determines that there is no equity in the property for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2).

The court shall issue an order terminating and vacating the automatic stay to allow Gary Crow, and its agents, representatives and successors, to exercise its rights to obtain possession and control of the real property commonly known as 110 S. Cherokee Lane, Lodi, California, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

Furthermore, the Movant requests relief under 11 U.S.C. § 362(d)(4). 11 U.S.C. § 362(d)(4) allows the court to grant relief from stay where the court finds that the petition was filed as part of a scheme to delay, hinder or defraud creditors that involved either (i) transfer of all or part ownership or interest in the property without consent of secured creditors or court approval or (ii) multiple bankruptcy cases affecting the property. 3 Collier on Bankruptcy ¶ 362.07 (Alan N. Resnick & Henry J. Sommer eds. 16th ed.).

The court finds that proper grounds exist for issuing an order pursuant to 11 U.S.C. § 364(d)(4). Movant has provided sufficient evidence concerning a series of bankruptcy cases being filed with respect to the subject property in an attempt to prevent the Movant from exercising his rights over the Property. Debtor has filed, and had dismissed the following Chapter 7, 11, and 13 cases in the past three years: 14-23007 filed on March 25, 2014, and dismissed April 14, 2014; 13-34493 filed on November 13, 2013 and dismissed on January 17, 2014; 12-26206 filed on March 30, 2012 and dismissed on April 10, 2012. Debtor has not prosecuted the prior cases, or the current case in good faith. The bankruptcy filings have been made for purposes of delay, not reorganization or rehabilitation.

The court finds that the filing of the present petition works as part of a scheme to delay, hinder, or defraud Movant with respect to the Property by both the transfer of an interest in the property and the filing of multiple bankruptcy cases.

The court grants relief pursuant to 11 U.S.C. § (d)(4).

The Movant has alleged adequate facts and presented sufficient evidence to support the court waving the 14-day stay of enforcement required under Rule 4001(a)(3).

No other or additional relief is granted by the court.

CHAMBERS PREPARED ORDER

The court shall issue an 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 Gary Crow ("Movant") 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 Gary Crow and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as 110 S. Cherokee Lane, Lodi, California.

IT IS FURTHER ORDERED that relief is granted pursuant to 11 U.S.C. § 362(d)(4) with this order granting relief from the

stay, if recorded in compliance with applicable State laws governing notices of interests or liens in real property, shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except as ordered by the court in any subsequent case filed during that period.

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 shown by Movant.

No other or additional relief is granted.