UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

May 21, 2019 at 1:30 p.m.

---

1. **19-21042-E-13 SW-1** | **MICHAEL/BERNADETTE AMBERS** **Lucas Garcia** | **MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY 4-30-19 [57]**

A-L FINANCIAL CORPORATION
VS.

Tentative Ruling: 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)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 April 30, 2019. By the court's calculation, 21 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). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing, **----------**.

The Motion for Relief from the Automatic Stay is granted.

A-L Financial Corporation ("Movant") seeks relief from the automatic stay with respect to an

asset identified as a 2001 Chevrolet Silverado, VIN ending in 5144 ("Vehicle"). The moving party has provided the Declaration of Duane Moses to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Michael Rae Ambers and Bernadette Elizabeth Ambers ("Debtor").

The Duane Moses Declaration provides testimony that Debtor's insurance on the Vehicle lapsed, and that Debtor has not responded to Movant's request for current proof of insurance sent March 14, 2019. Dckt. 60.

DISCUSSION

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). 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. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

The court determines that cause exists for terminating the automatic stay, including Debtor's failure to insure the Vehicle.

Additionally, Movant has provided sufficient grounds to grant relief from the co-debtor stay under 11 U.S.C. § 1301(a). Movant has established, pursuant to 11 U.S.C. § 1301(a), that it would be irreparably harmed if relief from the co-debtor stay were not granted because the Vehicle is uninsured.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, 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.

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court. Movant argues relief is warranted because the Vehicle is not insured or adequately protected.

Movant has pleaded adequate facts and presented sufficient evidence to support the court

waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 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 A-L Financial Corporation ("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 2001 Chevrolet Silverado, VIN ending in 5144 ("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 request to terminate the co-debtor stay of Kevin Amber of 11 U.S.C. § 1301(a) is granted to the same extent as provided in the forgoing paragraph granting relief from the automatic stay arising under 11 U.S.C. § 362(a).
>
> **IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.
>
> No other or additional relief is granted.

2. **18-27755-E-13 PLC-1** **MARK/RENEE EVANS** **Peter Macaluso** **CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY 3-22-19 [50]**

No Tentative Ruling: 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.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient 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 March 22, 2019. By the court's calculation, 39 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief from the Automatic Stay is xxxxx.

Gazelle Schreiber ("Movant") seeks relief from the automatic stay to allow Movant's case against Debtor's LLC, United Global, LLC ("Debtor's LLC") in Sacramento County Superior Court, Case Number 34-2018-00240345 ("State Court Litigation") to be concluded. Movant has provided the Declarations of Movant and Christopher Fry, counsel in the State Court Litigation ("State Court Counsel"), to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Mark Williams Evans and Renee Evans ("Debtor").

Movant's Declaration states Debtor, acting as officers for Debtor's LLC, committed fraud in selling a home to Movant. Dckt. 52. While the home was sold by Debtor's LLC, Debtor was acting as an officer and thereby also committed fraud. *Id.*

State Court Counsel's Declaration states the complaint in the State Court Litigation was amended on January 7, 2019 to add Debtor. Dckt. 53.

The Motion also states that Movant has commenced an adversary proceeding seeking to have the court determine that the obligation owed by Debtor is nondischargeable. Adversary Proceeding No. 18-27755 was filed on March 22, 2019, by Movant seeking determination that Movant's claim is nondischargeable pursuant to 11 U.S.C. §§ 523(a)(2), (4), and (6).

DEBTOR'S OPPOSITION

Debtor filed an Opposition on April 15, 2019. Dckt. 65. Debtor argues there is no cause for relief because Movant does not have a property interest at issue and the claim is unsecured. Debtor states further the petition was amended to add Movant's claim, and non-dischargeability should be determined in federal court.

TRUSTEE'S OPPOSITION

The Chapter 13 Trustee, David Cusick ("Trustee"), filed an Opposition on April 16, 2019 noting that Movant has not filed a Relief From Stay Summary Sheet, EDC 3–468 as required by Local Bankruptcy Rule 4001-1(a)(3).

APRIL 30, 2019 HEARING

At the April 30, 2019 hearing, the court continued the hearing on the Motion to allow the parties to discuss whether the claims raised in the State Court Litigation should be brought to federal court.

DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at *8–9 (B.A.P. 9th Cir. May 23, 2016).

To determine "whether cause exists to allow litigation to proceed in another forum, 'the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.'" *Id.* at *9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at *6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int'l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is ready for trial. *See Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In re Kemble)*, 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass'n v. Sanders (In re Santa Clara Cty. Fair Ass'n)*, 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

Debtor argues that federal court is the proper forum to determine nondischargability of the debt. This argument is well-taken, and only this court can determine whether Debtor's conduct results in the debt being nondischargeable under federal bankruptcy law. However, that does not mean that the bankruptcy court has to conduct the trial to determine what was Debtor's conduct. The federal courts apply the principles of Collateral Estoppel under the Doctrine of Res Judicata when the trial to determine

the debt is conducted outside the bankruptcy court. *See Cal-Micro, Inc. v. Cantrell*, 329 F.3d 1119, 1123 (9th Cir. 2003); *In re Harmon*, 250 F.3d 1240, 1245 (9th Cir. 2001); *Robertson v. Isomedix, Inc. (In re International Nutronics)*, 28 F.3d 965 (9th Cir. 1994); *Clark v. Bear Sterns & Co.*, 966 F.2d 1318, 1320 (9th Cir. 1992).

Movant states that the State Court Complaint was amended only three months ago in January 2019. Movant states that the other defendant in the State Court Action is United Global, LLC, which is owned and was managed by Debtor. United Global, LLC is a debtor in its own bankruptcy case - Chapter 7 case no. 18-27710. The Chapter 7 Trustee has given notice that the United Global, LLC bankruptcy is an "asset case" and creditors are to file proofs of claim. 18-27710; Notice to File Proofs of Claim, Dckt. 7. Thus, it will be necessary to adjudicate Movant's claim in that case unless that debtor and the Chapter 7 trustee do not object to the claim filed in that case.

Debtor, as managing member, having made the interesting strategy decision to have his limited liability company, which cannot obtain a Chapter 7 discharge, file a Chapter 7 case has presented Movant with a unique opportunity.

While Movant could try to wade through years of litigation in the State Court, being bumped for criminal cases and other priority matters, Movant could "rocket" to trial in the bankruptcy court before a federal judge which Congress has created to expeditiously resolve bankruptcy and non-bankruptcy law related matters expeditiously for the parties. With a few tweaks (such as using direct testimony statements which speed up the trial by fleshing out authenticating evidence, laying the foundation for testimony, and establishing the qualifications of experts) in the federal trial process, whether in the district court or bankruptcy court, the trial experience is the same (except that it happens more quickly than in the district court, again due to the bankruptcy judge being dedicated to the parties in the bankruptcy case).

Interestingly, Movant has not provided a copy of the State Court Complaint as an exhibit in support of the Motion. This court is not sure what is currently be prosecuted in the State Court Action.

At the prior hearing, the court continued the hearing on the Motion to allow the parties to discuss whether the claims raised in the State Court Litigation should be brought to federal court. Nothing has been filed since the prior hearing.

Counsel for Movant reported **xxxxxxxxxxxxxxxxxxx**

~~The court shall issue an order modifying the automatic stay as it applies to Debtor to allow Movant to continue the State Court Litigation. The automatic stay is not modified with respect to enforcement of the judgment against Debtor, David Cusick ("the Chapter 13 Trustee"), or property of the bankruptcy estate. Any judgment obtained shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.~~

~~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 Gazelle Schreiber ("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 modified as applicable to Mark Williams Evans and Renee Evans ("Debtor") to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors to proceed with Movant's case against United Global, LLC and Debtor in Sacramento County Superior Court, Case Number 34-2018-00240345 .

IT IS FURTHER ORDERED that the automatic stay is not modified with respect to enforcement of any judgment against Debtor, David Cusick ("the Chapter 13 Trustee"), or property of the bankruptcy estate. Any judgment obtained by Movant shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.

No other or additional relief is granted.

3. **18-26585-E-13** **JULIAN PEREZ** **CONTINUED MOTION FOR RELIEF**
JCW-1 **Mark Wolff** **FROM AUTOMATIC STAY**
3-13-19 [53]

MIDFIRST BANK VS.

No Tentative 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).

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and Chapter 13 Trustee on March 13, 2019. 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). 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 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 XXXXXXXXX

MidFirst Bank ("Movant") seeks relief from the automatic stay with respect to Julian Perez's ("Debtor") real property commonly known as 4412 Pinckney Way, Mather, California ("Property"). Movant has provided the Declaration of Crystal Baker to introduce evidence to authenticate the

documents upon which it bases the claim and the obligation secured by the Property.

The Baker Declaration states that there are 4 post-petition defaults in the payments on the obligation secured by the Property, with a total of $8,550.44 in post-petition payments past due.

CHAPTER 13 TRUSTEE'S RESPONSE

The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Response on April 2, 2019. Dckt. 60. Trustee requests the court consider the petition in this case was filed incomplete and remains as such; Debtor has made no payments into the plan; Debtor has not appeared at any Meeting of Creditors; and the court's Order To Show Cause was continued to April 4, 2019.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on April 11, 2019. Dckt. 67. Debtor requests a continuance to file an opposition to the Motion, and states the following:

1. Debtor filed this case with the assistance of Mr. Alan Davis, who Debtor hired to assist him in resolving a mortgage delinquency. Debtor did not realize until attending the hearing on the court's Order To Show Cause that Mr. Davis was scamming him.

2. Debtor now wishes to proceed with the Chapter 13 case, and is represented by counsel. Debtor is meeting with his new counsel April 15, 2019 to complete the filing documents.

3. Debtor was advised this case was dismissed.

4. Debtor desires to continue the Chapter 13 case to pay his mortgage and cure arrearages, as well as pay other claims totaling $8,000.00. Debtor believes there is equity in the Property, and can afford to make the plan payments.

APRIL 16, 2019 HEARING

After the first hearing on April 16, 2019 the court issued an Adequate Protection Order requiring Trustee to disburse to Movant from the monthly Chapter 13 Plan payment $2,137.61, the amount of the regular monthly mortgage payment, and $650.00 additional amount to be applied to the arrearage on this claim. Order, Dckt. 76.

DEBTOR'S SUPPLEMENTAL OPPOSITION

Debtor filed a supplemental Opposition on May 7, 2019. Dckt. 89. Debtor states a Chapter 13 Plan has been filed which proposes to cure all Movant's arrearages; Debtor has roughly $40,000.00 of equity in the Property; the Trustee made two distributions to Movant on April 26, 2019 in the amounts

of $650.00 and $2,137.61, and an additional distribution of $158.00 on May 1, 2019.

DISCUSSION

Debtor has provided evidence that the disbursements required by the court's Adequate Protection Order (Dckt. 76) have been made. Dckt. 90.

Furthermore, in reviewing the docket the Trustee filed a Non-Opposition to Debtor's Motion To Confirm Chapter 13 Plan on May 16, 2019. Dckt. 92. The proposed Plan provides for Movant as having a Class 1 Claim, with monthly arrearage payments of $648 and currently post-petition monthly payments of $2,137.61. Plan ¶ 3.07(c), Dckt. 72.

At the hearing, xxxxxxxxxxxxxx.

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 MidFirst Bank ("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 Motion is **XXXXXXX**.

4. **14-31894-E-13** **MOISES ARTEAGA** **MOTION FOR RELIEF FROM**
KZ-1 **Mary Ellen Terranella** **AUTOMATIC STAY**
4-18-19 [48]

US BANK TRUST, N.A. VS.

Tentative Ruling: 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.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient 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 April 18, 2019. By the court's calculation, 33 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief from the Automatic Stay is granted.

US Bank Trust National Association as trustee of Bungalow Series III Trust ("Movant") seeks relief from the automatic stay with respect to Moises Arteaga 's ("Debtor") real property commonly known as 200 Poplar Street, Vacaville, California ("Property"). Movant has provided the Declaration of Raymond Valderrama to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. [FN.1.]

The Raymond Valderrama, Declaration states that there are 9 post-petition defaults in the payments on the obligation secured by the Property, with a total of $10,599.93 in post-petition payments past due.

FN.1. The Declaration and Exhibits were filed as a 55 page "mega pleading." That is not the practice in the Bankruptcy Court. "Motions, notices, objections, responses, replies, declarations, affidavits, other documentary evidence, exhibits, memoranda of points and authorities, other supporting documents, proofs of service, and related pleadings shall be filed as separate documents." LOCAL BANKR. R. 9004-2(c)(1). Counsel is reminded of the court's expectation that documents filed with this

court comply as required by Local Bankruptcy Rule 9004-1(a). Failure to comply 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 that can then be used by the court.

TRUSTEE'S RESPONSE

The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Response on May 7, 2019. Dckt. 53. Trustee notes Movant is provided for in the Confirmed Plan as a Class 4, and states relief may not be necessary.

DEBTOR'S OPPOSITION

Debtor filed an Opposition to the Motion on May 7, 2019. Dckt 55. Debtor states he fell delinquent in payments to Movant due to unforseen medical and travel expenses after his mother fell ill. Debtor states further his mother's health has stabilized; he has $3,000.0 to put towards the $11,662.00 delinquency in payments; he has applied for a hardship withdrawal of retirement funds through his employer to pay the remaining delinquency; and the Property is Debtor's residence which is necessary for an effective reorganization.

DISCUSSION

In this case the court issued an Order Confirming the Chapter 13 Plan on February 18, 2015. Dckt. 26. The Plan provided for Movant's claim as a class 4, and stated the following with respect to Class 4 claims:

> "Class 4 claims mature after the completion of this plan, are not in default, and are not modified by this plan. These claims shall be paid by Debtor or a third person whether or not the plan is confirmed. **Upon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract.**

Plan, Dckt. 6.

As stated above, the stay was modified by confirmation of the Plan, and the modification is for the limited purpose of the holder of a Class 4 Claim asserting its rights against its collateral.

The court recognizes that creditors may need an order specifying the continuing effect and

modification of an automatic say when state recording and filing law come into play, as well as for title insurance purposes.

The Ninth Circuit Court of Appeal has recognized the basic "discretion is the better part of valor" principle when it comes to the automatic stay. Seeking a separate order clearly specifying the scope of the relief granted in the Plan is not inappropriate.

The Motion is granted, the court confirming that "all bankruptcy stays are modified to allow [Movant] the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Confirmed Chapter 13 Plan, Dckt. 6; Order Confirming, Dckt. 26.

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 US Bank Trust National Association as trustee of Bungalow Series III Trust ("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 Motion is granted, the court confirming that "all bankruptcy stays are modified to allow [Movant] the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Confirmed Chapter 13 Plan, Dckt. 6; Order Confirming, Dckt. 26.

5. **19-21976-E-7 DNL-5** **CONQUIP, INC.** **MOTION FOR AUTHORITY TO DISPOSE OF BUSINESS RECORDS O.S.T. 5-9-19 [46]**

Tentative Ruling: 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)(C).

Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, creditors, and Office of the United States Trustee on May 10, 2019. The court set the hearing for May 21, 2019. Dckt. 53.

The Motion For Authority To Dispose Of Business Records was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing ----------.

The Motion For Authority To Dispose Of Business Records is granted.

The Chapter 7 Trustee, J. Michael Hopper ("Trustee"), filed this Motion seeking authority to (1) abandon certain the business records, pursuant to 11 U.S.C. § 554(a), which the Debtor's principals desire to accept possession identified as the "old project file," and (2) dispose of the remaining business records of the Estate.

DISCUSSION

After notice and hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(a). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

Here the Trustee reports that the business records have no economic value and therefore are of inconsequential value and benefit to the Estate . Therefore, the Motion is granted and the court authorizes Trustee to abandon the portion of the business records identified as the "old project file" which Debtor's principals expressed a desire to retain.

However, the court is not provided with a list of the "old project file" records or some other object way of identifying them. Therefore, the court authorizes the Trustee to abandon any and all of the Debtor's records to the Debtor. The Trustee shall provide the principals of the Debtor at least **xxxx** days' notice to pick up any records they want to take possession of before the trustee destroys them. In the event that the Debtor wants records the Trustee is not prepared to immediately abandon, the principals of the Debtor and the Trustee shall enter into a (simple) written agreement: (1) identifying any records that the Trustee will subsequently abandon, and (2) specify the written notice period the Trustee will provide the Debtor that the records may be picked up from the Trustee.

The court also authorizes the Trustee to destroy and otherwise appropriately dispose of any records not picked up by the Debtor when the Trustee determines that they are of no further use or benefit to the estate.

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 Authority To Dispose Of Business Records filed by Chapter 7 Trustee, J. Michael Hopper ("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 the Motion is granted, and the Trustee to abandon any and all of the Debtor's records to the Debtor. The Trustee shall provide the principals of the Debtor at least **xxxx** days notice to pick up any records they want to take possession of before the trustee destroys them. In the event that the Debtor wants records the Trustee is not prepared to immediately abandon, the principals of the Debtor and the Trustee shall enter into a (simple) written agreement: (1) identifying any records that the Trustee will subsequently abandon, and (2) specify the written notice period the Trustee will provide the Debtor that the records may be picked up from the Trustee.
>
> **IT IS FURTHER ORDERED** that the Trustee is authorized to destroy and otherwise appropriately dispose of any records not picked up by the Debtor when the Trustee determines that they are of no further use or benefit to the estate.

6. **19-21976-E-7** **CONQUIP, INC.** **MOTION FOR AUTHORITY TO EXPEND ESTATE FUNDS AND REIMBURSE TRUSTEE EXPENSES O.S.T.**
DNL-6 **5-9-19 [50]**

Tentative Ruling: 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)(C).

Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, creditors, and Office of the United States Trustee on May 10, 2019. The court set the hearing for May 21, 2019. Dckt. 54.

The Motion To Expend Estate Funds and Reimburse Trustee Expenses was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing **----------**.

The Motion To Expend Estate Funds and Reimburse Trustee Expenses is granted.

The Chapter 7 Trustee, J. Michael Hopper ("Trustee"), filed this Motion seeking authority to (1) use $7,500.00 of Estate funds to pay for the disposal of business records, maintenance of utilities, and for information technology services; and (2) reimburse the Trustee $3,086.13 in advanced expenses for the restoration of utilities and server operations.

The Motion states with particularity the following grounds:

1. The debtor, ConQuip, Inc. ("Debtor") operated a manufacturing

business.

2. Personal property of the Estate used in the business is located at 11255 Pyrites Way, Suite 100, Gold River, California ("Property"). There is computer equipment on the Property which includes a server leased from CIT (the "Server").

3. Trustee expended $3,086.13 to restore power at the Property and get the Server back up and running. Keeping power running is necessary for impending auction to sell personal property located at the Property which the court has authorized.

4. The use of funds to pay for the disposal of business records, maintenance of utilities, and for information technology services is necessary to ensure the auction occurs.

5. The $3,086.13 in advanced expenses for the restoration of utilities and server operations was necessary for the Trustee to administer the Estate.

Motion, Dckt. 50.

Request for Reimbursement

Pursuant to 11 U.S.C. § 330(a)(1)(B), the court may award the trustee reimbursement for actual, necessary expenses.

Here, Trustee asserts that he had to pay $3,086.13 for the restoration of power at the Property. Declaration, Dckt. 52. Trustee states this was necessary to restore access to the Server, information stored thereon, and other business software. *Id*.

Trustee has demonstrated the expense advanced was actual and necessary. In paying the expense for the restoration of power, Trustee allowed the administration of assets of the Estate to proceed.

Therefore, Trustee is allowed, and the Chapter 7 Trustee is authorized to pay, $3,086.13 in costs pursuant to 11 U.S.C. § 330.

Request for Use of Estate Funds to Dispose of Records

The same day as the hearing on this Motion, Trustee has filed a Motion seeking to abandon some of the business records back to the Debtor and dispose of the remaining records. Dckt. 46. A review of the docket shows the court has granted that Motion and authorized Trustee to dispose of the records.

The amount of funds sought, $7,500.00, is not explained with reference to the expenses

sought to be paid. It is unstated what portion of the requested funds is being put towards disposal of business records, maintenance of utilities, or for information technology services.

However, the amount sought is reasonable in relation to the expenses identified. Therefore, Trustee is authorized pursuant to 11 U.S.C. § 363 to use $7,500.00 of Estate funds to pay for the disposal of business records, maintenance of utilities, and for information technology services.

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 To Expend Estate Funds and Reimburse Trustee Expenses filed by Chapter 7 Trustee, J. Michael Hopper ("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 J. Michael Hopper, the Chapter 7 Trustee, is allowed the following expenses as a professional of the Estate:
>
> J. Michael Hopper, the Chapter 7 Trustee,
>
> Expenses in the amount of $3,086.13,
>
> pursuant to 11 U.S.C. § 330 as reimbursement for actual and necessary expenses of the Estate.
>
> **IT IS FURTHER ORDERED** that Trustee is authorized to pay expenses allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.
>
> **IT IS FURTHER ORDERED** that Trustee is authorized pursuant to 11 U.S.C. § 363 to use $7,500.00 of Estate funds to pay for the disposal of business records, maintenance of utilities, and for information technology services.

7. **19-22653-E-13** **REECE/RODINA VENTURA**
Peter Macaluso

STATUS CONFERENCE RE: VOLUNTARY PETITION
4-28-19 [1]

Related Item To Extend Automatic Stay
on 3:00 p.m. May 21, 2019 Calendar

The Status Conference is xxxxx.

CASE HISTORY

Reece Ventura and Rodina Cordero Ventura, the Chapter 13 Debtors, commenced this bankruptcy case on April 28, 2019. This is not their first recent Chapter 13 case, having filed a prior Chapter 13 case on August 24, 2018. Bankr. E.D. Cal. 18-25342 ("Prior Chapter 13 Case"). The Prior Chapter 13 Case was dismissed on February 2, 2019, on the motion of the Chapter 13 Trustee. 18-25342; Motion, Dckt. 105; Order, Dckt. 106. The grounds stated in the Motion were that the Debtor had failed to convert the case to one under Chapter 7 or file a motion to convert to Chapter 11 within the deadline set by the court.

In the Prior Chapter 13 Case in connection with denying the Debtors' motion to confirm a Chapter 13 Plan, the court concluded that the amount of unsecured claims in this case exceeded the statutory amount permitted under 11 U.S.C. § 109(e). As stated in the Civil Minutes in the Prior Chapter 13 Case:

> Discussion
>
> Chapter 13 eligibility focuses on the amount of debt held by a debtor at the commencement of the bankruptcy case. The relevant part of § 109(e) states that "[o]nly an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $394,725(*) . . . may be a debtor under chapter 13 of [Title 11]." 11 U.S.C. § 109(e). Chapter 13 eligibility is normally determined as of the petition date by a review of the originally filed schedules. *Scovis v. Henrichsen (In re Scovis)*, 249 F.3d 975, 982 (9th Cir. 2001). However, if a bad-faith objection is raised by a party in interest, the bankruptcy court should look past the schedules so long as the debt computation for eligibility is determined as of the petition date. *Guastella*, 341 B.R. at 918. Eligibility debt limits are strictly construed. *Soderlund v. Cohen (In re Soderlund)*, 236 B.R. 271, 274 (B.A.P. 9th Cir. 1999).

. . .

> Excluding the $1.00 Gaunia claim and the $1.00 Villanueva claim, Schedules E/F lists unsecured debt totaling $319,663.26. None of that unsecured debt is scheduled as contingent or unliquidated which means for purposes of this motion it is all noncontingent and liquidated. As noted above, the court is aware that the Debtors dispute the Gaunia and Villanueva debts. However, disputed debts are not excluded from the eligibility analysis. *Sylvester v. Dow Jones & Co., Inc. (In re Sylvester)*, 19 B.R. 671, 673 (B.A.P. 9th Cir. 1982); *see also Nicholes v. Johnny Appleseed of Wash. (In re Nicholes)* , 184 B.R. 82, 90-91 (B.A.P. 9th Cir. 1995). Moreover, the Gaunia and Villanueva proofs of claim are presumptively valid as to their amount unless and until there is a sustained objection. See FED. R. BANKR. P. 3001(f). But an objection to the proofs of claim is a postpetition event and in determining eligibility the court does not look to postpetition events. *Slack v. Wilshire Ins. Co. (In re Slack)*, 187 F.3d 1070, 1073 (9th Cir. 1999).
>
> The Gaunia and Villanueva proofs of claim assert unsecured debt as of the petition date totaling $303,793.34. Adding that to the other $319,663.26 of unsecured debt included on Schedule E/F, the Debtors' noncontingent, liquidated unsecured debt totals $623,456.60. That amount clearly exceeds the § 109(e) statutory eligibility limit which means the Debtors are ineligible for Chapter 13 relief.

Id.; Civil Minutes, Dckt. 96.

In the Prior Chapter 13 Case the two most active creditors were Benjamin Zamora Villanueva and Adela Bon Gaunia, who were represented by Cindy Lee Hill, Esq. and Michael J. Harrington, Esq. These creditors filed a single motion for a 2004 examination of nine different entities. The first judge to whom the Prior Chapter 13 Case was assigned signed an order authorizing the nine different 2004 examinations. During the short duration of the Prior Chapter 13 Case, these creditors filed five more motions for 2004 examination.

REVIEW OF SCHEDULES IN CURRENT CHAPTER 13 CASE

On the Petition filed in this case, Debtor Reece Ventura, an individual, states that he has formerly done business as: RML CHILDRENS HOME I, RML CARE GROUP, INC., and RML Group Home, a CA Partnership. Dckt. 1 at 2. The court is uncertain how an individual does business as a corporation or partnership. Debtor Reece Ventura goes further to state under penalty of perjury that he is a sole proprietorship with the name RML CHILDRENS HOME, INC., RML CARE GROUP, INC. *Id.* at 4. Again, the court is unsure as to how this Debtor purports to be a corporation.

On Schedule A/B, Debtors list having the following corporations, which have a collective value of $1.00:

> RML CHILDRENS HOME I, INC., RML CHILDRENS HOME INC., MH CHILDREN HOME, INC., RML CARE GROUP, INC., RML CHILDRENS HOME, INC.; NO ASSETS OF ANY VALUE, SHELL CORP. - PENDING BANKRUPTCY CHAPTER 7.

Dckt. 1 at 17. Debtors also list an asset with a value of $1.00 described as "RML Group Home, a CA General Partnership- presently facing suit #34-2016-00201364." *Id.*

On Supplemental Schedule I, Debtor Reece Ventura states that he has been employed by the corporation RML Childrens Home, Inc. for six years. Dckt. 1 at 55. Curiously, this "Supplemental Schedule I" is the first one filed in this case. Additionally, it purports a "change" in what was the original amount stated, with that "change" being effective as of November 12, 2018 - six months before this case was filed.

Though employed by a corporation, Reece Ventura states that he receives no wages, salary, or commission for his work done for RML Childrens Home, Inc. Further on Schedule I, Debtor Reece Ventura states that he has net monthly income of $11,250.00 from some business. Debtor Reece Ventura has not attached the required income and expense statement for the business.

Debtor Rodina Ventura states on Schedule I that she is employ by an entity named "RML Pebble Group Home," for which she is paid no wages, salary, or commission. There is no income shown for Debtor Rodina Ventura on Schedule I.

At the bottom of Schedule I, Debtors make the following statement: "DEBTOR HAS NOT PREVIOUSLY HAD EMPLOYER DEDUCT TAXES FROM PAYROLL CHECK." *Id.* at 56. The court is uncertain of a basis for a corporate employer to exempt itself from the tax withholding laws.

On Schedule J, Debtors list having four dependents - to adults and two children in their late teens. *Id.* at 57. Debtor provides Schedule J for the $11,250.00 a month in net income, which is $135,000.00 annually, monthly payments of $500.00 for self-employment taxes, with nothing for state and federal income taxes.

On Schedule F, Debtors appear to be uninformed about the obligations they owe, stating an obligation of $1.00 for each of the following creditors:

> Ahmad Mohand
> Alex Kern
> Alfredo Bonifacio
> Ali Naiern
> Anabeth Villavert
> Andrew Spiva
> Austin Magdaleno
> Belinda Sibal
> Bill Cabading
> Brody Martinez
> Cesar Coloma

Chad Cordero
Chakia Davies
Christopher Acholonu
Eller Bagang
Eric Warren Clarke
Erwin Bagang
Farhan Begg
George Clamor
Jamie Hicks
Joeper Marfino
Johnny Syprasueth
Jomar Yigaya
Jose Marfino
Joseph Peralta
Kekoa Pecson
Mabt/contfin
Marisa Ferolino
Mohela/dept Of Ed
Narlene Del Mundo
Overstock.com
Rebecca Rodriguez
Reynoaldo Puriran
Ronald Cruz
Teodora Marfino
Tido Financial
Tony Prasethsy
Universal Re
Uscb America
Verve

For the unsecured claims, Debtors compute having $65,920.34 in priority unsecured claims and $406,860.50 in general unsecured claims. Dckt. 1 at 52. For the unsecured claim of Adela Bon Gaunia, Debtors list it as being in the amount of $149,718.00, stating that it is contingent, unliquidated, and disputed, with it being based on Proof of Claim No. 5 in the Prior Chapter 13 Case, and that it is not subject to a judgment. *Id.* at 25.

A review of Proof of Claim No. 5 from the Prior Chapter 13 Case discloses the obligation asserted by Adela Gaunia to be:

a. $149,718.63 for wages, penalties, and interest for the period June 21, 2013, through March 6, 2015.

b.

While disputed by the Debtor, it appears that the claim being asserted is liquidated and is not contingent.

The monetary limits for Chapter 13 cases stated in 11 U.S.C. § 109(e) are noncontingent,

liquidated, unsecured debts of less than $ 419,275.00 and noncontingent, liquidated, secured debts of less than $ 1,257,850.00. Here, Debtors list $406,860.50 in general unsecured claims, with the long list of $1.00 claims.

ORDER SETTING STATUS CONFERENCE

After reviewing the prior case history and the current Chapter 13 case the court issued an Order setting a status conference for May 21, 2019 at 1:30 p.m. Order, Dckt. 30. For the status conference, the court ordered that Reece Ventura, Rodina Cordero Ventura, Benjamin Zamora Villanueva, Adela Bon Gaunia, Peter G. Macaluso, Esq., Cindy Lee Hill, Esq. and Michael J. Harrington, Esq., and each of them, shall appear in person -No Telephonic Appearances Permitted. *Id*.

DISCUSSION

At the hearing, xxxxxxxxxxxxxx.

8.	**19-22653-E-13** **CLH-1**	**REECE/RODINA VENTURA** **Peter Macaluso**	**MOTION FOR EXAMINATION AND FOR PRODUCTION OF DOCUMENTS** **5-6-19 [10]**

Tentative Ruling: 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)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

The court issued an Order setting the hearing on the Motion for May 21, 2019 on 14 days' notice. Dckt. 10.

The Motion For 2004 Examination Order is xxxxx.

Creditors Benjamin Zamora Villanueva and Adela Bon Gaunia filed an Application for Order Authorizing Rule 2004(a) Examination and Production of Documents on May 6, 2019. Dckt. 10.

The court issued an Order on May 15, 2019, setting the Application for hearing and requiring the attendance of the parties and counsel. Dckt. 28. The Order stated the following:

CASE HISTORY

Reece Ventura and Rodina Cordero Ventura, the Chapter 13 Debtors, commenced this bankruptcy case on April 28, 2019. This is not their first recent Chapter 13 case, having filed a prior Chapter 13 case on August 24, 2018. Bankr. E.D. Cal. 18-25342 ("Prior Chapter 13 Case"). The Prior Chapter 13 Case was dismissed on February 2, 2019, on the motion of the Chapter 13 Trustee. 18-25342; Motion, Dckt. 105; Order, Dckt. 106. The grounds stated in the Motion were that the Debtor had failed to convert the case to one under Chapter 7 or file a motion to convert to Chapter 11 within the deadline set by the court.

In the Prior Chapter 13 Case in connection with denying the Debtors' motion to confirm a Chapter 13 Plan, the court concluded that the amount of unsecured claims in this case exceeded the statutory amount permitted under 11 U.S.C. § 109(e). As stated in the Civil Minutes in the Prior Chapter 13 Case:

> Discussion
>
> Chapter 13 eligibility focuses on the amount of debt held by a debtor at the commencement of the bankruptcy case. The relevant part of § 109(e) states that "[o]nly an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $394,725(*) . . . may be a debtor under chapter 13 of [Title 11]." 11 U.S.C. § 109(e). Chapter 13 eligibility is normally determined as of the petition date by a review of the originally filed schedules. *Scovis v. Henrichsen (In re Scovis)*, 249 F.3d 975, 982 (9th Cir. 2001). However, if a bad-faith objection is raised by a party in interest, the bankruptcy court should look past the schedules so long as the debt computation for eligibility is determined as of the petition date. *Guastella*, 341 B.R. at 918. Eligibility debt limits are strictly construed. *Soderlund v. Cohen (In re Soderlund)*, 236 B.R. 271, 274 (B.A.P. 9th Cir. 1999).
> . . .
>
> Excluding the $1.00 Gaunia claim and the $1.00 Villanueva claim, Schedules E/F lists unsecured debt totaling $319,663.26. None of that unsecured debt is scheduled as contingent or unliquidated which means for purposes of this motion it is all noncontingent and liquidated. As noted above, the court is aware that the Debtors dispute the Gaunia and Villanueva debts. However, disputed debts are not excluded from the eligibility analysis. *Sylvester v. Dow Jones & Co., Inc. (In re Sylvester)*, 19 B.R. 671, 673 (B.A.P. 9th Cir. 1982); *see also Nicholes v. Johnny Appleseed of Wash. (In re Nicholes)* , 184 B.R. 82, 90-91 (B.A.P. 9th Cir. 1995). Moreover, the Gaunia and Villanueva proofs of claim are presumptively valid as to their amount unless and until there is a sustained objection. See FED. R. BANKR. P. 3001(f). But an objection to the proofs of claim is a postpetition event and in determining eligibility the court does not look to postpetition events. *Slack v. Wilshire Ins. Co. (In re Slack)*, 187 F.3d 1070, 1073 (9th Cir. 1999).
>
> The Gaunia and Villanueva proofs of claim assert unsecured debt as of the petition date totaling $303,793.34. Adding that to the other $319,663.26 of unsecured debt included on Schedule E/F, the Debtors' noncontingent, liquidated unsecured debt totals $623,456.60. That amount clearly exceeds the § 109(e) statutory eligibility limit which means the Debtors are ineligible for Chapter 13 relief.

Id.; Civil Minutes, Dckt. 96.

In the Prior Chapter 13 Case the two most active creditors were Benjamin Zamora Villanueva and Adela Bon Gaunia, who were represented by Cindy Lee Hill, Esq. and Michael J. Harrington, Esq. These creditors filed a single motion for a 2004 examination of nine different entities. The first judge to whom the Prior Chapter 13 Case was assigned signed an order authorizing the nine different 2004 examinations. During the short duration of the Prior Chapter 13 Case, these creditors filed five more motions for 2004 examination.

REVIEW OF CURRENT MOTION TO 2004 EXAMINATION

On May 6, 2019, creditors Benjamin Zamora Villanueva and Adela Bon Gaunia("Creditors") filed a shotgun motion for authorization to conduct multiple 2004 examinations of multiple parties.

Dckt. 10. The various different persons rolled into the one motion are stated to be:

> Reece Ventura
> Rodina Cordero Ventura
> RML Childrens Home, Inc custodian of records
> The Persons Most Knowledgeable as to the Creation, Storage and Production of Documents for RML Childrens Home, Inc
> RML Care Group Inc. custodian of records
> The Persons Most Knowledgeable as to the Creation, Storage and Production of Documents for RML Care Group Inc.
> RML Group Home, a California Partnership custodian of records
> The Persons Most Knowledgeable as to the Creation, Storage and Production of Documents for RML Group Home, a California Partnership
> RML Childrens Home 1 Inc, custodian of records
> The Persons Most Knowledgeable as to the Creation, Storage and Production of Documents for RML Childrens Home 1 Inc
> MH Children Home Inc. custodian of records
> The Persons Most Knowledgeable as to the Creation, Storage and Production of Documents for MH Children Home Inc
> RML Group Care Inc. custodian of records
> The Persons Most Knowledgeable as to the Creation, Storage and Production of Documents for RML Group Care Inc
> RML Pebble Group Home custodian of records
> The Persons Most Knowledgeable as to the Creation, Storage and Production of Documents for RML Pebble Group Home
> The Person most knowledgeable regarding the bank records, statements, deposit instruments, and canceled checks for all accounts maintained by the Debtors or the business entities since January 1, 2006.

Motion, p. 2:23-27, p. 3:1-10; Dckt. 10. The court has retained the formatting as set forth in the Motion, which creates an almost indistinguishable block of text.

From some or all of these entities buried in this block of text, Creditors say that the following

documents will have to be produced:

a. Copies of all documents, statements, emails, evidence of transfers, recordings, or other documents which provide evidence of any indebtedness from Debtors to the entities named above or payment to or from said entities either on such or related to such indebtedness including but not limited to bank statements from all financial institutions used by Debtor such as checks, check registers, electronic transfers, cash receipts, from Debtor and the entities named in paragraph 5 above.
b. All the LIC-200. 203 and 500 forms for each facility operated by Debtors from January 1, 2006 to the present.
c. All contracts with Alta Regional for the Debtors facilities.
d. Payment records reflecting payments from Alta Regional to Debtors, or any of the entities referred to in paragraph 5 above for any individual receiving services in a facility operated by Debtors from Jan 1, 2006 through the present.
d. The Articles of Incorporation for any of the entities referred to in paragraph 5 and the Bylaws for said entities.
e. Any Shareholder Agreement for any of the entities referred to in paragraph 5 .
f. All contracts, statements or documents evidencing any loan from any of the entities referred to in paragraph 5 to Debtors, or from Debtors to any of said entities.
g. All documents comprising leases or rental agreements between Debtors and any of the entities referred to in paragraph 5 for any Debtors facility.
h. All documents comprising leases or rental agreements between Debtors and or any of the entities referred to in paragraph 5 for any of businesses operated by Debtors.
i. All documents comprising a lease or rental agreement for any facility or property where Debtors had operated any facility from January 1, 2006 through the present.
j. All bank records, statements, deposit instruments, and canceled checks for all accounts maintained by the Debtors or the business entities since January 1, 2006.
k. All Quickbooks or other electronic accounting program data for all accounts maintained by the Debtors for themselves or their business entities since January 1, 2006.
I. All timesheets and other employment records as they relate to Creditor Benjamin Zamora Villanueva and/or Adela Bon Gauria, maintained by Debtors or Debtors corporations from October 1, 2010, through the present.
m. All budgets, tax returns, and profit and loss statements prepared by or on behalf of Debtors and/or their corporations, LLCs, LLPs or partnerships during the years 2012, 2013, 2014, 2015, 2016, and 2017.
n. All documents used by Debtors to support the claimed expenses on their J schedules and on their 2012 through 2018 tax returns.
o. All documents used by Debtors to support their income and expense schedules or any Profit and Loss Statement that provided to either Creditors,

Trustee or the Court in this proceeding.
p. SIGNED copies of all Federal and State tax returns prepared for or on behalf of Debtor covering the period January 1, 2006, through current, including all documents reviewed by Debtors and tax preparation representatives, and relied upon to prepare such tax returns.
q. All documents concerning any construction or remodeling done or commissioned by or paid for by Debtors, on any properties where it has conducted business since January 1, 2006.
r. All rental applications, together with any supporting documents, concerning any lease Debtors has entered into from January 1, 2006 to current.
s. Monthly statements, invoices, or payment logs for all leases of any type that Debtors has entered into, from January 1, 2006 to present.
t. Any and all documents concerning any loan application or credit line by Debtors, or by anyone acting on behalf of Debtors, from January 1, 2006 to present.
u. Applications for all insurance policies of any type submitted by Debtor Debtors, and the insurance companies' responses to those applications, from January 1, 2006 to current.
v. All insurance policies of any type issued to Debtors This includes the entire policy, declarations pages, mortgage loss payees, attachments, riders, or exclusions.
w. All documents concerning insurance claims submitted by Debtors to any insurance company, and the company's response, from January 1, 2006 to current.
x. All documents exchanged between Debtors and the State of California, Department of Health and Human Services, or Community Care Licensing, concerning the licensing and operation of any of the care homes operated by Debtor, from January 1, 2006 to present.
y. All documents concerning any other legal action Debtors has brought, or been sued in, from January 1, 2006 to the present.
z. Copies of all payments made by Debtors to any family member of Debtor from January 1, 2006 to present.
aa. All documents concerning Debtor's ownership of any real estate from January 1, 2006 to the present.

Id., p. 4:15-27, 5:1-26, 6:1-2. Again, counsel for Creditors has chosen to jam the text of documents together in a very difficult to read block, as if attempting to make it unreadable by the judge.

The reason that Creditors state they want to take these multiple examinations of these entities other than the Debtor is because they may support any oppositions to plans filed in this case. Additionally, it may produce evidence that the various corporations that Debtors have an interest in are their alter egos. Finally, the discovery is sought because it may provide grounds for conversion or dismissal of this bankruptcy case.

DISCUSSION

Federal Rule of Bankruptcy Procedure 2004(a) states that " On motion of any party in interest, the court may order the examination of any entity." The general requirements for a motion are stated in Federal Rule of Bankruptcy Procedure 9013. No basis is provided for lumping nine different persons in one motion and then lodging with the court one order collectively authorizing multiple 2004 examinations.