

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

June 26, 2018 at 1:30 p.m.

1. [18-22003](#)-C-13 OREDA HAGY MOTION FOR RELIEF FROM
[DBJ-1](#) Michael Hays AUTOMATIC STAY
5-15-18 [[31](#)]

GLENN DOSS VS.

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 - Hearing Required.

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 May 15, 2018. Twenty-eight days' notice is required. That requirement was met.

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). 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.

Glenn and Donna Doss seeks relief from the automatic stay with respect to the real property commonly known as 4940 Papaya Road, Forest Ranch, California.

The Debtor has not made 1 post-petition payments, with a total of

\$1,392.50 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 property is determined to be \$245,547.67 (including \$245,547.67 secured by movant's first trust deed), while the value of the property is determined to be \$300,000.00, as stated by the Debtor.

TRUSTEE'S RESPONSE

The Chapter 13 Trustee points out that the creditor is included in Class 4 of the proposed plan, meaning that they will be paid directly by the debtor. Trustee also asserts that the debtor is delinquent on plan payments, Trustee has objected to confirmation, and Trustee has filed a Motion to Dismiss.

DEBTOR'S RESPONSE

Debtor admits the arrears and claims that the creditor will be paid off in full from a loan the debtor's parents will take out on their own home. This process will take 120 days and the debtor requests that the court conditionally grant the relief from stay only if the debtor cannot fully repay the creditor in 120 days.

DISCUSSION

The court notes that the debtor proposed making adequate protection payments of \$1,531.75 as part of payment to the Trustee in an amended plan. An amended plan was filed on June 20, 2018. The debtor does not appear to have paid any funds to the creditors post petition. Absent evidence that the debtor will make adequate protection payments, the court is not inclined to grant a 120 day extension on the automatic stay.

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

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

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

No other or additional relief is granted by the court.

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

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

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

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Glenn and Donna Doss, their agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 4940 Papaya Road, Forest Ranch, California.

No other or additional relief is granted.

2. [17-24607](#)-C-13 KATHLEEN DAWSON
[VVF-1](#) W. Scott de Bie

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
6-11-18 [[79](#)]

MECHANICS BANK, INC. VS.

Tentative Ruling: The Motion to Value 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, Debtor's Attorney, Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on June 11, 2018. 14 days' notice is required.

The Motion for Relief from 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.

The for Relief from the Automatic stay is granted.

Mechanics Bank, Inc. seeks relief from the automatic stay with respect to a 2013 Hyundai Sonata motor vehicle.

The creditor states that the Debtor has not made 10 post-petition payments, with a total of \$2,700.00 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 property is determined to be \$14,008.10, while the value of the property is determined to be \$8,425.00.

The Trustee points out that the debtor discloses interest in a 2014 Hyundai Sonata but not a 2013 Hyundai Sonata. Further, Mechanics Bank filed a secured claim regarding a 2013 Hyundai Sonata. Debtor is delinquent under the terms of the confirmed plan.

The creditor filed a reply to the Trustee's response. The creditor

does not change its request for relief, namely relief from stay with respect to a 2013 Hyundai Sonata.

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

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

No other or additional relief is granted by the court.

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

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

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

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Mechanics Bank, Inc., its agents, representatives, and successors, and trustee under the agreement, and any other beneficiary or trustee, and their respective agents to exercise all of their non-bankruptcy rights with respect to the debtor's 2013 Hyundai Sonata.

No other or additional relief is granted.

3. [18-20612](#)-C-13 KEITH STEWART
Richard Kwun

MOTION TO VACATE DISMISSAL OF
CASE
6-1-18 [[82](#)]

Tentative provided by Judge Sargis

4. [17-27331](#)-C-13 LA KEISHA STEWART
Richard Kwun

MOTION TO VACATE DISMISSAL OF
CASE
6-1-18 [[114](#)]

Tentative provided by Judge Sargis

5. [18-22851](#)-C-13 FRED KAPING
[EAT-1](#) Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-25-18 [[20](#)]

WELLS FARGO BANK, N.A. VS.

Final Ruling: No appearance at the June 26, 2018 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 (*pro se*), Chapter 13 Trustee, and Office of the United States Trustee on May 25, 2018. Twenty-eight 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.

Wells Fargo Bank N.A. seeks relief from the automatic stay with respect to the real property commonly known as 1365 Shadow Rock Dr., Auburn, California.

The Debtor has not made 1 post-petition payment, with a total of \$3,191.71 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 property is determined to be \$589,290.33 (including \$589,290.33 secured by movant's first trust deed), while the value of the property is determined to be \$725,000.00, as stated in Schedules A and D filed by Debtor.

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

The Chapter 13 Trustee does not oppose the motion. Debtor filed a plan that does not include the property or the creditor and is on the wrong plan form and otherwise blank.

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

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

No other or additional relief is granted by the court.

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

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

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

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Wells Fargo Bank, N.A., its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 1365 Shadow Rock Dr., Auburn, California.

No other or additional relief is granted.

6. [18-22877](#)-C-13 MOISES CRISANTO CAMPOS
[JHW](#)-1 Muoi Chea

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
5-25-18 [[12](#)]

CAB WEST, LLC VS.

Final Ruling: No appearance at the June 26, 2018 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, and Office of the United States Trustee on May 25, 2018. Twenty-eight 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.

Cab West, LLC seeks relief from the automatic stay with respect to a 2016 Ford Fusion motor vehicle.

The vehicle was voluntarily surrendered on May 3, 2018. The debt owed to the creditor is, for the purposes of this motion for relief from stay, \$16,217.46.

The Trustee does not oppose the motion where the debtor's proposed plan does not include the creditor and debtor's statement of financial affairs indicates that the vehicle was voluntarily surrendered.

The debtor responded to the motion pointing out that the creditor included the following language in its Notice of Motion for Relief from Stay: "Movant seeks an Order of this Court allowing Movant to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral in accordance with non-bankruptcy law, subject to the limitation that any deficiency claim against Debtor or property of the estate shall not be pursued except by filing a proof of claim pursuant to 11 U.S.C. § 501."

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

No other or additional relief is granted by the court.

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

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

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

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Cab West, LLC, its agents, representatives, and successors, and trustee under the agreement, and any other beneficiary or trustee, and their respective agents to exercise all of their non-bankruptcy rights with respect to the 2016 Ford Fusion.

IT IS FURTHER ORDERED that the co-debtor stay provisions of 11 U.S.C. § 1301(a) are vacated to allow to allow Cab West, LLC, its agents, representatives, and successors, and trustee under the agreement, and any other beneficiary or trustee, and their respective agents to exercise all of their non-bankruptcy rights with respect to the 2016 Ford Fusion.

No other or additional relief is granted.

7. [18-22795](#)-C-13 SARAH GARLICK
[BRL-1](#) Peter Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-11-18 [[26](#)]

ANGELA LEE VS.

Thru #9

Tentative Ruling: The Motion to Value 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, Debtor's Attorney, Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on June 11, 2018. 14 days' notice is required.

The Motion for Relief from 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.

The for Relief from the Automatic stay is granted.

Kevin Kaixuan Liao and Xiaoyang Wang as Trustees of the Kevin Laixuan Liao and Xiaoyang Wang Revocable Trust; Angela Lee; Gemini Investment Management, LLC; Juwu Gao and Xiaoyan Huo; Yongliang Zhu and Hong Lu; Wanqing Wu and Ping Feng as Trustees of the Wanqing Wu and Ping Feng trust, Dated October 13, 2013; and Grace Hsiao-Ping Wu, ("Movants") seek relief from the automatic stay with respect to the real property commonly known as 20 Jessen Court, Kensington, California.

The Movants assert that the loan is owned by a co-debtor and the property is not owned by the debtor. The valuation of the property for the purposes of this motion is \$1,100,000.00. On June 28, 2017, the Jessen Trust executed a grant deed of the property to Jessen Court, LLC. The grant deed was executed by the debtor, as trustee of the Jessen Trust. The Movants request 11 U.S.C. § 362(d)(4) relief in the summary sheet, but no request for § 362(d)(4) relief appears in the moving papers.

The Trustee points out that the debtor disclosed the property in the plan and Schedule D but does not disclose any interest in Jessen Court Trust or Jessen Court LLC.

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

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

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

No other or additional relief is granted by the court.

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

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

The Motion for Relief From the Automatic Stay filed by the creditors 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 Kevin Kaixuan Liao and Xiaoyang Wang as Trustees of the Kevin Laixuan Liao and Xiaoyang Wang Revocable Trust; Angela Lee; Gemini Investment Management, LLC; Juwu Gao and Xiaoyan Huo; Yongliang Zhu and Hong Lu; Wanqing Wu and Ping Feng as Trustees of the Wanqing Wu and Ping Feng trust, Dated October 13, 2013; and Grace Hsiao-Ping Wu, their agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 20 Jessen Court, Kensington, California.

No other or additional relief is granted.

8. [18-22795](#)-C-13 SARAH GARLICK
[BRL](#)-2 Peter Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-11-18 [[34](#)]

TERESA MURPHY VS.

Tentative Ruling: The Motion to Value 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, Debtor's Attorney, Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on June 11, 2018. 14 days' notice is required.

The Motion for Relief from 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.

The for Relief from the Automatic stay is granted.

Teresa Murphy and Leslie Gee, ("Movants") seek relief from the automatic stay with respect to the real property commonly known as 1526-1530 Caramay Way, Sacramento, California.

The Movants assert that the loan is owned by a co-debtor and the property is not owned by the debtor. The valuation of the property for the purposes of this motion is \$650,000.00. The amount owed to Movants is approximately \$637,350.00.

The Trustee points out that the debtor disclosed the property and listed Escrow Services as the related secured creditor. Debtor also has listed a 100% ownership of REAT Holdings, Inc.

The Movants request 11 U.S.C. § 362(d)(4) relief on the basis that the loan was made to borrower REAT Holdings, Inc. and the proeprty is

currently held by REAT. The court is not convinced § 362(d)(4) relief is appropriate. The Movants have not shown that there was a transfer of ownership or other interest in the real property without consent of the creditor or court approval, nor have the Movants showed multiple bankruptcy filings affecting such property.

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

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

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

No other or additional relief is granted by the court.

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

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

The Motion for Relief From the Automatic Stay filed by the creditors 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 Teresa Murphy and Leslie Gee, their agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 1526-1530 Caramay Way, Sacramento, California.

No other or additional relief is granted.

9. [18-22795](#)-C-13 SARAH GARLICK
[BRL](#)-3 Peter Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-11-18 [[40](#)]

VIRGINIA GEE VS.

Tentative Ruling: The Motion to Value 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, Debtor's Attorney, Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on June 11, 2018. 14 days' notice is required.

The Motion for Relief from 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.

The for Relief from the Automatic stay is granted.

Virginia Ong Gee, Trustee of the Gee Trust Dated June 21, 1995; Eric X. Wen and Lilje D. Wen; and Teresa Murphy, and Leslie Gee, ("Movants") seek relief from the automatic stay with respect to the real property commonly known as 11398 Herbert Way, South Lake Tahoe, California.

The Movants assert that the loan is owned by a co-debtor and the property is not owned by the debtor. The valuation of the property for the purposes of this motion is \$200,000.00.

Movants assert that the loan was given to borrower Devin J Bolla and that the record title to the real property is currently held by Herbert Trust. On August 9, 2017, an Affidavit of Successor Trustee was recorded substituting the debtor as Trustee in place of Devon Boall Trustee in the Herbert Avenue Trust.

Movants requested 11 U.S.C. § 362(d)(4) relief in the Relief from

Stay Summary Sheet, but no request for § 362(d)(4) relief appears in the moving papers.

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

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

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

No other or additional relief is granted by the court.

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

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

The Motion for Relief From the Automatic Stay filed by the creditors 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 Virginia Ong Gee, Trustee of the Gee Trust Dated June 21, 1995; Eric X. Wen and Lilje D. Wen; and Teresa Murphy, and Leslie Gee, their agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 20 Jessen Court, Kensington, California.

No other or additional relief is granted.
