

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Fredrick E. Clement
Bankruptcy Judge

2500 Tulare Street, Fifth Floor
Department A, Courtroom 11
Fresno, California

WEDNESDAY

JULY 9, 2014

PRE-HEARING DISPOSITIONS

GENERAL DESIGNATIONS

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

MATTERS RESOLVED BEFORE HEARING

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. 11-61100-A-7 PENNEY NILMEIER
JDM-2
PENNEY NILMEIER/MV
JAMES MILLER/Atty. for dbt. MOTION TO AVOID LIEN OF UNIFUND
CCR PARTNERS
5-21-14 [[27](#)]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

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

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

2. 14-11903-A-7 ALVARO CORTEZ
TMT-1
TRUDI MANFREDO/MV
TRUDI MANFREDO/Atty. for mv. MOTION TO DISMISS CASE
5-29-14 [[17](#)]

No Tentative Ruling

3. 12-18810-A-7 JAMES MERCER
JDM-2
TRUDI MANFREDO/MV

GARY HUSS/Atty. for dbt.
JAMES MILLER/Atty. for mv.

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH JAMES RONNIE
MERCER
6-4-14 [[24](#)]

Tentative Ruling

Motion: Approve Compromise or Settlement of Controversy
Disposition: Denied without prejudice
Order: Prepared by moving party

All creditors and parties in interest have not received sufficient notice. The hearing on an approval of a compromise or settlement of a controversy must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a) (3).

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

4. 12-18810-A-7 JAMES MERCER
13-1082
MANFREDO V. ESTATE OF SUSAN E.
MERCER ET AL
JAMES MILLER/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
7-23-13 [[1](#)]

Final Ruling

The status conference is continued to August 27, 2014, at 9:00 a.m. to allow the Chapter 7 trustee to re-file her motion to approve controversy.

5. 14-12910-A-7 PATSY ESPINO

\$29.00 FEE PAID

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-16-14 [[11](#)]

Final Ruling

The past due portion of the filing fee in the amount of \$29.00 has been paid. The order to show cause is discharged.

JES-2
JAMES SALVEN/MV
6-10-14 [28]
ALFRED GALLEGOS/Atty. for dbt.

Final Ruling

Motion: Sell Property and Compensate Auctioneer
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Prepared by moving party

Property: 2005 Honda Accord

Sale Type: Public auction

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

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

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

When compensation is requested, though, the applicant for such compensation must be clearly identified in the notice. Fed. R. Bankr. P. 2002(c)(2). The notice of this motion merely describes the commission without stating the party to whom it will be paid. Although the notice of hearing identifies Baird Auctions and Appraisals as part of a description of the location at which the auction is to be held, the notice does not clearly state that Baird Auctions and Appraisals is the entity to whom the commission will be paid. One might infer that Baird is the applicant from the notice, but the notice in the future should not require creditors to infer such information when the rules require it to be stated expressly.

7. 14-12013-A-7 ELIAS VASQUEZ - VASQUEZ
NFG-1 AND ALICIA CHAVEZ -
ELIAS VASQUEZ - VASQUEZ/MV
NELSON GOMEZ/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT
6-5-14 [18]

Final Ruling

Motion: Compel Abandonment of Property of the Estate

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

Disposition: Continued to August 6, 2014

Order: Prepared by moving party pursuant to the instructions below

Business Description: Elias Vasquez Handyman, a sole proprietorship

Rule 6007(a) expressly requires a trustee or debtor in possession to provide notice to all creditors, indenture trustees, and any committees. But Rule 6007(b) does not specifically state who must receive notice of a motion to abandon property of the estate. See Fed. R. Bankr. P. 6007(a)-(b). But a motion under Rule 6007(b) seeks an order to compel the trustee to abandon property of the estate, the same action that is described in Rule 6007(a) and for which notice to creditors is required.

Because a motion under Rule 6007(b) requests a type of relief that under Rule 6007(a) requires notice to all creditors and parties in interest listed in Rule 6007(a), the same notice required by Rule 6007(a) should be required under when a party in interest seeks to compel the trustee to take such an action under Rule 6007(b). See *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 709-10 (9th Cir. 1986) (finding that a trustee's abandonment would not be effective without notice to creditors); *Hie of Effingham, LLC v. WBCMT 2007-C33 Mid America Lodging, LLC (In re Hie of Effingham, LLC)*, 490 B.R. 800, 807-08 (Bankr. S.D. Ill. 2013) (concluding that Rule 6007(b) incorporates service requirements of Rule 6007(a)); *In re Jandous Elec. Constr. Corp.*, 96 B.R. 462, 464-65 (Bankr. S.D.N.Y. 1989) (finding that parties in interest requesting abandonment of estate property for which a hearing is contemplated must provide notice to the parties listed in Rule 6007(a)).

Accordingly, the court requires all creditors and parties in interest described in Rule 6007(a), and the trustee pursuant to Rule 9014(a), to be provided notice of a motion requesting abandonment under Rule 6007(b). One of the persons to whom notice is required under Rule 6007(a) is the U.S. trustee. In this case, the U.S. trustee for the Sacramento division of this district was listed on the proof of service. Instead, the U.S. trustee for the Fresno division should have been listed. The court will continue the hearing on this motion to August 6, 2014 to allow a supplemental notice to be sent to the U.S. trustee at the Fresno division no later than July 23, 2014.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master address list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master address list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct

addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

8. 14-12717-A-7 JAMES/MARLENE CLARK
MAZ-1
JAMES CLARK/MV
MARK ZIMMERMAN/Atty. for dbt.
MOTION TO AVOID LIEN OF CAPITAL
ONE BANK (USA) N.A.
6-4-14 [15]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

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

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

9. 14-12127-A-7 TERRI ESPARZA
TMT-1
TRUDI MANFREDO/MV
TRUDI MANFREDO/Atty. for mv.
MOTION TO DISMISS CASE
5-29-14 [14]

No Tentative Ruling

10. 11-18035-A-7 MADERA MEDICAL
DRJ-4 ASSOCIATES, INC.

MOTION FOR COMPENSATION FOR
DAVID R. JENKINS, TRUSTEE'S
ATTORNEY(S)
6-11-14 [76]

THOMAS ARMSTRONG/Atty. for dbt.

Final Ruling

Application: Final Compensation and Expense Reimbursement

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

Disposition: Approved in part only as to the amounts requested and denied in part as to the timing of payment

Order: Prepared by applicant

Applicant: David R. Jenkins

Compensation approved: \$8,800.00

Costs approved: \$109.80

Aggregate fees and costs approved in this application: \$8,909.80

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

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

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

To the extent that the motion requests an order requiring the trustee pay the amounts requested on or before the time that a presumption described in Rule 5009(a) arises or the court otherwise approves an early distribution, the court will deny the motion without prejudice.

11. 13-16236-A-7 MARIO TALAMANTES
TGM-2
PETER FEAR/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH SOCORRO L.
TALAMANTES, NANCY TALAMANTES
AND MARIO TALAMANTES
5-21-14 [31]

TRUDI MANFREDO/Atty. for mv.

Final Ruling

Motion: Approve Compromise or Settlement of Controversy

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

Disposition: Granted

Order: Prepared by moving party

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

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

Based on the motion and supporting papers, the court finds that the compromise is fair and equitable considering the relevant A & C Properties factors. The compromise will be approved.

12. [13-16439-A-7](#) TINA ARTEAGA MOTION TO COMPEL
JES-2 5-23-14 [[46](#)]
JAMES SALVEN/MV

Tentative Ruling

Motion: Compel Debtor's Turnover of Property of the Estate

Notice: LBR 9014-1(f)(1); written opposition filed by the debtor, Tina Arteaga

Disposition: Denied

Order: Civil minute order

Section 542(a) of the Bankruptcy Code requires the debtor and third parties to turn over to the chapter 7 trustee property that the trustee may use or sell. See 11 U.S.C. § 542(a). Property that is of inconsequential value or benefit to the estate is not required to be turned over to the trustee. See *id.* Other narrow exceptions and defenses are described in § 542. See *id.* § 542(b)-(d). In addition, secured creditors turning over collateral may require adequate protection as a precondition to turning over the property. See *United States v. Whiting Pools, Inc.*, 462 U.S. 198, 211-12 (1983).

The trustee may compel the debtor to turn over property to the trustee by motion rather than by adversary proceeding. Fed. R. Bankr. P. 7001(1). The trustee bears the burden of proof, and must demonstrate that the property sought is property of the estate.

The debtor has claimed both tax refunds exempt on Schedule C in amount in excess of the refund amounts sought by the trustee. The property is of inconsequential benefit or value to the estate. The motion will be denied.

13. 13-17943-A-7 JANET DIXON MOTION TO SELL
TMT-1 6-3-14 [[16](#)]
TRUDI MANFREDO/MV
PETER BUNTING/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: 1691 Bellaire Ave., Clovis, CA

Buyer: Debtor

Sale Price: \$105,000 (\$30,000 cash plus \$75,000 exemption credit)

Sale Type: Private sale subject to overbid opportunity

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

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

14. 13-18043-A-7 TARSEM PABLA MOTION TO EMPLOY TRUDI G.
TMT-2 MANFREDO AS ATTORNEY(S)
TRUDI MANFREDO/MV 5-30-14 [[22](#)]
PETER FEAR/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

Final Ruling

Application: Approval of Employment

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

Disposition: Approved

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before

the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment.

15. 13-16844-A-7 ROBERT/LISA GARTIN MOTION TO COMPEL
JES-1 5-23-14 [27]
JAMES SALVEN/MV
JAMES MILLER/Atty. for dbt.

Final Ruling

Motion: Compel Debtor's Turnover of Property of the Estate

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

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below

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

Section 542(a) of the Bankruptcy Code requires the debtor and third parties to turn over to the chapter 7 trustee property that the trustee may use or sell. See 11 U.S.C. § 542(a). Property that is of inconsequential value or benefit to the estate is not required to be turned over to the trustee. See *id.* Other narrow exceptions and defenses are described in § 542. See *id.* § 542(b)-(d). In addition, secured creditors turning over collateral may require adequate protection as a precondition to turning over the property. See *United States v. Whiting Pools, Inc.*, 462 U.S. 198, 211-12 (1983).

Section 542(e) further provides for the court's ordering a person who "holds recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs, to turn over or disclose such recorded information to the trustee." See 11 U.S.C. § 542(e).

The trustee may compel the debtor to turn over property to the trustee by motion rather than by adversary proceeding. Fed. R. Bankr. P. 7001(1). The trustee bears the burden of proof, and must demonstrate that the property sought is property of the estate.

In this case, the trustee has made the requisite showing of the estate's interest in the property sought by turnover. The motion will be granted. The order shall state the following: The debtors shall comply with one of the following alternatives by the time specified:

(1) The 2004 Kia Sedona and the debtors' 2013 tax returns and refunds, if received by the debtors, shall be turned over to the trustee at once and no later than 7 days from the date of service of the order on this motion; or

(2) The 2004 Kia Sedona shall be turned over at once and no later than 7 days from the date of service of the order on this motion, and the debtors' recorded information or documents necessary to complete and file the debtors' tax returns shall be turned over to the trustee no later than 14 days from the date of service of the order on this motion.

16. 14-10258-A-7 HEATHER BRANDT MOTION TO SELL
TMT-2 5-15-14 [[28](#)]
TRUDI MANFREDO/MV
THOMAS ARMSTRONG/Atty. for dbt.
PETER FEAR/Atty. for mv.

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: 2005 Honda Odyssey

Buyer: Debtor

Sale Price: \$5482.50 (\$2582.00 cash plus \$2900.00 exemption credit)

Sale Type: Private sale subject to overbid opportunity

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

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

17. 13-16459-A-7 RICHARD BERNAL AND MOTION TO SELL
JES-2 SAENGKHET SYSONGKHAM 6-5-14 [[27](#)]
JAMES SALVEN/MV
ADRIAN WILLIAMS/Atty. for dbt.

Tentative Ruling

Motion: Sell Property

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

Disposition: Denied without prejudice

Order: Prepared by moving party

Property: 50% interest in real property located at 3806 E. Farrin Avenue, Fresno, CA

Buyer: Debtors

Sale Price: Unclear but appears to involve \$12,757 cash payment to the estate

Sale Type: Private sale subject to overbid opportunity

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

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

The trustee's notice of hearing on the sale differs from the motion with respect to amount of debt secured by a lien on the property. The declaration and motion indicate that the lien on the property secures a balance of \$69,320. But the notice of hearing states that the lien amount is \$34,660 and does not explain this difference or state that the debtors are liable only for 50% of the secured debt. An aspect of the sale's price is clear information about the liens on the property affecting what price should be paid. For the notice of hearing on a sale to be effective as required by Rule 2002(c)(1), it must provide unambiguous information about the price term.

As a result, the notice does not clearly provide information necessary to calculate the gross sales price (the net price for the estate is shown). Is the gross price the fair market value of the 50% interest of the debtors? Or is the gross price the amount of total secured debt plus the net to the estate of \$12,757? It is helpful for the court to know exactly what the gross sales price is as a starting point for determining the amount of overbids.

The court also requests that the value of the property be stated in the motion without ambiguity about whether such value is the value of the 50% interest being sold or the value of the entire interest in the property. Paragraph 4 of the motion states the value of the property ambiguously—it is unclear whether the value stated is of the entire fee interest or of only 50% of the fee interest. The notice sheds some light on what is meant, but the notice should not be necessary to determine the meaning of the motion.

18. 13-16459-A-7 RICHARD BERNAL AND
JES-3 SAENGKHET SYSONGKHAM MOTION TO SELL
JAMES SALVEN/MV 6-5-14 [32]
ADRIAN WILLIAMS/Atty. for dbt.

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: 1999 Honda Accord and 2003 Honda Civic

Buyer: Debtors

Sale Price:

-1999 Honda Accord: \$1718 cash

-2003 Honda Civic: \$3425 (\$525 cash plus \$2900 exemption credit)

Sale Type: Private sale subject to overbid opportunity

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

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

19. 14-10561-A-7 DORA REYES CONTINUED OBJECTION TO DEBTOR'S
JES-1 CLAIM OF EXEMPTIONS
JAMES SALVEN/MV 5-2-14 [28]
ORDER #35 CONTINUING TO
7/30/14

Final Ruling

The matter has been continued to July 30, 2014, at 9:00 a.m. by order at docket no. 35.

20. 11-60663-A-7 HUMMER TRANSPORTATION,
JPW-1 INC.

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF MCCORMICK,
BARSTOW, SHEPPARD, WAYTE AND
CARRUTH LLP FOR JAMES P.
WAGONER, SPECIAL COUNSEL
6-10-14 [[289](#)]

Final Ruling

Application: Final Compensation and Expense Reimbursement

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

Disposition: Approved in part only as to the amounts requested and denied in part as to the timing of payment

Order: Prepared by applicant

Applicant: McCormick, Barstow, Sheppard, Wayte & Carruth

Compensation approved: \$30,837.50

Costs approved: \$206.80

Aggregate fees and costs approved in this application: \$31,044.30

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

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

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

To the extent that the motion requests an order requiring the trustee pay the amounts requested on or before the time that a presumption described in Rule 5009(a) arises or the court otherwise approves an early distribution, the court will deny the motion without prejudice.

21. 13-13063-A-7 WILLIAM MANUSZAK
CJS-3
WILLIAM MANUSZAK/MV
CHERYL JOLLEY-SMITH/Atty. for dbt.

AMENDED MOTION TO AVOID LIEN OF
UNIFUND CCR PARTNERS
5-15-14 [[92](#)]

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to avoid a lien is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4003(d), 9014(b); see also *In re Villar*, 317 B.R. 88, 92 n.6 (B.A.P. 9th Cir. 2004). Under Rule 7004, service on corporations and other business entities must be made "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b) (3).

Service of the motion was insufficient. The address for the authorized agent of the respondent is incorrect as it omits the suite number shown on the proof of claim for the respondent's authorized agent, Matthew Quall.

The court also notes that the proof also has copies of the certified mail receipts attached to it. These show that the motion may not have been in fact mailed to any agent or officer in particular, much less Mr. Quall, although perhaps the copies of the certified mail receipt were only meant to prove service for the first address shown on the proof of claim and not the other addresses. But this point is unclear and unexplained in the proof leaving open the question of whether Mr. Quall was even served. Certified mail is not required for a non-FDIC insured institution, but proper service pursuant to Rule 7004(b) (3) is required to be shown.

The motion was not mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service. The court will deny the motion without prejudice.

22. 14-13167-A-7 BRANDON/AUDREY FLUD MOTION TO COMPEL ABANDONMENT
MAZ-1 6-25-14 [11]
BRANDON FLUD/MV
MARK ZIMMERMAN/Atty. for dbt.

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

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

Disposition: Granted only as to the business and such business assets described in the motion

Order: Prepared by moving party pursuant to the instructions below

Business Description: Custom Carpentry

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

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon

property of the estate if the statutory standards for abandonment are fulfilled.

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

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f) (1).

23. 14-11169-A-7 ROBERT REYNOSO MOTION TO SUBSTITUTE ATTORNEY
SL-2 6-20-14 [66]
ROBERT REYNOSO/MV
STEPHEN LABIAK/Atty. for dbt.

No Tentative Ruling

24. 13-15972-A-7 RAMON/MARIA RUVALCABA MOTION TO SELL AND/OR MOTION TO
PFT-6 PAY
PETER FEAR/MV 6-18-14 [51]
MARK ZIMMERMAN/Atty. for dbt.
PETER FEAR/Atty. for mv.

Tentative Ruling

Motion: Sell Real Property and Compensate Real Estate Broker

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

Disposition: Granted

Order: Prepared by moving party

Property: 804 E. Fresno Street, Avenal, CA

Buyer: Irene Tovar Hernandez

Sale Price: \$37,500

Sale Type: Private sale subject to overbid opportunity

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

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

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

25. 13-14682-A-7 THERESA PIERRO MOTION FOR COMPENSATION FOR
DRJ-2 DAVID R. JENKINS, TRUSTEE'S
ATTORNEY(S)
6-11-14 [[55](#)]
GARY HUSS/Atty. for dbt.

Tentative Ruling

Application: Final Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Prepared by applicant

Applicant: David R. Jenkins

Compensation approved: \$3450.00

Costs approved: \$186.00

Aggregate fees and costs approved in this application: \$3636.60

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

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

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

26. 13-11488-A-7 JOSE LOPEZ MOTION TO COMPEL
JES-2 5-23-14 [[42](#)]
JAMES SALVEN/MV

No Tentative Ruling

Motion: Compel Debtor's Turnover of Property of the Estate

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

Disposition: Pending

Order: Pending

Section 542(a) of the Bankruptcy Code requires the debtor and third parties to turn over to the chapter 7 trustee property that the

trustee may use or sell. See 11 U.S.C. § 542(a). Property that is of inconsequential value or benefit to the estate is not required to be turned over to the trustee. See *id.* Other narrow exceptions and defenses are described in § 542. See *id.* § 542(b)-(d). In addition, secured creditors turning over collateral may require adequate protection as a precondition to turning over the property. See *United States v. Whiting Pools, Inc.*, 462 U.S. 198, 211-12 (1983).

Section 542(e) further provides for the court's ordering a person who "holds recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs, to turn over or disclose such recorded information to the trustee." See 11 U.S.C. § 542(e).

Here, the trustee requests turnover of a 1951 Chevy pickup and 2012 federal and state tax refunds. Schedules B and C show that both the tax refunds and the pickup have been exempted in the full amount of their scheduled value. But the motion contains almost no facts showing why such property's value is higher than the scheduled value which is exempted. The motion asserts only that 2011 refunds were higher than the value of the 2012 refunds shown on Schedule B and C. The motion offers no facts explaining why the pickup is more valuable than the scheduled amount.

The court cannot determine from the motion why the property is not "of inconsequential value or benefit to the estate." See § 542. At the hearing, the trustee may address these issues.

27. 14-12157-A-7 ELIZABETH GARCIA
JDR-1
ELIZABETH GARCIA/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF FORD
MOTOR CREDIT COMPANY
6-20-14 [[12](#)]

Final Ruling

The matter has been renoted for July 30, 2014, at 9:00 a.m. The matter will be dropped from this calendar.

28. 14-12157-A-7 ELIZABETH GARCIA
JDR-2
ELIZABETH GARCIA/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF BUREAU
USA
6-20-14 [[18](#)]

Final Ruling

The matter has been renoted for July 30, 2014, at 9:00 a.m. The matter will be dropped from this calendar.

29. 14-12157-A-7 ELIZABETH GARCIA
JDR-3
ELIZABETH GARCIA/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF KINGS
CREDIT SERVICES
6-20-14 [23]

Final Ruling

The matter has been renoticed for July 30, 2014 at 9:00 a.m. and will be dropped from this calendar.

30. 14-13207-A-7 TIMOTHY/GAYLE CARDASCIA
RJI-1
TIMOTHY CARDASCIA/MV
RAYMOND ISLEIB/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT
6-30-14 [18]

Final Ruling

The motion has been withdrawn, so the matter will be dropped from calendar as moot.

31. 14-13207-A-7 TIMOTHY/GAYLE CARDASCIA
RJI-2
TIMOTHY CARDASCIA/MV
RAYMOND ISLEIB/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT
7-2-14 [32]

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

Disposition: Denied without prejudice

Order: Civil minute order

Rule 6007(a) expressly requires a trustee or debtor in possession to provide notice to all creditors, indenture trustees, and any committees. But Rule 6007(b) does not specifically state who must receive notice of a motion to abandon property of the estate. See Fed. R. Bankr. P. 6007(a)-(b). But a motion under Rule 6007(b) seeks an order to compel the trustee to abandon property of the estate, the same action that is described in Rule 6007(a) and for which notice to creditors is required.

Because a motion under Rule 6007(b) requests a type of relief that under Rule 6007(a) requires notice to all creditors and parties in interest listed in Rule 6007(a), the same notice required by Rule 6007(a) should be required under when a party in interest seeks to compel the trustee to take such an action under Rule 6007(b). See *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 709-10 (9th Cir. 1986) (finding that a trustee's abandonment would not be effective without notice to creditors); *Hie of Effingham, LLC v. WBCMT 2007-C33 Mid America Lodging, LLC* (*In re Hie of Effingham, LLC*), 490 B.R. 800, 807-08 (Bankr. S.D. Ill. 2013) (concluding that Rule 6007(b) incorporates service requirements of Rule 6007(a)); *In re Jandous Elec. Constr. Corp.*, 96 B.R. 462, 464-65 (Bankr. S.D.N.Y. 1989) (finding that parties in interest requesting abandonment of estate property for which a hearing is contemplated must provide notice to the parties listed in Rule 6007(a)).

Accordingly, the court requires all creditors and parties in interest described in Rule 6007(a), and the trustee pursuant to Rule 9014(a), to be provided notice of a motion requesting abandonment under Rule 6007(b).

In this case, at least one creditor or party in interest described in Rule 6007(a) and Rule 9014(a) have not received notice of the motion. The court will deny the motion without prejudice for lack of sufficient notice.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master address list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master address list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

32. 14-13116-A-7 JOHN/TANYA MARTINEZ MOTION TO COMPEL ABANDONMENT
TCS-1 7-1-14 [10]
JOHN MARTINEZ/MV
TIMOTHY SPRINGER/Atty. for dbt.

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

Disposition: Denied without prejudice

Order: Civil minute order

Rule 6007(a) expressly requires a trustee or debtor in possession to provide notice to all creditors, indenture trustees, and any committees. But Rule 6007(b) does not specifically state who must receive notice of a motion to abandon property of the estate. See Fed. R. Bankr. P. 6007(a)-(b). But a motion under Rule 6007(b) seeks an order to compel the trustee to abandon property of the estate, the same action that is described in Rule 6007(a) and for which notice to creditors is required.

Because a motion under Rule 6007(b) requests a type of relief that under Rule 6007(a) requires notice to all creditors and parties in interest listed in Rule 6007(a), the same notice required by Rule 6007(a) should be required under when a party in interest seeks to compel the trustee to take such an action under Rule 6007(b). See *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 709-10 (9th Cir. 1986) (finding that a trustee's abandonment would not be effective without notice to creditors); *Hie of Effingham, LLC v. WBCMT 2007-C33 Mid America Lodging, LLC (In re Hie of Effingham, LLC)*, 490 B.R. 800, 807-08 (Bankr. S.D. Ill. 2013) (concluding that Rule 6007(b) incorporates service requirements of Rule 6007(a)); *In re Jandous Elec. Constr. Corp.*, 96 B.R. 462, 464-65 (Bankr. S.D.N.Y. 1989) (finding that parties in interest requesting abandonment of estate property for which a hearing is contemplated must provide notice to the parties listed in Rule 6007(a)).

Accordingly, the court requires all creditors and parties in interest described in Rule 6007(a), and the trustee pursuant to Rule 9014(a), to be provided notice of a motion requesting abandonment under Rule 6007(b).

The court shortened time for notice but the order required notice to be mailed to all parties in interest by first class mail on or before July 2, 2014. Order at 2, July, 2, 2014, ECF No. 16. The only proof of service on the docket for the motion shows that the notice was mailed on July 3, 2014. July 4, 2014 was a holiday, and the next business day was July 7, two days prior to the hearing. Thus, only 3 business days' notice was given including the day that the notice was mailed. Given the exceedingly short time for notice given the holiday and the time required for a mailing to reach its intended recipients, the court will not grant the relief requested.

In addition, no proof of service appears on the docket showing that the motion was served on the trustee. Rule 9013(a) requires that every motion be served on the trustee.

33. 14-13235-A-7 THONG HER AND KHAO SONG MOTION TO COMPEL ABANDONMENT
JRL-1 7-2-14 [13]
THONG HER/MV
JERRY LOWE/Atty. for dbt.

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

Disposition: Denied without prejudice

Order: Civil minute order

Rule 6007(a) expressly requires a trustee or debtor in possession to provide notice to all creditors, indenture trustees, and any committees. But Rule 6007(b) does not specifically state who must receive notice of a motion to abandon property of the estate. See Fed. R. Bankr. P. 6007(a)-(b). But a motion under Rule 6007(b) seeks an order to compel the trustee to abandon property of the estate, the same action that is described in Rule 6007(a) and for which notice to creditors is required.

Because a motion under Rule 6007(b) requests a type of relief that under Rule 6007(a) requires notice to all creditors and parties in interest listed in Rule 6007(a), the same notice required by Rule 6007(a) should be required under when a party in interest seeks to compel the trustee to take such an action under Rule 6007(b). See *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 709-10 (9th Cir. 1986) (finding that a trustee's abandonment would not be effective without notice to creditors); *Hie of Effingham, LLC v. WBCMT 2007-C33 Mid America Lodging, LLC (In re Hie of Effingham, LLC)*, 490 B.R. 800, 807-08 (Bankr. S.D. Ill. 2013) (concluding that Rule 6007(b) incorporates service requirements of Rule 6007(a)); *In re Jandous Elec. Constr. Corp.*, 96 B.R. 462, 464-65 (Bankr. S.D.N.Y. 1989) (finding that parties in interest requesting abandonment of estate property for which a hearing is contemplated must provide notice to the parties listed in Rule 6007(a)).

Accordingly, the court requires all creditors and parties in interest described in Rule 6007(a), and the trustee pursuant to Rule 9014(a),

to be provided notice of a motion requesting abandonment under Rule 6007(b). In this case, all creditors and parties in interest described in Rule 6007(a) and Rule 9014(a) have not received notice of the motion. The court will deny the motion without prejudice for lack of sufficient notice.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master address list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master address list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

9:15 a.m.

1. 13-17820-A-7 ANDRE EDMONDS
14-1019
EDMONDS V. VISALIA MEDICAL
CLINIC
STEPHEN LABIAK/Atty. for pl.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
2-10-14 [[1](#)]

No Tentative Ruling

2. 13-16236-A-7 MARIO TALAMANTES
14-1011
FEAR V. TALAMANTES ET AL
TRUDI MANFREDO/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-22-14 [[1](#)]

Final Ruling

Given the court's approval of the settlement of the claims brought in this proceeding, the status conference for this adversary proceeding is concluded.

10:00 a.m.

1. 13-10901-A-7 GINA VERTSON
PD-1
CITIMORTGAGE, INC/MV
TRUDI MANFREDO/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
DISCHARGED, WITHDRAWN
MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-21-14 [[61](#)]

Final Ruling

The motion has been withdrawn. The matter is dropped from calendar as moot.

2. 14-12114-A-7 CRYSTAL GARLICK
PD-1
WELLS FARGO BANK, N.A./MV
THOMAS ARMSTRONG/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-3-14 [[18](#)]

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 6855 Live Oak Drive, Sanger, CA

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

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

3. 14-12937-A-7 DEBRA BENNETT
CJO-1
CALIBER HOME LOANS, INC./MV
MARK ZIMMERMAN/Atty. for dbt.
CHRISTINA O/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-25-14 [14]

Tentative Ruling

Motion: Relief from Stay

Disposition: Denied without prejudice

Order: Civil minute order

As a contested matter, the motion for relief from stay is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 4001(a)(1), 9014(a). The motion initiating a contested matter must be served pursuant to Rule 7004. Fed. R. Bankr. P. 9014(b).

In contested matters, "reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought." Fed. R. Bankr. P. 9014(a). The debtor is the party against whom relief is sought by the motion for stay relief. The motion must be served on the party against whom relief is sought in the manner provided by Rule 7004. See Fed. R. Bankr. P. 9014(a)-(b).

In this case, the motion did not comply with Rule 7004. If service on the debtor is required, and the debtor is represented by an attorney, then the attorney must also be served pursuant to Rule 7004(g). Fed. R. Bankr. P. 7004(g). The proof of service does not indicate service was made on the correct address for the debtor's attorney.

4. 14-10544-A-7 JONATHAN OCHOA
KAZ-1
U.S. BANK TRUST, N.A./MV
THOMAS GILLIS/Atty. for dbt.
KRISTIN ZILBERSTEIN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-10-14 [83]

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 7102 Louise Avenue, Winton, CA

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for

liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived. No other relief will be awarded.

5. 14-10258-A-7 HEATHER BRANDT MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
SANTANDER CONSUMER USA INC./MV 6-10-14 [[39](#)]
THOMAS ARMSTRONG/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.
DISCHARGED

Final Ruling

Motion: Stay Relief

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

Disposition: Granted in part, denied in part as moot

Order: Prepared by moving party

Subject: 2005 Excursion M-39S Motor Home

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

AS TO DEBTOR

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

AS TO ESTATE

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

6. 14-12061-A-7 EARL STEES
MDE-1
CITIMORTGAGE, INC./MV
PETER BUNTING/Atty. for dbt.
MARK ESTLE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-10-14 [[21](#)]

Tentative Ruling

Motion: Relief from Stay
Disposition: Denied without prejudice
Order: Civil minute order

As a contested matter, the motion for relief from stay is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 4001(a)(1), 9014(a). In contested matters generally, "reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought." Fed. R. Bankr. P. 9014(a). A motion initiating a contested matter must be served pursuant to Rule 7004. Fed. R. Bankr. P. 9014(b).

The motion must be served on the party against whom relief is sought. See Fed. R. Bankr. P. 9014(a)-(b). The debtor and the trustee are the parties against whom relief is sought by a motion for relief from the automatic stay.

In this case, the motion did not comply with Rules 7004 and 9014 as service was insufficient. The trustee has not been served at the correct address.

7. 14-10872-A-7 CYNTHIA MARQUEZ
NLG-1
SETERUS, INC./MV
BENNY BARCO/Atty. for dbt.
NICHOLE GLOWIN/Atty. for mv.
DISCHARGED
NON-OPPOSITION

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-9-14 [[17](#)]

Final Ruling

Motion: Stay Relief
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted in part, denied in part as moot
Order: Prepared by moving party

Subject: 6239 North Alva Avenue, Fresno, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). The debtor has filed a non-opposition to the motion. No opposition to the relief sought has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

AS TO DEBTOR

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

AS TO ESTATE

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

8.	<u>14-12686-A-7</u>	HECTOR GOMEZ JHW-1 TD AUTO FINANCE LLC/MV JANINE ESQUIVEL/Atty. for dbt. JENNIFER WANG/Atty. for mv.	MOTION FOR RELIEF FROM AUTOMATIC STAY 6-5-14 [<u>13</u>]
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Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 2007 Chevrolet Silverado 1500

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

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

9. 14-11398-A-7 MIGUEL GUDINO
MDE-1
CITIMORTGAGE, INC./MV
ERIC ESCAMILLA/Atty. for dbt.
MARK ESTLE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-10-14 [20]

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 1520 E Annadale Avenue, Fresno, CA

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

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

10:30 a.m.

1. 14-11052-A-7 ROSIE STRICKLAND

GARY HUSS/Atty. for dbt.

REAFFIRMATION AGREEMENT WITH
SPRINGLEAF FINANCIAL SERVICES
5-30-14 [14]

No Tentative Ruling

2. 14-11382-A-7 GEORGETTE OLVERA

HENRY NUNEZ/Atty. for dbt.

REAFFIRMATION AGREEMENT WITH
AMERICREDIT FINANCIAL SERVICES,
INC
6-20-14 [26]

No Tentative Ruling

3. 14-12694-A-7 EDWARD TREADWAY

PRO SE REAFFIRMATION AGREEMENT
WITH FRESNO COUNTY FEDERAL
CREDIT UNION
6-17-14 [15]

No Tentative Ruling

1:30 p.m.

1. 10-62315-A-11 BEN ENNIS
LRP-14
DAVID STAPLETON/MV
RILEY WALTER/Atty. for dbt.
MICHAEL GOMEZ/Atty. for mv.
- CONTINUED OBJECTION TO CLAIM OF
WARE MALCOMB, CLAIM NUMBER 11
3-19-14 [[1449](#)]

Tentative Ruling

Objection: Continued Objection to Claim

Notice: LBR 3007-1(b)(1) / continued hearing date; written opposition required

Disposition: Continued to September 10, 2014 and supplemental papers filed no later than the dates specified herein

Order: Civil minute order if appropriate

A notice of continued hearing was filed on May 23, 2014, which permitted the claimant to file an opposition to the objection no later than 14 days prior to the continued hearing on July 9, 2014. This notice of continued hearing was timely served on the claimant at the address shown on the claimant's proof of claim.

But the court's civil minutes permitted supplemental declarations by the objecting party no later than June 18, 2014. But the supplemental documents were filed after this date. The first supplement was filed June 25, 2014. The second supplement was filed July 3, 2014, less than a week before the hearing. Because the court had given notice that the supplements were to be filed no later than June 18, 2014, the court will further continue this matter to provide sufficient notice to the claimant of the supplemental documents.

The hearing will be further continued to September 10, 2014. A notice of continued hearing and supplemental papers will be filed and served on the claimant (unless the supplemental papers have already been served) no later than July 28, 2014, which is 44 days prior to the continued hearing on September 10, 2014. The notice may require any opposition to be in writing and served and filed with the Court no later than 14 days prior to the continued hearing. LBR 3007-1(b)(1).

2. 13-17444-A-11 A & A TRANSPORT, CO.,
HAR-13 INC.
A & A TRANSPORT, CO., INC./MV
HILTON RYDER/Atty. for dbt.
- MOTION FOR APPROVAL OF
AGREEMENT TO TERMINATE THE STAY
OF 11 U.S.C. SECTION 362
6-11-14 [[128](#)]

Tentative Ruling

Motion: Approval of Agreement to Terminate the Stay

Disposition: Denied without prejudice

Order: Civil minute order

If the case is a chapter 11 reorganization case and a committee of unsecured creditors has not been appointed, then a motion for approval of an agreement to modify or terminate the automatic stay must also be served on the creditors included on the list of the 20-largest

creditors filed under Rule 1007(d). See Fed. R. Bankr. P. 4001(d)(1)(C). Service must be made on each of the creditors according to Rule 7004. See *In re LSSR, LLC*, No. CC-12-1636-DKita, 2013 WL 2350853, *4 (B.A.P. 9th Cir. May 29, 2013) (unpublished decision).

In this case, notice of the appointment of an unsecured creditors' committee was filed on June 30, 2014. But this motion was filed June 11, 2014, so it should have been served on the list of 20-largest unsecured creditors. All creditors on the list of the 20-largest creditors have not been served pursuant to Rule 7004.

The motion will be denied without prejudice. If it is re-filed, it may be served on the committee appointed pursuant to § 1102(a) rather than on the list of 20-largest creditors.

3. 14-10851-A-11 JOHN/BETTY VAN DYK MOTION TO EMPLOY ADAIR & EVANS
WW-5 AS ACCOUNTANT(S)
JOHN VAN DYK/MV
6-5-14 [128]
RILEY WALTER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion has been withdrawn. The matter is dropped from calendar as moot.

4. 13-13284-A-11 NICOLETTI OIL INC. CONTINUED STATUS CONFERENCE RE:
DAVID GOLUBCHIK/Atty. for dbt. VOLUNTARY PETITION
5-7-13 [1]

No Tentative Ruling

5. 14-11991-A-11 CENTRAL AIR CONTINUED STATUS CONFERENCE RE:
CONDITIONING, INC. VOLUNTARY PETITION
HAGOP BEDOYAN/Atty. for dbt. 4-17-14 [1]

No Tentative Ruling

6. 14-11991-A-11 CENTRAL AIR
KDG-6 CONDITIONING, INC.
CENTRAL AIR CONDITIONING,
INC./MV
HAGOP BEDOYAN/Atty. for dbt.

MOTION TO APPROVE COMPROMISE
CLAIMS AGAINST DEBTOR IN
POSSESSION RELATING TO
CONSTRUCTION DEFECT CASES
6-11-14 [75]

Tentative Ruling

Motion: Approve Compromise or Settlement of Controversy

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

Disposition: Granted

Order: Prepared by moving party

Parties to Compromise: Six specified state court actions and 37 other construction defect cases

Dispute Compromised: construction defect cases

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

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

Based on the motion and supporting papers, the court finds that the compromise is fair and equitable considering the relevant *A & C Properties* factors. The compromise will be approved.

7. 14-11991-A-11 CENTRAL AIR
KDG-7 CONDITIONING, INC.

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF KLEIN, DENATALE,
GOLDNER, COOPER, ROSENLIEB AND
KIMBALL, LLP FOR HAGOP T.
BEDOYAN, DEBTOR'S ATTORNEY(S).
6-17-14 [82]

HAGOP BEDOYAN/Atty. for dbt.

Tentative Ruling

Application: Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Prepared by applicant

Applicant: Klein DeNatale

Compensation approved: \$23,297.00

Costs approved: \$1,762.42

Aggregate fees and costs approved in this application: \$25,059.42

Retainer held: \$29,006.00

Amount to be paid as administrative expense: \$0.00

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

8. [14-11595-A-11](#) RAY FISHER PHARMACY,
INC.

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
3-31-14 [[1](#)]

ALAN KINDRED/Atty. for dbt.

No Tentative Ruling

9. [14-11595-A-11](#) RAY FISHER PHARMACY,
PWC-3 INC.

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF LEECH, TISHMAN,
FUSCALDO & LAMPL, LLC FOR
PATRICK W. CAROTHERS, DEBTOR'S
ATTORNEY(S).
6-18-14 [[68](#)]

ALAN KINDRED/Atty. for dbt.

Tentative Ruling

Application: Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Prepared by applicant

Applicant: Leech, Tishman

Compensation approved: \$59,455.00

Costs approved: \$5,972.95

Aggregate fees and costs approved in this application: \$65,427.95

Retainer held: \$63,138.26

Amount to be paid as administrative expense: \$2,289.69

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

The applicant violated Local Bankruptcy Rule 9014-1(e)(2) (filing the certificate of service within 3 days of the filing of the application). The application was filed June 18, 2014, and the certificate of service was filed July 7, 2014. In the future, violations of local rules may result in summary denial of the motion or sanctions against counsel.