

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: JULY 12, 2021
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

COURT REOPENING

As of July 12, 2021

Starting July 12, 2021, Department A will resume in person hearings. However, any person preferring to appear via CourtCall may do so, notwithstanding any limitation contained in the "Telephonic Court Appearance through CourtCall Conference Service" on the court's website. Persons who wish to appear must do so by way of CourtCall; reservations for such an appearance may be arranged by calling (866) 582-6878.

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text:

"[Since posting its original rulings, the court has changed its intended ruling on this matter]".

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, (" \$880," not " \$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [13-27204](#)-A-7 **IN RE: JUDITH MILLS**
[CYB-1](#)

MOTION BY CANDACE Y. BROOKS TO WITHDRAW AS ATTORNEY
6-21-2021 [\[50\]](#)

CANDACE BROOKS/ATTY. FOR DBT.
DEBTOR DISCHARGED: 08/29/2013

No Ruling

2. [13-27204](#)-A-7 **IN RE: JUDITH MILLS**
[HCS-3](#)

MOTION TO COMPEL AND/OR MOTION FOR A MONEY JUDGMENT
6-8-2021 [\[44\]](#)

CANDACE BROOKS/ATTY. FOR DBT.
DANA SUNTAG/ATTY. FOR MV.
DEBTOR DISCHARGED: 08/29/2013; RESPONSIVE PLEADING

No Ruling

3. [21-22214](#)-A-7 **IN RE: VERONICA HARGROVE**
[KH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-22-2021 [\[17\]](#)

KEVIN HARRIS/ATTY. FOR MV.
RVH AMBER, LLC. VS.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 4017 Marconi Avenue, Apt. 57, Sacramento, CA 95821

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).

STAY RELIEF

Section 362(d)(1) authorizes stay relief for cause shown. Cause includes the debtor's pre-petition loss of real property by way of

foreclosure. In this case, the debtor failed to comply with the covenants and conditions of the lease agreement she entered into with the movant and remained in possession of the subject property after the expiration of a lawfully served notice to quit. In an unlawful detainer action in Superior Court of California, County of Sacramento, case No. 21UD00214, the debtor agreed to vacate the subject property in compliance with a Stipulation and Order, ECF No. 21. The debtor did not vacate in compliance with the Stipulation and Order.

The motion will be granted. The movant may take such actions as are authorized by applicable non-bankruptcy law, including prosecution of an unlawful detainer action (except for monetary damages) to obtain possession of the subject 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.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

RVH Amber, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 4017 Marconi Avenue, Apt. 57, Sacramento, CA 95821, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may take such actions as are authorized by applicable non-bankruptcy law, including prosecution of an unlawful detainer action (except for monetary damages) to obtain possession of the subject property.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

4. [21-22017](#)-A-7 **IN RE: AJIT BALL AND HARMANDEEP KAUR**
[BSH-1](#)

MOTION TO VACATE DISMISSAL OF CASE
6-22-2021 [\[19\]](#)

BRIAN HADDIX/ATTY. FOR DBT.
DEBTORS DISMISSED: 06/21/2021

No Ruling

5. [20-23122](#)-A-7 **IN RE: THE MASTERS OF BEVERAGES, LLC**
[HSM-8](#)

MOTION TO EMPLOY BACHECKI, CROM & CO., LLP AS ACCOUNTANT(S)
AND/OR MOTION FOR COMPENSATION FOR BACHECKI, CROM & CO.,
LLP, ACCOUNTANT(S)
6-11-2021 [\[63\]](#)

THOMAS WILLOUGHBY/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

Final Ruling

Application: Approval of Employment/Motion for Compensation

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

Disposition: Approved

Order: order prepared by applicant pursuant to the instructions
below

Unopposed applications 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).

EMPLOYMENT

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 of Bachecki, Crom & Co., LLP, accountant for the trustee.

COMPENSATION AND EXPENSES

Bachecki, Crom & Co., LLP has applied for an allowance of compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1,400.00 and reimbursement of expenses in the amount of \$0.00.

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. The court allows employment and supplemental final compensation in the amount of \$1,400.00 and reimbursement of expenses in the amount of \$0.00.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between [professional's name] and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

6. [20-23029](#)-A-7 **IN RE: SEAN RILEY**
[RFS-2](#)

MOTION TO WITHDRAW CLAIM NUMBER 4
6-4-2021 [\[107\]](#)

RONALD HOLLAND/ATTY. FOR DBT.
ROBERT SINCLAIR/ATTY. FOR MV.

Final Ruling

Motion: Withdraw Proof of Claim No. 4

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).

"A creditor may withdraw a claim as of right by filing a notice of withdrawal...If after a creditor files a proof of claim an objection is filed thereto or a complaint is filed against that creditor in an adversary proceeding..., the creditor may not withdraw the claim except on order of the court after a hearing on notice to the trustee or debtor in possession, and any creditors' committee elected pursuant to § 705(a) or appointed pursuant to §1102 of the Code." Fed. R. Bankr. P. 3006.

Here, after the creditor Patrick Garcia filed a proof of claim (Claim No. 4-1), Garcia filed an adversary proceeding (20-02170), objecting to discharge of the debtor. Subsequently, the creditor and the debtor entered into a written settlement agreement. The court approved its terms without modification, ECF No. 106. This Motion to Withdraw has been set for hearing.

For the reasons stated in the motion, the court finds withdrawal of the proof of claim appropriate upon the creditor's receipt of the settlement compensation stated in the Settlement Agreement previously granted by the court, ECF No. 106. See Fed. R. Bankr. P.

3006. The order shall direct the trustee to make no further distributions on the claim and, if appropriate based on the trustee's accounting in the case, the trustee will return the funds to the debtors.

7. [21-20734](#)-A-7 **IN RE: RODRIGO/CORAZON JACINTO**
[JOS-1](#)

MOTION TO AVOID LIEN OF THE MOORE LAW GROUP, APC
5-13-2021 [\[15\]](#)

JEANNE SERRANO/ATTY. FOR DBT.

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Property: 109 Janice Street, Vallejo, CA 94589-2052

Judicial Lien Avoided: \$11,889.11 (The Moore Law Group, APC)

All Other Liens: \$206,813.00 (JPMCB Home's deed of trust)

Exemption: \$213,321.00

Value of Property: \$420,134.00

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 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

equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

8. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[HSM-24](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH TESLA ENERGY OPERATIONS, INC.
6-14-2021 [[1653](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy

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

Disposition: Granted

Order: Civil minute order

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).

APPROVAL OF COMPROMISE

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.*

The movant requests approval of a compromise. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and

equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Kimberly Husted's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as exhibit and filed at docket no. 1657.

9. [12-21255](#)-A-7 **IN RE: GINA MARQUIS**

MOTION TO AVOID LIEN OF MERCHANT SERVICES, INC.
6-9-2021 [\[40\]](#)

GINA MARQUIS/ATTY. FOR MV.
DEBTORS DISCHARGED: 05/14/2012

Final 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 by mailing a copy of the motion "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 motion was not mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service on behalf of Merchant Services, Inc.

DOCKET CONTROL NUMBER

The lack of a docket control number on the papers filed in this matter violates the court's local rules. LBR 9014-1(c)(1) mandates the use of docket control numbers to be used on each document filed with the bankruptcy court in this district, including proofs of service.

10. [20-21655](#)-A-7 **IN RE: CAREY SHANE**
[MBS-1](#)

MOTION TO AVOID LIEN OF BANK OF AMERICA
6-1-2021 [\[26\]](#)

MATTHEW SMITH/ATTY. FOR DBT.
DEBTORS DISCHARGED: 06/22/2020

Final 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 by mailing a copy of the motion "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 motion was not mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service on behalf of Bank of America.

11. [21-20459](#)-A-7 **IN RE: GABRIELA CORREA**
[UST-1](#)

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR AND/OR MOTION TO DISMISS CASE
PURSUANT TO 11 U.S.C. SECTION 707(B)
5-17-2021 [\[55\]](#)

NOEL KNIGHT/ATTY. FOR DBT.
JASON BLUMBERG/ATTY. FOR MV.

Final Ruling

Motion: Extend U.S. Trustee and Chapter 7 Trustee's Deadlines to
Object to Discharge or File a Motion to Dismiss

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).

EXTENSION OF DEADLINE FOR OBJECTING TO DISCHARGE

A party in interest may bring a motion for an extension of the deadline for objecting to discharge under § 727, but the motion must be filed before the original time to object to discharge has expired. Fed. R. Bankr. P. 4004(b). The deadline may be extended for "cause." *Id.*

Based on the motion and supporting papers, the court finds that cause exists to extend the U.S. Trustee and the trustee's deadline for objecting to discharge under § 727(a). This deadline to object to discharge will be extended through July 26, 2021.

EXTENSION OF DEADLINE FOR FILING MOTION TO DISMISS

Under Rule 1017(e)(1), a motion to dismiss a chapter 7 case for abuse under § 707(b) and (c) must be filed within 60 days after the first date set for the § 341(a) creditors' meeting. Fed. R. Bankr. P. 1017(e)(1). The court may extend this period for cause if the request for such extension is made before the original period expires.

Based on the motion and supporting papers, the court finds that cause exists to extend the deadline for the trustee and the U.S. Trustee to file a motion to dismiss under § 707(b) and (c). This deadline to file a motion to dismiss will be extended through July 26, 2021.

12. [21-20460](#)-A-7 **IN RE: PATRICK BUSSEY**
[PSB-1](#)

MOTION TO COMPEL ABANDONMENT
6-28-2021 [\[23\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.
DEBTOR DISCHARGED: 05/17/2021; JOINT DEBTOR DISCHARGED:
05/17/2021;

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Prepared by moving party

Subject: 5728 Balfor Road, Rocklin, CA 95765
Value: \$532,662.28
1st Trust Deed: \$476,640.87 (SN Servicing Corporation)
Exemption: \$528,000.00
Non-Exempt Equity: (-\$471,978.59)

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). 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 real property described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment is warranted.

13. [20-21671](#)-A-7 **IN RE: THOMAS NGUYEN**
[ADR-1](#)

MOTION TO COMPEL ABANDONMENT
6-28-2021 [[62](#)]

JUSTIN KUNEY/ATTY. FOR DBT.
DEBTORS DISCHARGED: 07/20/2020

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Prepared by moving party

Subject: 8840 Upbeat Way, Elk Grove, CA 95757
Value: \$512,000.00
1st Trust Deed: \$440,154.00 (Suntrust Bank)
Exemption: \$100,000.00
Non-Exempt Equity: (-\$28,154.00)

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). 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 real property described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment is warranted.

14. [20-21671](#)-A-7 **IN RE: THOMAS NGUYEN**
[SLC-1](#)

MOTION TO SELL
6-3-2021 [\[56\]](#)

JUSTIN KUNEY/ATTY. FOR DBT.
SHERI CARELLO/ATTY. FOR MV.
DEBTORS DISCHARGED: 07/20/2020

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: 10008 Teddington Way, Elk Grove, CA

Buyer: Thomas J. Nguyen (debtor)

Sale Price: \$9,800.00

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.

15. [19-25173](#)-A-7 **IN RE: MO/JAS CONSTRUCTION, INC.**
[ETW-2](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
5-20-2021 [\[94\]](#)

T. O'TOOLE/ATTY. FOR DBT.
EDWARD WEBER/ATTY. FOR MV.
EQUITY TRUST COMPANY CUSTODIAN VS.; RESPONSIVE PLEADING

No Ruling

16. [21-20877](#)-A-7 **IN RE: DENISE MALONE**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-3-2021 [\[15\]](#)

AARON LLOYD/ATTY. FOR DBT.
AUSTIN NAGEL/ATTY. FOR MV.
NISSAN MOTOR ACCEPTANCE CORPORATION VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2015 Nissan Altima

Value of Collateral: \$2,565.00

Aggregate of Liens: \$7,396.87

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

DEFAULT OF RESPONDENT

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).

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

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. As a consequence, 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.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Nissan Motor Acceptance Corporation's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2015 Nissan Altima, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

17. [20-24691](#)-A-7 **IN RE: FREEDOM 123 LLC**
[DCJ-3](#)

MOTION BY DAVID C. JOHNSTON TO WITHDRAW AS ATTORNEY
6-22-2021 [[255](#)]

DAVID JOHNSTON/ATTY. FOR DBT.

No Ruling

18. [20-24691](#)-A-7 **IN RE: FREEDOM 123 LLC**
[HSM-10](#)

MOTION TO CONFIRM SALE OF REAL PROPERTY FOLLOWING AUCTION
AND/OR MOTION TO PAY, MOTION TO SELL FREE AND CLEAR OF LIENS
6-21-2021 [[239](#)]

DAVID JOHNSTON/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

No Ruling

19. [20-24691](#)-A-7 **IN RE: FREEDOM 123 LLC**
[HSM-11](#)

MOTION TO CONFIRM SALE OF REAL PROPERTY FOLLOWING AUCTION
AND/OR MOTION TO PAY, MOTION TO SELL FREE AND CLEAR OF LIENS
6-21-2021 [[247](#)]

DAVID JOHNSTON/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

No Ruling