

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

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
2500 Tulare Street, 5<sup>th</sup> Floor  
Courtroom 11, Department A  
Fresno, California

**PRE-HEARING DISPOSITIONS**

**DAY: THURSDAY**  
**DATE: JULY 21, 2016**  
**CALENDAR: 9:00 A.M. CHAPTER 7 CASES**

**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.

**ORAL ARGUMENT**

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

**COURT'S 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 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 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.

1. [12-19005](#)-A-7 MAURICE/JEWELL HOPES  
DMG-2  
MAURICE HOPES/MV

MOTION TO AVOID LIEN OF  
PORTFOLIO RECOVERY ASSOCIATES,  
LLC.  
6-23-16 [[22](#)]

CYNTHIA SCULLY/Atty. for dbt.

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Disposition:** Denied without prejudice

**Order:** Civil minute order

### **DISCUSSION**

Debtors Maurice Hopes and Jewell Hopes move to avoid the lien of Portfolio Recovery Associates, LLC. In support of the motion they offer a Certificate of Service reflecting service on Portfolio Recovery Associates, LLC "c/o Hunt & Henriques and on Hunt & Henriques, creditors counsel state court litigation giving rise the lien that is the subject of the motion.

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).

Moreover, "[a]n implied agency to receive service is not established by representing a client in an earlier action. We cannot presume from [the attorney's] handling the litigation that resulted in the judicial lien that he is also authorized to accept service for a motion to avoid the judicial lien." *Beneficial Cal., Inc. v. Villar (In re Villar)*, 317 B.R. 88, 93-94 (B.A.P. 9th Cir. 2004) (citations omitted). No evidence has been presented in the proof of service that the attorney or law firm served has been authorized to accept service of process on the responding party in this bankruptcy case.

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.

### **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.

Debtors Maurice Hopes and Jewell Hopes's motion to avoid lien has been presented to the court.

IT IS ORDERED that the motion is denied without prejudice.

2. [16-11710](#)-A-7 STEVEN BARAJAS

STEVEN BARAJAS/MV

STEVEN BARAJAS/Atty. for mv.

MOTION FOR WAIVER OF THE  
CHAPTER 7 FILING FEE OR OTHER  
FEE

6-13-16 [[12](#)]

### **Final Ruling**

**Application:** Fee Waiver

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

**Disposition:** Denied

**Order:** Civil minute order

Debtor Steve Barajas requests a fee waiver alleging that he has been laid off from his job unexpectedly.

### **DISCUSSION**

Title 28 U.S.C. § 1930(f)(1) authorizes the court to waive fees for Chapter 7 debtors: (1) whose income is "less than 150 percent of the income official poverty line...applicable to a family of the size involved"; and (2) who is otherwise unable to pay the filing fee in installments. The debtor bears the burden of proving by a preponderance of the evidence that both prongs of § 1930(f)(1) have been satisfied. *In re Ross*, 508 B.R. 777 (Bankr. N.D. Ga. 2014).

On the date of his petition, the debtor sought, and the court granted, Barajas's request to pay the filing fee in installments. No installments were paid. But later the debtor sought a fee waiver based on the loss of employment. The court issued a scheduling order inviting the debtor to file amended Schedules I and J, as well as a declaration. Scheduling Order, filed June 14, 2016, ECF #14. The debtor did not file amended Schedules I and J, nor did he file a declaration. As a result, the debtor has not sustained his burden of proof and the application will be denied.

### **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.

Debtor Steven Barajas's application for fee waiver has been presented to the court.

IT IS ORDERED that the application is denied.

3. [16-11517](#)-A-7      RAFAEL/MARIA VALENCIA      OBJECTION TO DEBTOR'S CLAIM OF  
RHT-1      EXEMPTIONS  
ROBERT HAWKINS/MV      6-13-16 [[21](#)]  
ROBERT HAWKINS/Atty. for mv.

**Final Ruling**

**Objection:** Objection to Claim of Exemptions

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

**Disposition:** Sustained

**Order:** civil minute order

Chapter 7 trustee Robert Hawkins objects the debtors' claim of exemption in two different residences: 947 West 12th Street, Merced, California, and 1315 Esplande Drive, Merced, California. The petition indicates that the debtor's reside separately. Voluntary Petition, filed April 29, 2016, ECF # 1.

**DISCUSSION**

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this motion. 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).

California law is clear. Even where married debtors reside apart, only one homestead exemption may be claimed. "Homestead is a defined term." California Code of Civil Procedure § 704.710(c) provides, "Homestead' means the principal dwelling (1) in which the judgment debtor or the judgment debtor's spouse resided on the date the judgment creditor's lien attached to the dwelling, and (2) in which the judgment debtor or the judgment debtor's spouse resided continuously thereafter until the date of the court determination that the dwelling is a homestead. Where exempt proceeds from the sale or damage or destruction of a homestead are used toward the acquisition of a dwelling within the six-month period provided by Section 704.720, "homestead" also means the dwelling so acquired if it is the principal dwelling in which the judgment debtor or the judgment debtor's spouse resided continuously from the date of acquisition until the date of the court determination that the dwelling is a homestead, whether or not an abstract or certified copy of a judgment was recorded to create a judgment lien before the dwelling was acquired."

Other provisions of the California Code of Civil Procedure amplify the right to claim a homestead. California Code of Civil Procedure s 704.720 provides: "(a) A homestead is exempt from sale under this division to the extent provided in Section 704.800. (b) If a homestead is sold under this division or is damaged or destroyed or is acquired for public use, the proceeds of sale or of insurance or other indemnification for damage or destruction of the homestead or the proceeds received as compensation for a homestead acquired for public use are exempt in the amount of the homestead exemption provided in Section 704.730. The proceeds are exempt for a period of six months after the time the proceeds are actually received by the judgment debtor, except that, if a homestead exemption is applied to other

property of the judgment debtor or the judgment debtor's spouse during that period, the proceeds thereafter are not exempt. (c) *If the judgment debtor and spouse of the judgment debtor reside in separate homesteads, only the homestead of one of the spouses is exempt and only the proceeds of the exempt homestead are exempt.* (emphasis added). (d) If a judgment debtor is not currently residing in the homestead, but his or her separated or former spouse continues to reside in or exercise control over possession of the homestead, that judgment debtor continues to be entitled to an exemption under this article until entry of judgment or other legally enforceable agreement dividing the community property between the judgment debtor and the separated or former spouse, or until a later time period as specified by court order. Nothing in this subdivision shall entitle the judgment debtor to more than one exempt homestead. Notwithstanding subdivision (d) of Section 704.710, for purposes of this article, "spouse" may include a separated or former spouse consistent with this subdivision."

As a consequence, if the trustee or a creditors timely objection to the claim of exemption (as occurred here), the debtors may not claim as exempt two residences. The objection will be sustained.

#### **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.

Robert Hawkins's objection to claim of exemption 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 objection,

IT IS ORDERED that (1) the objection is sustained, and (2) the debtors may not claim as exempt under California Code of Civil Procedure 703.740 both 947 West 12th Street, Merced, California, and 1315 Esplande Drive, Merced, California.

4. [16-11920](#)-A-7 KRISSY PELAYO  
KRISSY PELAYO/MV  
KRISSY PELAYO/Atty. for mv.

MOTION FOR WAIVER OF THE  
CHAPTER 7 FILING FEE OR OTHER  
FEE  
5-27-16 [5]

**No tentative ruling.**

5. [16-11122](#)-A-7 ROSALIA GARCIA  
TMT-1  
TRUDI MANFREDO/MV  
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL  
6-21-16 [[25](#)]

**Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 2005 Honda Civic

**Buyer:** Debtor

**Sale Price:** \$2,300.00

**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.

6. [07-12925](#)-A-7 TIMOTHY/JOANNE KUBELKA  
MRE-1  
LEANNA GERRITSEN/MV  
STEVEN STANLEY/Atty. for dbt.  
MARSHALL WHITNEY/Atty. for mv.  
ORDER #132

CONTINUED MOTION TO SUSPEND  
PROCEEDINGS  
4-26-16 [[124](#)]

**Final Ruling**

Upon the representation of debtors' counsel in the notice of conditional settlement, filed July 14, 2016, the motion to suspend proceedings is continued to August 24, 2016, at 9:00 a.m. If the motion for contempt, MRE-1, has not been withdrawn, not later than 14 days prior to the continued hearing, the parties shall file a joint status report. No other relief is ordered at this time. The court will issue a civil minute order.

7. [16-11233](#)-A-7 TIMOTHY/ELENA MAGILL OBJECTION TO DEBTOR'S CLAIM OF  
JES-1 EXEMPTIONS  
JAMES SALVEN/MV 6-7-16 [[12](#)]  
DAVID JENKINS/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.  
RESPONSIVE PLEADING

[This matter will be called at the end of the 9:00 a.m. Chapter 7 calendar.]

**No tentative ruling.**

8. [16-10834](#)-A-7 JEANETTE MORGAN MOTION FOR RELIEF FROM  
ETL-1 AUTOMATIC STAY  
THE BANK OF NEW YORK MELLON/MV 6-21-16 [[17](#)]  
RICHARD STURDEVANT/Atty. for dbt.  
ERICA LOFTIS/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 5279 Boyer Road, Mariposa, California 95338

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**

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.

**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.

Bank of New York Mellon'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 5279 Boyer Road, Mariposa, California 95338, 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.

9. [16-10834](#)-A-7 JEANETTE MORGAN MOTION TO EXTEND DEADLINE TO  
TMT-1 FILE A COMPLAINT OBJECTING TO  
TRUDI MANFREDO/MV DISCHARGE OF THE DEBTOR  
6-24-16 [[24](#)]

RICHARD STURDEVANT/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

### **Final Ruling**

**Motion:** Extend Trustee and U.S. Trustee's Deadline for Objecting to Discharge under § 727(a)

**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 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 trustee and U.S. Trustee's deadline for objecting to discharge under § 727(a). This deadline to object to discharge will be extended through September 1, 2016.

10. [13-17341](#)-A-7 HOWARD SAGASER  
WFH-22  
JAMES SALVEN/MV

MOTION TO MAKE INTERIM  
DISTRIBUTION TO GENERAL  
UNSECURED CREDITORS  
6-23-16 [[643](#)]

HAGOP BEDOYAN/Atty. for dbt.  
DANIEL EGAN/Atty. for mv.

### **Final Ruling**

**Motion:** Second Interim Distribution

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

**Disposition:** Granted

**Order:** Civil minute order

James E. Salven, Chapter 7 trustee, prays leave of court for a second interim distribution to creditors.

### **DISCUSSION**

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 one commentator noted, "The court has the power to authorize interim distributions in a Chapter 7 case to the holders of prepetition unsecured claims. However, it will only do so if assured there will be sufficient remaining funds to pay all administrative claims (including those that might accrue in the future). [In re Energy Co-op., Inc. (ND IL 1994) 173 BR 363, 372; In re Quid Me Broadcasting, Inc., *supra*, 181 BR at 717-718]." March, Ahart & Shapiro, *California Practice Guide: Bankruptcy, Enforcement of Claims and Interests in Bankruptcy* § 17:1760 (Rutter Group 2016).

Based on the Salven declaration ¶¶ 11-12, filed June 23, 2016, ECF # 645, this court finds that the case is (or more properly will be) administratively solvent and, subject to the limitations in the civil minute order below, grants the motion.

### **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.

James E. Salven' motion 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 (1) the motion is granted; and (2) James E. Salven may make the distribution described in the in Part V Requested Relief of Trustee's Second Motion for Authority to Make Interim Distribution, filed June 23, 2016, ECF # 643, provided that nothing in this order

shall alter the distribution scheme set forth in 11 U.S.C. § 726 or other applicable law or by any other order of this court.

11. [10-16342](#)-A-7 MANUEL/ENEDINA PEREZ CONTINUED PRE-TRIAL CONFERENCE  
DAC-5 RE: MOTION FOR SANCTIONS FOR  
MANUEL PEREZ/MV VIOLATION OF THE DISCHARGE  
INJUNCTION  
4-21-15 [[29](#)]
- ERIN SAKATA/Atty. for dbt.  
RESPONSIVE PLEADING

### **Tentative Ruling**

No further continuances of the pretrial conference will be entertained. The court intends to set this matter for an evidentiary hearing the earliest date practicable, preferring the following dates in the following order: (1) Tuesday-Friday, August 16-19; (2) Monday and Tuesday, August 22-23; (3) Monday and Tuesday, August 29-30; or (4) Thursday (afternoon) and Friday, September 1-2. It appears that two days would be sufficient to try all sides of the case. Prior to the hearing on July 21, 2016, the parties are ordered to meet and confer as to which of the dates described herein are most convenient for the parties. If the parties agree to one of the enumerated dates and file a joint status report not later than close of business on July 19, 2016, so indicating, appearance at the status conference scheduled for July 21, 2016, is excused and the court will issue a pretrial order from chambers setting the matter for trial.

12. [16-11242](#)-A-7 SHANIE MATEIRO MOTION FOR RELIEF FROM  
HDP-2 AUTOMATIC STAY  
TRINITY FINANCIAL SERVICES 6-20-16 [[24](#)]  
LLC/MV  
AMANDA BILLYARD/Atty. for dbt.  
HENRY PALOCI/Atty. for mv.

### **Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 12349 Sierra View Street, Boron, California

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) (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.

#### **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.

Trinity Financial Services' 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 12349 Sierra View Street, Boron, California, 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.

13. [13-17444](#)-A-7 A & A TRANSPORT, CO., MOTION TO PAY ADMINISTRATIVE  
TMT-2 INC. EXPENSES  
TRUDI MANFREDO/MV 6-14-16 [[329](#)]  
HILTON RYDER/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

#### **Final Ruling**

**Motion:** Allow Administrative Expense [Estate Taxes]

**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).

## **ALLOWANCE OF ADMINISTRATIVE EXPENSE**

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Cloobek*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, taxes in the amount specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

## **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.

The chapter 7 trustee's motion for allowance of administrative expense 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 allows \$2,444.00 for tax years 2014, 2015 and 2016 as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

14. [15-12344](#)-A-7 TRAVIS/CHARITY GODDEN MOTION TO SELL  
TMT-1 6-7-16 [[69](#)]  
TRUDI MANFREDO/MV  
SUSAN HEMB/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:** 2006 Ford F150, 2010 Chevrolet Suburban, H & K USP 40, H & K USP 40 Expert and Kel-Tec PF9

**Buyer:** Debtors

**Sale Price:** \$10,985.00

**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. [16-10945](#)-A-7 ROGER POWELL CONTINUED OBJECTION TO DEBTOR'S  
JES-1 CLAIM OF EXEMPTIONS  
JAMES SALVEN/MV 5-17-16 [[18](#)]  
MARK ZIMMERMAN/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

16. [16-10945](#)-A-7 ROGER POWELL  
UST-1  
TRACY DAVIS/MV

MOTION TO EXTEND DEADLINE TO  
FILE A COMPLAINT OBJECTING TO  
DISCHARGE OF THE DEBTOR AND/OR  
MOTION TO EXTEND TIME TO FILE A  
MOTION TO DISMISS CASE UNDER  
SEC. 707(B)  
6-20-16 [[30](#)]

MARK ZIMMERMAN/Atty. for dbt.  
TERRI DIDION/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 September 23, 2016.

### **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 September 23, 2016.

17. [16-10246](#)-A-7 ROBIN VANTASSEL CONTINUED MOTION FOR DENIAL OF  
UST-1 DISCHARGE OF DEBTOR UNDER 11  
TRACY DAVIS/MV U.S.C. SECTION 727(A)  
4-28-16 [[36](#)]  
TERRI DIDION/Atty. for mv.

**Tentative Ruling**

**Motion:** To Deny Discharge under § 727(a) (8)

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

**Disposition:** Granted

**Order:** Prepared by the movant

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).

The U.S. Trustee moves to deny the debtor's discharge under § 727(a) (8). As grounds for the motion, the U.S. Trustee has shown that the debtor (1) commenced a prior bankruptcy case within the 8-year period before the filing of the petition in this case, and (2) received a discharge under § 727(a) in that case. The court will order that the debtor's discharge be denied.

18. [16-11246](#)-A-7 SHELLBY PEDRAZA OPPOSITION RE: TRUSTEE'S MOTION  
TMT-1 TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
5-26-16 [[13](#)]

**Tentative Ruling**

**Motion:** Dismiss Case and Extend Trustee's Deadlines

**Notice:** LBR 9014-1(f) (1); written opposition required or case dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Civil minute order

The Chapter 7 trustee has filed a Motion to Dismiss for Failure to Appear at the § 341(a) Meeting of Creditors and Motion to Extend Deadlines for Filing Objections to Discharge. The debtor opposes the motion.

**DISMISSAL**

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting is cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); see also *In re Nordblad*, No. 2:13-bk-14562-RK, 2013 WL 3049227, at \*2 (Bankr. C.D. Cal. June 17, 2013).

The court finds that the debtor has failed to appear at a scheduled meeting of creditors under 11 U.S.C. § 341. Because the debtor's

failure to attend the required § 341 creditors' meeting has occurred only once, the court will not dismiss the case provided the debtor appears at the next continued date of the creditor's meeting. This means that the court's denial of the motion to dismiss is subject to the condition that the debtor attend the next continued creditors' meeting. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

#### **EXTENSION OF DEADLINES**

The court will grant the motion in part to the extent it requests extension of the trustee's deadlines to object to discharge and to dismiss the case for abuse, other than presumed abuse. Such deadlines will be extended so that they run from the next continued date of the § 341(a) meeting of creditors rather than the first date set for the meeting of creditors. The following deadlines are extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

#### **CIVIL MINUTE ORDER**

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

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

The trustee's Motion to Dismiss for Failure to Appear at § 341(a) Meeting of Creditors and Motion to Extend the Deadlines for Filing Objections to Discharge and Motions to Dismiss having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for July 25, 2016 at 8:30 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

19. [12-60549](#)-A-7 MARIBEL TAMEZ  
PFT-1  
PETER FEAR/MV

STEPHEN LABIAK/Atty. for dbt.  
PETER FEAR/Atty. for mv.  
ORDER #66

CONTINUED MOTION TO EMPLOY  
DAVID KUTTLES AS SPECIAL  
COUNSEL  
4-19-16 [[34](#)]

**No tentative ruling.**

20. [12-60549](#)-A-7 MARIBEL TAMEZ  
PFT-2  
PETER FEAR/MV

STEPHEN LABIAK/Atty. for dbt.  
PETER FEAR/Atty. for mv.

CONTINUED MOTION FOR  
COMPENSATION BY THE LAW OFFICE  
OF LANNIER LAW FIRM FOR DAVID  
KUTTLES, SPECIAL COUNSEL(S),  
MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH DEFENDANT  
MANUFACTURER  
4-19-16 [[43](#)]

**No tentative ruling.**

21. [12-60549](#)-A-7 MARIBEL TAMEZ  
PFT-3  
PETER FEAR/MV

STEPHEN LABIAK/Atty. for dbt.  
PETER FEAR/Atty. for mv.

CONTINUED MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH MARIBEL TAMEZ  
4-19-16 [[38](#)]

**No tentative ruling.**

22. [12-60054](#)-A-7 DWIGHT/NELLIE LONG  
JLG-2  
GROSS MORTGAGE CORPORATION/MV

LAYNE HAYDEN/Atty. for dbt.  
HANNO POWELL/Atty. for mv.  
RESPONSIVE PLEADING

CONTINUED OBJECTION TO CLAIM OF  
GILMORE, WOOD, VINNARD &  
MAGNESS, P.C., CLAIM NUMBER 16  
5-12-16 [[299](#)]

**No tentative ruling.**

23. [16-10554](#)-A-7 BRANDON/KYMBERLY MCMILLS MOTION TO SELL  
JES-1 6-14-16 [[20](#)]  
JAMES SALVEN/MV  
MARK HANNON/Atty. for dbt.  
JAMES SALVEN/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:** 1976 Volkswagen Van and 2004 Buick Rendesvouz

**Buyer:** Debtors

**Sale Price:** 1976 Volkswagen Van-\$5,900.00 (\$3,000.00 cash + credit for exemption of \$2,900.00) and 2004 Buick Rendesvouz-\$750.000 cash

**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.

24. [16-10554](#)-A-7 BRANDON/KYMBERLY MCMILLS MOTION TO COMPROMISE  
JES-2 CONTROVERSY/APPROVE SETTLEMENT  
JAMES SALVEN/MV AGREEMENT WITH BRANDON WILLIAM  
MCMILLS AND KYMBERLY MCMILLS  
6-22-16 [[26](#)]  
MARK HANNON/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

**Final Ruling**

**Motion:** Approve Compromise of Controversy

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

**Disposition:** Continued to August 9, 2016

**Order:** Civil minute order

Chapter 7 trustee seeks to approve a compromise of a preference action paid to an undisclosed "family member." The preference payment was \$4,800.00 and the debtors, and not the recipient family member, proposes to pay the estate \$3,000.00 in satisfaction of the

preference.

## **DISCUSSION**

Federal Rule of Bankruptcy Procedure 9013 provides, "A request for an order, except when an application is authorized by the rules, shall be by written motion, unless made during a hearing. *The motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. . .*" (emphasis added). The family member to whom the preference was paid is not identified. The particular problem is that an order emanating from such a motion would be unenforceable. The hearing is continued to August 9, 2016, at 9:00 a.m. Not later than July 26, 2016, the movant shall (1) file and serve a notice of continued hearing on all parties in interest noticed with the original motion; and (2) file a Certificate of Service so indicating. The notice of continued hearing shall (1) specify the family member(s) who received the preference(s); (2) notify all parties in interest of the continued hearing date; and (3) indicate the opposition may be presented orally at the continued hearing on the motion.

## **CIVIL MINUTE ORDER**

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

James E. Salven's motion to approve compromise has been presented to the court.

IT IS ORDERED that the motion continued to August 9, 2016, at 9:00 a.m. Not later than July 26, 2016, the movant shall (1) file and serve a notice of continued hearing on all parties in interest noticed with the original motion; and (2) file a Certificate of Service so indicating. The notice of continued hearing shall (1) specify the family member(s) who received the preference(s); (2) notify all parties in interest of the continued hearing date; and (3) indicate the opposition may be presented orally at the continued hearing on the motion.

25. [16-11355](#)-A-7 ELISEO/LISA GALLEGOS MOTION FOR WAIVER OF THE  
ELISEO GALLEGOS/MV CHAPTER 7 FILING FEE OR OTHER  
ELISEO GALLEGOS/Atty. for mv. FEE  
6-13-16 [[11](#)]

## **Final Ruling**

The matter resolved by order prior to the hearing, the matter will be dropped from calendar. No appearance is necessary.

26. [13-16857](#)-A-7 MENDOZA FAMILY PRACTICE, MOTION FOR COMPENSATION FOR  
JES-3 A MEDICAL CORPORATION JAMES E. SALVEN, ACCOUNTANT(S)  
JAMES SALVEN/MV 6-9-16 [[101](#)]  
CYNTHIA SCULLY/Atty. for dbt.

### **Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**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 application was required not less than 14 days before the hearing on the application. 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).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, James E. Salven, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1,845.00 and reimbursement of expenses in the amount of \$143.14. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

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. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

### **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.

James E. Salven's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The

court allows final compensation in the amount of \$1,845.00 and reimbursement of expenses in the amount of \$143.14. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

27. [14-15959](#)-A-7 CLIFTON'S FLOWER & MOTION FOR COMPENSATION FOR M.  
MKK-2 GARDEN CENTER KATHLEEN KLEIN, ACCOUNTANT(S)  
M. KATHLEEN KLEIN/MV 6-21-16 [29]  
LEONARD WELSH/Atty. for dbt.

### **Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**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 application was required not less than 14 days before the hearing on the application. 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).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, M. Kathleen Klein, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$649.00 and reimbursement of expenses in the amount of \$108.54.

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.

### **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.

M. Kathleen Klein's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$649.00 and reimbursement of expenses in the amount of \$108.54.

28. [14-15959](#)-A-7 CLIFTON'S FLOWER & MOTION TO AUTHORIZE PAYMENT OF  
PFT-2 GARDEN CENTER TAXES  
PETER FEAR/MV 6-15-16 [24]  
LEONARD WELSH/Atty. for dbt.  
PETER FEAR/Atty. for mv.

### **Final Ruling**

**Motion:** Allow Administrative Expense [Estate Taxes]

**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).

### **ALLOWANCE OF ADMINISTRATIVE EXPENSE**

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Cloobek*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, state taxes in the amount specified in the motion, i.e. \$822.00 plus up to 50% over that amount for any penalty, shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

## 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.

The chapter 7 trustee's motion for allowance of administrative expense 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 allows \$822.00 (state taxes) plus up to 50% over that amount for taxes, as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

29. [16-11659](#)-A-7      MAX CUNNINGHAM      MOTION FOR RELIEF FROM  
CJO-1      AUTOMATIC STAY  
PINGORA SERVICING, LLC/MV      6-22-16 [[13](#)]  
JAMES MILLER/Atty. for dbt.  
CHRISTINA O/Atty. for mv.

### Final Ruling

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 3527 West Cortland Avenue, Fresno, CA 93722

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

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.



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.

32. [10-61970](#)-A-7 BRIAN ENNIS  
RH-11  
JAMES SALVEN/MV  
RILEY WALTER/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

MOTION TO SELL  
6-24-16 [[382](#)]

### **Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Promissory Note secured by real property (pistachio and olive orchard)

**Buyer:** Marlen Ramirez

**Sale Price:** \$35,000

**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.

33. [10-61970](#)-A-7 BRIAN ENNIS MOTION TO SELL  
RH-12 6-24-16 [[387](#)]  
JAMES SALVEN/MV  
RILEY WALTER/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

**Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Promissory Note secured by real property (pistachio orchard)

**Buyer:** Marlen Ramirez

**Sale Price:** \$185,000

**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.

34. [16-11872](#)-A-7 VICTORIA ARIEAS  
APN-1  
SANTANDER CONSUMER USA INC./MV  
MARK ZIMMERMAN/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.  
NON-OPPOSITION

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-15-16 [[12](#)]

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2015 Dodge Challenger

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**

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.

### **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.

Santander Consumer USA, Inc.'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 Dodge Challenger, VIN 2C3CDZBT9FH788332, 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.

35. [16-11481](#)-A-7 TOM XIONG  
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
6-7-16 [[14](#)]

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Trustee's Deadlines

**Notice:** LBR 9014-1(f)(1); written opposition required or case dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Civil minute order

The Chapter 7 trustee has filed a Motion to Dismiss for Failure to Appear at the § 341(a) Meeting of Creditors and Motion to Extend Deadlines for Filing Objections to Discharge. The debtor opposes the motion.

### **DISMISSAL**

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting is cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); see also *In re Nordblad*, No. 2:13-bk-14562-RK, 2013 WL 3049227, at \*2 (Bankr. C.D. Cal. June 17, 2013).

The court finds that the debtor has failed to appear at a scheduled meeting of creditors under 11 U.S.C. § 341. Because the debtor's failure to attend the required § 341 creditors' meeting has occurred only once, the court will not dismiss the case provided the debtor appears at the next continued date of the creditor's meeting. This means that the court's denial of the motion to dismiss is subject to the condition that the debtor attend the next continued creditors' meeting. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

### **EXTENSION OF DEADLINES**

The court will grant the motion in part to the extent it requests extension of the trustee's deadlines to object to discharge and to dismiss the case for abuse, other than presumed abuse. Such deadlines will be extended so that they run from the next continued date of the § 341(a) meeting of creditors rather than the first date set for the meeting of creditors. The following deadlines are extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

## CIVIL MINUTE ORDER

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

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

The trustee's Motion to Dismiss for Failure to Appear at § 341(a) Meeting of Creditors and Motion to Extend the Deadlines for Filing Objections to Discharge and Motions to Dismiss having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for August 8, 2016 at 9:00 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

36. [16-11185](#)-A-7 GAYLENE RUSSELL  
KAZ-1  
WELLS FARGO BANK, NATIONAL  
ASSOCIATION/MV  
JAMES MILLER/Atty. for dbt.  
KRISTIN ZILBERSTEIN/Atty. for mv.  
DISCHARGED

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-6-16 [[14](#)]

### Final Ruling

**Motion:** Stay Relief

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

**Disposition:** Granted in part, denied in part as moot

**Order:** Civil minute order

**Subject:** 770 W. Mullberry Avenue, Porterville, California 93257

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.

#### **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.

Wells Fargo Bank'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 in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 770 W. Mullberry Avenue, Porterville, California 93257. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that 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.

37. [16-11485](#)-A-7 DANA WARREN  
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
6-7-16 [[14](#)]

ERIC ESCAMILLA/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Trustee's Deadlines

**Notice:** LBR 9014-1(f) (1); written opposition required or case dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Civil minute order

The Chapter 7 trustee has filed a Motion to Dismiss for Failure to Appear at the § 341(a) Meeting of Creditors and Motion to Extend Deadlines for Filing Objections to Discharge. The debtor opposes the motion.

### **DISMISSAL**

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting is cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); see also *In re Nordblad*, No. 2:13-bk-14562-RK, 2013 WL 3049227, at \*2 (Bankr. C.D. Cal. June 17, 2013).

The court finds that the debtor has failed to appear at a scheduled meeting of creditors under 11 U.S.C. § 341. Because the debtor's failure to attend the required § 341 creditors' meeting has occurred only once, the court will not dismiss the case provided the debtor appears at the next continued date of the creditor's meeting. This means that the court's denial of the motion to dismiss is subject to the condition that the debtor attend the next continued creditors' meeting. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

### **EXTENSION OF DEADLINES**

The court will grant the motion in part to the extent it requests extension of the trustee's deadlines to object to discharge and to dismiss the case for abuse, other than presumed abuse. Such deadlines will be extended so that they run from the next continued date of the § 341(a) meeting of creditors rather than the first date set for the meeting of creditors. The following deadlines are extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

### **CIVIL MINUTE ORDER**

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

Findings of Fact and Conclusions of Law are stated in the Civil

Minutes of the hearing.

The trustee's Motion to Dismiss for Failure to Appear at § 341(a) Meeting of Creditors and Motion to Extend the Deadlines for Filing Objections to Discharge and Motions to Dismiss having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for August 8, 2016, at 10:00 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

38. <a href="#">16-11492</a> -A-7 ANA I MADRIGAL PPR-1 NASA FEDERAL CREDIT UNION/MV CHARLES STONER/Atty. for dbt. CASSANDRA RICHEY/Atty. for mv.	MOTION FOR RELIEF FROM AUTOMATIC STAY 6-6-16 [ <a href="#">16</a> ]
--	---

**Final Ruling**

**Motion:** Stay Relief  
**Notice:** LBR 9014-1(f) (1); written opposition required  
**Disposition:** Granted  
**Order:** Civil minute order

**Subject:** 2011 Chevrolet Silverado

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**

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.

## 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.

NASA Federal Credit Union'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: 2011 Chevrolet Silverado, VIN 3GCPCSE0XBG127265, 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.

39. [16-11393](#)-A-7 SARAH ROTHENFLUH MOTION FOR RELIEF FROM  
ETL-1 AUTOMATIC STAY  
VW CREDIT, INC./MV 6-7-16 [[13](#)]  
MARIO LANGONE/Atty. for dbt.  
ERICA LOFTIS/Atty. for mv.

### Final Ruling

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2013 Ducati Monster 696

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

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.

#### **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.

VW Credit Inc.'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 2013 Ducati Monster 696, VIN ZDM1RADNXDB068312, 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.

40. [16-11799](#)-A-7 ROSALIE VELASCO

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
6-29-16 [[15](#)]

AMENDMENT FEE PAID \$30.00

#### **Final Ruling**

The fee paid, the order to show cause is discharged and the case shall remain pending.

41. [16-11056](#)-A-7 LUIS URTIZ  
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
6-7-16 [[16](#)]

MARK ZIMMERMAN/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Trustee's Deadlines

**Notice:** LBR 9014-1(f) (1); written opposition required or case dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Civil minute order

The Chapter 7 trustee has filed a Motion to Dismiss for Failure to Appear at the § 341(a) Meeting of Creditors and Motion to Extend Deadlines for Filing Objections to Discharge. The debtor opposes the motion.

### **DISMISSAL**

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting is cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); see also *In re Nordblad*, No. 2:13-bk-14562-RK, 2013 WL 3049227, at \*2 (Bankr. C.D. Cal. June 17, 2013).

The court finds that the debtor has failed to appear at a scheduled meeting of creditors under 11 U.S.C. § 341. Because the debtor's failure to attend the required § 341 creditors' meeting has occurred only once, the court will not dismiss the case provided the debtor appears at the next continued date of the creditor's meeting. This means that the court's denial of the motion to dismiss is subject to the condition that the debtor attend the next continued creditors' meeting. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

### **EXTENSION OF DEADLINES**

The court will grant the motion in part to the extent it requests extension of the trustee's deadlines to object to discharge and to dismiss the case for abuse, other than presumed abuse. Such deadlines will be extended so that they run from the next continued date of the § 341(a) meeting of creditors rather than the first date set for the meeting of creditors. The following deadlines are extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

### **CIVIL MINUTE ORDER**

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

Findings of Fact and Conclusions of Law are stated in the Civil

Minutes of the hearing.

The trustee's Motion to Dismiss for Failure to Appear at § 341(a) Meeting of Creditors and Motion to Extend the Deadlines for Filing Objections to Discharge and Motions to Dismiss having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for August 8, 2016, at 11:00 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

42. [15-11535](#)-A-7 JOHN HALOPOFF  
KDG-14  
TRUDI MANFREDO/MV

MOTION FOR THIRD ORDER  
AUTHORIZING TRUSTEE TO OPERATE  
BUSINESSES ON INTERIM BASIS  
(UNTIL DECEMBER 31, 2016)  
6-30-16 [[360](#)]

JUSTIN HARRIS/Atty. for dbt.  
HAGOP BEDOYAN/Atty. for mv.

**No tentative ruling.**

43. [16-10672](#)-A-7 MANUEL BRACAMONTES AND  
GT-3 RITA LOPEZ  
MANUEL BRACAMONTES/MV  
GRISELDA TORRES/Atty. for dbt.

MOTION TO AVOID LIEN OF GRYPHON  
SOLUTIONS, LLC  
7-1-16 [[37](#)]

**No tentative ruling.**

44. [16-11483](#)-A-7 RICARDO FLORES

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
6-7-16 [[12](#)]

DISMISSED

**Final Ruling**

The case dismissed, the matter is dropped as moot.