

**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: AUGUST 31, 2020
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

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. [19-27507](#)-A-7 **IN RE: KENNETH/LIELANIE STEERS**
[DL-1](#)

MOTION TO COMPEL ABANDONMENT
8-11-2020 [[128](#)]

WALTER DAHL/ATTY. FOR DBT.

No Ruling

2. [19-27507](#)-A-7 **IN RE: KENNETH/LIELANIE STEERS**
[HSM-7](#)

MOTION TO CONFIRM SALE OF REAL PROPERTY FOLLOWING AUCTION
AND/OR MOTION TO PAY ENCUMBRANCES, AND EXPENSES OF SALE
8-10-2020 [[120](#)]

WALTER DAHL/ATTY. FOR DBT.
AARON AVERY/ATTY. FOR MV.

No Ruling

3. [20-23013](#)-A-7 **IN RE: ROSALIA LOPEZ**
[ASW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-23-2020 [[23](#)]

CAREN CASTLE/ATTY. FOR MV.
DEUTSCHE BANK NATIONAL TRUST COMPANY VS.; NON-OPPOSITION

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 374 Cinderella Lane, Santa Barbara, CA 93111

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 UNDER 362(d)(1)

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's interest in the property was extinguished prior to the petition date by a foreclosure sale. 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.

STAY RELIEF UNDER 362(d)(4)

Section 362(d)(4) authorizes binding, in rem relief from stay with respect to real property "if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either-(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or (B) multiple bankruptcy filings affecting such real property." 11 U.S.C. § 362(d)(4).

The B.A.P. has specified the elements for relief under this subsection of § 362. "To obtain relief under § 362(d)(4), the court must find three elements to be present. [1] First, debtor's bankruptcy filing must have been part of a scheme. [2] Second, the object of the scheme must be to delay, hinder, or defraud creditors. [3] Third, the scheme must involve either (a) the transfer of some interest in the real property without the secured creditor's consent or court approval, or (b) multiple bankruptcy filings affecting the property." *In re First Yorkshire Holdings, Inc.*, 470 B.R. 864, 870-71 (B.A.P. 9th Cir. 2012) (footnote omitted). [4] Fourth, the movant creditor must be a creditor whose claim is secured by real property. *In re Ellis*, 523 B.R. 673, 678 (B.A.P. 9th Cir. 2014) ("Applying its plain meaning, this provision of the Code authorizes a bankruptcy court to grant the extraordinary remedy of in rem stay relief only upon the request of a creditor whose claim is secured by an interest in the subject property.").

An order entered under this subsection must be recorded in compliance with state law to "be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order." § 362(d)(4).

This is the third bankruptcy affecting the subject property since its foreclosure sale on January 9, 2019, ECF 25. The prior two bankruptcies were filed by two different debtors. Each case was dismissed within a month of filing for failure to file information. From the facts shown by the movant, the court infers a scheme to delay, under or defraud creditors via multiple bankruptcy filings affecting the subject property. The motion will be granted.

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.

Deutsche Bank National Trust Company'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 374 Cinderella Lane, Santa Barbara, CA 93111, 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, under 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property.

4. [20-21320](#)-A-7 **IN RE: PABLO/CATHY DIAZ**
[CLH-1](#)

MOTION TO COMPEL ABANDONMENT
7-23-2020 [[18](#)]

CHARLES HASTINGS/ATTY. FOR DBT.
DEBTOR DISCHARGED: 06/30/2020; JOINT DEBTOR DISCHARGED:
06/30/2020

Final Ruling

Motion: Compel Abandonment of Property of the Estate
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Prepared by moving party pursuant to the instructions below

Subject: 355 Steven Street, Tracy, CA
Value: \$507,000.00
1st Trust Deed: \$351,977.00
2nd Trust Deed: \$50,000.00
Other Lien: \$15,455.00
Exemption: \$85,778.00
Non-Exempt Equity: \$0.00

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).

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 of inconsequential value to the estate. An order compelling abandonment is warranted.

5. [13-30625](#)-A-7 **IN RE: MONICA SPENGLER**
[MWB-3](#)

MOTION TO AVOID LIEN OF MIDLAND FUNDING LLC AND/OR MOTION TO
RELEASE ABSTRACT OF JUDGMENT IMPAIRING EXEMPT PROPERTY
7-27-2020 [\[22\]](#)

MARK BRIDEN/ATTY. FOR DBT.

DEBTOR DISCHARGED: 11/18/2013; JOINT DEBTOR DISCHARGED:
11/18/2013

Final Ruling

Motion: Value Collateral

Disposition: Denied without prejudice

Order: Civil minute order

The motion will be denied without prejudice.

INSUFFICIENT SERVICE

As a contested matter, a motion to value collateral is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 9014(a). Rule 9014 requires Rule 7004 service of motions in contested matters. Fed. R. Bankr. P. 9014(b). Under Rule 7004, service on corporations and other business entities must be made by first class mail addressed "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. It was not served to an officer or agent of Midland Fund, LLC. The proof of service does not indicate that the motion was mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service on behalf of the responding party.

NO EXEMPTION CLAIMED

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).

Property must be listed on the schedules and claimed as exempt as a requirement for lien avoidance under § 522(f). See *Goswami*, 304 B.R. at 390-91 (deciding the unrelated issue of whether a debtor loses the ability to amend exemptions claimed upon case closure, and relying on the premise that property must be claimed exempt on the schedules for purposes of lien avoidance). "If the debtor does not proffer the verified schedules and list of property claimed as exempt, the court nevertheless has discretion to take judicial notice of them for the purpose of establishing whether the property is listed and claimed as exempt" *In re Mohring*, 142 B.R. 389, 393 (Bankr. E.D. Cal. 1992), *aff'd*, 153 B.R. 601 (B.A.P. 9th Cir. 1993), *aff'd*, 24 F.3d 247 (9th Cir. 1994) (unpublished mem. decision). It follows that a debtor who has not claimed an exemption in property encumbered by a judicial lien or a nonpossessory, nonpurchase-money security interest may not use the protections of that section. See *Goswami*, 304 B.R. at 390-91 (quoting *In re Mohring*, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Under C.C.P. § 703.140(b)(1), (5), the debtor is entitled to a \$26,925.00 exemption. The debtor claimed an exemption under C.C.P. § 703.140(b)(1), (5) on other property in the amount of \$17,071.47. No exemption has been claimed in the property subject to the responding party's lien. Accordingly, a prima facie case has not been made for relief under § 522(f) and the motion will be denied without prejudice.

6. [19-26728](#)-A-7 **IN RE: NORBERT/JILL WASCHE**
[DNL-2](#)

CONTINUED MOTION TO EMPLOY PATRICIA A. SAVAGE AS SPECIAL
COUNSEL

6-29-2020 [[38](#)]

HARRY ROTH/ATTY. FOR DBT.

J. CUNNINGHAM/ATTY. FOR MV.

DEBTOR DISCHARGED: 02/07/2020; JOINT DEBTOR DISCHARGED:
02/07/2020

No Ruling

7. [19-27028](#)-A-7 **IN RE: J&M PRINTING, INC.**
[KJH-2](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,
ACCOUNTANT(S)
7-17-2020 [[13](#)]

DALE ORTHNER/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, Gabrielson & Company, 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 \$4,503.00 and reimbursement of expenses in the amount of \$120.45.

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.

Gabrielson & Company'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 \$4,503.00 and reimbursement of expenses in the amount of \$120.45.

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.

8. [20-23034](#)-A-7 **IN RE: ROMAN/ALIONA BEJENARI**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-30-2020 [[14](#)]

MARK SHMORGON/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.
FORD MOTOR CREDIT COMPANY LLC VS.; NON-OPPOSITION

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2019 Ford T350HD

Value of Collateral: \$40,000.00

Aggregate of Liens: \$40,374.91

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.

Ford Motor Credit Company 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 2019 Ford T350HD, 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.

9. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-10](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH USF REDDAWAY, INC.
8-6-2020 [[1411](#)]

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

No Ruling

10. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-11](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH STAFFMARK INVESTMENT LLC
8-6-2020 [[1415](#)]

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

No Ruling

11. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-12](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH WM LAMTRACKER, INC.
8-6-2020 [[1395](#)]

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

No Ruling

12. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-13](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH DISNEY WORLDWIDE SERVICES, INC.
8-6-2020 [[1389](#)]

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

No Ruling

13. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-14](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH US ECOLOGY NEVADA, INC.
8-6-2020 [[1384](#)]

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

No Ruling

14. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-15](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH LOCKHEED MARTIN CORPORATION
8-6-2020 [[1379](#)]

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

No Ruling

15. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-6](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH RSM US, LLP
7-28-2020 [[1363](#)]

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

No Ruling

16. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-7](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH SQUARE, INC.
8-6-2020 [[1406](#)]

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

No Ruling

17. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-8](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH FACEBOOK, INC.
8-6-2020 [[1369](#)]

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

No Ruling

18. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[DMC-9](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH CRAY, INC.
8-6-2020 [[1373](#)]

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

No Ruling

19. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[HSM-20](#)

MOTION FOR COMPENSATION FOR ARCHERHALL, LLC, OTHER
PROFESSIONAL(S)
8-6-2020 [[1374](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Third Interim Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(2); no 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). 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, ArcherHall, LLC, Chapter 7 professional for the trustee, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the

court allow compensation in the amount of \$9,542.50 and reimbursement of expenses in the amount of \$64.86.

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 an interim basis as to the amounts requested. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

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.

ArcherHall, LLC's application for allowance of interim 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. The court allows interim compensation in the amount of \$9,542.50 and reimbursement of expenses in the amount of \$64.86. The fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

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.

20. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[KJH-4](#)

MOTION FOR COMPENSATION FOR GABRIELSON AND COMPANY,
ACCOUNTANT(S)
8-6-2020 [[1399](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Second Interim Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(2); no 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). 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, Gabrielson & Company, accountant for the trustee, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$15,326.00 and reimbursement of expenses in the amount of \$56.15.

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 an interim basis as to the amounts requested. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

COURT PREFERS USE OF THE CLERK'S MATRIX

There are reasons that the court prefers the use of the court's matrix as the standard list of creditors and parties in interest to whom a Rule 2002(a) notice is transmitted. Creditors and parties in interest, other than the debtor, are added to this matrix if they (i) are included in the Master Address List at the outset of the case by the debtor, (ii) are added to an amended Master Address List filed with the court, (iii) file a proof of claim in the case, (iv) file a request for special notice under § 342(e) or Fed. R. Bankr. P. 2002(g), (v) file a request with the Clerk's office to be added to the mailing list, (vi) file a global request under Rule

2002(g)(4) and 11 U.S.C. § 342(f) (assuming that they are originally identified as a creditor in the Master Address List by the debtor), or (vii) file a designation under Rule 5003(e). The court's matrix thus updates virtually automatically whenever a creditor or party in interest files a proof of claim, requests special notice, or files a global notice request under § 342(f). See 11 U.S.C. § 342(e), (f)(1)-(2); see also Fed. R. Bankr. P. 2002(g)(1), (2).

It would be cumbersome and impracticable for an attorney to ensure proper notice is given by monitoring each filing of a proof of claim, request for special notice, designation pursuant to Rule 5003(e), and global request made potentially with a different bankruptcy court. Therefore, the court prefers its mailing matrix for notice purposes because parties relying on their own self-constructed list for notice tend to miss at least one or more creditors or transmit notice to incorrect addresses for creditors and parties in interest.

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.

Gabrielson & Company's application for allowance of interim 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. The court allows interim compensation in the amount of \$15,326.00 and reimbursement of expenses in the amount of \$56.15. The fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

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.

21. [20-23457](#)-A-7 **IN RE: ERNESTO/MARILYN PATACSIL**
[KMM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-30-2020 [\[15\]](#)

CHARLES HASTINGS/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.
DEUTSCHE BANK NATIONAL TRUST COMPANY VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 3615 West Creek Drive, Stockton, California 95209

Value of Collateral: \$340,000.00

Aggregate of Liens: \$356,765.80

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. 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.

Deutsche Bank National Trust Company'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 3615 West Creek Drive, Stockton, California 95209, 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.

22. [20-23263](#)-A-7 **IN RE: PLACERVILLE BREWING COMPANY, LLC**
[KMT-2](#)

MOTION TO SELL AND/OR MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH DEL RIO FAMILY
TRUST
8-10-2020 [[39](#)]

JAMIE DREHER/ATTY. FOR DBT.
GABRIEL HERRERA/ATTY. FOR MV.

No Ruling

23. [20-23263](#)-A-7 **IN RE: PLACERVILLE BREWING COMPANY, LLC**
[KMT-3](#)

MOTION TO EMPLOY WFS, INC. DBA TRANZON ASSET STRATEGIES AS
AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION
AND AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES
8-10-2020 [\[46\]](#)

JAMIE DREHER/ATTY. FOR DBT.
GABRIEL HERRERA/ATTY. FOR MV.

No Ruling

24. [20-22068](#)-A-7 **IN RE: MELISSA SANFORD**
[WLG-1](#)

MOTION TO DELAY DISCHARGE AND/OR MOTION TO EXTEND TIME
7-24-2020 [\[17\]](#)

NICHOLAS WAJDA/ATTY. FOR DBT.
DEBTOR DISCHARGED: 07/27/2020; JOINT DEBTOR DISCHARGED:
07/27/2020

Final Ruling

Motion: Defer Discharge

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

Disposition: Granted

Order: Civil minute order

Creditor: US Bank

Collateral: 1540 Alabama Avenue West, Sacramento, CA 95691

Duration of Deferral: September 7, 2020

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).

DISCUSSION

Federal Rule of Bankruptcy Procedure 4004(c)(1) governs the timing of Chapter 7 discharge. As a rule, the discharge of debts issues after expiration of the deadline for objection to the debtor's discharge has passed.

At least one notable exception exists. "Notwithstanding Rule 4004(c)(1), on motion of the debtor, the court may defer the entry of an order granting a discharge for 30 days and, on motion within that period, the court may defer entry of the order to a date

certain." Fed. R. Bankr. P. 4004(c)(2). Cause and good faith are the standards by which a bankruptcy court should decide to defer the discharge. *In re Rich*, 544 B.R. 436 (Bankr. E.D. Cal. 2016). Among the species of cause are ongoing discussion to reaffirm a debt. *In re Roderick*, 425 B.R. 556 (Bankr. E.D. Cal. 2010); 11 U.S.C. § 524(c)(1) (requiring reaffirmations to be made before discharge is entered).

Here, the debtor seeks to defer discharge to negotiate and reaffirm the secured debt described herein. The court finds both cause and good faith on the part of the debtor and will grant 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.

Melissa Ann Sanford's 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 the motion is granted; and

IT IS FURTHER ORDERED that the Clerk of the Court shall not enter discharge prior to September 7, 2020.

25. [18-20774](#)-A-7 **IN RE: S360 RENTALS, LLC**
[DL-6](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH RONALD P. ELVIDGE AND/OR MOTION FOR RELEASE
OF FUNDS FROM BLOCKED ACCOUNT , MOTION FOR ADMINISTRATIVE
EXPENSES

7-24-2020 [[358](#)]

W. SHUMWAY/ATTY. FOR DBT.
WALTER DAHL/ATTY. FOR MV.

No Ruling

26. [18-20774](#)-A-7 **IN RE: S360 RENTALS, LLC**
[DL-7](#)

MOTION FOR COMPENSATION FOR HANK M. SPACONE, CHAPTER 7
TRUSTEE(S)
7-24-2020 [\[362\]](#)

W. SHUMWAY/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(2); no 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). 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

A trustee's compensation is considered in accordance with §§ 326(a) and 330(a). In 2005, "Congress removed Chapter 7 trustees from the list of professionals subject to the Section 330(a)(3) factors. . . . [and] introduced a new provision to Section 330 requiring courts to treat the reasonable compensation awarded to trustees as a 'commission, based on Section 326.'" *Matter of JFK Capital Holdings, L.L.C.*, 880 F.3d 747, 752 (5th Cir. 2018) (quoting 11 U.S.C. § 330(a)(7)). "[A] trustee's request for compensation should be presumed reasonable as long as the amount requested does not exceed the statutory maximum calculated pursuant to § 326. [A]bsent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review. If the court has found that extraordinary circumstances are present, only then does it become appropriate to conduct a further inquiry to determine whether there exists a rational relationship between the compensation requested and the services rendered." *In re Ruiz*, 541 B.R. 892, 896 (B.A.P. 9th Cir. 2015) (second alteration in original) (citations omitted) (internal quotation marks omitted).

In short, § 330(a)(7) "treats the commission as a fixed percentage, using Section 326 not only as a maximum but as a baseline presumption for reasonableness in each case." *Matter of JFK Capital Holdings*, 880 F.3d at 755. This provision "is best understood as a directive to simply apply the formula of § 362 in every case." *Id.* at 753-54. The "reduction or denial of compensation . . . should be a rare event" occurring only when truly exceptional circumstances are present. *Id.* at 756.

In this Chapter 7 case, the trustee has applied for an allowance of compensation and reimbursement of expenses. The court finds (1) that the compensation requested by the trustee is consistent with 11 U.S.C. § 326(a); (2) that no extraordinary circumstances are present

in this case, see *In re Salgado-Nava*, 473 B.R. 911 (B.A.P. 9th Cir. 2012); and (3) that expenses for which reimbursement is sought are actual and necessary.

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 application for allowance of 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 to the trustee compensation in the amount of \$17,604.46 and reimbursement of expenses in the amount of \$1,800.25.

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. [18-20774](#)-A-7 **IN RE: S360 RENTALS, LLC**
[DL-8](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DAHL LAW FOR
WALTER R. DAHL, TRUSTEES ATTORNEY(S)
7-24-2020 [[366](#)]

W. SHUMWAY/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(2); no 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). 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, Dahl Law, attorney 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 \$17,604.46 and reimbursement of expenses in the amount of \$266.38.

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.

Dahl Law'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 \$17,604.46 and reimbursement of expenses in the amount of \$266.38.

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.

28. [19-23075](#)-A-7 **IN RE: ARVENNA WILDER**
[MPD-3](#)

MOTION TO SELL AND/OR MOTION TO PAY, MOTION TO WAIVE THE
FOURTEEN (14) DAY STAY PROVISIONS OF RULE 6004(H), FEDERAL
RULES OF BANKRUPTCY PROCEDURE
8-4-2020 [[28](#)]

MARK BRIDEN/ATTY. FOR DBT.
MICHAEL DACQUISTO/ATTY. FOR MV.
DEBTOR DISCHARGED: 09/16/2019

Tentative Ruling

Motion: Sell Real Property and Compensate Real Estate Broker

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

Disposition: Granted

Order: Prepared by moving party

Property: 687-700 Ivy Way, Susanville, CA Lassen County APN 077-231-03; 1983 Fleetwood manufactured home, serial number CAFL1AD321704030, California HUD/HCD Label/Insignia number CAL263943, California HUD/HCD License/Decal number LAD8128

Buyer: Christopher J. Long and Eloisa Phelps

Sale Price: \$39,000.00

Sale Type: Private sale subject to overbid opportunity

Real Estate Broker: Clayton David LeRoy, dba Heritage Land Company
Compensation Requested: 6% commission/\$2,340.00

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

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