UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

October 20, 2014 at 10:00 a.m.

No written opposition has been filed to the following motion set for argument on this calendar:

6, 7, 9, 11, 12, 14, 15

When Judge McManus convenes court, he will ask whether anyone wishes to oppose one of these motions. If you wish to oppose the motion, tell Judge McManus there is opposition. Please do not identify yourself or explain the nature of your opposition. If there is opposition, the motion will remain on calendar and Judge McManus will hear from you when he calls the motion for argument.

If there is no opposition, the moving party should inform Judge McManus if it declines to accept the tentative ruling. Do not make your appearance or explain why you do not accept the ruling. If you do not accept the ruling, Judge McManus will hear from you when he calls the motion for argument.

If no one indicates they oppose the motion and if the moving party does not reject the tentative ruling, that ruling will become the final ruling. The motion will not be called for argument and the parties are free to leave (unless they have other matters on the calendar).

MOTIONS ARE ARRANGED ON THIS CALENDAR IN TWO SEPARATE SECTIONS. A CASE MAY HAVE A MOTION IN EITHER OR BOTH SECTIONS. **THE FIRST SECTION INCLUDES ALL MOTIONS THAT WILL BE RESOLVED WITH A HEARING. A TENTATIVE RULING IS GIVEN FOR EACH MOTION. THE SECOND SECTION INCLUDES ALL MOTIONS THAT HAVE BEEN RESOLVED BY THE COURT WITHOUT A HEARING. A FINAL RULING IS GIVEN FOR EACH MOTION. WITHIN EACH SECTION, CASES ARE ORGANIZED BY THE LAST TWO DIGITS OF THE CASE NUMBER.**

ITEMS WITH TENTATIVE RULINGS: IF A CALENDAR ITEM HAS BEEN SET FOR HEARING BY THE COURT PURSUANT TO AN ORDER TO SHOW CAUSE OR AN ORDER SHORTENING TIME, OR BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(1) OR LOCAL BANKRUPTCY RULE 9014-1(f)(1), AND IF ALL PARTIES AGREE WITH THE TENTATIVE RULING, THERE IS NO NEED TO APPEAR FOR ARGUMENT. HOWEVER, IT IS INCUMBENT ON EACH PARTY TO ASCERTAIN WHETHER ALL OTHER PARTIES WILL ACCEPT A RULING AND FOREGO ORAL ARGUMENT. IF A PARTY APPEARS, THE HEARING WILL PROCEED WHETHER OR NOT ALL PARTIES ARE PRESENT. AT THE CONCLUSION OF THE HEARING, THE COURT WILL ANNOUNCE ITS DISPOSITION OF THE ITEM AND IT MAY DIRECT THAT THE TENTATIVE RULING, AS ORIGINALLY WRITTEN OR AS AMENDED BY THE COURT, BE APPENDED TO THE MINUTES OF THE HEARING AS THE COURT'S FINDINGS AND CONCLUSIONS.

IF A MOTION OR AN OBJECTION IS SET FOR HEARING BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(2) OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED TO DEVELOP THE WRITTEN RECORD FURTHER.

IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON NOVEMBER 17, 2014 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY NOVEMBER 3, 2014, AND ANY REPLY MUST BE FILED AND SERVED BY NOVEMBER 10, 2014. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

ITEMS WITH FINAL RULINGS: THERE WILL BE NO HEARING ON THE ITEMS WITH FINAL RULINGS. INSTEAD, EACH OF THESE ITEMS HAS BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING ALSO WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

ORDERS: UNLESS THE COURT ANNOUNCES THAT IT WILL PREPARE AN ORDER, THE PREVAILING PARTY SHALL LODGE A PROPOSED ORDER WITHIN 14 DAYS OF THE HEARING.

MATTERS FOR ARGUMENT

1. 13-30210-A-7 JAY BRYANT
DMW-3

MOTION TO APPROVE AUCTIONEER'S REPORT AND COMPENSATION OF AUCTIONEER
9-12-14 [35]

Tentative Ruling: The motion will be granted in part and denied in part.

Northstate Auctions, Inc., auctioneer for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $1,182.12 in fees and $1,072.48 in expenses, for a total of $2,254.60. This motion is for a sale completed on August 21, 2014. The court approved the movant's employment as the trustee's auctioneer on July 7, 2014. Docket 32. According to the motion, the requested compensation is based on a 12% commission and reimbursement of moving and storage expenses.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included the sale of a 2001 Isuzu truck and a 1992 Ski Ranger boat and trailer.

With one exception, the court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The exception is that the court approved the movant's compensation at a 10% and not a 12% commission. See Dockets 30 & 32. Accordingly, the court is prepared to approve the payment of only a 10% commission to the movant, *i.e.*, a commission of $985.10 and not $1,182.12.

2. 13-23517-A-7 TRACY GATEWAY, LLC
FWP-1

MOTION FOR EXAMINATION
9-22-14 [114]

Tentative Ruling: The hearing on the motion will be continued.

CA BK Distressed Assets Fund IV, LLC moves the court to authorize a Rule 2004(a) examination of Stead Financial, Inc. The trustee has filed a "joinder" to the subject motion, also seeking the relief prayed for by the motion.

Stead opposes the motion. CA BK has filed a reply.

CA BK's reply will be stricken as untimely. It was filed on October 13, 2014, which was a legal holiday. When the deadline for oppositions falls on a legal holiday, the deadline is "the next day that is not a Saturday, Sunday, or legal holiday." Fed. R. Bankr. P. 9006(a)(1)(C). Here, the next day after October 13, 2014 that was not a Saturday, Sunday, or legal holiday, counting backward from the hearing date, was Friday October 10, 2014. Local Bankruptcy Rule 9014-1(f)(1)(B).

Turning to the merits of the motion, Fed. R. Bankr. P. 2004(a)-(c) provides that "(a) EXAMINATION ON MOTION. On motion of any party in interest, the court may order the examination of any entity.

(b) SCOPE OF EXAMINATION. The examination of an entity under this rule or of the debtor under §343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a family farmer's debt adjustment case under chapter

12, an individual's debt adjustment case under chapter 13, or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.

(c) COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS. The attendance of an entity for examination and for the production of documents, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial. As an officer of the court, an attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be held if the attorney is admitted to practice in that court or in the court in which the case is pending."

The facts leading to the subject dispute are as follows. Stead appears to have made two loans to the debtor, one for $1.5 million and the other for up to approximately $1.64 million. The first loan was paid off in or about November 2011. The second loan - made in or about January 2011 - has a current balance of approximately $1.643 million and is still outstanding. Stead also made a loan for approximately $2.14 million to SNB Gateway, LLC, a partner of the debtor in the development of property near Tracy, California. The still outstanding loans to the debtor and to SNB were personally guaranteed by Kenneth Rawlings, a member and 59.56% owner of the debtor.

The instant chapter 7 bankruptcy case was filed on March 15, 2013. On October 21, 2013, Stead filed a state court action for the enforcement of the promissory notes, against the debtor and SNB. The debtor, SNB, Mr. Rawlings and a family trust of Mr. Rawlings were named as defendants. The debtor was eventually dismissed from the action due to the applicability of the automatic stay in the instant bankruptcy case. Stead amended its complaint in or about June 2014 to add as defendants Mr. Rawlings' four daughters, to whom Mr. Rawlings purportedly transferred more than $4 million of his assets for no consideration, in a purported attempt to evade liability on the guaranties. Stead seeks to have those transfers avoided and recovered based on fraudulent conveyance theories.

CA BK was formed post-petition, on July 8, 2014, and consists of Mr. Rawlings' four daughters, including Lindsey Baker, who is the wife of Evan Baker, one of the principal attorneys for CA BK in this proceeding. Docket 116 ¶¶ 24, 25. CA BK approached the trustee in this case, negotiating the purchase of the estate's claims under 11 U.S.C. § 544 through 11 U.S.C. § 553, and California law including, without limitation, Cal. Civ. Code § 3439, against any and all parties, except for: (1) the City of Tracy, and (2) the Sutter entities, including, without limitation, Sutter Tracy Community Hospital, Sutter Central Valley Hospitals, Sutter Health, and any and all affiliates, successors, or assigns of any of those entities or of any Sutter entity. Docket 93.

Initially, the court will strike the trustee's joinder to the motion. Docket 112. The civil and bankruptcy rules do not allow for the joinder of parties to motions or oppositions to motions.

The court will not permit CA BK to discover any information that would be considered privileged, *i.e.*, information that is based on communications between Stead and its counsel. No adequate justification has been established for invading the sanctity of the attorney-client privilege.

More, the purported improprieties by Stead's attorney, Kevin Corbett, in serving as counsel also for Norman Barnes - a developer who had worked on behalf of the debtor, cannot be resolved by the discovery of privileged communications between Stead and its counsel. Mr. Barnes and not Stead worked as a partner with the debtor in developing the property near Tracy, California. CA BK is not seeking to discover information from Mr. Barnes or his entities about why Mr. Barnes or his entities engaged the services of Mr. Corbett. Rather, CA BK is seeking to discover communications solely between Stead and its counsel.

Stated differently, Mr. Corbett did not violate any duties to the debtor because he never represented the debtor or purported to represent the debtor. The alleged improprieties by Mr. Corbett did not take place in the context of the business relationship between Stead and the debtor, which was limited to the loans extended by Stead to the debtor. The alleged improprieties took place in the context of Mr. Corbett's representative relationship with Mr. Barnes or his entities, thus, if at all, impacting only the much closer business relationship between the debtor and Mr. Barnes. The estate then should be questioning Mr. Barnes and not Stead about Mr. Corbett's role, if any, in harming the debtor. It was up to Mr. Barnes to make certain that his legal interests, along with the interests of his partners, are adequately protected. Yet, Mr. Barnes is not subject to the discovery requested by this motion.

Further, no one disclosed to the debtor's creditors CA BK's connections to the debtor, Kenneth Rawlings, the state court litigation or Stead.

Jason Rios, one of CA BK's attorneys, told the court at the August 25, 2014 hearing on the motion to sell about one of CA BK's members having served as an interim manager of the debtor upon filing of the bankruptcy case and about that CA BK member being a daughter of the debtor's majority member. Docket 133, Ex. B at 4.

However, the motion to sell stated nothing about this and the motion to sell was filed and noticed pursuant to Local Bankruptcy Rule 9014-1(f)(1), which required anyone seeking to oppose the sale to file a response in writing at least 14 days prior to the scheduled hearing. See Dockets 82 & 86. As creditors were not told about this in the motion papers, they had no reason to file response to the motion, much less appear at the hearing on the motion to sell. In his declaration in support of the motion to sell, the trustee states only that "[n]either the [*sic*] myself nor my professionals have any relationship with [CA BK]." Docket 83 at 2. Thus, CA BK's disclosure at the hearing on the motion to sell was ineffective at informing creditors about CA BK's connections.

More, Mr. Rios' disclosure at the August 25 hearing on the motion to sell was far from complete. He did not state anything about who were the other members of CA BK, what was their connection to the debtor, and what was the connection of all CA BK members to the pending state court litigation.

There was no disclosure that all of CA BK's members are immediately related to the debtor's majority member and are being sued by one of the debtor's principal creditors, Stead. This could have made a difference in generating overbids for the sale.

CA BK was formed on July 8, 2014 and the motion to sell was filed by the trustee on July 28, 2014, after Stead had already moved to amend the state court complaint to add Mr. Rawlings' four daughters as defendants, in June

2014.

The lack of disclosure about CA BK's connections is important also because the court approved the sale with an express finding under 11 U.S.C. § 363(m), based on the representations made at the time the motion to sell was filed and prosecuted. Docket 94.

The court cannot ignore that CA BK is composed, owned, and controlled by four of the defendants in the action instituted by Stead, that the action is still pending against the four members of CA BK, and that CA BK's connections were not disclosed to the debtor's creditors when the motion to sell was filed and noticed.

The court also cannot ignore that this motion is seeking permission for discovery pertaining to issues that are being litigated in the state court action, namely, the loans extended to the debtor and loan payments made by the debtor, or for the benefit of the debtor, to Stead. The members of CA BK may raise the payments to Stead by the debtor as defenses to the fraudulent conveyance claims against them, as Mr. Rawlings' solvency would be largely dependent on whether, when and to what extent the debtor made payments to Stead.

The court is cognizant, nevertheless, that the claims as to which CA BK is seeking discovery are different from the claims that are pending in Stead's state court action.

The court will defer ruling on this motion to provide Stead with opportunity to file and prosecute a Rule 60(b) motion with respect to the order approving the sale.

3. 14-24017-A-7 KENNETH/JOANN ASBURY — OBJECTION TO EXEMPTIONS
BHS-2 — 7-29-14 [43]

Tentative Ruling: The objection will be dismissed as moot because the trustee has settled the estate's interest in the property that is the subject of this objection (a 2002 Acura TLS vehicle). Dockets 57 & 59.

4. 14-24017-A-7 KENNETH/JOANN ASBURY — MOTION TO COMPEL ABANDONMENT
PLC-1 — 7-2-14 [20]

Tentative Ruling: The motion will be dismissed as moot because the trustee has settled the estate's interest in the property that is the subject of this motion (a real property in Elk Grove, California (9318 Lancashire Court)). Dockets 57 & 59.

5. 14-24430-A-7 JOE CAMARA GARCIA — MOTION TO EMPLOY AUCTIONEER
HCS-3 — 9-22-14 [25]

Tentative Ruling: The motion will be granted in part and denied in part.

The chapter 7 trustee requests authority to employ West Auctions, Inc., as auctioneer for the estate. West will assist the estate with the sale of two trailers, two jet skis, one dirt bike and a quad vehicle at an online auction. The property is unencumbered. The proposed compensation arrangement is a 12% commission along with reimbursement of expenses incurred in storing, moving and

transferring title of the property. The movant estimates that the 12% commission will total approximately $1,265, based on a $15,000 valuation of all property items, while expenses are expected to be $1,140.

The movant asks the court to approve West's employment, approve the sale, and approve West's compensation, up to $1,265 plus the estimated $1,140 in expenses, without further court order.

Subject to court approval, 11 U.S.C. § 327(a) permits a trustee to employ a professional to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions."

The court concludes that the terms of employment and compensation are reasonable. West is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. Its employment will be approved.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate.

However, the court will deny approval of West's compensation and reimbursement of expenses at this time. The court cannot assess the reasonableness and necessity of compensation until it knows what is the compensation. Because the sale has not taken place yet, the court cannot make a section 330(a) determination of the requested compensation for West. In addition, until the sale takes place, West cannot execute a Rule 6004(f) statement.

6. 14-27337-A-7 DONNA RICHARDS — MOTION FOR RELIEF FROM AUTOMATIC STAY
DJD-1
SETERUS, INC. VS.
9-30-14 [12]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The movant, Seterus, Inc., seeks relief from the automatic stay as to a real property in Brentwood, California. The property has a value of $300,000 and it is encumbered by claims totaling approximately $313,772. The movant's deed is in first priority position and secures a claim of approximately $264,201.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can

administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on September 24, 2014.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

The loan documentation contains an attorney's fee provision and the movant is an over-secured creditor. The motion demands payment of fees and costs. The court concludes that a similarly situated creditor would have filed this motion. Under these circumstances, the movant is entitled to recover reasonable fees and costs incurred in connection with prosecuting this motion. See 11 U.S.C. § 506(b). See also Kord Enterprises II v. California Commerce Bank (In re Kord Enterprises II), 139 F.3d 684, 689 (9th Cir. 1998).

Therefore, the movant shall file and serve a separate motion seeking an award of fees and costs. The motion for fees and costs must be filed and served no later than 14 days after the conclusion of the hearing on the underlying motion. If not filed and served within this deadline, or if the movant does not intend to seek fees and costs, the court denies all fees and costs. The order granting the underlying motion shall provide that fees and costs are denied. If denied, the movant and its agents are barred in all events from recovering any fees and costs incurred in connection with the prosecution of the motion.

If a motion for fees and costs is filed, it shall be set for hearing pursuant to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). It shall be served on the debtor, the debtor's attorney, the trustee, and the United States Trustee. Any motion shall be supported by a declaration explaining the work performed in connection with the motion, the name of the person performing the services and a brief description of that person's relevant professional background, the amount of time billed for the work, the rate charged, and the costs incurred. If fees or costs are being shared, split, or otherwise paid to any person who is not a member, partner, or regular associate of counsel of record for the movant, the declaration shall identify those person(s) and disclose the terms of the arrangement with them.

Alternatively, if the debtor will stipulate to an award of fees and costs not to exceed $750, the court will award such amount. The stipulation of the debtor may be indicated by the debtor's signature, or the debtor's attorney's signature, on the order granting the motion and providing for an award of $750.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

7. 14-27937-A-7 BETTY SMITH
CJO-1
DEUTSCHE BANK TRUST COMPANY AMERICAS VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
9-5-14 [14]

Tentative Ruling: The motion will be granted.

The movant, Deutsche Bank Trust Company Americas, seeks relief from the automatic stay as to a real property in West Sacramento, California. The property has a value of $175,000 and it is encumbered by claims totaling approximately $207,999. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

8. 13-34541-A-11 6056 SYCAMORE TERRACE LLC
CAH-13

MOTION TO
AMEND DEBTOR'S DISCLOSURE STATEMENT AND FOR NEW SCHEDULING ORDER O.S.T.
10-6-14 [212]

Tentative Ruling: The motion will be denied.

The debtor is asking the court to approve its amended disclosure statement, filed on October 6, 2014. Docket 213.

Mahboob Tehranian (fka Bozorgzad) opposes the motion, asking for more time to represent herself, as she received notice of this bankruptcy proceeding only "two weeks" before filing the opposition on October 10, 2014. Docket 219.

Mahboob Tehranian appears to hold one or more judgments for child and spousal support, entered in and/or after 2007, encumbering the debtor's sole real property asset.

The motion asserts that the amended disclosure statement adds the following

claims to the general unsecured class the following claims: the $0.00 stripped-off secured claim of Mahboob Tehranian, the former spouse of the debtor's principal; and the $26,000 stripped-off secured claim of Mountain Counties Plumbing. The hearings on the debtor's motions to value the claims of Mahboob Tehranian and Mountain Counties Plumbing will be held on October 27, 2014. Mahboob Tehranian's claim of $0.00 is based on a proof of claim filed by the debtor on September 9, 2014. POC 5.

However, Mahboob Tehranian was never listed as a creditor in this case; her claim is not listed in Schedules D, E or F or the master address list. Dockets 1, 3, 106, 107. She also did not receive notice of this bankruptcy proceeding, even though this case has been pending for nearly one year now, since November 14, 2013. The proof of service for the notice of chapter 11 bankruptcy case does not list her as having been served with that notice. Dockets 7 & 10. Additionally, the master address list was never amended to include her as a creditor. The one time the master address list was amended - on March 24, 2014 (Docket 106) - Mahboob Tehranian was not added as a creditor.

As Mahboob Tehranian was never given formal notice of this bankruptcy case, the court questions the debtor's authority to file a proof of claim on Mahboob Tehranian's behalf.

It is true that Fed. R. Bankr. P. 3004 permits a chapter 11 debtor to file a proof of claim for a creditor who does not file a proof of claim timely. "If a creditor does not timely file a proof of claim under Rule 3002(c) or 3003(c), the debtor or trustee may file a proof of the claim within 30 days after the expiration of the time for filing claims prescribed by Rule 3002(c) or 3003(c), whichever is applicable. The clerk shall forthwith give notice of the filing to the creditor, the debtor and the trustee." Fed. R. Bankr. P. 3004.

But, Mahboob Tehranian seems to have never been given the opportunity to file a timely proof of claim because she did not learn of this bankruptcy case until after the March 17, 2014 deadline for filing proofs of claim had expired, in or approximately at the end of September 2014. Docket 219.

Further, the debtor may file a proof of claim for a creditor who has not filed a timely proof of claim only "within 30 days after the expiration of the time for filing claims prescribed by Rule 3002(c) or 3003(c)." Fed. R. Bankr. P. 3003(c)(3) provides that "The court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed." The deadline for filing proofs of claim by non-governmental entities expired in this case on March 17, 2014, meaning that the debtor had only until April 16, 2014 to file a proof of claim for a creditor.

The debtor filed the proof of claim on behalf of Mahboob Tehranian only on September 9, 2014, nearly five months after the 30-day deadline of Fed. R. Bankr. P. 3004. POC 5.

Incidentally, this situation is similar to the way the debtor has treated Mountain Counties Plumbing and its claim. The court sees no evidence of Mountain Counties Plumbing ever receiving notice of this bankruptcy filing. Dockets 10 & 106.

The court is also puzzled over the debtor's basis for disputing the debt owed to Mahboob Tehranian when the debt appears to be based on one or more judgments for child and spousal support that were not appealed and is/are now final.

The amended disclosure statement asserts that in the event Mahboob Tehranian's

claim is $160,000 and not $0.00, the property may still be sold for sufficient proceeds to pay that claim the dividend to be paid all other general unsecured claims, 9.5%. It is unclear how the debtor arrived at the $160,000 figure. The amended disclosure statement asserts that, even with the addition of the two claims (held by Mahboob Tehranian and Mountain Counties Plumbing), all general unsecured creditors will still receive a 9.5% dividend.

Even if the debtor is correct that Mahboob Tehranian's claim will be treated properly under the plan, the court cannot approve the disclosure statement because it does not explain how Mahboob Tehranian holds a claim secured by property of the debtor, when the debtor is not liable on that claim. The claim is based on one or more state court judgments entered against the debtor's principal, Hossein Bozorgzad. Those judgments appear to have been subsequently recorded in the county where the debtor's real property is located, encumbering that property.

The disclosure statement does not explain how those judgments came to encumber property owned by the debtor - as evidenced by the title report attached to POC 5 - and does not explain why the debtor's general unsecured creditors should share a dividend with creditors of the debtor's principal. For those reasons, the court cannot approve the amended disclosure statement. The motion will be denied.

As to the opposition filed by Faran Honardoost, it states that she has voted to reject the plan. The opposition states nothing pertaining to the approval of the amended disclosure statement. It asks for continuance of the hearing on the instant motion, claiming that she received notice of this motion only "two weeks" before filing the opposition.

However, the court is unclear how continuance of the hearing on this motion will help Faran Honardoost to represent herself in this proceeding. She has already voted on the plan and she has not alleged any improprieties with the service of the debtor's instant and upcoming plan confirmation motions on her. And, she has known about this bankruptcy case at least since the debtor amended the master address list on March 24, 2014, adding Faran Honardoost's "P.O. Box 11866" address listed on her opposition to this motion. Dockets 106 & 220. Nonetheless, as explained earlier in the ruling, the motion will be denied.

9. 13-29754-A-7 TIMOTHY/SHAWN POLI — MOTION TO APPROVE COMPROMISE
BHS-2 — 9-24-14 [41]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The trustee requests approval of a settlement agreement among the estate, the debtor's sister Jade Daly, and Generation Mortgage Company.

Generation Mortgage Company holds a reverse mortgage with a balance of approximately $261,158 on a real property that was jointly owned by the debtor, Jade Daly and their now deceased mother. Prior to her passing, the debtor's mother executed two deeds of trust - the second of which was reconveyed on or about July 24, 2014 - to secure a loan, constituting the reverse mortgage. The debtor filed this case on July 24, 2013 and her mother passed away on or about July 29, 2013. The trustee and Jade Daly have asserted that the remaining deed of trust securing the loan was extinguished upon the passing of their mother, given that title of the property was held in joint tenancy and neither the debtor, nor Jade Daly were parties to any of the agreements constituting the reverse mortgage.

Under the terms of the compromise, Generation Mortgage Company will release the remaining deed of trust against the property in consideration for $75,545.98 in principal and $8,000 of interest on the principal that will be paid through escrow upon sale of the property by the trustee. Generation will forgive the remaining amount of the approximately $261,158 balance on the loan. Jade Daly has agreed that the trustee market and sell the property, with her and the estate each receiving 50% of the sales proceeds. Jade Daly's interest in the property and proceeds from the sale of the property will not be "liable for the estates [*sic*] debts, including, but not limited to, the Trustee's or the Trustee's attorney's compensation." Docket 41 at 4. Each party will bear its own attorney's fees and costs.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the agreement of the co-owner to this settlement, given that the trustee will be able to market and sell the property and receive 50% of the sales proceeds, given that unsecured creditors are likely to be paid in full, and given the inherent costs, risks, delay and inconvenience of further litigation, the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

10. 10-41061-A-7 CONSTANCE AGEE
SMR-1
GP EQUITIES, INC. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
10-6-14 [34]

Tentative Ruling: The motion will be denied.

The movant, GP Equities, Inc. and AKS Equities, Inc., seeks relief from the automatic stay as to a real property in North Highlands, California, pursuant to 11 U.S.C. § 362(d)(1), (d)(2) and (d)(4).

The debtor opposes the motion, contending that the movant has no standing to bring this motion. The debtor also challenges the propriety of the foreclosure sale, at which the movant purchased the subject property.

The motion will be denied because the automatic stay dissolved when this case was originally closed on December 3, 2010. Docket 24; 11 U.S.C. § 362(c)(2)(A). And, the automatic stay was not resurrected when this case was reopened on September 16, 2014. Docket 29. There is no legal authority that the automatic stay resets in place upon the reopening of an already closed bankruptcy case.

The movant's request for relief under 11 U.S.C. § 362(d)(4) will be denied as well. 11 U.S.C. § 362(d)(4) provides that:

"On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay . . .

with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such 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."

Relief under 11 U.S.C. § 362(d)(4) will be denied because the movant is not "a creditor whose claim is secured by an interest in such real property," for purposes of 11 U.S.C. § 362(d)(4). The movant is the owner of the property. The movant purchased the property at a foreclosure sale conducted on August 25, 2014. The movant then is not owed a debt secured by the property.

The court will deny relief under 11 U.S.C. § 362(d)(4) also because the motion makes no effort to brief or even mention 11 U.S.C. § 362(d)(4), although the movant checked the box for (d)(4) relief on the information sheet. Docket 38.

In rem relief will be denied under 11 U.S.C. § 105 as well as such relief requires an adversary proceeding. Johnson v. TRE Holdings LLC (In re Johnson), 346 B.R. 190, 195 (B.A.P. 9th Cir. 2006).

11. 11-34464-A-7 STUART SMITS — MOTION FOR RELIEF FROM AUTOMATIC STAY
MHK-2 — 6-11-14 [280]
ELIAS BARDIS VS.

Tentative Ruling: The motion will be granted in part and dismissed as moot in part.

The hearing on this motion was continued from September 22, 2014. The trustee filed a non-opposition on October 9, 2014. An amended ruling from September 22 follows below.

The movant, Elias Bardis, seeks relief from stay as to real property in Sacramento, California (Mills Road).

Given the entry of the debtor's discharge on June 13, 2013, the automatic stay has expired as to the debtor and any interest the debtor may have in the

property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The trustee has filed a non-opposition to the motion. This is cause for the granting of relief from stay as to the estate.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

To the extent applicable, the court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

The movant asserts that the property has a value of between $645,000 and $700,000 and it is encumbered by claims totaling approximately $1,164,284. The movant holds a judgment lien against the property, securing a claim of approximately $786,166.

The movant's lien is in fourth priority position, after a mortgage for approximately $340,000 held by JPMorgan Chase Bank and two judgment liens held by JPMorgan Chase Bank for a total of approximately $38,000.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

12. 13-31574-A-7 ROGER/KIMBERLEE ABBOTT — MOTION TO APPROVE COMPROMISE
MPD-4 — 9-10-14 [130]

Tentative Ruling: The motion will be granted.

The trustee requests approval of a settlement agreement between the estate on one hand and the City of Yreka, Mark Schmitt and Mary Frances McHugh on the other, resolving:

- a pre-petition public nuisance action brought by the City against the debtors,

- the claims in a cross-complaint the debtors filed against the City and some City employees in the nuisance action, and

- a notice of claim the debtors filed against the City and some City employees under Cal. Gov. Code §§ 910 and 910.2 post-petition, on September 6, 2013.

This settlement does not resolve the claims in the debtors' dispute with Helena

Torre, a neighbor, who obtained a pre-petition state court judgment against the debtors.

The trustee is asking the court to approve the transaction also as a sale under 11 U.S.C. § 363(b).

The debtors oppose the motion.

Under the terms of the compromise, the City will pay $7,500 to the estate. In exchange, the trustee will dismiss the claims against the City, Mark Schmitt and Mary Frances McHugh in the cross-complaint filed in the City's nuisance action. The trustee will also dismiss the September 6, 2013 notice of claim.

The parties will execute mutual releases, excluding claims of the City, Mark Schmitt and Mary Frances McHugh in a trespass action brought by Helena Torre, an appeal by the debtors of a judgment in the trespass action, a quiet title action brought by the debtors against Helena Torre, or a pending 11 U.S.C. § 523(a)(6) adversary proceeding by Helena Torre against the debtors.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. The trustee has weighed her options and decided that selling the claims against the City and its employees is in the best interest of the estate. The court agrees. The estate does not have the ability to fund continued litigation against the City and its employees. Docket 130 at 6.

Additionally, the claims being compromised are quite complex both factually and legally, as they are the culmination of many years of disputes among the parties.

More, the trustee's counsel examined the debtors and, in his professional opinion, has concluded that "the debtors would not make good witnesses at trial to support their claims." Docket 139 at 2.

The debtors are complaining that the trustee is releasing an estate asset worth potentially more than $100,000 - the cross claims against the City, Schmitt and McHugh - for a mere $7,500.

However, the debtors are missing the point. The trustee does not have funds to subsidize litigation against the City and its employees.

If the debtors are convinced that the litigation is worth more than the $7,500 offered by the City, the debtors should overbid and purchase it from the estate. This is not just an approval of a compromise. It is also a sale subject to overbids.

The court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the

parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id.

Finally, the compromise will be approved as a sale. 11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale is as is, where is, without any warranties or representations and subject to any encumbrances. The sale will generate some proceeds for distribution to creditors of the estate.

The sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court notes that besides the $94,704.88 unsecured proof of claim of Helena Torre, there are only $9,524.64 of other unsecured proofs of claim filed. The deadline for filing proofs of claim expired on February 18, 2014. Docket 53. The motion will be granted.

13. 14-24590-A-7 FRANCISCO/DORA MAYORGA — MOTION TO CONVERT CASE 9-16-14 [52]
GO-1

Tentative Ruling: The motion will be denied.

The debtor requests conversion from chapter 7 to chapter 13.

The chapter 7 trustee opposes conversion.

Given the Supreme Court's decision in Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

Among the eligibility requirements for relief under chapter 13 are the requirements that the debtor must owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $383,175 and noncontingent, liquidated, secured debts of less than $1,149,525. 11 U.S.C. § 109(e) and the debtor must have regular income.

Debtors' motion to convert will be denied because it neither states, nor contains, evidence establishing whether the debtor is eligible for relief as prescribed by Marrama. Stating that the debtor is eligible for chapter 13 relief is a legal conclusion that is unsupported by factual assertions. For example, the motion is silent as to the debtor's secured and unsecured debts.

Critically, the motion is silent as to the debtor's regular income. The debtors bear the burden of establishing regular and stable income. In re Ellis, 388 B.R. 456, 460 (Bankr. D. Mass. 2008) (failing by debtor to establish regular and stable income due to monthly budget deficit).

The debtors did, however, submit evidence, in the form of Amended Schedules I and J with their reply. This late filing prejudices parties in interest from responding to the evidence.

Even disregarding the late filing, the debtors' Amended Schedules I and J are unavailing. The amended schedules reflect that the debtors have monthly net

income of $713.77. Docket 71 Ex. 2. Such monthly net income is made possible solely by a monthly family contribution of $1,350. Id. This family contribution is comprised of two sources. The debtors have submitted the declaration of Kevin R. Mayorga who states that he will be contributing $800 a month to their household income. Docket 69. Francisco Mayorga, Jr., per his declaration, will be contributing another $550 a month to the debtors' household income. Docket 70.

However, while Kevin and Francisco Mayorga are willing to make the foregoing contributions, and have submitted proof of their income for such contributions, the court does not have adequate evidence of their ability to make the contributions, as the court does not know what are their monthly expenses. This is not part of the record.

Moreover, the subject motion is an attempt by the debtors to have the case converted for an improper purpose or in bad faith, namely, evading the trustee's efforts to administer the estate after the estate has incurred substantial administrative expenses already.

Bad faith is determined by examining the totality of the circumstances. In re Rolland, 317 B.R. 402, 414-15 (Bankr. C.D. Cal. 2004).

"The bankruptcy court should consider the following factors: (1) whether the debtor 'misrepresented facts in his [petition or] plan, unfairly manipulated the Bankruptcy Code, or otherwise [filed] his Chapter 13 [petition or] plan in an inequitable manner;' (2) 'the debtor's history of filings and dismissals;' (3) whether 'the debtor only intended to defeat state court litigation;' and (4) whether egregious behavior is present."

Leavitt v. Soto (In re Leavitt), 171 F.3d 1219, 1224 (9th Cir. 1999).

A finding of bad faith does not require fraudulent intent, malice, ill will or an affirmative attempt to violate the law. Leavitt at 1224-25 (quoting In re Powers, 135 B.R. 980, 994 (Bankr. C.D. Cal. 1991)); see also Cabral v. Shabman (In re Cabral), 285 B.R. 563, 573 (B.A.P. 1st Cir. 2002).

This motion comes after substantial delay by the debtors, after the trustee has incurred substantial administrative expenses in his attempts to administer the estate, including:

- his retaining of estate counsel;

- his retaining of a real estate broker;

- the estate counsel's review and analysis of the debtors' homestead exemption claim;

- the preparation, filing and prosecution of an objection to the debtors' homestead exemption;

- appearance at the hearing on the objection to the exemption claim; and

- anticipation by the trustee and his counsel that the debtors would present further evidence in support of their exemption claim, which they failed to do.

The foregoing establishes that the estate has incurred substantial administrative expenses. As a result, the estate and the creditors have been prejudiced by the debtors' request for conversion at this time. Notably, the

debtors received their discharge on August 18, 2014.

The court concludes the debtors are seeking conversion for an improper purpose or in bad faith. Accordingly, the motion will be denied.

14.	14-27997-A-7 JLS-1 SAFEAMERICA CREDIT UNION VS.	RICHARD SANTOS AND KAREN ENG	MOTION FOR RELIEF FROM AUTOMATIC STAY 10-6-14 [30]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The movant, Safeamerica Credit Union, seeks relief from the automatic stay as to a real property in Woodland, California. The property has a value of $243,000 and it is encumbered by claims totaling approximately $282,263. The movant's deed is in second priority position and secures a claim of approximately $72,921.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on September 3, 2014.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

15. 14-27997-A-7 RICHARD SANTOS AND KAREN ENG
JLS-2 SAFEAMERICA CREDIT UNION VS.
MOTION FOR RELIEF FROM AUTOMATIC STAY
10-6-14 [24]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The movant, Safeamerica Credit Union, seeks relief from the automatic stay as to a real property in Woodland, California. The property has a value of $243,000 and it is encumbered by claims totaling approximately $282,263. The movant's deed is in first priority position and secures a claim of approximately $209,342.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on September 3, 2014.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

The loan documentation contains an attorney's fee provision and the movant is an over-secured creditor. The motion demands payment of fees and costs. The court concludes that a similarly situated creditor would have filed this motion. Under these circumstances, the movant is entitled to recover reasonable fees and costs incurred in connection with prosecuting this motion. See 11 U.S.C. § 506(b). See also Kord Enterprises II v. California Commerce Bank (In re Kord Enterprises II), 139 F.3d 684, 689 (9th Cir. 1998).

Therefore, the movant shall file and serve a separate motion seeking an award of fees and costs. The motion for fees and costs must be filed and served no later than 14 days after the conclusion of the hearing on the underlying motion. If not filed and served within this deadline, or if the movant does not intend to seek fees and costs, the court denies all fees and costs. The order granting the underlying motion shall provide that fees and costs are denied. If denied, the movant and its agents are barred in all events from recovering any fees and costs incurred in connection with the prosecution of

the motion.

If a motion for fees and costs is filed, it shall be set for hearing pursuant to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). It shall be served on the debtor, the debtor's attorney, the trustee, and the United States Trustee. Any motion shall be supported by a declaration explaining the work performed in connection with the motion, the name of the person performing the services and a brief description of that person's relevant professional background, the amount of time billed for the work, the rate charged, and the costs incurred. If fees or costs are being shared, split, or otherwise paid to any person who is not a member, partner, or regular associate of counsel of record for the movant, the declaration shall identify those person(s) and disclose the terms of the arrangement with them.

Alternatively, if the debtor will stipulate to an award of fees and costs not to exceed $750, the court will award such amount. The stipulation of the debtor may be indicated by the debtor's signature, or the debtor's attorney's signature, on the order granting the motion and providing for an award of $750.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

FINAL RULINGS BEGIN HERE

16. 14-28409-A-7 WILLIAM/SANDRA MARKLEY — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1 — 9-22-14 [9]
NISSAN MOTOR ACCEPTANCE CORP. VS.

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Nissan Motor Acceptance Corporation, seeks relief from the automatic stay with respect to a 2013 Nissan Altima. The movant has produced evidence that the vehicle has a value of $17,725 and its secured claim is approximately $39,627. Docket 11 at 2-3.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on September 26, 2014. And, in the statement of intention, the debtor has indicated an intent to surrender the vehicle.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and it is depreciating in value.

17. 11-49912-A-7 GINA FLAHARTY — MOTION TO EMPLOY ACCOUNTANT
DNL-13 — 9-16-14 [179]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest

are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests approval to employ Diversified Consulting & Support Services, Inc. as accountant for the estate. DCSS will: prepare the 2013 tax returns for the debtor's corporation, Travel Med, Inc.; and prepare a certificate for dissolution for Travel Med. The proposed compensation is a flat fee of $2,100.

The trustee asks for authority to pay the proposed compensation to DCSS without a further court order.

Subject to court approval, 11 U.S.C. § 327(a) permits a trustee to employ a professional to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions."

The court concludes that the terms of employment and compensation are reasonable. DCSS is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. The employment will be approved.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate, upon the completion of the services outlined above. The compensation will be approved.

18. 11-44616-A-7 LOYD/VERNA HOSTETTER — MOTION TO APPROVE COMPROMISE
DNL-5 — 9-22-14 [86]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests approval of a settlement agreement between the estate and the debtors, resolving the estate's interest in $34,452 of post-petition sublease rents collected by the debtors.

Under the terms of the compromise, the debtors will pay $11,000 to the estate in full satisfaction of the estate's interest in the rents.

On a motion by the trustee and after notice and a hearing, the court may

approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the debtors' assertion that they have spent at least $23,692 of the sublease rents on repairs of the property being subleased, given the resolution of the debtors' potential administrative claim for the repairs on the property, and given the inherent costs, risks, delay and inconvenience of further litigation, the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

19. 13-23517-A-7 TRACY GATEWAY, LLC — MOTION TO EXTEND TIME 9-17-14 [103]
HCS-5

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee moves for a 120-day extension, from September 17, 2014 to January 15, 2015, of the time to assume or reject seven executory contracts, as the trustee is selling a real property and the subject contracts may affect development rights in the property. The trustee has received an offer for the purchase of the property and is close to executing a purchase agreement.

11 U.S.C. § 365(d)(1) provides that "In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected."

The deadline to assume or reject executory contracts may be extended more than once. See Willamette Waterfront, Ltd. v Victoria Stations Inc. (In re Victoria Station Inc.), 875 F.2d 1380, 1385 (9th Cir. 1989) (addressing unexpired leases). This is also supported by the language of 11 U.S.C. § 365(d)(1), which does not limit courts in fixing "such additional time" for the assumption

or rejection of executory contracts.

The Ninth Circuit's interpretation of the language "or within such additional time as the court, for cause, within such 60-day period, fixes," is that "the cause must arise within 60 days (and implicitly the debtor must file its motion to show cause within that period) [and] there is no express limit on when the bankruptcy court must hear and decide the motion." Southwest Aircraft Services, Inc. v. City of Long Beach (In re Southwest Aircraft Services, Inc.), 831 F.2d 848, 850 (9th Cir. 1987) (addressing the identical language in pre-BAPCPA 11 U.S.C. § 365(d)(4)); see also Glimidakis v. Any Mountain, Ltd (In re Any Mountain, Ltd), Case Nos. NC-06-1006-JBS, 04-12989, 2006 WL 6810944 at *3-4 (B.A.P. 9th Cir. Nov. 3, 2006) (citing Southwest with approval).

"Under the section, the court's ability to extend the 60-day period is limited by a clause which includes three successive terms: 'for cause,' 'within such 60-day period,' and 'fixes.' It is not entirely clear whether the second term-'within such 60-day period'-modifies the term that precedes it or the term that follows it. If we read it as modifying 'fixes', then a bankruptcy court would not under the literal words of the statute have the authority to grant a timely motion to extend after the sixtieth day. That is the interpretation advanced by Long Beach, as well as by some bankruptcy courts in this and other cases. See In re House of Deals of Broward, Inc., 67 B.R. 23, 24 (Bankr. E.D.N.Y. 1986); In re Coastal Indus., Inc., 58 B.R. 48, 49 (Bankr. D.N.J. 1986); In re Taynton Freight Sys., Inc., 55 B.R. 668, 671 (Bankr. M.D. Pa. 1985). If, however, the 60-day term modifies 'for cause,' then while the cause must arise within 60 days (and implicitly the debtor must file its motion to show cause within that period), there is no express limit on when the bankruptcy court must hear and decide the motion. This more liberal reading of the statute would allow the bankruptcy courts to operate with greater freedom and flexibility. It is the one we adopt."

Southwest Aircraft at 850.

This petition was filed on March 15, 2013. The last day of the deadline under 11 U.S.C. § 365(d)(1) expired on September 17, 2014, pursuant to a prior extension of that deadline in an order entered on April 28, 2014. Docket 80. As this motion was filed on September 17, 2014, it is timely under 11 U.S.C. § 365(d)(1).

This request pertains solely to seven contracts identified in the motion as follows:

(i) Subdivision Improvement Agreement Tracy Gateway Business Park with TG Associates, LLC;

(ii) an agreement regarding storm drain facilities on the Tracy Gateway Project with the City of Tracy;

(iii) a development agreement with the City of Tracy;

(iv) a deferred improvement agreement as to the Tracy Gateway Business Park with the City of Tracy;

(v) a non-potable water supply operations and maintenance agreement for the Tracy Gateway Project with the City of Tracy;

(vi) an allocation of water and wastewater capacities agreement as to the Tracy Gateway Business Park-Phase 1 with TG Associates, LLC; and

(vii) a memorandum of agreement regarding interim drainage for the Tracy Gateway Business Park with the Westside Irrigation District.

The trustee needs additional time to assess the estate's interest in the above executory contracts, especially given that he has received an offer for the purchase of the property and is close to signing a purchase agreement. Preserving the contracts is likely to preserve the marketability and value of the property the trustee is attempting to sell. This is cause for the granting of the requested extension. The deadline will be extended as to the above contracts only, to January 15, 2015. The motion will be granted.

20. 13-31219-A-7 DUSTIN SIEPERT — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
JRR-3 — 9-22-14 [48]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gonzales & Sisto, accountant for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of $2,242.50 in fees and $5.80 in expenses, for a total of $2,248.30. This motion covers the period from June 17, 2014 through July 10, 2014. The court approved the movant's employment as the estate's accountant on June 6, 2014. In performing its services, the movant charged hourly rates of $195 and $325.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included: reviewing documents, researching information regarding the preparation of tax returns, and preparing 2013 tax returns and 505(b) letters.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

21. 14-28222-A-7 PATRICK/LISAMARIE HAYES — MOTION FOR RELIEF FROM AUTOMATIC STAY
PD-1 — 9-16-14 [14]
HSBC BANK USA, N.A. VS.

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is

unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, HSBC Bank U.S.A., seeks relief from the automatic stay as to a real property in Red Bluff, California. The property has a value of $308,682 and it is encumbered by claims totaling approximately $484,815. The movant's deed is in first priority position and secures a claim of approximately $388,282.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

22. 10-20029-A-7 BUALAI WHITE — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
SMD-2 — 9-9-14 [237]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of $3,656 in fees and $150.84 in expenses, for a total of $3,806.84. This

motion covers the period from June 7, 2013 through September 6, 2014. The court approved the movant's employment as the estate's accountant on June 12, 2013. Docket 178. In performing its services, the movant charged hourly rates of $325 and $345.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation, the preparation of 2013 and 2014 state and federal estate tax returns.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

23. 14-20431-A-7 JENNIFER MILLS — MOTION TO EMPLOY ACCOUNTANT
DNL-6 — 9-12-14 [44]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests approval to employ Gonzales & Sisto as accountant for the estate. G&S will provide the estate with tax-related accounting services, including the preparation of 2014 tax returns. The proposed compensation is a flat fee of $1,250.

The trustee is asking also for approval of G&S' compensation without further court order.

Subject to court approval, 11 U.S.C. § 327(a) permits a trustee to employ a professional to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions."

The court concludes that the terms of employment and compensation are reasonable. G&S is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. The employment will be approved.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate, upon the completion of the services outlined above. The compensation will be approved.

24. 13-34845-A-7 SHARON SMITH
ASF-2

MOTION TO
APPROVE COMPENSATION OF ACCOUNTANT
9-8-14 [79]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of $2,656.50 in fees and $69.20 in expenses, for a total of $2,725.70. This motion covers the period from April 8, 2014 through September 4, 2014. The court approved the movant's employment as the estate's accountant on April 14, 2014. In performing its services, the movant charged an hourly rate of $345.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included the preparation of the estate's 2014 tax returns.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

25. 13-34461-A-7 KATHLEEN DUNCAN
MPD-8

MOTION TO
APPROVE COMPENSATION OF ACCOUNTANT
9-15-14 [81]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gonzales & Sisto, accountant for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of $4,593.50 in fees and $0.00 in expenses, for a total of $4,593.50. This motion covers the period from February 10, 2014 through August 30, 2014. The court approved the movant's employment as the estate's accountant on February 24, 2014. In performing its services, the movant charged hourly rates of $145,

$195 and $325.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included assisting the trustee with determining tax consequences from sales, analyzing tax issues pertaining to the sale of jointly-owned real property, analyzing issues pertaining to state and federal tax liens, and preparing federal and state tax returns.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

26. 14-29161-A-7 RICHARD/HWA STOWERS — ORDER TO SHOW CAUSE 9-26-14 [15]

Final Ruling: The order to show cause will be discharged and the petition will remain pending.

This order to show cause was issued because the debtor did not pay the petition filing fee of $335, as required by Fed. R. Bankr. P. 1006(a), and did not apply to pay the fee in installments. However, the debtor paid the fee in full on September 30, 2014. No prejudice has resulted from the delay.

27. 10-25463-A-7 DNL-2 MICHAEL GIBSON AND JUDY MAYNE — MOTION TO APPROVE STIPULATION 9-22-14 [34]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests approval of a stipulation between the estate and the debtors, pertaining to the debtors' exemption claims in previously unscheduled personal injury claims against Johnson & Johnson Services, Inc. This case was filed on March 5, 2010 and was closed on June 25, 2010, after the debtors received their discharge. The case was reopened on August 25, 2014 for the administration of the estate's interest in the claims. The personal injury action was commenced on February 8, 2011, pertaining to Judy Mayne's pre-petition hip replacement surgery. Pursuant to a settlement agreement, the debtors will be receiving two monetary awards, Part A Award and Part B Award. Part A Award is in the amount of $212,500. The debtors' Part B Award is still being processed but is expected to be $150,000.

Under the terms of the stipulation, the debtors have agreed to amend their Schedules B and C to disclose the two awards and exempt each as follows:

$40,000 exemption claim against the Part A Award and $150,000 exemption claim against the Part B Award. The trustee will in turn: (1) seek court approval of the personal injury settlement agreement and the compensation of the attorney who represented the debtors in the personal injury action; (2) distribute the debtors' allowed exemption of the Part A Award; and (3) abandon the Part B Award. Provided the debtors' unsecured debt does not exceed the aggregate such debt as scheduled by the debtors, approximately $31,000, the trustee's compensation will be capped at $5,000. Surplus funds will be returned to the debtors.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the stipulation compromise. That is, given that unsecured claims are expected to be paid in full, given that the stipulation will allow the trustee to administer the estate quickly, and given the inherent costs, risks, delay and inconvenience of further litigation, especially over the exemptions to be claimed by the debtors, the stipulation settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

28. 14-24563-A-7 TERRY/KYLE HODGES — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
ASF-2 — 9-8-14 [45]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of $2,070 in fees and $86.38 in expenses, for a total of $2,156.38. This motion covers the period from June 12, 2014 through September 6, 2014. The court approved the movant's employment as the estate's accountant on June 17, 2014. In performing its services, the movant charged an hourly rate of $345.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included the preparation of estate federal and state tax returns.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

29. 13-31272-A-7 CALVIN/ROBYN DILES — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
SANTANDER CONSUMER USA INC. VS. — 9-16-14 [43]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be dismissed as moot but the absence of the automatic stay will be confirmed.

The movant, Santander Consumer U.S.A., seeks relief from the automatic stay as to a 2006 Cadillac Escalade.

11 U.S.C. § 362(c)(3)(A) provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 (13 or 11) after dismissal under section 707(b), the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case. Section 362(c)(3)(B) allows any party in interest to file a motion requesting the continuation of the stay.

On March 8, 2013, the debtors filed a chapter 13 case (case no. 13-23094). But, the court dismissed that case on August 21, 2013 due to the debtors' failure to obtain timely plan confirmation. The debtors filed the instant case on August 27, 2013. The chapter 13 case then was pending within one year of the filing of the instant case. The court has reviewed the docket of the instant case and no motions for continuation of the automatic stay under 11 U.S.C. § 362(c)(3)(B) have been timely filed.

Hence, the motion will be dismissed as moot because the automatic stay in the instant case expired in its entirety as to the subject property on September 26, 2013, 30 days after the debtors filed the present case. See 11 U.S.C. § 362(c)(3)(A); see also Reswick v. Reswick (In re Reswick), 446 B.R. 362, 371-73 (B.A.P. 9th Cir. 2011) (holding that when a debtor commences a second bankruptcy case within a year of the earlier case's dismissal, the automatic stay terminates *in its entirety* on the 30th day after the second petition date).

Nevertheless, the court will confirm that the automatic stay in the instant

case expired in its entirety with respect to the subject property on September 26, 2013, 30 days after the debtors filed the present case. See 11 U.S.C. §§ 362(c)(3)(A) and 362(j).

30. 14-28087-A-7 ANN RADCLIFF — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
WELLS FARGO BANK, N.A. VS. — 9-17-14 [9]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Wells Fargo Bank, seeks relief from the automatic stay with respect to a 2011 Hyundai Santa Fe vehicle. The movant asserts that the vehicle has a value of $14,055 (even though the debtors have scheduled the value of the vehicle at $13,000) and its secured claim is approximately $13,964. Docket 11 at 2.

This leaves approximately $90.54 of equity in the vehicle. Given this equity, relief from stay under 11 U.S.C. § 362(d)(2) is not appropriate.

Nevertheless, given the minimal equity in the vehicle, given the general fast depreciation of vehicles, such as the one here, and given that the debtor has not made one pre-petition and one post-petition payments to the movant on account of the loan secured by the vehicle, relief from stay under 11 U.S.C. § 362(d)(1) is appropriate.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

As the movant's security agreement in the record is illegible and the court cannot tell whether that agreement provides for attorney's fees, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b); Docket 12, Ex. A.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and it is depreciating in value.

31. 12-41294-A-7 JERRY CHUCULATE — MOTION FOR RELIEF FROM AUTOMATIC STAY
PD-1
FEDERAL NATIONAL MORTGAGE ASSOC. VS. — 9-18-14 [41]

Final Ruling: The motion will be dismissed without prejudice because the movant has not served counsel for the trustee with the motion papers. Docket 47.