

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

**Honorable Ronald H. Sargis**  
**Chief Bankruptcy Judge**  
**Sacramento, California**

**January 8, 2020 at 9:59 a.m.**

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1.	<b><u>19-27505-E-7</u></b> <b><u>TDA-100</u></b>	<b>HENRY JACKSON</b> <b>Pro Se</b>	<b>MOTION FOR RELIEF FROM</b> <b>AUTOMATIC STAY</b> <b>12-11-19 [14]</b>
<b>MTGLQ INVESTORS, L.P. VS.</b>			

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 7 Trustee, and Office of the United States Trustee on December 11, 2019. By the court's calculation, 28 days' notice was provided. 14 days' notice is required.

The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 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 offer 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. At the hearing, -----.

**The Motion for Relief from the Automatic Stay is denied without prejudice as moot, the automatic stay having been terminated by dismissal of this bankruptcy case.**

Wilmington Savings Fund Society FSB dba Christiana Trust Not Individually But As Trustee for Premium Mortgage Acquisition Trust ("Movant") seeks relief from the automatic stay with respect to

Henry Lee Jackson's ("Debtor") real property commonly known as 3874 Biglow Drive, Olivehurst, California ("Property"). Movant has provided the Declaration of Trace D. Alexander to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The instant case was dismissed on December 23, 2019, for failure to timely file documents. Dckt. 21.

The applicable Bankruptcy Code provision for the matter before the court is 11 U.S.C. § 362(c)(1) and (2). That section provides:

In relevant part, 11 U.S.C. § 362(c) provides:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such **property is no longer property of the estate**;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) *the time the case is dismissed*; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

11 U.S.C. § 362(c) (emphasis added).

When a case is dismissed, 11 U.S.C. § 349 discusses the effect of dismissal. In relevant part, 11 U.S.C. § 349 states:

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

*(3) reverts the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.*

11 U.S.C. § 549(c) (emphasis added).

Therefore, as of December 23, 2019, the automatic stay as it applies to the Property, and as it applies to Debtor, was terminated by operation of law. At that time, the Property ceased being property of the bankruptcy estate and was abandoned, by operation of law, to Debtor.

The court shall issue an order confirming that the automatic stay was terminated and vacated as to Debtor and the Property on December 23, 2019.

The court shall issue a minute order substantially in the following form holding that:

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

The Motion for Relief from the Automatic Stay filed by Wilmington Savings Fund Society FSB dba Christiana Trust Not Individually But As Trustee for Premium Mortgage Acquisition Trust (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is denied without prejudice as moot, this bankruptcy case having been dismissed on December 23, 2019 (prior to the hearing on this Motion). The court, by this Order, confirms that the automatic stay provisions of 11 U.S.C. § 362(a) were terminated as to Henry Lee Jackson (“Debtor”) pursuant to 11 U.S.C. § 362(c)(2)(B) and the real property commonly known as 3874 Biglow Drive, Olivehurst, California, pursuant to 11 U.S.C. § 362(c)(1) and § 349(b)(3) as of the December 23, 2019 dismissal of this bankruptcy case.

No further relief is granted.

2. [16-90083](#)-E-7 VALLEY DISTRIBUTORS,  
[AG-1](#) INC.  
Iain MacDonald

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
12-4-19 [\[361\]](#)

UNION RANCH PARTNERS, LLC  
VS.

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor's Attorney, Chapter 7 Trustee, creditors, and Office of the United States Trustee on December 4, 2019. By the court's calculation, 35 days' notice was provided. 28 days' notice is required.

**The Motion for Relief from the Automatic Stay is granted.**

Union Ranch Partners, LLC and Michael W. Atherton Development, Inc. dba Atherton Homes ("Movant") seeks relief from the automatic stay to allow the following state court actions: *Charles & Tamara Krebs, et al. v. Union Ranch Partners, LLC, et al.* and *Nicholas Toyama, et al. v. Union Ranch Partners, LLC, et al.* (the "State Court Litigation") to be concluded. Movant has provided the Declaration of Avi Glikman to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Valley Distributors, Inc. ("Debtor").

Movant argues that relief is needed so that Debtor can participate in the state court action and Movant can recover for damages under Debtor's general liability insurance policies. Motion, Dckt. 361.

## DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at \*8–9 (B.A.P. 9th Cir. May 23, 2016). To determine "whether cause exists to allow litigation to proceed in another forum, 'the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.'" *Id.* at \*9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at \*6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int'l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is

ready for trial. See *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In re Kemble)*, 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass'n v. Sanders (In re Santa Clara Cty. Fair Ass'n)*, 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

The court finds that the nature of the State Court Litigation warrants relief from stay for cause. Movant would like to continue their lawsuit against Debtor for the limited purpose of pursuing the available insurance through Debtor's general liability insurance policies. Continuation of the state court litigation will not result in any prejudice or hardship to the Debtor or the Estate.

The court shall issue an order modifying the automatic stay as it applies to Debtor to allow Movant to continue the State Court Litigation. The automatic stay is not modified with respect to enforcement of the judgment against Debtor, Irma Edmonds ("the Chapter 7 Trustee"), or property of the bankruptcy estate. Any judgment obtained shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

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

The Motion for Relief from the Automatic Stay filed by Union Ranch Partners, LLC and Michael W. Atherton Development, Inc. dba Atherton Homes ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are modified as applicable to Valley Distributors, Inc. ("Debtor") to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors to proceed with litigation in *Charles & Tamara Krebs, et al. v. Union Ranch Partners, LLC, et al.* and *Nicholas Toyama, et al. v. Union Ranch Partners, LLC, et al.*

**IT IS FURTHER ORDERED** that the automatic stay is not modified with respect to enforcement of any judgment against Debtor, Irma Edmonds ("the Chapter 7 Trustee"), or property of the bankruptcy estate. Any judgment obtained by Movant shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.

No other or additional relief is granted.

## FINAL RULINGS

3. [19-24809-E-7](#) **DANIEL/SUZANNE ROOT** **MOTION FOR RELIEF FROM**  
[RAS-1](#) **Marc Caraska** **AUTOMATIC STAY**  
**12-4-19 [22]**  
**U.S. BANK NATIONAL**  
**ASSOCIATION VS.**

**Final Ruling:** No appearance at the January 8, 2020 hearing is required.

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Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, Chapter 7 Trustee, and Office of the United States Trustee on December 4, 2019. By the court's calculation, 35 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

**The Motion for Relief from the Automatic Stay is granted.**

U.S. Bank National Association, as Trustee for Lehman XS Trust Mortgage Pass-Through Certificates, Series 2005-5N ("Movant") seeks relief from the automatic stay with respect to Daniel Lee Root and Suzanne Root's ("Debtor") real property commonly known as 4435 McRoberts Drive, Mather, California ("Property"). Movant has provided the Declaration of Marilyn Solivan to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

Movant argues Debtor has not made three (3) post-petition payments, with a total of \$7,191.84 in post-petition payments past due. Declaration, Dckt. 24. Movant also provides evidence that

there are two (2) pre-petition payments in default, with a pre-petition arrearage of \$4,794.56. *Id.*

## **CHAPTER 7 TRUSTEE'S NON-OPPOSITION**

Kimberly J. Husted ("the Chapter 7 Trustee") filed a statement of Non-Opposition on December 11, 2019. Trustee's December 23, 2019 Docket Entry Statement.

## **DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$363,044.21 (Declaration, Dckt. 24), while the value of the Vehicle is determined to be \$460,000.00, as stated in Schedules B and D filed by Debtor.

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

Debtors was granted a discharge in this case on November 12, 2019. Dckt. 19. Granting of a discharge to an individual in a Chapter 7 case terminates the automatic stay as to that debtor by operation of law, replacing it with the discharge injunction. *See* 11 U.S.C. §§ 362(c)(2)(C), 524(a)(2). There being no automatic stay, the Motion is denied as moot as to Debtor. The Motion is granted as to the Estate.

## **Request for Attorneys' Fees**

The Motion seeks the allowance of \$1,031.31 in attorneys fees in connection with the present Motion for Relief From the Stay. The basis is stated to exist pursuant to a notice, a copy of which is provided as Exhibit A. No "Exhibit A" has been filed in support of the Motion.

Exhibit 1 is the Note upon which the secured claim is based. Dckt. 25 at 4. Paragraph 7(E) of the Note contains a contractual attorneys' fees provision, which states:

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

Exhibit 1, Dckt. 25 at 6.

The commencement of this Contested Matter seeking relief from the stay are necessary expenses in Movant exercising its rights under the Note and Deed of Trust securing the Note obligation.

No evidence of the \$1,031.00 as reasonable costs and attorneys' fees is provided in support of the Motion. The Declaration provided by Ms. Solivan does not state that this is the amount of the attorneys' fees and costs actually owed or paid by Movant. No declaration is provided by Movant's counsel that this is the amount of fees owed for the services.

Notwithstanding this lack of evidence, the court determines that attorneys' fees and costs, including the filing fee for this Motion in the amount of \$1,031.00 is a reasonable fee and costs.

The court awards the \$1,031.00 in fees and costs secured by the deed of trust that may be recovered through the nonjudicial foreclosure sale of the Property, and not by enforcement of this order.

**Request for Waiver of Fourteen-Day Stay of Enforcement**

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

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

The Motion for Relief from the Automatic Stay filed by U.S. Bank National Association, as Trustee for Lehman XS Trust Mortgage Pass-Through Certificates, Series 2005-5N ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C.



§ 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 4435 McRoberts Drive, Mather, California, (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

**IT IS FURTHER ORDERED** that to the extent the Motion seeks relief from the automatic stay as to Daniel Lee Root and Suzanne Root (“Debtors”), the discharge having been granted in this case, the Motion is denied as moot pursuant to 11 U.S.C. § 362(c)(2)(C) as to Debtors.

**IT IS FURTHER ORDERED** that Movant is awarded \$1,031.31 in attorneys’ fees and costs as the prevailing party in this Contested Matter, which may be enforced as part of the obligation secured by the trust deed and paid through the nonjudicial foreclosure sale of the Property.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.

SANTANDER CONSUMER USA INC.  
VS.

**Final Ruling:** No appearance at the January 8, 2020 hearing is required.

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Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, parties requesting special notice, and Office of the United States Trustee on November 20, 2019. By the court's calculation, 49 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

<p><b>The Motion for Relief from the Automatic Stay is granted.</b></p>
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Santander Consumer USA, Inc. dba Chrysler Capital ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2016 Jeep Patriot, VIN ending in 6485 ("Vehicle"). The moving party has provided the Declaration of Erica Engel to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Amy Lorraine Hinkle ("Debtor").

Movant argues Debtor has not made 12.39 post-petition payments, with a total of \$7,162.19 in post-petition payments past due. Declaration, Dckt. 57.

Movant has also provided a copy of the NADA Valuation Report for the Vehicle. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

#### TRUSTEE'S NON-OPPOSITION

Trustee filed a statement of Non-opposition on December 9, 2019. Trustee's December 9,

## DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$22,633.47 (Declaration, Dckt. 57), while the value of the Vehicle is determined to be \$14,164.00, as stated in Schedules B and D filed by Debtor, which is slightly less than the retail value as stated on the NADA Valuation Report.

Additionally, according to Debtor's Statement of Intention, filed on October 8, 2019, her intention is to surrender the vehicle. Dckt. 47.

### 11 U.S.C. § 362(d)(1)

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

### 11 U.S.C. § 362(d)(2)

A debtor has no equity in property when the liens against the property exceed the property's value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375-76 (1988). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Vehicle is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

## **Request for Waiver of Fourteen-Day Stay of Enforcement**

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

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

The Motion for Relief from the Automatic Stay filed by Santander Consumer USA, Inc. dba Chrysler Capital ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2016 Jeep Patriot, VIN ending in 6485 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.