

UNITED STATES BANKRUPTCY COURT

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Sacramento, California

January 13, 2015 at 1:30 p.m.

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1. 14-20708-E-13 NOEL ORLANDO MOTION FOR RELIEF FROM  
APN-1 Scott D. Hughes AUTOMATIC STAY  
11-25-14 [[89](#)]  
SANTANDER CONSUMER USA, INC.  
VS.

**Final Ruling:** No appearance at the January 13, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on November 25, 2014. 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). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. 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 *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 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.

<b>The Motion for Relief From the Automatic Stay is granted.</b>
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Noel Orlando ("Debtor") commenced this bankruptcy case on January 27, 2014. Santander Consumer USA Inc. ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2010 Dodge Challenger, VIN ending in 2588 (the "Vehicle"). The moving party has provided the Declaration of Marianne Favors to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Favors Declaration provides testimony that Movant has not "received payment on [Debtor's] account for quite some time" but does not provide any

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specific number of pre or post-petition payments missed. Instead, the Favors Declaration just notes that Debtor is delinquent under the confirmed Plan by one payment of \$3,805.00, of which Movant gets a \$569.92 dividend.

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 \$26,017.88, as stated in the Favors Declaration, while the value of the Vehicle is determined to be \$30,200.45, pursuant to the Debtor's confirmed Chapter 13 Plan.

The Movant also alleges that Debtor has failed to provide valid, written proof of insurance coverage for the property which not only violates the terms of the parties' contractual agreement.

#### **TRUSTEE'S RESPONSE**

David Cusick, the Chapter 13 Trustee, filed a response to the instant Motion stating that the Debtor is delinquent under the confirmed plan \$3,805.00, or one payment. The Debtor has paid a total of \$34,178.00 under the confirmed plan with the last payment of \$3,805.00 having posted December 1, 2014. Under the confirmed plan, \$37,983.00 has become due.

To date, \$4,881.46 in principal and \$1,260.26 in interest has been paid to Santander Consumer USA for Class 2 vehicle payments regarding a 2010 Dedge Challenger; principal owed is \$25,318.99, and there is a principal due of \$226.06 under the plan which requires monthly payment of \$569.92 each month to the Movant.

#### **RULING**

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. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the debtor and the estate have not made post-petition payments as required under the confirmed Plan. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

The court shall issue an order terminating and vacating the automatic stay to allow Santander Consumer USA Inc., 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.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the 14-day stay of enforcement required under Rule 4001(a)(3), and this part of the requested relief is not 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. ("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 2010 dodge Challenger, VIN ending in 2588 ("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 (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is not waived.

No other or additional relief is granted.

2. [13-24415](#)-E-13    ANTONIO/MARIA HERNANDEZ                    MOTION FOR RELIEF FROM  
JJF-1                    Oliver Greene                    AUTOMATIC STAY  
12-12-14 [[99](#)]  
  
KENNETH JONES VS.

**Tentative Ruling:** 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). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

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.**

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on December 12, 2014. By the court's calculation, 32 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). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the non-responding parties are entered.

<p><b>The Motion for Relief From the Automatic Stay is denied without prejudice.</b></p>
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Ken Jones ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 1013 Ross Street, Clovis, New Mexico and 1109 Ash Street, Clovis, New Mexico (the "Property"). Movant has provided the Declaration of Movant to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Dckt. 101.

Movant argues that Movant and Jo Jones entered into a contract to sell the Property to Debtor and was recorded on June 5, 2002. Debtor had defaulted on the contract and was given their first default notice on April 7, 2011. After Debtors' 2011 bankruptcy was dismissed, a second notice of default was

given on March 13, 2012. The arrears of \$24,770.88 were never paid. The Debtors filed another bankruptcy on April 10, 2012, case no. 12-26989. Without notice of the bankruptcy, Movant states that the Deed back to Movant was recorded April 13, 2012. Following, Movant and Jo Jones sold the Property to a third party.

Movant is seeking retroactive relief from the automatic stay. Movant argues that because the Deed was recorded in New Mexico only three days after the Debtors' bankruptcy case No. 12-26989 was filed and did not have knowledge of the stay, they did not intend to violate the stay.

Movant argues that cause exists under 11 U.S.C. § 362(d)(1) because: (1) the Debtors has minimal equity in the property and Movant was not adequately protected; (2) the Debtors failed to maintain the Property; (3) Debtors failed to insure the Property; and (4) Debtors wrongfully encumbered the Property with a senior lien, the defaulted in violation of the contract.

Movant further argues that relief is justified under 11 U.S.C. § 362(d)(2) because the Debtors do not have any equity in the Property and it is not necessary for an effective reorganization. In support, the Movant argues that the Property is not currently listed on Debtors' schedules in the instant case. Furthermore, based on the valuations of the Property in Debtors' prior bankruptcy case no. 12-26989, the Debtors had little equity. As to the contention that it is not necessary for an effective reorganization, Movant argues that the failure of the Debtors to include the Property on the Schedules, the failure to include payments in the Plan for the Movant's claim, lack of equity, failure to maintain the Property, and the habitability concerns of the Property all indicate that the Property is not necessary for an effective reorganization.

#### DEBTORS' RESPONSE

The Debtors filed a response to the Motion on December 30, 2014. Dckt. 108. The Debtors respond as follows:

1. Movant violated the automatic stay, despite lack of knowledge of bankruptcy filing. The Movant admits to having recorded a deed in violation of the automatic stay in bankruptcy case no. 12-26989. Despite the Movant's statements of lack of knowledge of the filing, the fact is that the automatic stay was in place at the time of the transfer of the Property.
2. Movant was not entitled to relief at the time of the transfer of the Property. The previously filed case was a Chapter 13. Both the initially filed plan and the amended plan accounted for the Properties and the secured debts on it. Movant was not entitled to relief from stay in that case, and as such, retroactive relief should not be granted now.
3. Debtors can reorganize the Movant's claim, maintain the Property, provide adequate protection, and list the Property on their schedules. Debtors failed to list the Property because of the mistaken belief that the Property was no longer theirs to list. If the court denies the Motion, and further rules the transfer itself is void, Debtors are prepared to amend schedules, provide for the

debt in their plan, maintain and insure the Property and provide adequate protection for the Movant.

4. Debtors did not engage in inequitable conduct or abusive bankruptcy filings. The Debtors have filed for bankruptcy protection in each case in good faith and to avoid the conduct engaged in by the Movant in this case.

The Debtors request that the Motion be denied and that the court order that the transfer of the Property in violation of the automatic stay be deemed void.

#### **MOVANT'S REPLY**

Movant filed a reply to Debtors' response on January 6, 2015. Dckt. 111. The Movant argues the following:

1. Movant was entitled to relief at the time of transfer because Debtors had no equity and did not include the Ash Property in the Plan.
2. The Debtors cannot reorganize and provide adequate protection because the Debtors have not provided for the Movant in the Plan and the plan is already at the maximum commitment period of five years. Debtors have not provided any evidence of any increase in income over that required for the current Chapter 13 Plan.
3. The Debtors conduct has been inequitable because the Debtors obtained a loan secured by the Property by Bank of America, the Debtors have failed to maintain the Property, and the Debtors have either failed to insure the Property.

The Reply also includes a copy of a letter from Debtors' counsel (the same counsel in the second case and in the present case). That letter, Exhibit A, Dckt. 112, notifies Movant that the recording of the Special Warranty Deed violated the automatic stay on April 13, 2012 violated the automatic stay in the Second Bankruptcy case because that case was "terminated" on June 13, 2013. While the Second Bankruptcy Case was closed on June 13, 2013, it was dismissed by order filed on January 16, 2013. 12-26989, Dckt. 70. The dismissal of the case terminated the automatic stay on January 16, 2013. 11 U.S.C. § 362(c)(2)(B).

#### **DISCUSSION**

This Motion raises many significant issues, some going directly to the conduct of the Debtors and whether they have, and are, acting in good faith. Debtor argues that in connection with the Second Bankruptcy case. The Debtor has not listed either the Ash or Ross Properties in the current bankruptcy case. The Debtor stated in the Statement of Financial Affairs that both properties had been foreclosed on prior to the commencement of the bankruptcy case. Dckt. 1 at 12 (Schedule A), 20-21 (Schedule D), and 37 (Statement of Financial Affairs Question 5, property foreclosed on pre-petition). Additional, Debtors state that there was no income for the Ross Property for 2011-2013 and income from the Ash Property only in 2011-2012. Dckt. 1 at 36, Statement of Financial Affairs Question 2.

All of the Debtors statements in the Schedules and Statement of Financial Affairs are made under penalty of perjury.

In their Opposition, the Debtors advise the court that they will amend the Schedules and assert rights in the Ross and Ash Properties if the court denies the Motion. The Debtors' obligation to make true and accurate statements under penalty of perjury in the Schedules and Statement of Financial Affairs is not dependant upon the granting or denying of motions as sought by the Debtors. Additionally, the Debtors' fiduciary duties to administer property of the estate is not dependent on the court granting or denying motions as demanded by the Debtors.

The present bankruptcy case was filed on March 30, 2013 - a year after the deed was recorded. The automatic stay which arises in this case did not exist at that time and the annulling of this automatic stay will not have an impact on the April 13, 2012 recording of the deed.

The automatic stay at issue, and which must be annulled with respect to the April 13, 2012 recorded deed, is the automatic stay in the Debtors' second bankruptcy case - No. 12-26989. See 11 U.S.C. § 362(a) (creation of automatic stay), (c)(termination of stay by operation of law), and (d) (termination of stay obtained by party in interest).

The court also notes that while the deed was recorded on April 13, 2012, just three days after the April 10, 2012 filing, no grounds are stated as to (1) when Movants learned of the Second Bankruptcy Case being filed, (2) why they did not seek relief from the stay during the Second Bankruptcy Case, and (3) when they purport to have transfer the property to some third-party.

It appears that enough confusion has been created in the Second Bankruptcy Case and this Current Bankruptcy Case by inconsistent statements and inaction of the Debtors and Movants. The court will not add to it by trying to cut corners and issuing an order in this case purporting to effect the automatic stay in an order in another case - which Second Bankruptcy Case has not been assigned to this judge.

The Motion is denied without prejudice.

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 Kenneth & Jo Jones ("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.

3. [10-41617](#)-E-13 JOSEPH/YVONNE BLAZEK  
SCC-1 Brandon Scott Johnston

MOTION TO APPROVE STIPULATION  
FOR RELIEF FROM THE AUTOMATIC  
STAY  
11-25-14 [[54](#)]

COUNTY OF SACRAMENTO VS.

**Tentative Ruling:** 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). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

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.**

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on November 25, 2014. 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). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the non-responding parties are entered.

<p><b>The Motion for Relief From the Automatic Stay is denied without prejudice.</b></p>
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The County of Sacramento and David Cusick ("Movant") seek relief from the automatic stay with respect to the real property commonly known as 4459 Pomo Circle, Sacramento, California (the "Property"). Movant has provided the Declaration of Keith Floyd to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Floyd Declaration states that the county is seeking to acquire a 58 square foot public roadway and public utilities easement; a 989 square foot public utilities and public facilities easement; a 435 square foot above ground public utility facilities easement; and a 544 square foot temporary

construction easement across portions of the Property.

The County of Sacramento has made an offer to purchase the required project easements in the total amount of \$14,800, as specified in its appraisal. The Debtor in this case may obtain his own appraisal and seek a greater amount which he believes represents just compensation for the interests.

David Cusick, the Chapter 13 Trustee, filed a non-opposition on December 22, 2014.

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. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

The request in this case is out of the "normal" category of motions for relief from the automatic stay. Here, the County of Sacramento and the Trustee filed a joint Motion requesting that the automatic stay be lifted so that the County may currently proceed with its efforts to acquire the necessary project easements on the Property.

However, neither the Motion nor the Floyd declaration mention any attempt to negotiate with the Debtors to sell the portions of the Property sought by the County. If the County attempted to negotiate with the Debtors to sell under 11 U.S.C. § 363 but was unable to come to an agreement, cause would exist for the court to lift the automatic stay and allow the County to pursue in state court its eminent domain claim. Merely having the County state that the purpose of the Motion is to allow the County to pursue the easements required for the project is not sufficient grounds for relief.

While the Trustee does join in the Motion and has filed a non-opposition, the Trustee is not the fiduciary who has the authority to consent to the lift of the automatic stay as to the Property and Debtors. The Debtors, as Chapter 13 Debtors, remain the fiduciaries and the only parties who have the authority to consent to the lifting of the automatic stay.

It may be that the Debtors have adopted an "ostrich" approach to the interests of Sacramento County. If they are choosing to ignore the situation, then the court needs to know that as part of the Motion. Additionally, the Chapter 13 Trustee and U.S. Trustee should also be made of aware of such a situation in that it could indicate an inability of the Debtors to fulfill their fiduciary duties in this case.

Without more to justify "cause" under 11 U.S.C. § 362(d)(1), the court does not find cause for lifting the automatic stay on the grounds as stated between Sacramento County and the Chapter 13 Trustee, and the Motion is denied without prejudice.

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 The County of Sacramento and David Cusick ("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.

4. [14-30673](#)-E-13 FERNANDO/SUSANA ORTIZ MOTION FOR RELIEF FROM  
APN-1 Steven A. Alpert AUTOMATIC STAY  
11-19-14 [[18](#)]  
GATEWAY ONE LENDING &  
FINANCE VS.

**Final Ruling:** No appearance at the January 13, 2014 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on November 19, 2014. By the court's calculation, 55 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). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 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 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.

<b>The Motion for Relief From the Automatic Stay is grant.</b>
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Susana Ortiz ("Debtor") commenced this bankruptcy case on October 29, 2014. Gateway One Lending & Finance ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2007 Chevrolet Suburban, VIN ending in 8872 (the "Vehicle"). The moving party has provided the Declaration of Diana Verdin to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Verdin Declaration provides testimony that Debtor has not made a total of 3 pre-petition payments in default, with a pre-petition arrearage of \$1,568.78.

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 \$19,017.90, as stated in the Verdin Declaration, while the value of the Vehicle is determined to be \$10,000.00, as stated in Schedules B and D filed by Debtor.

Movant has also provided a copy of the Kelly Blue Book 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). The Kelly Book Valuation Report lists the Vehicle at \$18,447.00.

Movant further argues that Debtor has failed to provide Movant proof of the insurance coverage of the Vehicle which violates both the parties' contract and applicable laws of California.

Movant notes that under the Chapter 13 Plan, the Debtor "rejects" the contractual agreement with the Movant and intends to surrender possession of the Vehicle. The Plan does not "reject" the agreement, but provides that the collateral be surrendered and the automatic stay be terminated by confirmation of the Chapter 13 Plan.

David Cusick, the Chapter 13 Trustee, filed a non-opposition on November 20, 2014.

#### **RULING**

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. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the debtor and the estate have not made pre-petition payments, has not provided proof of insurance and intends to surrender the Vehicle. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). Based upon the evidence submitted to the court, and no opposition or showing having been made by the Debtor, and the Trustee having filed a non-opposition, the court determines that there is no equity in the property for either the Debtor or the Estate, and the property is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow Gateway One Lending & Finance, 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.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the 14-day stay of enforcement required under Rule 4001(a)(3), namely the fact that the Debtor intends to surrender the Vehicle, 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 Gateway One Lending & Finance ("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 2007 Chevrolet Suburban, VIN ending in 8872 ("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 (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is waived for cause.

No other or additional relief is granted.