

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, January 13, 2021
Place: Department A - Courtroom #11
Fresno, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

1. [20-13293](#)-A-11 **IN RE: PATRICK JAMES, INC.**
[MB-10](#)

MOTION FOR ADMINISTRATIVE EXPENSES
12-10-2020 [[127](#)]

PATRICK JAMES, INC./MV
HAGOP BEDOYAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Patrick James, Inc. ("DIP"), the debtor and debtor in possession in this Chapter 11 subchapter V case, moves the court for an order authorizing the payment of \$220,149.51 to various sellers as an administrative expense under 11 U.S.C. § 503(b)(9). Doc. #127.

11 U.S.C. § 503(b)(9) states that, after notice and a hearing, administrative expenses shall be allowed for "the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business." The claimant must establish: (1) the vendor sold goods to the debtor; (2) the goods were received by the debtor within 20 days prior to filing; and (3) the goods were sold to the debtor in the ordinary course of business. In re Goody's Fam. Clothing, Inc., 401 B.R. 131, 133 (Bankr. Del. 2009).

DIP's president, Patrick M. Mon Pere, declares that the vendors listed in DIP's motion sold goods to DIP, the goods were delivered to DIP within 20 days before the filing of DIP's subchapter V case, and the vendors sold the goods to DIP in the ordinary course of DIP's business. Decl., Doc. #129. A review of the docket in this case shows that no opposition has been filed in response to DIP's motion.

Accordingly, this motion is GRANTED. DIP is authorized to pay the vendors listed in DIP's motion (MB-10, Doc. #127) as administrative expense claims under 11 U.S.C. § 503(b)(9), in a total amount not to exceed \$220,149.51.

1. [20-12900-A-7](#) IN RE: SEAN/JOANNA FRANCO
[JES-1](#)

CONTINUED OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
11-11-2020 [20]

JAMES SALVEN/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled in part.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). This matter was continued to January 13, 2021 at 1:30 p.m. to coincide with the motion to convert the case. Civil Minutes, Doc. #33. On December 28, 2020, Chapter 7 debtors Sean Anthony Franco and Joanna Salas Franco (together, "Debtors") withdrew their motion to convert the case. Doc. #47. This matter will proceed as scheduled.

James E. Salven ("Trustee"), the Chapter 7 trustee in Debtors' bankruptcy case, objects to Debtors' claim of a \$1,800.00 exemption in the following firearms: a Smith and Wesson CS 45 caliber, serial no. BDJ5422 ("CS .45"); a Smith and Wesson 45667SW 45 caliber, serial no. FSD0199 ("SW .45"); a CMMG AR-15 .223 rifle, serial no. SA29687 ("Rifle"); and a Mossberg 12 gauge shotgun, serial no. T887157 ("Shotgun") (collectively, the "Firearms"). Tr.'s Obj., Doc. #20; see Am. Schedule C, Doc. #18. Debtors claim an exemption in the Firearms under California Code of Civil Procedure ("C.C.P.") § 703.140(b)(3).

"[T]he debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under California Code of Civil Procedure § 703.140(b)[] and the extent to which the exemption applies." In re Pashenee, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015); see Diaz v. Kosmala (In re Diaz), 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016) (concluding "that where a state law exemption statute specifically allocates the burden of proof to the debtor, Rule 4003(c) does not change that allocation."); In re Guevarra, No. 18-25306-B-7, 2020 Bankr. LEXIS 1455, at *6 (Bankr. E.D. Cal. June 1, 2020).

Although amended on January 1, 2021, at the time Debtors claimed the exemption in the Firearms, California Code of Civil Procedure § 703.140(b)(3) permitted a bankruptcy debtor to exempt

[t]he debtor's interest, not to exceed six hundred dollars (\$600) in value in any particular item, in household furnishing, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

C.C.P. § 703.140(b)(3) (2020).

Trustee first objects to Debtors' claim of exemption on the grounds that several of the Firearms may have value greater than \$650.00. Doc. #20. Debtors responded by filing sales receipts showing that Debtors paid \$299.99 for the Shotgun, \$310.00 for the SW .45, and \$896.76 for the Rifle. Ex. A, Doc. #30. The Rifle was purchased in 2011 and Debtors assert that its value is currently less than \$650 due to its condition and status under current California law. Decl. of Sean Anthony Franco, Doc. #29. Debtors were unable to locate a receipt for the CS .45. Co-debtor Sean Franco is competent to testify as to the value of the Firearms. Given the absence of contrary evidence, Debtors' opinion of value may be conclusive. Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

At the time of filing, C.C.P. § 703.140(b)(3) created a maximum value of exempt property under that subsection of \$600. Both Trustee and Debtors, however, seem to base their papers on a maximum exemption value of \$650. Based on the evidence offered by Debtors, the court finds that the Shotgun and the SW .45 each have a value less than \$600. However, Trustee does not allege that the Rifle has a value greater than \$600, and Debtors do not respond that the Rifle has a value less than \$600. Similarly, Trustee has not alleged that the value of the CS .45 is greater than \$600. Therefore, factual issues remain as to the value of both the Rifle and the CS .45.

Trustee next objects to Debtors' exemption on the grounds that the Firearms are not household goods contemplated by C.C.P. § 703.140(b)(3). There is no *per se* rule prohibiting the exemption of firearms as household property. In re Dunnaway, 466 B.R. 515, 524 (Bankr. E.D. Cal. 2012), abrogated as to burden of proof by In re Pashenee, 531 B.R. 834 (Bankr. E.D. Cal. 2015). "There is no reason why firearms of moderate value, owned and used for hunting, protection, or general recreational purposes cannot exist in the same category as golf clubs, camera equipment, and an exercise bike." Id. (citing In re Lucas, 77 B.R. 242, 245-46 (B.A.P. 9th Cir. 1987)).

Whether firearms are household goods under the California exemption statute is a fact specific inquiry. Dunnaway, 466 B.R. at 524. Courts may look to the debtor's personal use and purpose for keeping the firearms, the potential recreational value of the firearms, the reasonable necessity of the firearms, and the local community standards. See id. Co-debtor Sean Anthony Franco states in his declaration that the Firearms are used "for protection, and general recreational purposes." Decl., Doc. #29. He also states that he plans to hunt with the Firearms in the future. Doc. #29. The court finds that the Debtors' ownership of the Firearms is reasonable and that the Firearms contribute to Debtors' recreation and protection. Therefore, Debtors' Firearms are household goods under C.C.P. § 703.140(b)(3).

Accordingly, Trustee's objection is overruled as to Debtors' claimed exemption in the Shotgun and the SW .45. However, a factual dispute exists as to the value of the Rifle and the CS .45. The court will treat the hearing as a status conference with respect to the factual dispute over the value of the Rifle and the CS .45.

2. [20-12900](#)-A-7 **IN RE: SEAN/JOANNA FRANCO**
[PBB-2](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
12-16-2020 [\[36\]](#)

PETER BUNTING/ATTY. FOR DBT.
JERRY LOWE/ATTY. FOR MV.
WITHDRAWN

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on December 28, 2020. Doc. #47.

3. [20-13703](#)-A-7 **IN RE: TERESA MENDEZ**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-9-2020 [\[12\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV
T. O'TOOLE/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance
with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Americredit Financial Services, Inc. DBA GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2020 Chevrolet Silverado ("Vehicle"). Doc. #12.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear

definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$1,293.24 including late fees of \$31.54. Doc. #15.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. Id. The Vehicle is valued at \$40,250.00 and the debtor owes \$44,454.24. Doc. #12.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. Movant obtained possession of the Vehicle pre-petition on November 11, 2020, and the Vehicle is not listed on the debtor's schedules or Statement of Intention.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least two pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

4. [20-11911](#)-A-7 **IN RE: PARAMJIT KAUR**
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
12-7-2020 [[31](#)]

JAMES SALVEN/MV
LAYNE HAYDEN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987).

Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James Salven, CPA ("Movant"), accountant for Chapter 7 trustee James E. Salven ("Trustee"), requests an allowance of final compensation and reimbursement for expenses for services rendered November 10, 2020 through December 7, 2020. Doc. #31. Movant provided accounting services valued at \$1,850.00, and requests compensation for that amount. Doc. #31. Movant requests reimbursement for expenses in the amount of \$240.49. Doc. #31.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) processing tax returns; (2) finalizing returns and prompt determination letters; and (3) preparing the fee application. Ex. A, Doc. #33. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,850.00 and reimbursement for expenses in the amount of \$240.49. Trustee is authorized to make a combined payment of \$2,090.49, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

5. [20-13345](#)-A-7 **IN RE: THERESA LITTLEBIRD**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-9-2020 [[16](#)]

FORD MOTOR CREDIT COMPANY LLC/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual

allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Ford Motor Credit Company LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2018 Ford Flex ("Vehicle"). Doc. #16.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$1,167.64 including late fees of \$28.48. Doc. #19.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. Id. The Vehicle is valued at \$22,525.00 and the debtor owes \$27,116.68. Doc. #16.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's attorney, the debtor intends to surrender the Vehicle.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least two pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

6. [19-10148](#)-A-7 **IN RE: ROBERT LEHMANN**
[ICE-3](#)

MOTION FOR COMPENSATION FOR IRMA CORRAL EDMONDS, TRUSTEES ATTORNEY(S)
12-14-2020 [\[53\]](#)

SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at

least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Irma C. Edmonds ("Movant"), counsel for Chapter 7 trustee James Salven ("Trustee"), requests an allowance of final compensation and reimbursement for expenses for services rendered May 7, 2019 through December 14, 2020. Doc. #53. Movant provided legal services valued at \$3,936.00, and requests compensation for that amount. Doc. #53. Movant requests reimbursement for expenses in the amount of \$360.10. Doc. #53.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) case administration; (2) disposition of the debtor's real property and approval of sale; and (3) fee and employment application. Ex. A, Doc. #57. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$3,936.00 and reimbursement for expenses in the amount of \$360.10. Trustee is authorized to make a combined payment of \$4,296.10, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

7. [19-10148](#)-A-7 **IN RE: ROBERT LEHMANN**
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
11-30-2020 [\[46\]](#)

JAMES SALVEN/MV
SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor,

the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James Salven, CPA ("Movant"), accountant for Chapter 7 trustee James E. Salven ("Trustee"), requests an allowance of final compensation and reimbursement for expenses for services rendered November 16, 2020 through November 30, 2020. Doc. #46. Movant provided accounting services valued at \$1,675.00, and requests compensation for that amount. Doc. #46. Movant requests reimbursement for expenses in the amount of \$378.85. Doc. #46.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) processing tax returns; (2) finalizing returns and prompt determination letters; and (3) preparing the fee application. Ex. A, Doc. #49. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,675.00 and reimbursement for expenses in the amount of \$378.85. Trustee is authorized to make a combined payment of \$2,053.85, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

8. [20-13298](#)-A-7 **IN RE: ERNEST JASSO**
[EAT-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-10-2020 [\[12\]](#)

KINECTA FEDERAL CREDIT UNION/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
MARK BLACKMAN/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Kinecta Federal Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2019 Ford Fusion ("Vehicle"). Doc. #12.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$819.26 plus 20.48 for late charges. Doc. #14.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. Id. The Vehicle is valued at \$22,602.00 and the debtor owes \$26,134.98. Doc. #12.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's Statement of Intention, the Vehicle will be surrendered.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least two post-petition payments to Movant and the Vehicle is a depreciating asset.