

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: TUESDAY
DATE: January 19, 2021
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: "**[Since posting its original rulings, the court has changed its intended ruling on this matter]**".

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g. nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, (" \$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [18-27710](#)-A-7 **IN RE: UNITED GLOBAL LLC**
[DNL-2](#)

MOTION TO SELL
12-22-2020 [\[42\]](#)

PETER MACALUSO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party (Sale and Assignment Agreement to be appended to the order)

Property: Bankruptcy Estate's interest in the Litigation Rights

Buyer: Gazelle Schreiber (plaintiff against the debtor defendant in *Schreiber v. United Global, LLC et al.*, Sacramento County Superior Court Case Number 34-2018-00240345).

Sale Price: 35% of all net proceeds in debtor's state court action against third-party defendants

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

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

2. [20-24613](#)-A-7 **IN RE: MARIAELENA/GERARDO ARRIAGA**
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-14-2020 [\[16\]](#)

THOMAS MOORE/ATTY. FOR DBT.
SEAN FERRY/ATTY. FOR MV.
SELENE FINANCE LP VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted in part; denied in part as moot

Order: Civil minute order

Subject: 394 Marna Dr, Vacaville, California 95687

Discharged: January 5, 2021

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

AS TO THE DEBTOR

The motion is denied as moot. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion is moot as to the debtor.

AS TO THE ESTATE

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed 21 prepetition payments totaling \$57,688.87 and 2 post-petition payments totaling \$5,478.34 due on the debt

secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Selene Finance, LP's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 394 Marna Dr, Vacaville, California 95687. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

3. [20-24514](#)-A-7 **IN RE: LATANYA MERRIWEATHER**
[BLG-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
12-17-2020 [\[17\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
NON-OPPOSITION

Final Ruling

Motion: Convert Case from Chapter 7 to Chapter 13

Notice: LBR 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CONVERSION UNDER § 706(a)

Section 706 of the Bankruptcy Code gives chapter 7 debtors a qualified conversion right. See 11 U.S.C. § 706(a), (d). A debtor's right to convert a case from Chapter 7 to Chapter 11, 12, or 13 is conditioned on (i) the debtor's eligibility for relief under the chapter to which the case will be converted and (ii) the case not having been previously converted under §§ 1112, 1208, or 1307. 11 U.S.C. § 706(a), (d); *see also Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 372-74 (2007) (affirming denial of debtor's conversion from Chapter 7 to Chapter 13 based on bad faith conduct sufficient to establish cause under § 1307(c)).

The secured and unsecured debt amounts shown in the debtor's schedules are below the debt limits provided in § 109(e). See 11 U.S.C. § 109(e). The case has not been previously converted under § 1112, 1208, or 1307 of the Bankruptcy Code. See *id.* § 706(a). No party in interest has questioned the debtor's eligibility for relief under Chapter 13.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to convert this case from chapter 7 to chapter 13 has been presented to the court. Having considered the motion,

oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The court converts this case from chapter 7 to chapter 13.

4. [20-25015](#)-A-7 **IN RE: BROCK BERNSTEIN**
[DBL-1](#)

MOTION TO COMPEL ABANDONMENT
12-22-2020 [\[16\]](#)

PATRICIA WILSON/ATTY. FOR DBT.

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

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

Disposition: Granted only as to the business and such business assets described in the motion

Order: Prepared by moving party pursuant to the instructions below

Business Description: sole proprietorship personal services handyman business

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted. The order will compel abandonment of only the business and its assets that are described in the motion.

5. [19-20617](#)-A-7 **IN RE: DAISY CUARESMA**
[HSM-8](#)

MOTION TO EXTEND TIME
12-17-2020 [\[98\]](#)

MARK HANNON/ATTY. FOR DBT.
AARON AVERY/ATTY. FOR MV.

Final Ruling

Motion: Extend Deadline to File Objection to Claim of Exemptions

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

Disposition: Granted

Order: Civil Minute Order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

"A party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension." Fed. R. Bankr. Proc. 4003(b)(1).

Here the trustee filed a motion to extend the deadline to object to the debtor's amended claims of exemptions, ECF No. 87, within 30 days after the debtor filed an Amended Schedule C, ECF No. 85. The trustee had timely moved to extend the deadline under Fed. R. Bankr. Proc. 4003(b). The extended deadline to object to claims of exemptions has been January 6, 2021.

Now the trustee moves the court again to extend the deadline to object to the amended claims of exemptions. The trustee filed the motion prior to the extended deadline, ECF No. 98. The court may extend the deadline to object for cause, Fed. R. Bankr. Proc. 4003(b).

The court finds cause under Rule 4003(b) to extend time for filing objections. The debtor listed in Amended Schedules A/B (ECF No. 43) and exempted in Amended Schedule C (ECF No. 85), "Investment with Trust Investment & Crypto Company." The court stayed the trustee's adversary proceeding against the debtor (20-02003-A) per the parties' stipulation that the debtor will cooperate with respect to investigation/administration of the estate's interest in the CryptoCurrency asset, Adversary Proceeding 20-02003-A, ECF No. 11.

Also, the CryptoCurrency Asset and numerous other assets (e.g. 401(k) with Lodi Memorial Hospital, Lincoln Benefit life insurance policy, National Life Group insurance policy) were scheduled on the debtor's Amended Schedules A/B 7 months after filing, ECF No. 43, and are now exempted for the first time on Amended Schedule C over a year after filing, ECF No. 85. The trustee states and the court agrees that it is in the best interests of the estate to extend the deadline to object to exemptions until it is clear what assets will be recovered, rather than litigating potential objections for any of the newly listed assets in Amended Schedule C.

Based on the motion and supporting papers, the court finds that cause exists to extend the deadline for objecting to exemptions under Fed. R. Bankr. Proc. 4003(b). This deadline to object to the amended claims of exemptions will be extended to July 20, 2021.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The trustee's motion to extend time to file objections to debtor's amended claims of exemptions has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is granted. This deadline to object to the amended claims of exemptions will be extended to July 20, 2021.

6. [20-23729](#)-A-7 **IN RE: DARRELL/JENNIFER MCDANIEL**
[GMR-2](#)

MOTION FOR ADMINISTRATIVE EXPENSES
12-5-2020 [\[27\]](#)

BRUCE DWIGGINS/ATTY. FOR DBT.
GEOFFREY RICHARDS/ATTY. FOR MV.
DEBTORS DISCHARGED 11/03/2020

Final Ruling

Motion: Allow Administrative Expense [Estate Taxes]

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

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

ALLOWANCE OF ADMINISTRATIVE EXPENSE

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Cloobek*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, the taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's motion for allowance of administrative expense has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court allows federal taxes of \$4,000.00 and California state taxes of \$750.00 as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

7. [20-24840](#)-A-7 **IN RE: JAVIER/APRIL VELAZQUEZ**
[VVF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-31-2020 [\[16\]](#)

ROBERT FONG/ATTY. FOR DBT.
VINCENT FROUNJIAN/ATTY. FOR MV.
AMERICAN HONDA FINANCE CORPORATION VS.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2018 Honda Accord

Value of Collateral: \$22,325.00

Aggregate of Liens: \$24,020.03

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism

for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

In this case, the aggregate amount due all liens exceed the value of the collateral and the debtor has no equity in the property. As a consequence, the motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

American Honda Finance Corp.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2018 Honda Accord, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

8. [20-23246](#)-A-7 **IN RE: SACRAMENTO I STEAKHOUSE, L.P.**
[DNL-7](#)

MOTION TO EMPLOY TRANZON ASSET STRATEGIES AS AUCTIONEER,
AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND
AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES
12-22-2020 [\[72\]](#)

MATTHEW OLSON/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

Final Ruling

Motion: Sell Property and Employ and Compensate Auctioneer

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

Disposition: Granted

Order: Prepared by moving party

Property: Type 47 On-Sale General Eating Place License for the premises at 2100 Golden Centre Lane, Gold River, CA 95670 identified as License Number 47-317019 ("Liquor License")

Sale Type: Public auction

Auctioneer: Tranzon Asset Strategies

Compensation Requested: 10% of gross sale (plus reimbursement for expenses not to exceed \$500 for sale and marketing)

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

SECTION 363(b) SALE

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

SECTION 328(a) EMPLOYMENT AND COMPENSATION

The Chapter 7 trustee may employ an auctioneer that does not hold or represent an interest adverse to the estate and that is disinterested. 11 U.S.C. §§ 101(14), 327(a). The auctioneer satisfies the requirements of § 327(a), and the court will approve the auctioneer's employment.

Federal Rule of Bankruptcy Procedure 6005, moreover, requires the court to "fix the amount or rate of compensation" whenever the court authorizes the employment of an auctioneer. Section 328(a) authorizes employment of a professional on any reasonable terms and conditions of employment. Such reasonable terms include a fixed or percentage fee basis. The court finds that the compensation sought is reasonable and will approve the application.

9. [20-25071](#)-A-7 **IN RE: ADEEBA SABR**

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC.
341(A) MEETING OF CREDITORS
12-28-2020 [\[26\]](#)

RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Case and Extend Trustee's Deadlines

Notice: LBR 9014-1(f)(1); written opposition required or case dismissed without hearing

Disposition: Conditionally denied in part, granted in part

Order: Civil minute order

DISMISSAL

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting may be cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); *In re Witkowski*, 523 B.R. 300, 307 n.8 (B.A.P. 1st Cir. 2014) ("Some courts have ruled that the failure to attend the § 341 meeting of creditors constitutes 'cause' for dismissal.").

In this case, the debtor has failed to appear at a scheduled meeting of creditors required by 11 U.S.C. § 341. Because the debtor's failure to attend this meeting has occurred once, the court will not dismiss the case on condition that the debtor attend the next creditors' meeting. But if the debtor does not appear at the continued meeting of creditors on January 19, 2021 at 2:00 p.m., the case will be dismissed on trustee's declaration without further notice or hearing.

EXTENSION OF DEADLINES

The court will grant the motion in part to the extent it asks for an extension of deadlines. The court extends the following deadlines to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e). These deadlines are no longer set at 60 days after the first creditors' meeting.

CIVIL MINUTE ORDER

The court will issue a minute order that conforms substantially to the following form:

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

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for January 19, 2021 at 2:00 p.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

10. [18-20774](#)-A-7 **IN RE: S360 RENTALS, LLC**
[PP-1](#)

OBJECTION TO TRUSTEE'S FINAL REPORT REGARDING DISPOSITION OF
SURPLUS
11-18-2020 [[407](#)]

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

No Ruling

11. [20-25578](#)-A-7 **IN RE: JACQUELINE MCCRAE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-30-2020 [[17](#)]

FEE WAIVER APPLICATION, ECF 20

Final Ruling

The debtor having been denied a Fee Waiver Application, ECF No. 27, was granted the opportunity to pay the chapter 7 filing fee in installments, the order to show cause is discharged. The case will remain pending.

12. [20-25581](#)-A-7 **IN RE: ALICIA FLORES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-30-2020 [\[15\]](#)

PAMELA NELSON/ATTY. FOR DBT.
1/5/2021 FEE PAID \$338

Final Ruling

The full filing fee having been paid, the order to show cause is discharged. The case will remain pending.

13. [20-23990](#)-A-7 **IN RE: JORDYN JONES**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-10-2020 [\[17\]](#)

AUSTIN NAGEL/ATTY. FOR MV.
TOYOTA MOTOR CREDIT CORPORATION VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted in part, denied in part as moot

Order: Civil minute order

Subject: 2018 Toyota Corolla

Value of Collateral: \$16,825.00

Aggregate of Liens: \$20,041.01

Discharge: December 29, 2020

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in

that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

As to the Debtor

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied as moot as to the debtor.

As to the Estate

"[A]fter notice and a hearing," the court may terminate, annual, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceed the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Toyota Lease Trust's motion for relief from the automatic stay has been presented to the court. Having entered the default of

respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the estate in the property described in the motion, commonly known as 2018 Toyota Corolla. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.