



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
HONORABLE RENÉ LASTRETO II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Tuesday, January 23, 2024

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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, and all parties will need to appear at the hearing unless otherwise ordered. 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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION

CONTINUED APPOINTMENT OF HEALTH CARE OMBUDSMAN, BLANCA
CASTRO
7-20-2023 [[105](#)]

RILEY WALTER/ATTY. FOR DBT.

NO RULING.

At the last hearing on November 16, 2023, there were no objections to the Patient Care Ombudsman's report and the court continued the hearing on the report to January 23, 2024, at 9:30 a.m.

Since that hearing, the Ombudsman has filed a timely second report on January 3, 2024. Doc. #412. The court will inquire at the hearing if there are any objections or concerns with the second report. If there are none, the court will likely conclude the hearing and remove the hearing from calendar.

The Ombudsman shall continue to file and serve reports as required by 11 U.S.C. § 333 until relieved by subsequent court order. Any party wishing to object to subsequent reports may do so by filing and serving an objection and setting a hearing as required by the Local Rules of Practice for the United States Bankruptcy Court, Eastern District of California. Service of the objection shall be on the debtor, the Subchapter V Trustee, the Ombudsman, the United States Trustee, and all other parties as required by law.

2. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V
VOLUNTARY PETITION
6-22-2023 [[1](#)]

RILEY WALTER/ATTY. FOR DBT.

NO RULING.

3. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[WJH-12](#)

CONTINUED MOTION TO COMPEL
7-11-2023 [\[88\]](#)

TWILIGHT HAVEN, A CALIFORNIA
NON-PROFIT CORPORATION/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

4. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[WJH-22](#)

CONFIRMATION HEARING RE: CHAPTER 11 SMALL BUSINESS
SUBCHAPTER V PLAN
11-29-2023 [\[353\]](#)

RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will be heard as scheduled.

DISPOSITION: Continued to February 13, 2024.

ORDER: Order preparation determined at the hearing.

Twilight Haven, a California non-profit corporation ("Twilight Haven"), has moved for confirmation of its Chapter 11, Subchapter V plan dated November 20, 2023. Doc. #353.

This motion was set for hearing on 42 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. Proc. 2002(b). The failure of any party in interest, including but not limited to the creditors, the debtors, 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 except the Attorney General for the State of California, are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

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

On January 9, 2024, Twilight Haven and the California Attorney General's Office ("the Attorney General") filed a *Stipulation* whereby this hearing would be continued to February 13, 2024, at 9:30 a.m. as to the Attorney General only. Doc. #417. The *Stipulation* further agreed that the Attorney General shall have up until seven (7) days prior to the continued hearing date in which to object to confirmation. *Id.*

No party in interest other than the Attorney General has responded, and the defaults of all such parties in interest are entered. The court will call this matter as scheduled on January 23, 2024, at 9:30 a.m. so that the aforementioned defaults can be entered on the record.

5. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-66](#)

MOTION FOR ORDER FIXING DEADLINE FOR FILING REQUESTS FOR
ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSES INCURRED
AND DESIGNATING FORM AND MANNER OF NOTICE THEREOF
12-21-2023 [[1223](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The minutes will be the court's findings and
 conclusions. Moving party to prepare the order.

Debtor-in-possession Madera Community Hospital ("MCH") asks for an order fixing an interim bar date for the filing of administrative expense claims arising during the period March 10, 2023 (the petition filing date) through December 31, 2023. MCH also asks the court to approve the proposed form of notice. (Docs. #1223-1228)

No party has filed timely opposition. The court has reviewed the matter and the motion will be GRANTED.

This motion was set for hearing on over 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of any party in interest, including but not limited to the creditors, the U.S. Trustee, the Creditors' Committee, 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages).

Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987).

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

Though administrative expense claims are provided for in §503 of the Bankruptcy Code, neither the code nor the national Bankruptcy Rules specifically provide for the setting of a bar date for filing requests for payments of administrative expenses. The court has general authority to set bar dates and deadlines under § 105 (a). Knowing the extent of administrative claims is critical since they receive preferred treatment under a Chapter 11 Plan of Reorganization (see § 1129 (a)(9)(A)). The court finds it appropriate to facilitate the reorganization process by setting an initial interim bar date.

The court's general authority to regulate notices is found in Rules 2002(m) and 9007. MCH here has provided a form of notice in its exhibits. The court has reviewed that notice, and it appears appropriate.

MCH has not yet filed a Plan. But the Official Committee of Unsecured Creditors has. The Committee's Plan is apparently being substantially modified to accommodate a potential "reopening transaction" for MCH. Any Plan will benefit from a finite set and extent of administrative claims. This motion affects those claims that may have arisen from the petition date through December 31, 2023.

Ms. Paolinelli's declaration (Doc. #1226) sets forth some generic reasons why a bar date should be set. But neither the declaration nor the other motion documents specify that all potential administrative expense claimants are known to MCH. Nor does the motion state how all potential claimants will become known. Presumably, MCH knows who administrative claimants would be. If any administrative claimant is not provided notice, other complications will occur.

But those issues are not really before the court on this motion. The debtor's proposed notice and the fact that those claimants who receive the notice will have about 30 days to file their administrative expense requests, appears reasonable.

In the absence of opposition, the motion will be GRANTED.

1:30 PM

1. [24-10003](#)-B-7 **IN RE: MARIA LUNA MANZO**
[JLS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR
ADEQUATE PROTECTION
1-9-2024 [\[16\]](#)

BLACKRIDGE CORPORATION/MV
JUSTIN HARRIS/ATTY. FOR DBT.
JOSHUA SCHEER/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. Order preparation
determined at the hearing.

Blackridge Corporation ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(4) with respect to real property located at **Vacant Land, APN: 393-230-04, Area of Kingsburg, CA 93631** (the "Property") so that it may take all steps necessary under state and federal law to commence or complete its foreclosure sale. Doc. #16. Movant requests that the order be binding and effective under § 362(d)(4) in any other bankruptcy purporting to affect the Property for a period of two years after entry of the order. Movant also requests waiver of the 14-day stay of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3) and Cal. Civ. Code § 3924g(d).

Written opposition was not required and may be presented at the hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary. In the absence of any such opposition, the court is inclined to GRANT the motion.

The Debtor in this matter is Maria Guadalupe Luna Manzo ("Manzo"). On January 12, 2024, the court entered an order in the related case of *In re Vargas*, Case NO. 23-12639 ("the Vargas Order"), finding debtor Juan Garcia Vargas ("Vargas") filed his petition as part of "a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval." *Vargas*, 22-12639, Doc. #39 (quoting 11 U.S.C. § 362(d)(4)). Specifically, the court found that the scheme was between Vargas and Manzo, who had by that time filed seven bankruptcies between them

since February 2020, apparently for the sole purpose of protecting the Property from foreclosure by Movant. *Id.* The factual history of this scheme was fully outlined in the Vargas Order, except that since the filing of the instant motion, Manzo filed the instant chapter 7 proceeding, her *eighth* bankruptcy, on January 1, 2024. Docs. ##1, 16.

In the Vargas Order, the court lifted the stay as to the Property and waived the 14-day stay, and the Vargas Order by its term was to be

binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order. A debtor in a subsequent case under Title 11 may move for relief from this order based on changed circumstances or for good cause shown after notice and a hearing.

Id. Accordingly, it is not necessary to address Movant's §362(d)(4) arguments, as relief on that front has already been granted. However, the court will address Movant's arguments under § 362(d)(1) and § 362(d)(2) as they provide alternative grounds for lifting the stay.

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).

Here, Movant alleges that "cause" to grant relief under § 362(d)(1) exists because of Manzo has consistently failed to make payments even after entering into a forbearance agreement with Movant. Doc. #23. Manzo also transferred an interest in the Property to Vargas without Movant's consent. *Id.* Movant further avers that the loan has fully matured and "is all due and payable as of October 17, 2020," but Manzo has not paid off the note and has instead filed multiple bankruptcies (all swiftly dismissed for failure to provide documents or otherwise comply with her obligations under the Code). *Id.* Movant's averments are supported by documentary evidence and by the Declaration of Barry Smith, custodian of records for Movant. Docs. ##20, 21.

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtor has failed to make required payment under the loan agreement and the subsequent forbearance agreement. The Movant has produced evidence that the entire balance of \$238,862.12 is due. Docs. #20.

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

In the instant case (Manzo's fifth since February of 2020), Schedules have not yet been filed, and a motion for extension of

time to file Schedules has been made and denied. See Docs. ##26, 30. In the absence of a current schedule, Movant directs the court's attention to Debtor's *Schedule A/B* filed in the bankruptcy case she filed immediately prior to this one (*In re Manzo*, 22-12040, or "Manzo V"), in which Manzo valued the Property at \$600,000.00. See *Manzo V*, Doc. #1. Movant avers that liens on the Property total \$663,722.04, and so Manzo has no equity in the Property. Doc. #23. And in any event, this most recent bankruptcy was filed under Chapter 7, which does not contemplate reorganization.

Unless opposition is presented at the hearing, the court intends to GRANT this motion. The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated concerning real property located at **Vacant Land, APN: 393-230-04, Area of Kingsburg, CA 93631**; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4) and the court's findings and conclusions as outlined in the Vargas Order, that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order. A debtor in a subsequent case under Title 11 may move for relief from this order based on changed circumstances or for good cause shown after notice and a hearing.

IT IS FURTHER ORDERED, pursuant to 11 U.S.C § 362(d)(1) and (d)(2) that, as an alternative grounds for granting this motion, the stay should be lifted both "for cause" and because Manzo has no equity in the Property and it is not necessary for a successful reorganization.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the continued efforts of Manzo and Vargas to frustrate Creditor's rights through the filing of additional abusive bankruptcy filings.

2. [23-11832](#)-B-7 **IN RE: OCTABIANO/VICTORIA SIGALA**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-12-2023 [\[23\]](#)

JPMORGAN CHASE BANK, N.A./MV
ERIC ESCAMILLA/ATTY. FOR DBT.
WENDY LOCKE/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.

JP Morgan Chase Bank, N.A. ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2019 Chrysler 300, VIN No. 2C3CCABG4KH559770 ("Vehicle"). Doc. #23. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). *Id.*

Octbiano and Victoria Sigala ("Debtors") did not file opposition and Debtors' Statement of Intention indicated that the Vehicle would be surrendered. No other party in interest timely filed written opposition. This motion will be GRANTED.

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 the 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 Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

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 an 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 Debtors have failed to make twelve (12) pre-petition and four (4) post-petition payments. The Movant has produced evidence that Debtors are delinquent at least \$9,884.32. Docs. ##25, 28.

The court also finds that the Debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because Debtors are in chapter 7. *Id.* The Vehicle is valued at \$21,325.00 and Debtors owe \$35,027.41. Doc. #28.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the 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 Debtors' 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 Debtors have failed to make at least four (4) post-petition payments to Movant, and the Vehicle is a depreciating asset.

3. [23-11938](#)-B-7 **IN RE: DOMINGO HOLGUIN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-29-2023 [\[25\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.
\$34.00 FILING FEE PAID 1/5/24

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the \$34.00 filing fee was paid on January 5, 2024. Accordingly, this order to show cause will be VACATED.

4. [23-11953](#)-B-7 **IN RE: LINDSEY CUDE**
[ICE-1](#)

MOTION TO EMPLOY BAIRD AUCTIONS AND APPRAISALS AS
AUCTIONEER(S)
12-19-2023 [\[18\]](#)

IRMA EDMONDS/MV
STEVEN ALPERT/ATTY. FOR DBT.
IRMA EDMONDS/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order after hearing.

Chapter 7 trustee Irma C. Edmonds ("Trustee") seeks authorization to employ Baird Auctions & Appraisals ("Auctioneer") under 11 U.S.C. § 328 to sell the estate's interest in a 2015 Mazda Mazda3 ("Vehicle"), currently in Auctioneer's possession, at public auction under § 363(b)(1), and to compensate Auctioneer under §§ 327(a) and 328. Doc. #18. There is no proposed date or time for the auction in the moving papers, but the accompanying *Motion to Sell/Motion to Compensate* filed contemporaneously with the instant motion indicates that the public auction is to be held on or after January 23, 2024.

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 the 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

No party in interest has responded, and the defaults of all such parties in interest are entered.

Employment and Compensation

This motion affects the proposed disposition of estate assets and Auctioneer. Under Fed. R. Civ. P. ("Civ. Rule") 21 (Rule 7021 incorporated in contested matters under Rule 9014(c)), the court will exercise its discretion to add Auctioneer as a party.

LBR 9014-1(d)(5)(B)(iii) permits joinder of requests for authorization to employ a professional, i.e., auctioneer, for sale of estate property at public auction, and allowance of fees and expenses for such professional under 11 U.S.C. §§ 327, 328, 330, 363, and Rules 6004-05.

11 U.S.C. § 327 allows the trustee, with the court's approval, to employ one or more attorneys, accountants, auctioneers, or other professional persons to represent or assist the trustee in carrying out the trustee's duties. The professional is required to be a disinterested person and neither hold nor represent interests adverse to the estate. § 327(a).

11 U.S.C. § 328(a) permits employment of "a professional person under section 327" on "any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis." Section 328(a) further "permits a professional to have the terms and conditions of its employment pre-approved by the bankruptcy court, such that the bankruptcy court may alter the agreed-upon compensation only 'if such terms and conditions and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.'" *In re Circle K Corp.*, 279 F.3d 669, 671 (9th Cir. 2002).

Under these sections, Trustee requests to employ and compensate Auctioneer by paying: (i) a 20% commission on the gross proceeds from the sale; and (ii) estimated expenses not to exceed \$500.00 for storage and sale. Docs. #18,20. The expenses and commission include Auctioneer's necessary expenses, including, but not limited to, marketing and advertising of the property, and other costs of sale. *Id.*

Jeffrey Baird, Auctioneer's owner, filed a declaration attesting that Auctioneer is a disinterested person as defined in § 101(14) and does not hold any interests adverse to the estate in accordance with § 327(a). *Id.* With respect to Debtor, Auctioneer is not a creditor, equity security holder, insider, investment banker for a security of the debtor within the three years before the petition date, or an attorney for such investment banker, and within two years of the petition date was not a director, officer, or employee of the Debtor or an investment banker. *Id.* Auctioneer does not have an interest materially adverse to the interest of the estate, creditors, Debtor, equity security holders, an investment banker for a security of the debtors, or any other party in interest, and had not served as an examiner in this case. *Id.* Auctioneer does not have any connection with any creditors, parties in interests, their attorneys, accountants, the U.S. Trustee, or anyone employed by the U.S. Trustee. *Id.* Additionally, no agreement exists between

Auctioneer or any other person for the sharing of compensation received by Auctioneer in connection with the services rendered. *Id.*

Trustee declares that it is necessary to employ Auctioneer to liquidate Vehicle. Doc. #18. Trustee believes that the proposed fees and expenses for services are reasonable and customary for the services to be rendered by Auctioneer. *Id.* Auctioneer will assist Trustee by (1) actively advertising the sale of the property, (2) generally performing and assisting Trustee in matters customarily done and performed by auctioneers in connection with an auction sale of property. *Id.*

The court will authorize Auctioneer's employment pursuant to 11 U.S.C. §§ 327(a), 328 and authorize Trustee to pay the 20% commission, and up to \$500.00 for expenses as prayed. Trustee believes that using the auction process to sell Vehicle will result in the quickest liquidation for the best possible price because it will be exposed to many prospective purchasers. Doc. #18. Based on Trustee's experience, this could yield the highest net recovery to the estate, both in terms of time efficiency and the amount that will be realized from the sale. *Id.*

Sale by auction under these circumstances should maximize potential recovery for the estate such that the sale of the Vehicle would be in the best interests of the estate if it will provide liquidity to the estate that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. Therefore, this sale is an appropriate exercise of Trustee's business judgment and will be given deference.

This motion will be GRANTED. Trustee will be permitted to employ Auctioneer, sell the Vehicle at public auction, and pay Auctioneer for its services as outlined above. If the sale is completed, Trustee will be authorized to compensate Auctioneer on a percentage collected basis: 20% of gross proceeds from the sale and payment of up to \$500.00 for expenses.

5. [23-11953](#)-B-7 **IN RE: LINDSEY CUDE**
[ICE-2](#)

MOTION TO SELL AND/OR MOTION FOR COMPENSATION FOR BAIRD
AUCTIONS & APPRAISALS, AUCTIONEER(S)
12-19-2023 [\[22\]](#)

IRMA EDMONDS/MV
STEVEN ALPERT/ATTY. FOR DBT.
IRMA EDMONDS/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order after hearing.

Chapter 7 trustee Irma C. Edmonds ("Trustee") seeks authorization to sell the estate's interest in a 2015 Mazda Mazda3 ("Vehicle") at public auction under § 363(b)(1) and to compensate a professional authorized to be employed to conduct such sale §§ 327(a) and 328 and Fed. R. Bankr. P. 6004. Doc. #11. The court has already approved the employment of Baird Auctions & Appraisals ("Auctioneer") to conduct the sale *See Item #2, above*. The court has also authorized Trustee to pay Auctioneer a 20% commission and up to \$500.00 in expenses. *Id.* The instant motion is a separate motion to secure authorization for the actual sale of the Vehicle.

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 the 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

No party in interest has responded, and the defaults of all such parties in interest are entered.

As the court has already granted the Trustee's *Motion to Employ Auctioneer* filed contemporaneously with the instant motion (*See Item #4, above*), the court will not address that part of the instant motion which seek such relief. Under Fed. R. Civ. P. ("Civ. Rule")

21 (Rule 7021 incorporated in contested matters under Rule 9014(c)), the court will exercise its discretion to add Auctioneer as a party. Trustee requests permission to sell the Vehicle on an "AS IS" basis without any warranty at public auction to be held on or after January 23, 2024, through the Auctioneer. Doc. #22. Trustee intends to accept the highest reasonable bid. If, in the exercise of Trustee's business judgment, no reasonable bids are received, the Vehicle may be held for subsequent auction or private sale without additional notice. *Id.*

Trustee believes that using the auction process to sell Vehicle will result in the quickest liquidation for the best possible price because it will be exposed to many prospective purchasers. Doc. #24. Based on Trustee's experience, this could yield the highest net recovery to the estate, both in terms of time efficiency and the amount that will be realized from the sale. *Id.*

Sale by auction under these circumstances should maximize potential recovery for the estate such that the sale of the Vehicle would be in the best interests of the estate if it will provide liquidity to the estate that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. Therefore, this sale is an appropriate exercise of Trustee's business judgment and will be given deference.

This motion will be GRANTED. Trustee will be permitted to employ Auctioneer, sell the Vehicle at public auction, and pay Auctioneer for its services as outlined above and as outlined in the *Application to Employ*. See *Item #2, above*. If the sale is completed, Trustee will be authorized to compensate Auctioneer on a percentage collected basis: 20% of gross proceeds from the sale and payment of up to \$500.00 for expenses.

6. [23-11391](#)-B-7 **IN RE: DEREK WHITE AND LILIYA RUDAN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-29-2023 [[60](#)]

JOEL WINTER/ATTY. FOR DBT.
\$25.00 CONVERSION FEE PAID 1/1/24

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the \$25.00 filing fee was paid on January 1, 2024. Accordingly, this order to show cause will be VACATED.

7. [19-15396](#)-B-7 **IN RE: JUAN/MARYLOU BARRAGAN**
[JOS-3](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
12-20-2023 [[130](#)]

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

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order
 that conforms with the opinion below.

James Salven, C.P.P. ("Applicant") seeks approval of a final allowance of compensation under 11 U.S.C. §§ 330 and 331 of the Bankruptcy Code for professional services rendered and reimbursement for expenses incurred as accountant for Irma Edmonds, Trustee in the above-styled case ("Trustee"). Doc. #130.

Applicant was employed to perform services under § 327 of the Code pursuant to an order of this court dated March 21, 2023. Doc. #120. This is Applicant's first and final request for compensation.

Applicant seeks **\$2,940.00** in fees based on **10.5** billable hours from February 7, 2023, through December 7, 2023. Doc. #130. Based on the moving papers, it appears that James Salven was the only employee of Applicant to work on this case. Doc. #113.

Applicant seeks an award for expenses in the amount of \$377.70, as follows:

Type of Expense	Amount
Copies	\$110.60
Envelopes	\$1.25
Lacerte Tax Proc.	\$182.00
Service of fee application	\$83.85
Total	\$377.70

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." 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, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). Previous interim compensation awards under 11 U.S.C. § 331, if any, are subject to final review under § 330.

Applicant's services here included, without limitation: work pertaining to the employment/fee applications; review of the petition and docket to determine the basis of the lot and residence

and the acquisition date of both; applying for a second EIN for the estate; preparing return letters for each debtor; and finalizing returns and prompt determination letters. Doc. #134. The court finds the services and expenses reasonable, actual, and necessary. The Trustee has reviewed the Application and finds the requested fees and expenses to be reasonable. Doc. #133.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

This Application is GRANTED. The court will approve on a final basis under 11 U.S.C. §330 compensation in the amount of **\$2,940.00** in fees and **\$377.70** in expenses. The court grants the Application for a total award **\$3,317.70** as an administrative expense of the estate and an order authorizing and directing the DIP to pay such to Applicant from the first available estate funds.