UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

February 13, 2024 at 1:30 p.m.

FINAL RULINGS

1. **23-22540-E-13** **SATINDER SINGH** **MOTION FOR RELIEF FROM AUTOMATIC STAY**
RLL-2 **Ryan Wood** **1-11-24 [114]**

PLACERVILLE INVESTMENT GROUP, LLC VS.

Final Ruling: No appearance at the February 13, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors that have filed claims, parties requesting special notice, and Office of the United States Trustee on January 11, 2024. By the court's calculation, 33 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The hearing on the Motion for Relief from the Automatic Stay is continued to 2:00 p.m. on February 27, 2024 (Specially Set Time) to be heard in conjunction with Debtor's Motion to Value of Claim, Debtor's Motion to Confirm Amended Chapter 13 Plan, and Movant's Motion to Dismiss or Convert this Case which are being continued to that time and date.

Placerville Investment Group, LLC ("Movant") seeks relief from the automatic stay with respect to collateral identified as inventory, good will, furniture, fixtures, and equipment ("Collateral") of Satinder Singh's ("Debtor") business, Wheatland 99 Cent & Liquor Store. The moving party has provided the Declaration of Dalip Gupta to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Debtor. Decl., Docket 116.

Movant testifies that in April of 2022, Movant loaned Debtor $200,000. *Id.* at ¶ 4. Debtor subsequently executed a promissory note dated April 26, 2022, securing the loan in the Collateral. Exhibit A, Docket 118. Movant testifies it loaned Debtor an additional $100,000 in November of 2022, and Debtor executed another promissory note dated November 15, 2022, securing that loan in the same Collateral. Exhibit B, Docket 118. Movant perfected its secured interests by filing UCC-1 Financing Statements filed on April 22, 2022, and November 14, 2022. Exhibit C, Docket 118.

Movant informs the court the outstanding amount owed on its claim is $304,310. 34 (POC 6-2), and Movant has not received any payment from Debtor since January, 2023. Decl., Docket 116 ¶ 12. This case was filed on July 31, 2023, meaning Debtor has not made at least six post-petition payments. Movant requests relief from the stay pursuant to 11 U.S.C. § 362(d)(1) for this non-payment.

Additionally, Movant argues that Debtor's case has been filed in bad faith, serving as another reason to grant relief from stay pursuant to 11 U.S.C. § 362(d)(1). Specifically, Movant states that Debtor and his ex-wife, Sonia Madaan, have been misleading Movant as to the status of their marriage and dissolution of marital property, complicating their respective bankruptcy cases and making it difficult to enforce the terms of the promissory notes. Mtn., Docket 114 ¶¶ B. 2-4 ("The Debtor, in coordination with Madaan, has clearly acted in concert to mislead and delay Creditor, and to drag out his chapter 13 proceeding to Creditor's disadvantage, rather than in an earnest effort to restructure his financial obligations.").

CHAPTER 13 TRUSTEE'S RESPONSE

The Chapter 13 Trustee, David Cusick ("Trustee") filed a Response on January 30, 2024. Dckt. 142. Trustee asserts that Debtor is current under the terms of the proposed Plan and has paid $19,970 to Trustee to date, where the plan payments are $3,994 for 60 months at 7%. Response, Docket 142 ¶ 2. However, because Movant's claim is not classified as a purchase money security interest in personal property, Trustee has not made any payments to Movant. *Id.* at ¶ 11. Trustee believes the balance he holds on hand would go to Movant if the Plan were confirmed. Finally, Trustee informs the court Debtor is delinquent one payment of $3,994, and Trustee does not oppose Movant's Motion for Relief. *Id.* at ¶¶ 11, 12.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on January 30, 2024. Dckt. 154. Debtor filed two supporting Declarations on the same date, one from debtor's attorney (Docket 156) and one from Debtor himself (Docket 157). Debtor asserts that:

1. Debtor has done nothing wrong in this case, so there is no "cause" justifying relief pursuant to 11 U.S.C. § 362(d)(1).

2. Debtor is completely current on plan payments, and Trustee's assertion that Debtor is delinquent one payment is incorrect. Decl., Docket 156 ¶ 10.

3. Debtor has been in good faith trying to reach a deal with Movant in deciding a fair valuation of Wheatland 99 Cent & Liquor Store ("Business"). Movant filing this Motion for Relief caught Debtor's counsel off-guard. Decl., Docket 155 ¶ 8.

4. Debtor states Movant informed the court that it needed 90 days to obtain its own appraisal of the Business, which time period lapsed on December 18, 2023. Movant never offered an appraisal and instead filed this Motion for Relief, so Debtor states "[i]t is disingenuous to argue, possibly fraudulent to even allege grounds for anything as Placerville Investment Group, LLC, is making inconsistent arguments." *Id.* at ¶¶ 16, 17.

5. Debtor needs the Collateral to operate the Business, and the Business is essential to funding the Chapter 13 Plan. Decl., Docket 156 ¶ 13,

AMENDED CHAPTER 13 PLAN FILED AND MOTION TO CONFIRM

On January 30, 2024, the Debtor filed an Amended Chapter 13 Plan. Dckt. 151. The Amended Plan provides for monthly payments by Debtor of $3,994 for six months and $4,199.00 for the remaining fifty-four months the Amended Plan. This provides for $250,7100 in plan funding.

In the Amended Plan, Movant's Claim is reduced to ($166,000.00) based on the value of the collateral, which is to be paid as a Class 2 Claim, with payments of $2,767.00 a month with no interest.

The Motion to Confirm the Amended Chapter 13 Plan is scheduled to be heard on March 26, 2024. Motion to Confirm; Dckt 148. In Amended Proof of Claim 6-2, Movant does not state a value for its collateral or amount of Movant's secured and unsecured, stating that such amount is "being investigated."

In the unsigned Declaration of Debtor in support of the Motion to Confirm, Debtor provides personal knowledge testimony on a number of items. Dec., ¶¶ 1-7; Dckt. 150. However, in paragraph 8, the Debtor provides his legal opinion, as testimony, of Federal Bankruptcy Law, testifying that his opinion is that his Plan meets the requirements of 11 U.S.C. §§ 1322(a), 1322(b), 1323(c), and 1325(a). There is no evidence or indication how the Debtor knows Federal Law and could provide such legal opinion testimony. When the court sees a declaration like this, it wonders if the declarant ever read the declaration.

The court denied without prejudice the Debtor's Motion to Value Creditor's claim. Order; Dckt 61. As shown in the Civil Minutes for the hearing on the Motion to Value, the Parties agreed to deny the Motion to Value without prejudice, with the parties to meet and confer to try and resolve, or at least reduce, their disputes. Dckt. 60.

On Scheduled D, the Debtor values the collateral securing Movant's collateral and its secured claim to be $166,000.00. Dckt. 29 at 10. Given that Movant's Amended Proof of Claim 6-2 does not state a value for its collateral, there is no portion of such proof of claim which can be *prima facie* evidence of the value of Movant's secured claim.

On January 11, 2024, Debtor filed another Motion to Value the Collateral and secured claim of Movant, again at $166,000. Docket 127. That Motion to Value is to be heard on the court's 2:00 pm calendar also on February 13, 2024. In the Opposition filed by Movant, it asserts that the same fundamental deficiencies that were found in the prior Motion to Value and its Supporting Documents.

Additionally, Movant requests that the court set a discovery schedule for this Contested Matter, scheduling order for filing further pleadings, and a final hearing.

The Chapter 13 Trustee has filed an Opposition to the Motion to Value, stating that Debtor's evidence in support suffers from the same deficiencies as the Declaration for the prior Motion to Value, with Debtor providing hearsay testimony of what he heard an appraiser state as the value of the collateral. Dckt. 145.

Looking at the Debtor's Declaration, he states that the collateral has a fair market value of $166,000, and then states that the appraised value of the collateral is $166,000. Dec., ¶¶ 5,6; Dckt. 130. Improperly attached to Debtor's Declaration are various exhibits. From Debtor's Declaration he appears to be merely parroting the prior appraisal report and not any personal knowledge testimony.

With this Second Motion to Value Movant's Secured Claim, Debtor has included the Declaration of John Toney. Dckt. 133. Recognizing the ongoing dispute between Debtor and Creditor, the court provides a summary of the Appraisal Report prepared by Mr. Toney, the court has included this summary as part of the overall review of the case. The court does not make any determinations at this time as to Mr. Toney's Report.

Mr. Toney states that he is an Accredited Senior Appraiser and employed with Wallace & Toney Valuation Advisors, Inc. (For which he is a shareholder and Manager of that Firm's business valuation department). In the first 10 paragraphs of his Declaration, Mr. Toney states background of his experience in appraising, prior employment, education, and community activity. *Id.*

Mr. Toney authenticates his written Appraisal Report in support of the Motion to Value Secured Claim. (Generally, experts such as appraisers do not write appraisal in support of a party's judicial proceeding, but write an independent report, without regard to having it support that party's proceeding.) *Id.*, ¶ 11. In paragraphs 14 and 15 Mr. Toney states that he has no bias toward any of the parties and that he has no interest with respect to the parties involved in the proceeding, and that his compensation was not dependent on his opinion in supporting predetermined results. *Id.*, ¶ 17.

In paragraph 19 of the Declaration Mr. Toney provides the actual information of an expert to assist the court in making findings of fact. *See*, Federal Rule of Evidence. 702:

> Rule 702. Testimony by Expert Witnesses
>
> A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not that:
>
> (a) **the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue**;

(b) the testimony is based on sufficient facts or data;

(c) the testimony is the product of reliable principles and methods; and

(d) the expert's opinion reflects a reliable application of the principles and methods to the facts of the case.

In paragraph 19 of the Declaration Mr. Toney's testimony is:

> 19. As of August 6, 2023, the appraised value of the Wheatland Store is $256,000.00. An itemization of categories is below and also included in the Appraisal.
>
> | **Value** | |
> |---|---|
> | Inventory | $59,644 |
> | Liquor License | $90,000 |
> | FF&E | $5,000 |
> | Goodwill | $11,356 |
> | | |
> | Total Operating Value | $256,000 |

Id.

Mr. Toney's appraisal report is provided as Exhibit 1 to his Declaration. Exhibit 1; Dckt. 132. The Appraisal Report is in the form of a letter to Debtor's counsel. This Report includes, but is not limited to the following information provided to the court.

With respect to the business' income for the period of 2017 - 2021, Mr. Toney's Report states that it is based on the information the Schedule C included as part of the Debtor's personal income tax return. *Id.*, p. 3.

Mr. Toney's Report includes the information on Debtor's Schedule C payment of a management fee to Sonia Madaan, who is identified as the Debtor's ex-spouse, and that as a sole proprietorship the Debtor does not take a salary. *Id.*

Included with the Report is detailed financial information used by Mr. Toney. Id., p. 9-19.

Mr. Toney's Report provides the court with information concerning the different appraisal methodologies and his valuation process to reach his conclusion of a $256,000 value.

The last section of Exhibit 1 (p. 20-23) is a statement of Assumption and Limiting Conditions. Mr. Toney did not conduct an independent audit of the financial records of the Debtor's business. The inventory of the business assets was conducted by California Inventory Specialists and Mr. Toney also has discussed this valuation with Daniel Garfias with California Liquor License Specialists.

Mr. Toney interviewed the owner of this sole proprietorship and researched the industry.

ASSETS OF THE BANKRUPTCY ESTATE

As the court has previously addressed with the Parties and their counsel, on Schedule A/B Debtor states under penalty of perjury that he does business as "Wheatl and 99 Cents & Liquor State" but that he only owns 50% of the business that he says is his sole proprietorship. Sch A/B; Dckt. 29 at 5. On original Schedule I debtor states that he is the "Self-Employed/Owner" of the business identified as "Wheatland 99 Cents & Liquor." Dckt. 29 at 23.

On Amended Schedule I filed January 30, 2024, Debtor again states under penalty of perjury that his is the Self-Employed/Owner of Wheatland 99 Cents & Liquor. Dckt. 153.

On the Statement of Financial Affairs the Debtor states under penalty of perjury that the business Wheatland 99 Cents & Liquor Store is his sole proprietorship. Stmt Fin. Affairs, ¶ 27; Dckt. 28. No other interest by any other person in the Debtor's Sole Proprietorship.

MOTION TO DISMISS OR CONVERT THE CASE

On January 11, 2024, Movant filed a Motion to Dismiss or Convert this Chapter 13 Case. Dckt. 121. The hearing on the Motion to Dismiss or Convert is set for February 13, 2024. The grounds stated by Movant include alleged misrepresentation of ownership of Debtor's Sole Proprietorship and Debtor's failure to prosecute this Case.

With respect to who owns the Sole Proprietorship, Movant asserts that Debtor and Sonia Madaan ("Madaan"), who were represented as being married, Debtor and Madaan had entered into an agreed Judgment of Dissolution, which predated Movant making its loans. *Id*. at 5:18-24. Such judgment purported to equally divide the represented Sole Proprietorship between Debtor and Madaan. This is asserted to have been done in 2018 - only five years before the filing of this bankruptcy case. (11 U.S.C. § 544(a) giving a bankruptcy trustee or Fiduciary Chapter 13 debtor exercising the powers of a trustee over the bankruptcy estate and its assets, to avoid transfers using the Bankruptcy Code or applicable state law.)

It may well be that Debtor's alleged former spouse may have received a fraudulent conveyance (transfers in a dissolution not being exempt to laws such as avoiding fraudulent conveyances) or has become a joint venturer with Debtor and jointly liable for the debts relating to the "Sole Proprietorship."

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset could be determined to be $304,310.34 (POC 6-2), while the value of the Property is determined to be $166,000 as stated in Schedules A/B and D filed by Debtor. Docket 29, p. 5. However, the Debtor has a Motion to Value for this claim for which hearing is set for February 13, 2024.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470

WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Commencing or prosecuting a case in bad faith can constitute a basis for relief under 11 U.S.C. § 362(d)(1). According to Collier on Bankruptcy,

> In some cases, a finding that the bankruptcy case was not commenced in good faith has been used as a basis for vacating or annulling the automatic stay. "Good faith is an amorphous notion, largely defined by factual inquiry," and based on the totality of the circumstances.99 Although particular cases are of little precedential value, a broad review reveals certain patterns and conduct that have in specific cases been characterized as bad faith. These include:
>
> > (1)a perceived improper impact on nonbankruptcy rights;
> >
> > (2)a recent transfer of assets, i.e., the "new debtor syndrome" cases;
> >
> > (3)an inability to reorganize; and
> >
> > (4)unnecessary delay, i.e., serial filings.

3 COLLIER ON BANKRUPTCY ¶ 362.07[7][a].

Here, the court does not find that Debtor has been prosecuting this case in bad faith. Debtor is current in plan payments and has an Amended Plan on file, having paid $19,970 to the Trustee to date. The record shows that, although Movant and Debtor have not reached an amicable agreement valuing the Business or the Collateral, an absence of agreement is not for lack of trying. Valuing the Collateral has been the major hang up of this case, and Debtor has now got a Motion to Value on the record. For these reasons, the court finds Debtor has not commenced nor prosecuted this case in bad faith.

The court further finds that cause does not exist for terminating the automatic stay due to lack of post-petition payments. Trustee informs the court he has $19,970 on hand waiting to be dispersed to Movant. Debtor has been making his monthly plan payments, so the only reason Movant has not been paid is because Trustee is yet to disburse the money.

In the Motion, Movant asserts that grounds for relief from the stay are based on alleged bad faith representations as to the ownership of this business. As discussed above, while the Debtors states that the business is his SOLE PROPRIETORSHIP, he owns ONLY 50% OF HIS SOLE PROPRIETORSHIP.

Federal Rule of Bankruptcy Procedure 4001(a)(3)
Request for Waiver of Fourteen-Day Stay of Enforcement

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

CONTINUANCE OF THE FEBRUARY 13, 2024 HEARING

The February 13, 2024 schedule hearing is not being conducted by the judge to whom this case is assigned and has personal knowledge of the prior proceedings in this case. The court notes that there appear not only to be substantial deficiencies with respect to the Motion to Value and Motion to Confirm, but also with Movant who cannot state a value for its collateral in its Original and Amended Proof of 6-2.

With Debtor having stated on Schedule A/B only a 50% valuation for his Sole Proprietorship, it appears that the Debtor's assets may be substantially higher.

As addressed above, it appears that there are substantial "challenges" facing the Debtor in this case, possibly greater value for assets, possible fraudulent conveyances, and possible contributions from a joint venturer.

Given the substantial history of this case, as well as the Motion to Value (DCN: RCW-9), Motion to Confirm (DCN: RCW-89), Motion to Dismiss or Convert (DCN: RLL-3), and now this Motion for Relief From the Stay (DCN: RLL-2), the court continues the hearings on all of these Contested Matters to 2:00 p.m. on February 28, 2024, so the judge to whom this case is assigned can hear all such matters.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by Placerville Investment Group, LLC ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** the hearing on the Motion for Relief from Automatic Stay, which includes Movant's request to set a discovery and supplemental pleading schedule, the hearing on this Motion is continued to 2:00 p.m. on February 27, 2024.
>
> By separate orders, the court shall continue the hearing on Debtor's Motion to Value Movant's claim (DCN: RCW-9) and Motion to Confirm Plan (RCW-89), and Movant's separate Motion to Dismiss or convert this Bankruptcy Case (DCN: RLL-3) to be continued to 2:00 p.m. on February 27, 2024.
>
> No other or additional relief is granted.

2. **18-25851-E-13 KMM-1** **ROBERT HUNTER** **Peter Macaluso** **MOTION FOR RELIEF FROM AUTOMATIC STAY** **12-29-23 [186]**

NISSAN MOTOR ACCEPTANCE COMPANY LLC VS.

Final Ruling: No appearance at the February 13, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on December 29, 2023. By the court's calculation, 46 days' notice was provided. 28 days' notice is required.

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

The Motion for Relief from the Automatic Stay is granted.

Nissan Motor Acceptance Company LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2015 Nissan Versa, VIN ending in 7671 ("Vehicle"). The moving party has provided the Declaration of Norma Estrada to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Robert Hunter ("Debtor"). Decl., Docket 188.

Movant argues the loan has fully matured and the outstanding balance of $4,253.49 is unpaid. Declaration, Dckt. 188 p. 4:1-7. Movant also provides evidence that Debtor has not maintained vehicle insurance on the Vehicle, in breach of their contract, constituting another reason to grant relief from stay. *Id*. at p. 3:8-15.

The Chapter 13 Trustee, David Cusick, filed a statement of non-opposition on January 23, 2024, requesting the court grant the relief from stay as Debtor is delinquent $15,965 per the terms of the confirmed plan. Docket 196 ¶ 6.

On January 30, 2024 Debtor also filed a statement of non-opposition, stating the following:

1. The balance on the claim is $4,253.49.

2. The car was totaled by the Insurance Company.

3. The insurance claim has been granted in the amount of $4,253.49.

Docket 198 p. 1:23-27. Debtor then states "[t]he Debtor has no opposition to this Motion," and "[w]herefor Debtor request that the Motion for Relief be denied."

DISCUSSION

J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Exhibit E, Docket 190. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $4,253.49 (Declaration, Dckt. 188), while the value of the Vehicle is determined to be $7,025, as stated on the J.D. Power Valuation Report for clean retail. Exhibit E, Docket 190.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

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

No other or additional relief is granted by the court.

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

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

The Motion for Relief from the Automatic Stay filed by Nissan Motor Acceptance Company LLC ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2015 Nissan Versa, VIN ending in 7671 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

No other or additional relief is granted.