

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

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

DAY: MONDAY
DATE: MARCH 20, 2023
CALENDAR: 10:30 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. [19-22509](#)-A-7 **IN RE: ULISES MEZA**
[DNL-4](#)

MOTION FOR TURNOVER OF PROPERTY
3-6-2023 [\[137\]](#)

PETER MACALUSO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTOR DISCHARGED: 1/7/22

Tentative Ruling

Motion: Compel Debtor's Turnover of Property of the Estate

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

Disposition: Granted

Order: Prepared by the movant

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).

J. Michael Hopper, the successor Chapter 7 trustee for the bankruptcy estate of Ulises Frank Meza, seeks an order compelling the debtor to turn over: (a) all stock share certificates for Bonus Big Real Estate, Inc. ("Bonus Big"); (b) all original internal governance records for Bonus Big, including articles of incorporation and amendments, bylaws and amendments, stock transfer ledgers, board minutes, resolutions, and powers of attorney, if any; (c) all bank records for the period of January 1, 2018, to the present, for Bonus Big; (d) all financial statements for Bonus Big, including profit and loss statements, and balance sheets for the period of January 1, 2018, to the present, if any; and (e) all tax returns filed by Bonus Big and the debtor for the period of January 1, 2018, to the present.

On October 3, 2019, the debtor filed an amended Schedule A/B, that lists the debtor's one-hundred percent ownership interest in Bonus Big with a value of \$1,128,361.60. See Amended Schedules A/B, ECF No. 34. The trustee has made requests, including a Rule 2004 subpoena served on January 17, 2023, for the Governance Records, Bonus Big Bank Records, Bonus Big Financial Statements, and Tax Returns yet has not received the documents from the debtor. See Declaration of J. Michael Hopper, 2:18-27, ECF No. 139.

TURNOVER

Section 542(a) of the Bankruptcy Code requires the debtor and third parties to turn over to the chapter 7 trustee property that the trustee may use or sell. See 11 U.S.C. § 542(a). Property that is of inconsequential value or benefit to the estate is not required to be turned over to the trustee. See *id.* Other narrow exceptions and defenses are described in § 542. See *id.* § 542(b)-(d).

Section 542(e) further provides for the court's ordering a person who "holds recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs, to turn over or disclose such recorded information to the trustee." See 11 U.S.C. § 542(e). Further, the debtor has a statutory duty to surrender to the trustee "any recorded information, including books, documents, records, and papers, relating to property of the estate." *Id.* § 521(a)(4).

The trustee may compel the debtor to turn over property to the trustee by motion rather than by adversary proceeding. Fed. R. Bankr. P. 7001(1). The trustee bears the burden of proof, and must demonstrate that the property sought is property of the estate.

In this case, the trustee has made the requisite showing of the estate's interest in the property sought by turnover. The motion will be granted. The order shall state that the property described in the motion and supporting papers shall be turned over to the trustee at once and no later than 7 days from the date of service of the order on this motion.

2. [22-23121](#)-A-7 **IN RE: ALEC/TONIA SNOW**
[RLL-1](#)

MOTION TO EMPLOY ANTHONY ASEBEDO AS ATTORNEY(S) AND/OR
MOTION FOR COMPENSATION BY THE LAW OFFICE OF REYNOLDS LAW,
LLP FOR ANTHONY ASEBEDO, TRUSTEES ATTORNEY(S)
2-22-2023 [[21](#)]

MATTHEW DECAMINADA/ATTY. FOR DBT.
GEOFFREY RICHARDS/ATTY. FOR MV.

Tentative Ruling

Application: Approval of Employment, Fixed Fee Compensation

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

Disposition: Approved

Order: Prepared by applicant pursuant to the instructions below

Compensation: \$1,500.00 Fixed fee

Unopposed applications 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).

Geoffrey Richards, Chapter 7 trustee, seeks an order: 1) approving the employment of Reynolds Law, LLP (RLL); and 2) approving compensation to RLL for services rendered from funds of the estate in the fixed amount of \$1,500.00.

EMPLOYMENT

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between Reynolds Law, LLP, and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

COMPENSATION

The trustee has applied for an allowance of fixed compensation for RLL. The application requests that the court allow compensation in the fixed amount of \$1,500.00 for the attorney to seek approval of the trustee's motion to employ/compensate auctioneer and sell a 1958 Triumph (RLL-2). The trustee has indicated that the Triumph is the only asset of value in the debtor's estate and therefore he anticipates no further legal work will be necessary in this case. The motion to approve the employment of the auctioneer and sale of the Triumph is to be heard simultaneously with this motion. Given the likely modest sale proceeds, the trustee believes that it is appropriate to employ counsel on a fixed-fee basis, to help assure that administrative costs will not overshadow the value of the assets of the estate.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis as to the amount(s) requested.

3. [22-23121](#)-A-7 **IN RE: ALEC/TONIA SNOW**
[RLL-2](#)

MOTION TO EMPLOY TMC AUCTION INC. AS AUCTIONEER, AUTHORIZING
SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT
OF AUCTIONEER FEES AND EXPENSES
2-22-2023 [[26](#)]

MATTHEW DECAMINADA/ATTY. FOR DBT.
GEOFFREY RICHARDS/ATTY. FOR MV.

Tentative Ruling

Motion: Sell Property at Public Auction and Employ/Compensate
Auctioneer

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

Disposition: Granted

Order: Prepared by moving party

Property: 1958 Triumph

Sale Type: Public auction

Auctioneer: TMC Auction, Inc.

Compensation approved: 10% of gross sales price to be paid from the
sale proceeds; plus 10% buyer's premium from each purchaser

Reimbursement of Expenses approved: Actual, not to exceed \$500.00

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).

Geoffrey Richards, Chapter 7 trustee, seeks an order authorizing the
sale of a 1958 Triumph at public auction, and approving the
employment and compensation of auctioneer TMC Auction, Inc.

TMC frequently sells assets like the Triumph at its auctions and has
numerous customers who attend the auctions regularly to purchase
such items. The trustee also contends that TMC maintains an
extensive contact list for its auctions and advertises the auctions
in several media, including over the Internet.

TMC has scheduled and has advertised a regular auction event, at
which it expects approximately 500 bidders, for March 28, 2023. TMC
is willing to include the 1958 Triumph in this auction, thereby
maximizing its exposure to the market.

SALE OF TRIUMPH

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.

COMPENSATION APPROVED

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3). The court finds that the compensation and reimbursement of expenses sought is reasonable and will approve the application.

4. [23-20321](#)-A-7 **IN RE: TERRY PREDIUM**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
2-14-2023 [\[16\]](#)

GARY FRALEY/ATTY. FOR DBT.
2/16/2023 FEE PAID \$338

Final Ruling

As the installment fee has been paid in full, the order to show cause is discharged. The case will remain pending.

5. [21-23522](#)-A-7 **IN RE: JOSEPH SMITH** [DNL-6](#)

MOTION TO EMPLOY BACHECKI, CROM & CO., LLP AS ACCOUNTANT(S)
2-16-2023 [\[142\]](#)

MARK WOLFF/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTORS DISCHARGED: 1/24/22; TRUSTEE NON-OPPOSITION

Final Ruling

Application: Approval of Employment and Compensation of Accountant

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

Disposition: Approved

Order: Prepared by applicant pursuant to the instructions below

Accountant: Bachecki, Crom & Co., LLP

Compensation Approved: \$2,100.00 Fixed-fee

Unopposed applications 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).

Chapter 7 trustee, J. Michael Hopper, seeks an order approving the employment of Bachecki, Crom & Co., LLP, as accountants for the bankruptcy estate in order to prepare the 2023 state and federal estate tax returns. The trustee further seeks approval of compensation in the fixed amount of \$2,100.00 to Bachecki, Crom & Co., LLP, without further order of this court.

EMPLOYMENT

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between [professional's name] and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

COMPENSATION

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

6. [22-23330](#)-A-7 **IN RE: ANTHONY/STAVANNA TROUTMAN**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-13-2023 [\[16\]](#)

PATRICIA WILSON/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
CREDIT ACCEPTANCE CORPORATION VS.; TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2013 Dodge Grand Caravan

Cause: delinquent installment payments 9 months/\$4,040.41

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.

Credit Acceptance Corporation seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The Chapter 7 trustee, Nikki Farris, has filed a docket entry notice of non-opposition to the motion. The debtor has indicated in his Statement of Intention that he intends to surrender the subject property, a 2013 Dodge Grand Caravan. See Statement of Intention, ECF No. 1.

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).

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). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). 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). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. As a consequence, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief 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.

Credit Acceptance Corporation'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 a 2013 Dodge Grand Caravan, 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.

7. [22-20632](#)-A-7 **IN RE: SOUTHGATE TOWN AND TERRACE HOMES, INC.**
[RLC-19](#)

CONTINUED MOTION FOR COMPENSATION FOR JORDAN MANAGEMENT COMPANY, OTHER PROFESSIONAL(S)
1-20-2023 [\[265\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

Notice: Continued from February 21, 2023

Disposition: Approved

Order: Civil minute order

Conversion Date: December 21, 2022

Compensation Approved: \$25,740.00

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 application was required not less than 14 days before the hearing on the application. 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).

This case was originally filed under Chapter 11 and subsequently converted to Chapter 7 on December 21, 2022. See Notice of Conversion, ECF No. 250.

Jordan Management Company seeks an order for an allowance of final compensation as property manager for the debtor in possession during the period the debtor was in Chapter 11.

The hearing on this matter was continued from February 21, 2023, to allow the applicant to supplement the evidentiary record regarding amounts received under the order for interim compensation and amounts billed to the debtor prior to the conversion of this case to Chapter 7.

The applicant has filed the Declaration of Kelly Linares, ECF No. 299. The applicant also filed exhibits consisting of the invoices

billed to the debtor prior to the conversion date, ECF No. 298. No party has opposed the motion. The declaration of Kelly Linares states that the interim award of compensation was fully paid. See Declaration, 2:1-2, ECF No 299.

COMPENSATION AND EXPENSES

Jordan Management Company has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$25,740.00. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation sought is reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

Claim under 11 U.S.C. § 726(b)

When a Chapter 11 or 13 case is converted to Chapter 7, unpaid administrative claims (including unpaid attorney fees) incurred preconversion are subordinated to administrative claims incurred in the Chapter 7 case. 11 USC § 726(b).

The court finds that compensation in the aggregate amount of \$25,740.00 is reasonable, and the court will approve the application on a final basis.

The applicant has been paid the entire amount awarded under the court's interim order. The balance of the compensation shall be allowed as an administrative claim in the Chapter 7 case in the aggregate amount of \$25,740.00.

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.

Jordan Management Company's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$25,740.00. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that \$25,740.00 shall be allowed as an administrative claim under 11 U.S.C. § 726(b).

8. [22-20632](#)-A-7 **IN RE: SOUTHGATE TOWN AND TERRACE HOMES,**
INC.
[RLC-20](#)

CONTINUED MOTION FOR COMPENSATION FOR MICHAEL THOMAS,
SPECIAL COUNSEL(S)
1-20-2023 [\[272\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.
MICHAEL THOMAS/ATTY. FOR MV.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

Notice: Continued from February 21, 2023

Disposition: Approved

Order: Civil minute order

Conversion Date: December 21, 2022

Compensation Approved: \$4,686.00

Reimbursement of Expenses Approved: \$1,080.20

Amount Due Under Interim Order: \$57.80

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 application was required not less than 14 days before the hearing on the application. 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).

This case was originally filed under Chapter 11 and subsequently converted to Chapter 7 on December 21, 2022. See Notice of Conversion, ECF No. 250.

Michael Thomas seeks an order for an allowance of final compensation and reimbursement of expenses as special counsel for the debtor in possession during the period the debtor was in Chapter 11.

The hearing on this matter was continued from February 21, 2023, to allow the applicant to supplement the evidentiary record, clarifying discrepancies between the motion, the declaration, and the exhibits in support of the motion.

The applicant has filed a supplemental Declaration of Michael Thomas, ECF No. 300. The applicant also filed exhibits, ECF No. 301. No party has opposed the motion.

The applicant was awarded \$4,187.61 under the interim order, but only received payment from the debtor in the amount of \$4,129.81. *Id.*, 2:1-9. The court finds that the applicant is still owed \$57.70 under the interim order.

COMPENSATION AND EXPENSES

Michael Thomas has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$4,686.00 and reimbursement of expenses in the amount of \$1,080.20. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

Claim under 11 U.S.C. § 726(b)

When a Chapter 11 or 13 case is converted to Chapter 7, unpaid administrative claims (including unpaid attorney fees) incurred preconversion are subordinated to administrative claims incurred in the Chapter 7 case. 11 USC § 726(b).

The court finds that compensation in the aggregate amount of \$4,686.00, and reimbursement of expenses of \$1,080.20 are reasonable, and the court will approve the application on a final basis.

The applicant is owed compensation in the amount of \$57.80 under the court's interim order. The balance of the compensation shall also be allowed as an administrative claim in the Chapter 7 case in the aggregate amount of \$57.80.

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.

Michael Thomas's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$4,686.00 and reimbursement of expenses in the amount of \$1,080.20. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the aggregate amount of \$5,824.00 shall be allowed as an administrative claim under 11 U.S.C. § 726(b). This amount includes the unpaid compensation of \$57.80 under the interim award

9. [22-22949](#)-A-7 **IN RE: ZOE BURTON-ROSAL**
[DNL-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
2-13-2023 [[28](#)]

GARY FRALEY/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTOR DISCHARGED: 2/22/23; RESPONSIVE PLEADING

Final Ruling

Objection: Claim of Exemptions
Notice: LBR 9014-1(f) (1)
Disposition: Continued to April 3, 2023, at 10:30 a.m.
Order: Civil minute order

This is the Chapter 7 trustee's objection to the debtor's claim of exemptions. The hearing on this motion will be continued for oral argument on April 3, 2023, at 10:30 a.m.

CIVIL MINUTE ORDER

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

IT IS ORDERED that the objection is continued to April 3, 2023, at 10:30 a.m. No later than March 27, 2023, the Chapter 7 trustee may file a reply.

10. [22-22453](#)-A-7 **IN RE: KELLY MONGIARDO**
[SJJ-3](#)

MOTION TO DISMISS CASE
2-17-2023 [\[32\]](#)

STEPHEN JOHNSON/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Dismiss Chapter 7 Case

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

Disposition: Granted

Order: Prepared by the movant

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).

Dismissal of a chapter 7 case may be sought under either § 305 or § 707(a). 11 U.S.C. §§ 305(a). Section 305 provides, "The court, after notice and a hearing, may dismiss a case under this title . . . at any time if . . . the interests of creditors and the debtor would be better served by such dismissal" 11 U.S.C. § 305(a)(1); *see, e.g., In re Eastman*, 188 B.R. 621, 624 (B.A.P. 9th Cir. 1995). Similarly, § 707(a) authorizes dismissal of a chapter 7 case for cause. *See* 11 U.S.C. § 707(a); *Hickman v. Hana (In re Hickman)*, 384 B.R. 832, 836 (B.A.P. 9th Cir. 2008) (holding that whether "cause" exists for dismissal under § 707(a) can be based on the totality of circumstances unless legal prejudice to creditors would result).

The debtor seeks dismissal of her case because she is unable to fully exempt her automobiles. This difficulty is caused by the debtor's inability to obtain a spousal waiver from her estranged spouse. The Chapter 7 trustee, Kimberly Husted, has filed a docket entry non-opposition to the motion. The debtor has filed previous motions to dismiss this bankruptcy proceeding all of which were denied without prejudice for procedural reasons concerning service of the motion. In a declaration in support of the debtor's first attempt to dismiss the case by motion the trustee filed the following declaration.

I have examined the Debtor and found that she is legally married but unable to obtain a Spousal Waiver from her spouse from whom she is estranged for many years. Due to this marital status Debtor is forced to use the 704 exemptions. The Trustee filed a Notice of Assets to enable her administration of the Debtor vehicle equity above the 704 exemption. The Debtor is disabled and has limited income, making a buy back from the estate a long process, burdensome to the estate. Further, the full equity initially identified is *unlikely to provide a meaningful distribution because shortly after the Notice of Assets was filed (sic) the 341 report the Debtor was in an accident, thus diminishing the value of the asset but still exceeding the 704 exemption allowed.*

Declaration of Kimberly Husted, 1:17-26, ECF No. 23.

Because the Chapter 7 trustee does not oppose the motion and has indicated there is little equity to be distributed to creditors the court finds that cause exists for dismissal under 11 U.S.C. § 707(a). The court will grant the motion. Counsel for the debtor shall submit an order in accordance with this ruling.

11. [20-24259](#)-A-7 **IN RE: NESTOR/MARIA QUILATES**
[DNL-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DESMOND, NOLAN,
LIVAICH & CUMMINGHAM FOR J RUSSELL CUNNINGHAM, TRUSTEES
ATTORNEY(S)
2-17-2023 [[179](#)]

ARASTO FARASAD/ATTY. FOR DBT.

Final Ruling

Application: Allowance of First and Final Compensation and Expense Reimbursement

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

Required Service: Fed. R. Civ. P. 5, Fed. R. Bankr. P. 7005

Disposition: Approved

Order: Civil minute order

Compensation Allowed: \$928.05

Reimbursement of Expenses: \$18.95

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 application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the "capped" amount of \$947.00. Of necessity the court has allocated the compensation and expenses as required by the Clerk of the Court. The motion itemizes costs and requests reimbursement of costs in the amount of \$18.95. The court will apportion the award and approve \$928.05 as compensation and reimbursement of expenses in the amount of 18.95.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Desmond, Nolan, Livaich & Cunningham's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$928.05 and reimbursement of expenses in the amount of \$18.95. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

12. [22-23259](#)-A-7 **IN RE: MARIATU JOHNSON**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-13-2023 [\[16\]](#)

THOMAS AMBERG/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
CREDIT ACCEPTANCE CORPORATION VS.; RESPONSIVE PLEADING; TRUSTEE
NON-OPPOSITION

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2019 Nissan Sentra

Cause: delinquent installment payments 23 months/\$12,543.16

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).

Credit Acceptance Corporation seeks an order granting relief from the automatic stay of 11 U.S.C. § 362(a). The Chapter 7 trustee has filed a non-opposition to the motion on the court's docket. As a courtesy to the court the debtor filed a non-opposition to the motion on February 23, 2023, ECF No. 23.

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).

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). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). 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). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. As a consequence, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief 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.

Credit Acceptance Corporation'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 a 2019 Nissan Sentra, 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.

13. [19-20296](#)-A-7 **IN RE: NORVIN/DEBORAH GANDOLPH**
[NBF-1](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,
ACCOUNTANT(S)
2-21-2023 [[30](#)]

DAVID BRADY/ATTY. FOR DBT.
DEBTORS DISCHARGED: 4/22/19

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Compensation: \$3,570.00

Reimbursement of Expenses: \$103.40

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 application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Gabrielson & Company, accountant for the trustee, has applied for an allowance of first and final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$3,570.00 and reimbursement of expenses in the amount of \$103.40.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

VIOLATION OF LBR 9014-1(c)

The docket control number given for this matter violates the court's Local Rules, LBR 9014-1(c), regarding proper use of docket control numbers. When using a docket control number, a party must use both letters (usually initials of the attorney for the movant) and a number. The numerical portion of the docket control number must be "the number that is one number higher than the number of motions previously filed by said attorney" in that particular case. LBR 9014-1(c)(3). Thus, a party may not use the same docket control number on separate matters filed in the same case.

The docket control number used in this motion was used in a previous motion by the Chapter 7 trustee - a motion to employ filed on November 18, 2022, ECF No. 25.

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.

Gabrielson & Company's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$3,570.00 and reimbursement of expenses in the amount of \$103.40.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.