

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, March 29, 2022
Place: Department B – Courtroom #13
Fresno, California

The court resumed in-person courtroom proceedings in Fresno ONLY on June 28, 2021. Parties may still appear telephonically provided that they comply with the court's telephonic appearance procedures. For more information click [here](#).

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.

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

1:30 PM

1. [22-10209](#)-B-7 **IN RE: NOREEN GUZMAN**
[BDB-1](#)

MOTION TO AVOID LIEN OF PHILLIP ERKENBRACK
2-28-2022 [[19](#)]

NOREEN GUZMAN/MV
BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

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

Noreen Jone Guzman ("Debtor") seeks to avoid a judicial lien in favor of Phillip Erkenbrack dba Hassle Free Small Claims & Collection Service in the sum of \$4,146.00 and encumbering residential real property located at 346 Buena Vista Court, Merced, CA 95348 ("Property"). Doc. #19.

This motion will be DENIED WITHOUT PREJUDICE because the deadline for creditors to object under Federal Rule of Bankruptcy Procedure ("Rule") 4003(b)(1) has not expired, and the movant has failed to make a *prima facie* showing of entitlement to the relief sought.

To avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting *In re Mohring*, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

First, Rule 4003(b)(1) allows a party in interest to file an objection to a claim of exemption within 30 days after the § 341 meeting of creditors is concluded, or within 30 days after any amendment to *Schedule C* is filed, whichever is later. Here, the § 341 meeting is scheduled for March 24, 2022. If it concludes and is not continued, any party in interest may object to Debtor's claimed exemption through April 23, 2022. If the meeting is continued, then the deadline to object will be even later. So, Debtor has not established entitlement to the exemption that Debtor claims is impaired by the lien. This

motion is therefore premature and not yet ripe for hearing because the Debtor cannot establish all of the elements under § 522(f)(1).

Second, Debtor claimed a \$325,000.00 exemption in Property pursuant to Cal. Code. Civ. Proc. § 704.730. Section 704.730 provides:

(a) The amount of the homestead exemption is the greater of the following:

(1) The countywide median sale price for a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed six hundred thousand dollars (\$600,000).

(2) Three hundred thousand dollars (\$300,000).

(b) The amounts specified in this section shall adjust annually for inflation, beginning on January 1, 2022, based on the change in the annual California Consumer Price Index for All Urban Consumers for the prior fiscal year, published by the Department of Industrial Relations.

C.C.P. § 704.730. Debtor has not established entitlement to a homestead exemption in excess of \$300,000. No admissible evidence of the countywide median sale price for a single-family home in Merced County in the year 2021 is provided with the motion. Nor is any discussion included as to whether an annual adjustment to the minimum \$300,000 exemption is warranted based on the Department of Industrial Relations' California Consumer Price Index for All Urban Consumers for the prior fiscal year.

The Eastern District of California has held that "the debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under [California law] and the extent to which that exemption applies." *In re Pashenee*, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015).

Accordingly, Debtor has failed to prove entitlement to claim an exemption in Property exceeding \$300,000 under C.C.P. § 704.730 by a preponderance of the evidence.

For the foregoing reasons, this motion will be DENIED WITHOUT PREJUDICE.

2. [22-10052](#)-B-7 **IN RE: NICOMEDES ELVENA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-8-2022 [\[23\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.
\$32.00 FILING FEE PAID 3/10/22

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 amendment fee in the amount of \$32.00 was paid on March 10, 2022. Therefore, the *Order to Show Cause* will be vacated.

3. [21-12753](#)-B-7 **IN RE: FRANCIS MAGALONG MITCHELL**
[RAS-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-25-2022 [\[27\]](#)

U.S. BANK NATIONAL
ASSOCIATION/MV
VINCENT GORSKI/ATTY. FOR DBT.
FANNY WAN/ATTY. FOR MV.
DISCHARGE ENTERED 03/17/2022

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

DISPOSITION: Granted in part and denied as moot in part.

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

U.S. Bank National Association ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2018 Porsche 718 Cayman ("Vehicle"). Doc. #27.

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 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.

11 U.S.C. § 362(c)(2)(C) provides that the automatic stay of § 362(a) continues until a discharge is granted. The debtor's discharge was entered on March 17, 2022. Doc. #33. Therefore, the automatic stay terminated with respect to the debtor on March 17, 2022. This motion will be DENIED AS MOOT IN PART as to the debtor's interest and will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

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).

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least 13 payments. The movant has produced evidence that debtor is delinquent at least \$23,392.76. Docs. #30, #31.

Accordingly, the motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest under § 362(c)(2)(C).

4. [21-11563](#)-B-7 **IN RE: WESLEY/ANGELIQUE PLUNK**
[SL-1](#)

MOTION TO COMPEL ABANDONMENT
2-23-2022 [[36](#)]

ANGELIQUE PLUNK/MV
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

Wesley Dwayne Plunk and Angelique Renee Plunk ("Debtors") ask the court for an order compelling chapter 7 trustee Irma C. Edmonds ("Trustee") to abandon the estate's interest in a pre-petition

wrongful termination claim ("Labor Claim") against Mr. Plunk's former employer. Doc. #36.

No 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 chapter 7 trustee, 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.

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." To grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. *In re Vu*, 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 246 (6th Cir. 1987). In evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. *In re Johnson*, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). *In re Galloway*, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at *16-17 (B.A.P. 9th Cir. 2014).

Mr. Plunk filed a complaint against his former employer through the California Labor Commission Retaliation Unit on January 3, 2018, bearing case no. RCI-50583. Doc. #38. Mr. Plunk is represented in this action by state court attorney Estella M. Cisneros of CRLA, Inc. *Id.*

Debtors filed chapter 7 bankruptcy on June 18, 2021. Doc. #1. The Labor Claim was listed in the original schedules as a claim against third parties with an unknown amount of value. *Id.*, *Sched. A/B*, ¶ 33.

Recently, Mr. Plunk was offered a settlement of \$5,000.00 to resolve the Labor Claim. After Attorney Cisneros advised Mr. Plunk of the consequences of either accepting the settlement or rejecting it and pursuing further litigation, Debtors have decided to accept the settlement. *Id.*

Debtors amended the schedules, updating the Labor Claim's value to \$5,000.00. Doc. #31, *Am. Sched. A/B*. Debtors also claimed a \$5,000.00 exemption in the Labor Claim under the "wildcard" exemption of Cal. Code Civ. Proc. § 703.140(b)(5).¹ *Id.*, *Am. Sched. C*. The exemptions were amended February 4, 2022, so the 30-day deadline to object under Fed. R. Bankr. P. 4003(b)(1) passed on March 6, 2022. No objections were filed.

Mr. Plunk's declaration reaffirms the \$5,000 valuation as evidenced by the settlement amount, and declares that he is qualified and eligible to claim the exemptions stated. Doc. #38. If it is later determined that he is not entitled to this exemption, or if there is some other error, Mr. Plunk acknowledges Trustee's right to demand compensation to the estate for damages.

So, the Labor Claim as settled provides no proceeds for Trustee to disburse to unsecured creditors after payment of Debtors' exemption:

Asset	Value	Lien	Exempt	Net
Labor Claim	\$5,000	\$0	\$5,000	\$0

Docs. #31, *Am. Sched. A/B, C*; #1, *Sched. D*.

No party in interest filed opposition to this motion. Accordingly, the court finds that the Labor Claim is of inconsequential value and benefit to the estate. The Labor Claim was accurately scheduled and exempted in its entirety. Trustee has presumably investigated the Labor Claim and determined that any proceeds over and above the claimed exemption potentially recoverable through further litigation, less fees and expenses, were not large enough to warrant filing opposition to this motion.

Therefore, this motion will be GRANTED. The order shall specifically include the property to be abandoned.

¹ C.C.P. § 703.140(b)(5) allows the debtor to exempt an aggregate interest of \$1,550 in any property, plus any unused portion of the \$29,275.00 exemption under subsection (b)(1), for a total "wildcard" exemption of \$30,825.00. See EJ-156 (eff. Sept. 1, 2020; now Rev. Oct. 1, 2021). Debtors' aggregate exempted interest totals \$30,825.00 under (b)(5) and \$0.00 under (b)(1). Doc. #31, *Am. Sched. C*.

5. [21-12473](#)-B-7 **IN RE: BLAIN FARMING CO., INC.**
[FW-5](#)

MOTION TO SELL FREE AND CLEAR OF LIENS AND/OR MOTION FOR
COMPENSATION FOR BERKSHIRE HATHAWAY HOMESERVICES CALIFORNIA
REALTY, BROKER(S)
2-23-2022 [[102](#)]

JAMES SALVEN/MV
RILEY WALTER/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to a date determined at the hearing.

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

Chapter 7 trustee James E. Salven ("Trustee") seeks authorization (i) to sell real property of the estate commonly known at 15013 Ivanhoe Drive, Visalia, CA 93292 ("Property") to Robin Martella ("Proposed Buyer") for \$625,000.000, subject to higher and better bids, (ii) free and clear of certain liens pursuant to 11 U.S.C. § 363(f)(2) and (f)(4); and (iii) to pay broker commission of 6% under 11 U.S.C. § 328, to be split equally between the buyer's and seller's brokers.² Doc. #102.

Trustee also asks to pay all costs, commissions, and real property taxes directly from escrow, and for waiver of the 14-day stay under Federal Rule of Bankruptcy Procedure ("Rule") 6004(h). *Id.*

Secured creditor James Putnam ("Putnam"), a beneficiary under a first priority deed of trust encumbering Property, timely filed conditional opposition to the motion. Doc. #125. Putnam consents to the sale provided that the existing lien against Property attaches to the net sale proceeds in the same nature, extent, and priority as they exist at the time of the sale. Further, if the sale does not close, Putnam seeks to retain the existing lien against Property for the full principal amount of indebtedness of \$272,000, plus accrued interest and other amounts. *Id.*

This matter will be called and proceed as scheduled. The court is inclined to CONTINUE this hearing to a date to be determined at the hearing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Rule 2002(a)(2) and (a)(6). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest except Putnam 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 motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest except Putnam are entered. 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).

This motion affects the proposed disposition and the Broker. Under Fed. R. Civ. P. ("Civ. Rule") 21 (Rule 7021, *incorporated in contested matters under Rule 9014(c)*), the court will exercise its discretion and allow the relief requested by Trustee here as to Broker's commission and use the court's discretion to add a party under Civ. Rule 21. Compensation is separate from the sale.

Since this relief and compensating Broker are separate claims, the court will allow their joinder in this motion under Civ. Rule 18 (Rule 7018) because it is economical to handle this motion in this manner absent any objection. This rule is not incorporated in contested matters absent court order under Rule 9014(c) and affected parties are entitled to notice. Trustee, having requested this relief, is deemed to have notice. Other than Putnam's conditional opposition, no party timely filed written opposition, so defaulted parties are deemed to have consented to application of this rule. Putnam consents to the sale provided that he is paid from the sale proceeds.

BACKGROUND

Blain Farming Co., Inc. ("Debtor") filed chapter 7 bankruptcy on October 22, 2021. Doc. #1. Trustee was appointed as interim trustee on that same date and became permanent trustee at the first § 341(a) meeting of creditors on November 18, 2021. Doc. #4.

Trustee moved to employ Berkshire Hathaway HomeServices California Realty ("Broker") on December 24, 2021 as the estate's real estate broker to market and sell Property at the highest and best possible price. Doc. #64; FW-4. On January 5, 2022, the court authorized Broker's employment pursuant to 11 U.S.C. §§ 327 and 328. Doc. #70. The employment authorization is presumptively effective November 24, 2021 under the 30-day time frame prescribed in LBR 2014-1(b)(1) and Rule 2014(a) for employment orders.

Subject to court approval, Trustee has entered into a contract to sell Property to Proposed Buyer for \$625,000.00. Doc. #106, *Ex. A*.

Property is subject to multiple encumbrances, including multiple liens for taxes owed or in default. *See id.*, *Ex. B*. The property tax liens will be paid through escrow. Trustee argues that the remaining liens are in bona fide dispute and therefore Property can be sold free and clear, with excess funds to be held until the court has determined how those proceeds should be distributed.

Property is encumbered by the following security interests:

1. James Putnam: A deed of trust in favor of Putnam securing an original indebtedness of \$272,000.00 was recorded February 13, 2019. Putnam consents to the sale provided that the existing liens against Property attach to the net sale proceeds in the same nature, extent, and priority as they do at the time of the sale. Doc. #125. And if the sale does not close, Putnam demands retention of the existing lien for the full principal amount of \$272,000.00, plus accrued interest and other amounts.

Trustee disputes this lien based on certain creditors' allegations that Putnam is an insider of principals of the Debtor, and that he did not provide the value of the deed of trust. Doc. #104. Thus, such allegations contend that Putnam should not be entitled to any payment based on the lien. Trustee has requested evidence from Putnam substantiating his claims and has received partial documentation. However, Trustee cannot ascertain from those documents the extent of the lien. *Id.*

Allegations from unnamed creditors are hearsay under Fed. R. Evid. 801-802. To date, no adversary proceedings have been filed in this case. More information is needed to determine whether such allegations constitute a bona fide dispute.

But James Putnam has consented to the sale under § 363(f)(2) subject to the above conditions.

2. Williams, Brodersen, Pritchett & Burke, LLP: A deed of trust in favor of Williams, Brodersen, Pritchett & Burke LLP ("Attorneys") was recorded February 13, 2019 securing an initial indebtedness of \$300,000.00. Doc. #104. Trustee disputes the amount of this lien. Trustee has received documentation from Debtor and the creditor showing how the lien was calculated, but those documents raised questions relating to the validity of the lien. Those questions have not been answered, so Trustee does not believe that the creditor has a valid lien in any amount.

The provided basis for a bona fide dispute is too vague. The court is unable to make that finding without more information.

The court notes that both this lien and the Putnam lien were filed on the same day, but the recording numbers suggest the Putnam lien may have been filed first. The court makes no finding as to the priority of any lien in this motion.

3. State of California: There is a tax lien in favor of the State of California ("California"), evidenced by a certificate recorded October 19, 2020 in the amount of \$306,661.55. *Id.* Trustee has investigated this lien and it appears to be based on a missing tax return. From Trustee's analysis, once the return is filed, no taxes will be owing,

and the State of California will not be entitled to the lien. Thus, there is a bona fide dispute here.

4. Mechanics Bank: An abstract of judgment in favor of Mechanics Bank was recorded August 25, 2021. *Id.* Trustee disputes this lien because it was recorded 58 days prior to the petition date. As result, Trustee believes this abstract meets the requirements of a preference under 11 U.S.C. § 547 and can be avoided. Though Trustee has established that there is a bona fide dispute regarding this lien, no adversary proceedings have been filed against Mechanics Bank to date.

DISCUSSION

11 U.S.C. §§ 363(f) (2) and (f) (4)

11 U.S.C. § 363(b) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Section 363(f) allows the trustee to sell property under § 363(b) "free and clear of any interest in such property of an entity other than the estate" if such entity consents or such interest is in bona fide dispute. § 363(f) (2), (f) (4).

Trustee may sell property of the estate free and clear of a non-debtor's interest that is in bona fide dispute under § 363(f) (4). "Under this standard, a court need not determine the probable outcome of the dispute, but merely whether one exists." *In re Octagon Roofing*, 123 B.R. 583 (Bankr. N.D. Ill. 1991), citing *In re Busick*, 831 F.2d 745, 750 (7th Cir. 1987). "The parties must provide some factual grounds to show some objective basis for the dispute." *In re Kellogg-Taxe*, No. 2:12-BK-51208-RN, 2014 WL 1016045, at *6 (Bankr. C.D. Cal. Mar. 17, 2014), citing *In re Gaylord Grain, L.C.C.*, 306 B.R. 614, 617 (B.A.P. 8th Cir. 2004).

Here, Putnam has conditionally consented to the sale if his lien is paid through the sale proceeds. Trustee disputes the validity of the lien, but little factual information is provided on which this court can find an objective basis for a dispute. However, Putnam still consents to sale.

The same is true with respect to a bona fide dispute regarding the Attorneys' lien. Further factual grounds are needed to show an objective basis for disputing the Attorneys' lien.

The remaining liens in favor of California and Mechanics Bank are in bona fide dispute. If Trustee provides sufficient additional evidence of a bona fide dispute as to the Attorneys lien, the sale may be able to proceed on those grounds, unless the matter is continued for further briefing.

Proposed sale

Trustee's sale, as proposed, is estimated to have the following distribution:

Sale price	\$625,000.00
Estimates taxes	- \$39,496.95
Estimated costs of sale	- \$12,500.00
Estimated broker fees (6%)	- \$37,500.00
Net to the estate	= \$535,503.05

Doc. #104. After paying closing costs, Trustee anticipates that there will be approximately \$535,503.05 in remaining net proceeds. These amounts will be impounded in an escrow account to be held until the court determines the respective interests of the parties.

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889 quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" *Id.*, citing *In re Psychometric Sys.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Robert Casey, a licensed real estate broker employed by Broker, declares that it was extremely difficult to find comparable sales for Property, thus requiring multiple trips to Property to analyze it and ascertain an appropriate sale value. Doc. #105. His initial value estimate was \$689,000.00. Casey subsequently listed Property and showed it multiple times to prospective buyers and other agents.

In showing Property, several issues arose with potential purchasers. Property has AG zoning and was previously used as a Farming Base Yard for storage of farming equipment, chemicals, repair, and maintenance of equipment, as well as loading and unloading crops. *Id.* With city expansion, the location became better suited for commercial use. As result, two portions of Property are leased to tenants that are out of compliance with the AG zoning: a shipping container storage and wood crafting shop. Prospective purchasers may be hesitant to purchase Property without proper zoning. *Id.* Further, two buildings with

decomposing floors are very old, and will require minor retrofitting and removal of debris at close of escrow. As result of these issues, Casey adjusted his fair market value estimate to \$625,000.00. *Id.*

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887, citing *Mission Prod. Holdings, Inc. v. Old Cold, LLC (In re Old Cold, LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). There is nothing in the record suggesting that Proposed Buyer is an insider. Proposed Buyer is neither listed in the original or amended master addresses, nor listed in the original or amended schedules. Docs. #1; #3; ##54-55.

The sale of Property appears to be in the best interests of the estate and creditors because it will pay off property taxes and provide liquidity to the estate. The sale subject to higher and better bids will maximize estate recovery and yield the best possible price. The sale appears to be supported by a valid business judgment, proposed in good faith, and for a fair and reasonable price. Trustee's business judgment appears to be reasonable and may be given deference if additional evidence is provided as outlined above.

Broker Commissions

In connection with this sale, Trustee also seeks authorization under § 330 to pay a 6% commission on the final sale price as reasonable compensation for actual, necessary services of the real estate brokers. This commission will be split equally between the buyer's and seller's brokers. Currently, Broker represents both Trustee and Proposed Buyer. If Property is sold at the proposed sale price with no overbidders, Broker would receive the entire 6%, which is \$37,500.00. The court will allow the commission to be paid as prayed if the sale is confirmed.

CONCLUSION

This matter will be called as scheduled to inquire about the basis for the bona fide disputes with Attorneys. If any sale occurs, there will be no distributions other than taxes, costs of sale, and broker fees. The remaining proceeds shall be held in an impound account pending determination of the parties' interests. The court may CONTINUE the matter to a date determined at the hearing.

Rule 6004(h) Waiver

Trustee requests waiver of the 14-day stay of Rule 6004(h) because he does not anticipate that anyone will appeal the motion, and thus, there is no reason for the 14-day stay. Doc. #104. This reason is insufficient, but Trustee also says that time is of the essence for the sale to successfully close. Trustee is informed that Proposed Buyer needs to close prior to April 15, 2022 to secure tax advantages, and Trustee is concerned that the sale may fall through if it is delayed. *Id.* If the motion is granted, and if Proposed Buyer is the

successful bidder, the court will waive the 14-day stay under Rule 6004(h) because time is of the essence. *Paladino v. S. Coast Oil Corp.* (*In re S. Coast Oil Corp.*), 566 F. App'x 594, 595 (9th Cir. 2014) (affirming waiver of 14-day stay because time was of the essence due to regulatory deadlines); *In re Ormet Corp.*, 2014 LEXIS 3071 (Bankr. D. Del. July 17, 2014) (finding cause to lift 14-day stay because the buyer required closing before the stay would expire).

Overbid Procedure

If the sale goes forward, any party wishing to overbid must appear at the hearing individually or appear by representative with written proof of authority to bid on behalf of the overbidder. Overbidders must deposit with Trustee's counsel certified monies in the amount of \$18,000.00 prior to the time of the sale motion hearing. Prospective overbidders must provide (1) proof in the form of a letter of credit, or some other written pre-qualification for any financing that may be required to complete the purchase of Property sufficient to cover the overbid amount; and (2) provide proof that the overbidder can and will close the sale within 15 days of delivery of a certified copy of the order approving the sale and execute a Purchase Agreement for the Property.

Any successful overbid shall have the \$18,000.00 deposit applied to the successful overbid price; unsuccessful bidders' deposits shall be returned at the conclusion of the hearing. In the event a successful overbidder fails to close the sale within 15 days of delivery of a certified copy of the order approving the sale and execute a Purchase Agreement for the Property, the \$18,000.00 deposit shall become non-refundable, and the next highest bidder shall become the buyer. All overbids shall be in minimum increments of \$5,000.00 such that the first overbid shall be in the minimum amount of \$630,000.00.

All overbidders must acknowledge that the sale of Property is in "as-is" condition with no warranty or representations, express, implied, or otherwise by the bankruptcy estate, the Debtor, or their representatives. Any required retrofit, including but not limited to water heater bracing and smoke and carbon monoxide detectors, is the responsibility of the buyer.

² Trustee complied with Rule 7004(b) (1), (b) (3), (b) (6), and (h) on February 23, 2022 by serving through regular U.S. mail: (1) James Putnam, individually and in his capacity as managing member and registered agent for service of process of Putnam Farms, LLC, (2) Steven R. Williams of Williams, Brodersen, Pritchett & Burke, LLP, (3) Mayra Deniz, Deputy Tax Collector of the Tulare County Tax Collector, (4) the Chief Counsel c/o General Counsel Section of the State of California Franchise Tax Board; and, by certified mail, (5) John Decero, CEO of Mechanics Bank. Doc. #107.

6. [21-12473](#)-B-7 **IN RE: BLAIN FARMING CO., INC.**
[FW-6](#)

MOTION TO SELL FREE AND CLEAR OF LIENS
3-1-2022 [\[113\]](#)

JAMES SALVEN/MV
RILEY WALTER/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled for higher
and better bids only.

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 James E. Salven ("Trustee") seeks authorization to sell the estate's interest in certain personal property ("Estate Assets") to Henry Smith ("Proposed Buyer") for \$5,000, subject to higher and better bids at the hearing, and (ii) free and clear of the lien of Citizens Business Bank, a California Banking Corporation ("CBB"), based on its conditional consent pursuant to 11 U.S.C. § 363(f)(2).³ Doc. #113. The Estate Assets consist of:

- a. One forty-foot container;
- b. Two twenty-foot containers;
- c. One Chevrolet pickup truck disassembled for parts; and
- d. One Dodge pickup truck disassembled for parts.

Trustee also asks for authorization (i) to execute all documents necessary to effectuate the sale of the Estate Assets, and (ii) to distribute proceeds of the sale as follows: first, deducting from the sale amount the reasonable and necessary administrative expenses necessary to effectuate the sale and retaining those amounts in the bankruptcy estate; and second, dividing the remaining proceeds equally between the bankruptcy estate and CBB.

No party in interest timely filed written opposition. However, no evidence of CBB's affirmative consent to the sale free and clear of its lien has been provided. This motion may be GRANTED with the sale hearing proceeding for higher and better bids provided that evidence of CBB's affirmative consent to the sale in the form of a declaration, exhibit, or statement by counsel at or before the hearing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure ("Rule") 2002(a)(2). 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). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will proceed for higher and better bids only. 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.

Blain Farming Co., Inc. ("Debtor") filed chapter 7 bankruptcy on October 22, 2021. Doc. #1. Trustee was appointed as interim trustee on that same date and became permanent trustee at the first § 341(a) meeting of creditors on November 18, 2021. Doc. #4.

Pursuant to his duties as chapter 7 trustee, Trustee entered into an agreement to sell Estate Assets to Proposed Buyer subject to court approval and higher and better bids at the hearing. Doc. #115.

11 U.S.C. § 363(b) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Section 363(f) allows the trustee to sell property under § 363(b) "free and clear of any interest in such property of an entity other than the estate" if such entity consents. § 363(f)(2).

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018), citing *240 North Brand Partners v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889 quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" *Id.*, citing *In re Psychometric Sys.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887, citing *Mission Prod. Holdings, Inc. v. Old Cold, LLC (In re Old Cold, LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). There is nothing in the record suggesting that Proposed Buyer is an insider. Proposed Buyer is neither listed in the original or amended master addresses, nor listed in the original or amended schedules. Docs. #1; #3; #54-55. The Estate Assets are listed as

machinery, equipment, or vehicles in the schedules with the following values:

Asset	Value
1996 Dodge [sic] Ram 2500 - Salvaged (wrecked)	\$200
1973 Chevy Truck - disassembled	+ \$1,000
Two 20' Containers - \$1,300 each	+ \$2,600
40' Container	+ \$2,700
Total	= \$6,500

Doc. #1, Sched. A/B, ¶¶ 47.1, 47.2, 50.

CBB has a blanket lien on all of Debtor's assets and claims a perfected security interest in the Estate Assets. Doc. #115. Trustee declares that CBB has consented to the sale provided that, after deduction of reasonable and necessary administrative expenses, the net proceeds will be divided equally between the bankruptcy estate and CBB. *Id.* However, this is hearsay under Fed. R. Evid. 801, 802. CBB or Trustee will need to file a written declaration from a representative of CBB, or another signed writing filed as an exhibit. The court will also accept an oral statement from CBB's counsel or representative at the hearing.

Trustee says this is a mutually beneficial arrangement because the Estate Assets can be promptly removed from the bankruptcy estate's real property, which is in the process of being sold, and a small amount of liquidity can be recovered for the creditors and the estate. *Id.* Accordingly, Trustee asks the assets to be sold free and clear of CBB's lien with its consent, and with the proceeds to be distributed pursuant to the parties' proceed-splitting arrangement.

Proposed Buyer's offer is the best and highest offer that Trustee has received. Trustee is in receipt of a \$2,500 deposit, with the remaining \$2,500 to be paid within five business days following the conclusion of the auction. If there are no overbidders, the estate and CBB will receive \$2,500 each.

The sale appears to be in the best interests of creditors and the estate, for a fair and reasonable price, supported by a valid exercise of Trustee's business judgment, and proposed in good faith. The sale subject to higher and better bids will maximize estate recovery and yield the best possible sale price. There is no opposition to the sale and CBB has conditionally consented to the sale free and clear of its lien provided that the proceeds distributed under the proceed-splitting agreement.

Accordingly, this motion will be GRANTED if evidence of CBB's affirmative consent is provided at or before the hearing. If provided before the hearing, the hearing will proceed for higher and better bids only. Trustee will be authorized to sell the Estate Assets to the highest bidder as determined at the hearing, execute all documents

necessary to effectuate the sale, deduct reasonable and necessary administrative expenses from the sale, and divide the remaining proceeds equally between the estate and CBB.

Any party wishing to overbid must appear at the hearing. Winning bidders must pay the Trustee in certified funds to be received by Trustee's office no later than five business days following the conclusion of the auction. Back-up bids will be taken. Once a back-up bidder is notified that the prior bidder has failed to perform, payment of the purchase price must be received by the Trustee from the back-up bidder within five business days of the back-up bidder being notified that the back-up bid is now the winning bid.

Prospective bidders must acknowledge that the Estate Assets are being sold "as-is, where-is." The buyer is required to promptly pick up the Estate Assets and remove them from the bankruptcy estate's premises. Trustee does not have and cannot obtain titles for the disassembled pickup trucks included in the sale, so it will be the buyer's responsibility to obtain any necessary title documents for those vehicles without the assistance of Trustee.

³ Trustee complied with Rule 7004(h) by serving David A. Brager, President and CEO of secured creditor Citizens Business Bank, a California Banking Corporation, by certified mail at its main office address on March 1, 2022. Doc. #116.

7. [18-14689](#)-B-7 **IN RE: JAVIER GONZALEZ**
[FW-10](#)

MOTION TO AUTHORIZE A REVISION TO APPROVED COMPROMISE
2-28-2022 [[123](#)]

JAMES SALVEN/MV
THOMAS GILLIS/ATTY. FOR DBT.
PETER FEAR/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.

Chapter 7 trustee James E. Salven ("Trustee") requests an order authorizing a revision to a previously approved compromise of claims against Javier Ramirez Gonzalez ("Debtor"), his non-filing spouse, Anna Gonzalez ("Spouse"), and the 2016 Javier and Anna Gonzalez Revocable Family Trust ("Trust[;]" collectively "Defendants") pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 9019. Doc. #123.

No 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 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.

Debtor filed chapter 7 bankruptcy on November 20, 2018. Doc. #1. As part of the petition, Debtor listed himself as the sole owner of real property commonly known as 8531 Road 231, Terra Bella, CA 93270 ("Property"). *Id.*, Sched. A/B, ¶ 1.1.

Trustee was appointed as interim trustee on that same date and became permanent trustee at the first § 341(a) meeting of creditors on December 27, 2018. Doc. #4.

In the course of administering the estate, Trustee discovered Debtor had executed a post-nuptial agreement on October 1, 2011 thereby transferring his interest in Property to Spouse in exchange for her community property interest in his business. Doc. #125; see also FW-9. Pursuant to this agreement, Debtor executed and recorded a deed transferring Property to Spouse. Spouse subsequently transferred Property to the Trust. Doc. #125.

Trustee learned that Debtor owed a considerable federal tax liability at the time the post-nuptial agreement and deed were executed, and the deed recorded. Trustee believed that consideration for the transfer was insufficient, and the transfer of Property was both actually and constructively fraudulent. *Id.* Based on the debt owed to the federal government at the time of the transfer, Trustee believed that the United States could set aside the transfer if it so chose. Further, since the Debtor had an interest in the Trust, and the Trust was the owner of Property, Debtor still had an interest in Property. Additionally, Trustee had reason to believe that community property assets were used to maintain the Property and pay the mortgage, so Debtor's community property interest in an unknown amount of equity in Property belongs to the bankruptcy estate. *Id.*

Defendants dispute Trustee's contentions. However, to avoid filing an adversary proceeding, Defendants agreed to settle the claim in exchange for a total of \$135,000.00 paid in annual installments through December 31, 2022. Doc. #116. Pursuant to the settlement, Trustee would secure the sale of the estate's interest in Property free and clear of other interests with those interests attaching to the sale proceeds, and the recordation of a deed of trust in favor of the Trustee, to be released upon payment in full. The court approved the settlement agreement on March 9, 2020. Doc. #119.

As of December 31, 2021, Trustee has received and applied all but \$17,114.22, which is presently due on December 31, 2022. Doc. #125. Spouse has offered to pay the settlement debt off early in return for a slight discount of 25% off the amount due and owing. Spouse offers to pay \$12,835.67 to complete the settlement early, which is a reduction of \$4,278.55. Doc. #123. Spouse made a good faith deposit of the funds with Trustee pending court approval.

Trustee is amenable to accepting a slight discount of \$4,278.67 of the balance due, leaving \$12,835.67, to release the deed of trust on Property to Spouse. This will permit Trustee to finalize administration of the estate ten months earlier. Trustee believes expediting administration in this manner is in the best interests of creditors. Doc. #125. Therefore, Trustee requests authorization to revise the previously approved settlement agreement.

However, since there is no current controversy, this motion is in effect seeking to sell the estate's claim against Debtors to be paid \$17,114.22 by December 31, 2022 back to the Debtors for \$12,835.67.

11 U.S.C. § 363(b) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners v. Colony GFP Partners, Ltd. P'Ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889 quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" *Id.*, citing *In re Psychometric Sys.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887, citing *Mission Prod. Holdings, Inc.*

v. Old Cold, LLC (In re Old Cold, LLC), 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). This sale is to Debtor and Spouse, which are both insiders.

When the sale of litigation claims will involve the termination of those claims, the court must consider proposed sale offers not only under § 363(b) but also as a settlement of such claims under Rule 9019. *Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 290 (B.A.P. 9th Cir. 2005); *Goodwin v. Mickey Thompson Entm't Grp., Inc. (In re Mickey Thompson Entm't Grp., Inc.)*, 292 B.R. 415, 420 (B.A.P. 9th Cir. 2003).

Under Rule 9019, approval of a compromise must be based upon considerations of fairness and equity. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. *In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the *Woodson* factors balance in favor of approving the revision via sale of the estate's claim to Defendants. That is,

1. At this point, there is no pending litigation, so whether the estate would likely prevail in an adversary proceeding is not applicable. Trustee is entitled to receive \$17,114.22 by December 31, 2022 but may instead receive \$12,835.67 now. This factor is neutral.

2. Trustee has the proposed \$12,835.67 in-hand now, which obviates the need to collect 75% of the amount due December 31, 2022. Further collection will not be an issue if the revision is approved. If the revision is not approved and Trustee returns the deposit, collection of the full \$17,114.22 is less certain. However, it is likely that collection will not be an issue given Trustee's remedies under the existing settlement agreement. This factor slightly favors approving the revision.

3. Since there is no pending litigation, an analysis of such complexity is inapplicable. This factor is neutral.

4. Approval of the revision will result in the estate receiving \$12,835.67 now, or \$4,278.55 less than it would receive on December 31, 2022. However, approval will permit Trustee to finalize the settlement and conclude estate administration ten months earlier, permitting creditors to be paid earlier. Trustee believes this minor discount is worth the benefit of being paid sooner.

The settlement revision appears to be fair, equitable, and a reasonable exercise of Trustee's business judgment. The sale of the

estate's claim against Defendants for a 25% discount appears to be in the best interests of the estate and creditors because it will provide liquidity to the estate ten months earlier than expected, which will allow Trustee to finalize administration and make payments to creditors sooner. The sale appears to be supported by a valid business judgment, proposed in good faith, and for a fair and reasonable price. Trustee's business judgment appears to be reasonable and may be given deference.

No party in interest timely filed written opposition. The court concludes the revision to the settlement agreement thus selling the estate's claim against Defendants for an earlier payoff is in the best interests of the creditors and the estate. This motion will be GRANTED.