UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Modesto, California

April 3, 2025 at 10:30 a.m.

---

1. 18-90029-E-11 CAE-1 **JEFFERY ARAMBEL** **CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 1-17-18 [1]**

Item 1 thru 2

Debtor's Atty: Pro Se

Notes:
Continued from 1/30/25. Counsel for the Plan Administrator stating that the two pending sales should be closed by 2/14/25.

Notice of Plan Administrator's Post-Confirmation Monthly Compensation Report filed: 2/11/25, 3/17/25

Operating Reports filed: 2/12/25

[CAE-1] Plan Administrator's Post-Confirmation Status Report for April 3, 2025 Status Conference filed 3/20/25 [Dckt 2099]

The Status Conference is xxxxxxx

APRIL 3, 2025 STATUS CONFERENCE

Focus Management Group USA, Inc., the Chapter 11 Plan Administrator, filed an updated Status Report on March 20, 2025. Dckt. 2099. The Plan Administrator reports that the sales of the Murphy Ranches and the Westley Lot have closed. The net sales proceeds have been disbursed to Summit.

With respect to further proceedings under the Confirmed Chapter 11 Plan, the remaining assets to be administered are identified as:

> (i) Substantial tax reserve funds from the sale of real property and tax refunds, (ii) the Estate's 100% interest in a 5 acre property on Laird Road identified by APN 016-034-003, (iii) the Estate's 100% interest in a property identified by APN 021-013-029, (iv) the 1/3 interest in the Oakdale Development Property, that the

Estate owns a partial interest in with the remainder owned by Mr. Arambel's sister(s), (v) the Estate's asserted interest in the remaining property held by Filbin Land & Cattle Company, (vi), certain crop retains, and (vii) certain other assets.

Status Report, ¶ 4; Dckt. 2009.

The Plan Administrator continues to project that it appears that only secured claims will be paid through the Confirmed Chapter 11 Plan in this Bankruptcy Case, except for a carve-out of $200,000 from Summit's collateral for creditors holding general unsecured claims. The Plan Administrator projects a 2.5% dividend for creditors holding unsecured claims. *Id*.; ¶ 7.

The Plan Administrator reports that Debtor Jeffrey Arambel has withdrawn an assertion that an income tax obligation in excess of $3,000,000 is an obligation of Mr. Arambel to be paid through this Bankruptcy Plan.

At the Status Conference, **xxxxxxx**

2. **18-90029-E-11 FWP-28** **JEFFERY ARAMBEL** **Pro Se** **CONTINUED MOTION TO USE CASH COLLATERAL** **10-20-23 [1927]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), creditors holding the twenty largest unsecured claims, creditors, parties requesting special notice, other parties in interest, and Office of the United States Trustee on October 20, 2023. By the court's calculation, 20 days' notice was provided. 14 days' notice is required. FED. R. BANKR. P. 4001(b)(2) (requiring fourteen days' notice).

The Motion for Authority to Use Cash Collateral was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor in Possession, creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

The Motion for Authority to Use Cash Collateral is granted and the use of cash collateral is authorized through June 30, 2025.

The hearing on the Motion is continued to xxxxxxx. Supplemental Pleadings shall be filed and served on or before xxxxxxx.

April 3, 2025 Hearing

The court continued the hearing on this Motion, having previously granted the use of cash collateral through March 31, 2025. Order, Docket 2087. On March 26, 2025, Plan Administrator filed a Stipulation to extend the use of cash collateral. Docket 2101. Under the extension provision of the previous stipulation (Stipulation ¶ 3, Docket 2073) between Plan Administrator and Summit, the terms surrounding the use of cash collateral have been extended by the terms of the new stipulation through June 30, 2025. Stipulation ¶ 3, Docket 2101.

The Motion is granted and the use of cash collateral is authorized on the terms and conditions of the Stipulation (Dckt. 2101).

REVIEW OF THE MOTION

Focus Management Group, Inc., the duly appointed Plan Administrator ("Plan Administrator"), moves for an order approving the use of cash collateral pursuant to its stipulation with SBN V AG I LLC ("Summit") for the period of October 1, 2023 through December 31, 2023. Plan Administrator requests the use of cash collateral to fund the plan budget, which is a budget setting forth the anticipated expenses of administration of the Plan for a period of time that is prepared by the Plan Administrator and approved by the Oversight Committee. Exhibit 1, Dckt. 1930, p. 2. Summit's cash collateral constitutes the sole source of funds to operate Debtor's business under the Plan.

Plan Administrator proposes to use cash collateral in accordance with the plan budget, which is as follows as set forth in the Budget filed as Exhibit A, Dckt. 1930.

Proposed Stipulation

Summit entered into a stipulation with the Plan Administrator detailing how Summit's cash collateral may be used to fund the Plan. The stipulation is filed as Exhibit 1, Docket 1930. The stipulation proposes the Plan will be funded by Summit's cash collateral, and Summit is willing to consent to the Plan Administrator's use of the cash collateral to fund the plan budget. Stipulation, Exhibit 1, Dckt. 1930, p. 3. The stipulation shall automatically terminate on December 31, 2023, unless Summit agrees to an extension in writing. *Id.*

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves as the trustee in the Chapter 11 case when so qualified under 11 U.S.C. § 322. When a debtor is not qualified to operate as a debtor in possession, the court may appoint a trustee pursuant to 11 U.S.C. § 1104. 11 U.S.C. § 1108 gives the trustee authority to operate the business. In operating the business, the trustee can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

> (b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless–
>
> > (A) such sale or such lease is consistent with such policy; or
> >
> > (B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease–
> >
> > > (I) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

> (ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

> (b)(2) Hearing
>
> The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

DISCUSSION

Plan Administrator has shown that the proposed use of cash collateral is in the best interest of the Estate. The proposed use provides for administering the Plan, including paying employees, taxes, professional fees, and other business expenses. The Motion is granted, and Plan Administrator is authorized to use the cash collateral for the period October 1, 2023 through December 31, 2023, in accordance with the plan budget and stipulation. The court does not pre-judge and authorize the use of any monies for "plan payments" or use of any "profit" by Plan Administrator. All surplus cash collateral is to be held in a cash collateral account and accounted for separately by Plan Administrator.

The court continued the hearing to 10:30 a.m. on January 11, 2024, for Plan Administrator to file a Supplement to the Motion to extend authorization. That Supplemental pleadings shall be filed and served on or before December 21, 2023, with any opposition to be presented orally at the continued hearing.

January 11, 2024 Hearing

A review of the Docket on January 8, 2024 reveals that the Plan Administrator (Focus Management Group, Inc.) uploaded a new stipulation to extend the use of cash collateral. Docket 1947, DCN. FWP-29. Under the extension provision of the previous stipulation (Exhibit 1, Docket 1930 at ¶ 3) between Plan Administrator and Summit, the terms surrounding the use of cash collateral have been extended by the terms of the new stipulation through March 31, 2024. Docket 1947 at ¶ 3.

At the hearing, the court grants the Motion and sets a continued hearing on March 28, 2024, with supplemental pleadings filed by Movant two weeks prior thereto.

March 28, 2024 Hearing

A review of the Docket on March 25, 2024 reveals that the Plan Administrator (Focus Management Group, Inc.) and SBN V Ag I LLC uploaded a new Stipulation and proposed budget to extend the use of cash collateral. Docket 1968.

In the Stipulation the Plan Administrator and SBV address the use of cash collateral, but there is no outline of how the cash collateral will be used to complete the confirmed plan (confirmation order entered September 15, 2019; Dckt. 970). As reflected in the Civil Minutes from the last Post-Confirmation Status Conference conducted on January 25, 2024:

> At the Status Conference, counsel for the Plan Administrator reported that not a lot new to report at this point. The parties need to regroup on the Filbin Land and Cattle matters, with there being no resolution at this point in time.
>
> Counsel for the Plan Administrator requested the that the Status Conference be continued 6 months. Counsel for Creditor Summit and the continuance of the Status Conference.

Civ. Minutes; Dckt. 1961.

There were prior disputes concerning the asserted dissolution of the related entity Filbin Land and Cattle Co. (Though it does not appear to be in dispute as to who owns 100% of the member interest in Filbin Land and Cattle Co.)

As this Case is now in its Seventh (7th) Year of Existence and this Plan is now in its Sixth (6th) Year of Performance, it could well be that the court's attempts to insure that all parties prosecuting cases in good faith were not deprived of such opportunity (in Chapter 11, 12,13, and even 7 cases), created the appearance that the *status quo* would be the norm and that actually litigating disputes was not expected.

Under the extension provision of the previous stipulation (Docket 1947 at ¶ 3) between Plan Administrator and Summit, the terms surrounding the use of cash collateral have been extended by the terms of the new stipulation through June 30, 2024. Docket 1968 at ¶ 3.

The Motion for Authority to Use Cash Collateral was granted, and continued to 10:30 a.m. on June 27, 2024, to consider a Supplement to the Motion to extend the authorization to use cash collateral.

Supplemental Pleadings shall be filed by Movant two weeks prior to the continued hearing date.

June 27, 2024 Hearing

The court granted Focus Management Group, Inc., the duly appointed Plan Administrator ("Plan Administrator") authority to use cash collateral up and through June 30, 2024, in accordance with the proposed budget attached as Exhibit A to that Order. Order, Docket 1978. The court expressed concerns at the March 28, 2024 Hearing that the cash collateral was not being properly used in this case to move the case forward, the case now being in its seventh year of existence. Plan Administrator filed a Status Report with the court on June 13, 2024. Docket 1988. Plan Administrator requests the court continue the hearing on this Motion to July 18, 2024, as the parties are working on a proposed stipulation.

On June 20, 2024, Plan Administrator filed with the court its proposed Stipulation. Docket 1994. The Stipulation includes a new budget of Other Cash Collateral, defined in the Plan as "cash collateral (as defined by Section 363(a) of the Code) made available to the Reorganizing Debtor by Summit prior to or after the Effective Date, pursuant to a written cash collateral stipulation agreed to by Summit, which cash

collateral is subject to the Allowed Secured Claim of Summit" (Plan 8:3-6, Docket 860). Stipulation for Use of Cash Collateral; Dckt. 1994.

The proposed budget would be extended through September 30, 2024, including authorizing a property sale disbursement of $1,500,000 to SBN V AG I LLC ("Summit"), being heard in conjunction with this Motion.

July 18, 2024 Hearing

The court continued this hearing from June 27, 2024, to consider a Supplement to the Motion to extend the authorization to use cash collateral. The Cash Collateral Budget, for the period through September 30, 2024, was filed on was filed June 20, 2024, attached to the Stipulation for Use of Cash Collateral. Dckt. 1994. The court issued an order continuing the Stipulated Use of Cash Collateral to July 18, 2024.

At the July 18, 2024, the parties confirmed that they stipulated to the use of cash collateral through September 30, 2024, the end of the current budget, and requested a continued hearing so pleadings may be filed for further use of cash collateral.

Counsel for the Plan Administrator stated that while the budget provides for a $1.5 Million payment to Creditor, such payment shall be authorized by a separate order of the court. The order authorizing the used of cash collateral through September 30, 2024, shall include the statement of such further order being required.

The Motion for Authority to Use Cash Collateral is granted and the use of cash collateral is authorized as provided in the budget attached to the Stipulation for Use of Cash Collateral (Dckt. 1994) through September 30, 2024.

The hearing on the Motion is continued to 10:30 a.m. on September 19, 2024. Supplemental Pleadings shall be filed and served on or before September 12, 2024.

September 19, 2024 Hearing

The court continued this hearing from July 18, 2024, to consider a Supplement to the Motion to extend the authorization to use cash collateral. The Cash Collateral Budget, for the period through December 30, 2024, was filed on was filed September 12, 2024, attached to the Stipulation for Use of Cash Collateral. Dckt. 2019. The court issued an order continuing the Stipulated Use of Cash Collateral to September 30, 2024. Order, Docket 2014.

In reviewing the proposed Budget for September through December 2024, it appears that the vast majority of the expenses to be paid are the fees for the Plan Administrator, Plan Administrator's Attorney, the Plan Administrator's Accountant, and U.S. Trustee Fees. Exhibit A, Budget; Dckt. 2019.

There is no income or "cash-in" being generated for the Plan Estate, other than a $200,000 carve out for distribution to creditors holding general unsecured claim from a $1,500,000 payment made to Summit on its secured claim.

The proposed Budget running through December 2024, has an additional column after December, which is titled "Funeral Expense 13th Month." *Id*. These have been previously identified final expenses to be paid in the month the Plan is concluded.

The Motion for Authority to Use Cash Collateral is granted and the use of cash collateral is authorized as provided in the budget attached to the Stipulation for Use of Cash Collateral (Dckt. 2019) through December 31, 2024.

The hearing on the Motion is continued to 10:30 a.m. on January 16, 2025. Supplemental Pleadings shall be filed and served on or before January 7, 2025.

January 30, 2025 Hearing

The court continued the hearing on this Motion, having previously granted the use of cash collateral through December 31, 2024. Order, Docket 2026. On January 15, 2025, Plan Administrator filed a Stipulation to extend the use of cash collateral. Docket 2073. Under the extension provision of the previous stipulation (Stipulation ¶ 3, Docket 2019) between Plan Administrator and Summit, the terms surrounding the use of cash collateral have been extended by the terms of the new stipulation through March 31, 2025. Stipulation ¶ 3, Docket 2073.

The Motion is granted and the use of cash collateral is authorized on the terms and conditions of the Stipulation (Dckt. 2073).

Counsel for the Plan Administrator shall prepare an order granting the Motion consistent with the Ruling above, and lodge the proposed order with the Court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Use of Cash Collateral filed by Focus Management Group, Inc., the Plan Administrator ("Plan Administrator") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion is granted for the period through March 31, 2025, through June 30, 2025, and **Counsel for the Plan Administrator shall prepare an order granting the Motion consistent with the Ruling as stated in the Civil Minutes and lodge the proposed order with the Court.**

3. 25-90033-E-7 APRIL CERVANTEZ
NF-1 Pro Se

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC. 341(A) MEETING OF CREDITORS
2-26-25 [15]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on February 28, 2025. By the court's calculation, 34 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

The Motion to Dismiss is xxxxxxx.

The Chapter 7 Trustee, Nikki B. Farris ("Trustee"), seeks dismissal of the case on the grounds that April Alberta Cervantez ("Debtor") did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341.

Alternatively, if Debtor's case is not dismissed, Trustee requests that the deadline to object to Debtor's discharge and the deadline to file motions for abuse, other than presumed abuse, be extended to sixty days after the date of Debtor's next scheduled Meeting of Creditors, which is set for 8:00 a.m. on March 25, 2025. If Debtor fails to appear at the continued Meeting of Creditors, Trustee requests that the case be dismissed without further hearing.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on March 10, 2025. Dckt. 17. Debtor does not state any reasons in support of her opposition.

At the hearing, xxxxxxx

DISCUSSION

Debtor did not appear at the Meeting of Creditor's. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 707(a)(1).

Debtor opposes the Motion. At the hearing, xxxxxxx

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion to Dismiss the Chapter 7 case filed by The Chapter 7 Trustee, Nikki B. Farris ("Trustee"), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion to Dismiss is **xxxxxxx**.

IT IS FURTHER ORDERED that the Deadlines for ~~commencing proceedings for:~~

~~• denial of a discharge under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7),~~

~~or~~

~~• to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).~~

~~• that the discharge should be denied under § 727(a)(8) or (9),~~

~~and each of them are extended to and including~~ ~~**May xxxxxxx**~~ ~~, 2025~~

4.	**24-90741-E-11 BM-3**	**MID VALLEY NUT COMPANY INC. Robert Harris**	**MOTION FOR AUTHORITY TO ENTER INTO SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT AND/OR MOTION TO USE CASH COLLATERAL , MOTION FOR ADEQUATE PROTECTION**
	Items 4 thru 5		**3-20-25 [60**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession's Attorney, creditors holding the twenty largest unsecured claims, creditors, parties requesting special notice, and Office of the United States Trustee on March 20, 2025. By the court's calculation, 14 days' notice was provided. 14 days' notice is required. FED. R. BANKR. P. 4001(b)(2) (requiring fourteen days' notice).

The Motion for Authority to Enter into Subordination, Nondisturbance and Attornment Agreement, Use Cash Collateral and Adequate Protection was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor in Possession, creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, **----------**.

The Motion for Authority to Enter into Subordination, Nondisturbance and Attornment Agreement, Use Cash Collateral and Adequate Protection is granted.

Mid Valley Nut Company Inc. ("Debtor in Possession") moves for an order approving the use of cash collateral generated from the assets of the Estate, including: (a) equipment for processing walnuts; (b) the buildings in which the Debtor operated; and (c) a 50% membership interest in MW, LLC, the other half of which is owned by World Food Products, Inc. ("WFP"). By the same Motion Debtor in Possession requests the court authorize a subordination agreement and a nondisturbance and attornment agreement ("Agreement"). The Agreement is included as Exhibit H, Docket 63.

The following liens and their priorities are disclosed in the Motion:

Lender	Date	Loan No.	Principal Balance	Priority
Yosemite Land Bank	July 5, 2013	5260094100	$4,739,282	First
Yosemite Land Bank	March 19, 2019	5281830100	$2,845,757	First
Small Business Administration ("SBA")	July 26, 2020	8554868108	$157,822 (includes interest)	Second

Mot. 3:21-27. Debtor in Possession requests the use of cash collateral in the following manner:

> (a) from rent due in March, 2025, the Debtor is authorized to use $10,078.01 to pay insurance premiums and up to $1,500 to pay the costs of advertising the eventual hearing and opportunity for overbid on the contemplated sale of most of the Debtor's assets; and (b) from rent due in April, 2025, the Debtor is authorized to use $8,934.81 to pay insurance premiums. . . As adequate protection, all additional rent shall be paid to Yosemite Land Bank, FLCA ("Yosemite").

Proposed Order 4:8-15, Ex. A, Docket 64. The requested use of cash collateral is only through April 30, 2025.

Debtor in Possession explains that the Agreement was fully executed on February 11, 2025, before the order for relief was entered, by the Debtor, Yosemite, and WFP. WFP is the lessor of the subject collateral of the estate, paying $50,400 per month, which is cash collateral for Yosemite's claims. The terms of the Agreement include:

> Section 1.1 of the Agreement provides that the Lease shall be subordinate to Yosemite's liens. Sections 3.1 through 3.3 of the Lease provide for attornment of the Lease in the event of foreclosure. Sections 2.1 through 2.5 of the Lease provides that Yosemite's exercise of its rights under the loan document shall not disturb the Lease so long as WFP is not in default. In particular, Section 2.2.3 of the Lease provides that WFP shall pay the Rent to Yosemite. Section 12.9 of the Lease provides that it is subject to approval of the Court.

Debtor in Possession proposes that the cash collateral be approved with a 10% variance in each category and that remaining funds be retained by Debtor in Possession.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves as the trustee in the Chapter 11 case when so qualified under 11 U.S.C. § 322. As a debtor in possession, the debtor in possession can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless–

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease–

(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b)(2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

11 U.S.C. § 510 governs subordination agreements and states:

(a)A subordination agreement is enforceable in a case under this title to the same extent that such agreement is enforceable under applicable nonbankruptcy law.

(b)For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security, except that if such security is common stock, such claim has the same priority as common stock.

(c)Notwithstanding subsections (a) and (b) of this section, after notice and a hearing, the court may—

> (1)under principles of equitable subordination, subordinate for purposes of distribution all or part of an allowed claim to all or part of another allowed claim or all or part of an allowed interest to all or part of another allowed interest; or
>
> (2)order that any lien securing such a subordinated claim be transferred to the estate.

Collier's treatise states on the subject:

> Subordination agreements may be entered into prepetition or postpetition. They arise in ordinary business situations. For example, debenture holders routinely agree to subordinate their claims to the claims of a company's working capital lender. Also, creditors may agree to subordinate their claims in a rehabilitation effort in the hope of eventual full payment. In that case, they may enter into a subordination agreement with a prospective lender in which the creditors agree that the lender will be paid prior to their own claims in the event of the debtor's liquidation or reorganization. Similarly, stockholders, directors or officers of a corporate debtor may secure an extension of time for the payment of a creditor's debt in return for their agreement to subordinate their own claims to those of the creditor granting the extension. Bankruptcy courts have jurisdiction to enforce these inter-creditor agreements and to determine disputes regarding subordination agreements where an equitable resolution of the broader bankruptcy case cannot be achieved without a resolution of the inter-creditor dispute.

4 COLLIER ON BANKRUPTCY ¶ 510.03[1].

DISCUSSION

Debtor in Possession has shown that the proposed use of cash collateral is in the best interest of the Estate. The proposed use provides for Debtor in Possession operating the Estate post-petition while the sale of the assets of the estate can be completed. The proposed use also provides adequate protection to secured creditors SBA and Yosemite. Yosemite and SBA having an interest in the cash collateral are given replacement liens in the post-petition proceeds in the same priority, validity, and extent as they existed in the cash collateral expended, to the extent that the use of cash collateral resulted in a reduction of a creditor's secured claim.

The court further approves the Agreement at Exhibit A, Docket 64. The parties have structured this reorganization to provide that WPT will remain in possession of the Lease in the event another party assumes the role of lessor, and the Agreement further confirms WPT's claim as lessee is subordinate to Yosemite's claim.

The Motion is granted, and Debtor in Possession is authorized to use the cash collateral for the period March 1, 2025, through April 30, 2025, including required adequate protection payments. The court does not pre-judge and authorize the use of any monies for "plan payments" or use of any "profit" by Debtor in Possession. All surplus cash collateral from the subject property is to be held in a cash collateral account and accounted for separately by Debtor in Possession.

The court continues the hearing to **xxxxxxx**, for Debtor in Possession to file a Supplement to the Motion to extend authorization. That Supplement is due by **xxxxxxx**, with any opposition to be presented orally at the continued hearing.

Counsel for the Debtor in Possession shall prepare an order granting the Motion consistent with the Ruling above, and lodge the proposed order with the Court.

5. 24-90741-E-11 MID VALLEY NUT COMPANY INC.
Robert Harris
ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-5-25 [37]

Final Ruling: No appearance at the April 3, 2025 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, and Debtor's Attorney, as stated on the Certificate of Service on March 7, 2025. The court computes that 27 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: $922.00 due on February 18, 2025.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

6.	**20-90349-E-11** **CAE-1**	**R. MILLENNIUM TRANSPORT, INC.**	**CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION** **5-15-20 [1]**

Item 6 thru 7

Debtor's Atty: David C. Johnston

Notes:
Continued from 3/13/25 to be conducted in conjunction with the continued hearing on the Motion to Covert or Dismiss this case.

[RHS-2] Order to Appear filed 3/17/25 [Dckt 283]

The Status Conference is xxxxxxx

APRIL 3, 2025 STATUS CONFERENCE

At the Status Conference, **xxxxxxx**

7.	**20-90349-E-11 UST-2**	**R. MILLENNIUM TRANSPORT, INC. David Johnston**	**CONTINUED MOTION TO CONVERT CASE FROM CHAPTER 11 TO CHAPTER 7 , MOTION TO DISMISS CASE 2-13-25 [272]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 13, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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

The Motion to Dismiss Case is xxxxxxx.

April 3, 2025 Hearing

The court continued the hearing to afford the responsible representatives of Debtor in Possession to appear and contest the conversion, which the court conditionally granted at the prior hearing. A review of the Docket on April 1, 2025 reveals nothing new has been filed with the court.

At the hearing, **xxxxxxx**

REVIEW OF MOTION

The United States Trustee, Tracy Davis ("U.S. Trustee"), seeks dismissal of the case on the basis that:

1. The debtor in possession, R. Millennium Transport, Inc. ("Debtor in Possession"), is delinquent on its payments to its creditors since they first came due in 2021. As Debtor in Possession failed to make payments in

> accordance with the confirmed Plan, cause exists to dismiss the case. Mot. 2:1-2, Docket 272.

U.S. Trustee submitted the Declaration of Cecilia Jimenez to authenticate the facts alleged in the Motion. Decl., Docket 275.

APPLICABLE LAW

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

> [O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under sections 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

And under 11 U.S.C. § 1112(b)(1)(4)(N) the court may grant conversion or dismissal if there is a "material default by the debtor with respect to a confirmed plan." Although the term "material default" is not defined in the Bankruptcy Code, the Ninth Circuit has held that a failure "to make required plan payments can be a material default . . . even if the debtor has made payments for an extended period before the default or taken other significant steps to perform the plan." *In re Baroni*, 36 F. 4th 958, 967 (9th Cir. 2022). That does not mean however, that "*every* missed payment is a material default." *Id.* The court in *Baroni* explained that the missed payment must be "significant" or "essential." *Id.* Indeed, a missed payment can be "so minimal in context that it cannot fairly be characterized as a *material* default." *Id.* Thus, courts look at factors relevant to whether a missed payment is a material default. *Id.* Such factors include "the number of missed payments, the number of aggrieved creditors, and how long the default occurred." *Id.*

> Collier's Treatise states on the subject:
>
> Although the Code does not define the term material, the failure to make payments when due under the plan can constitute a material default.

7 COLLIER ON BANKRUPTCY ¶ 1112.04[5][n].

DISCUSSION

Material Default

According to U.S. Trustee, Debtor in Possession did not make any payments to its creditors as required by the confirmed plan since they first came due in 2021.

Debtor in Possession has not made any payments for the past 4 years, which is a significant default. And the default, according to U.S. Trustee, has been continuous and ongoing since the plan was confirmed. No party in interest has opposed the Motion. Taking the *Baroni* factors into consideration, the court finds that cause exists to dismiss this case pursuant to 11 U.S.C. § 1112(b).

Confirmed Amended Subchapter V Plan

The court has confirmed the Debtor/Debtor in Possession's Amended Subchapter V Plan. Order with Amended Plan attached; Dckt. 133. The Amended Chapter 13 Plan states that the Debtor, as Plan Administrator, will have monthly disposable income well in excess of the $24,200 month Plan payment. Amended Plan, p. 3:-14; Dckt. 133.

Class 11 of the Amended Subchapter V Plan provides for payment of non-insider general unsecured claims as follows:

> Class 11 - Non-priority unsecured claims held by non-insiders. Impaired. Class 11 is impaired but will be paid in full, with interest at 5% per annum from the petition date, with payments of $2,320 per month, commencing February 1, 2021, and continuing for 60 months or until paid, whichever comes first.

Id.; p. 6:22-25.

As stated above, the general unsecured claims will be paid in full, with 5% interest, with the first payment commencing on February 1, 2021.

The grounds stated in the Motion include that the Reorganized Debtor has failed to make such payments to creditors with general unsecured claims. Motion, p. 1:3-2:2; Dckt. 272. The Memorandum of Points and Authorities in support of the Motion directs the court to the transcript for 2004 Examination of Surjit Malhi, president and one of the Responsible Representatives of the Debtor/Debtor in Possession, in which Surjit Malhi has not paid two creditors with general unsecured claims: Gina Windorski, who filed Proof of Claim 2-1 in the amount of $68,187.09, and Jacob Price, who filed Proof of Claim 3-1 in the amount of $21,889.12. Memorandum, ¶¶ 7, 13-14. Dckt. 274.

In the Memorandum Movant makes reference to the Debtor/Debtor in Possession having filed objections to these two claims, and the court overruling those objections to claims. *Id*.; ¶¶ 7, 8.

November 18, 2024 2004 Exam of Debtor/Debtor in Possession
Responsible Representative Surjit Malhi

On November 18, 2024, the U.S. Trustee conducted a post-confirmation 2004 Examination of Surjit Malhi, the president and a Responsible Representative of the Debtor/Debtor in Possession. Going to the 2004 Examination Transcript, Surjit Malhi, the president and Responsible Representative of the Debtor/Debtor in Possession testified to knowing of these claims, knowing that the court ordered them to be paid, and then knowingly and intentionally not paying them, including the following testimony:

> Q. Did you pay any amount to Gina Windorski?

A. No, I did not pay, because they steal the money. They get approved in the court. I don't know why I have to pay them. I paid them. Whatever the work done, I paid them.

They steal the money from the company and they get -- we went to the court, and then I win the case. Why? What's going on? Is it USA or India? What's going on, man?

Q. Sir, that's -- you need to raise that with your counsel and the bankruptcy court.

My understanding is that the bankruptcy court ruled that you had to pay that amount of money.

A. No. She has to pay me because she steal they steal the check and then, you know, and then cash the check.

Q. So, sir, did you know that the Court ordered you to pay Ms. Windorski's claim?

A. Yeah. I didn't pay her.

Q. But did you know that the bankruptcy court had ordered you?

A. Yeah. I know I talked to my lawyer. He told me. But, man, I mean, I don't know what's going on.

p. 14:25-15:22; Exhibit 1, Dckt. 276 (page number references are to the transcript page numbers).

Q. Next, did you pay Jacob Price?

A. No.

Q. And why not?

A. Because they both steal the money and then I win the case in the court. They got proved guilty.

Id.; p. 16:3-7.

The above testimony in the 2004 Examination is very clear that Surjit Malhi, the president and a Responsible Representative of the Debtor/Debtor in Possession, with fiduciary duties running to the Bankruptcy Estate and Plan Estate, clearly knew that the general unsecured claims were allowed by the court and ordered to be paid.

Though having actual, personal knowledge of the court's order and confirmed plan, Surjit Malhi says that he knowing defied the court's order and confirmed Amended Plan because he did not want to pay them - regardless of what Federal Law required.

Objection to Claim Proceedings

The Debtor/Debtor in Possession filed an Objection to the Claim of Gina Windorski on January 26, 2022. Dckt. 151. In a detailed Civil Minutes for the March 24, 2022 hearing on the Objection to Claim, the court provides twelve pages of detailed analysis of the law and facts, concluding that the Debtor/Debtor in Possession's objection was without merit.

In overruling the Objection, the court's order expressly authorized the Debtor/Debtor in Possession to offset a smaller monetary obligation owed by Ms. Windorski against the larger Claim in Bankruptcy owed by the Debtor to Ms. Windorski, stating:

> **IT IS ORDERED** that the Objection to Proof of Claim Number 2-1 of Gina Windorski, Creditor, is overruled. The Bankruptcy Trustee may offset against the Claim the obligation owed by Creditor pursuant to the small claims judgment in Stanislaus Superior Court, Turlock Division, Case No. SC-20-000548, *R. Millennium Transport, Inc. v. Gina Windorski, Jacob Price*.

Order; Dckt. 170.

With respect to the Objection to the Claim of Jacob Price, Dckt. 154, the a parallel twelve page Civil Minutes concluding that the Objection was without merit. Civ. Minutes; Dckt. 166. (As can be seen from the order language above, the state court judgment obtained by the Debtor was in one small claims action against both Gina Windorski and Jacob Price.)

The court's order overruling the Objection to the Jacob Price Claim included the same express language allowing the Debtor/Debtor in Possession to offset the smaller state court judgment obligation against Mr. Price against the much larger Claim of Mr. Price in the Bankruptcy Case.

Failure to Comply With Prior Order of the Court.

As the failure of the Debtor/Debtor in Possession, and Surjit Malhi and Rajwant K. Malhi as the Responsible Representatives of the Debtor/Debtor in Possession, all of whom owe fiduciary duties to the Bankruptcy Estate and Plan Estate, developed, the court issued an Order requiring Surjit Malhi and Rajwant K. Malhi, and each of them to appear in person at all further hearings, status conferences, and other proceedings in this Bankruptcy Case - No Telephonic Appearances Permitted. June 28, 2024 and August 15, 2024 Orders; Dckts. 246, 261.

As stated in the Court's June 28, 2024 Order (Dckt. 246), and then the August 15, 2024 Orders (Dckts. 261, 262) when the Responsible Representative failed to appear at the August 8, 2024 continued Status Conference, the Debtor/Debtor in Possession and its Responsible Representatives were not only failing to pay the above two unsecured claims, but were making payments outside of the terms of the confirmed Amended Subchapter V Plan to chosen creditors with secured claims. The Debtor/Debtor in Possession and the two Responsible Representative were diverting Plan payments around the Subchapter V Trustee and choosing what creditors they wanted to pay directly. *Id*.

The Responsible Representative were knowingly and intentionally violating the terms of the Debtor/Debtor in Possession's confirmed Amended Subchapter V Plan and flaunting Federal Law.

Factors Warranting Conversion to Chapter 7

The U.S. Trustee does not provide a recommendation as to whether this case should be converted or dismissed. The U.S. Trustee makes reference to the two claims not being paid, knowingly in violation of the confirmed Plan, this court's two order, and Federal Law.

In reviewing this file, the court concludes that conversion to Chapter 7 is not only proper, but necessary due to the violations of the confirmed Amended Subchapter V Plan and flaunting of Federal law by the Debtor/Debtor in Possession and its two Responsible Representatives.

The business in this Bankruptcy Case is clearly generating substantial revenues and it a business for the Chapter 7 Trustee to administer - whether by maintaining its operation or shutting the business down and selling off its assets to satisfy all claims in full, including interest.

For example, under the confirmed Amended Subchapter V Plan the Debtor/Debtor in Possession had sufficient operating proceeds to be paying a monthly plan payment in excess of the $24,200. The Debtor/Debtor in Possession and its Responsible Representative have been operating a vibrant and highly profitable business.

When this Subchapter V case was filed, Debtor's Amended Schedule A/B listed assets in excess of $1,798,773. Dckt. 61. These assets include:

A. Oak Valley Community Bank Checking 3968: $93,533.00;

B. Advances to drivers to cover expenses: $15,000.00;

C. Accounts receivable: $271,230.00;

D. Office equipment, including all computer equipment and communication systems equipment and software Peoplenet fleet tracking equipment: $27,475.00;

E. 4 x 2013 refrigerator vans, 3 x 2018 Great Dane refrigerator vans, and 2016 Freightliner truck: $260,000.00;

F. 3 x 2012 Utility vans: $96,000.00;

G. 4 x 2016 Great Dane refrigerator vans: $160,000.00;

H. 2 x 2016 Western Star trucks and 2 2018 Great Dane refrigerated vans: $210,000.00;

I. 5 x 2013 and 2014 refrigerator vans: $150,000.00;

J. 2 x 2016 Dodge Ram pickups (2500 worth $42,000 and 1500 worth $34,000): $76,000.00;

K. 2 x 2016 Western Star trucks: $130,000.00;

L. 3 Freightliner Cascadia trucks: $219,535.00;

M. 3 x 2018 Great Dane trailers: $90,000.00;

N. Claims and counterclaims against Gina Windorski and Jacob Price: value not scheduled; and

O. Claims against West Coast Business Capital LLC and Expansion Capital Group for preferential transfers under 11 U.S.C. § 547: value not scheduled.

Dckt. 61. The Debtor/Debtor in Possession has now been operating profitably for four years, paying off all of its debt, except the two former employee creditors that the Debtor/Debtor in Possession and its Responsible representative have knowingly and intentionally not paid, notwithstanding the terms of the Amended Subchapter V Plan, the orders of this Court, and Federal Law, including the Bankruptcy Code. It is likely that a Chapter 7 Trustee would have substantially more assets to administer to pay the claims of the two intentionally unpaid former employee Claimants.

CONTINUATION OF HEARING AND ORDER FOR RESPONSIBLE REPRESENTATIVES, AND EACH OF THEM, TO APPEAR IN PERSON AT THE CONTINUED HEARING

Based on the intentional and willful conduct of the Debtor/Debtor in Possession and its two Responsible Representatives, and there being no opposition to this Motion, the court could readily and easily convert this Bankruptcy Case to one under Chapter 7. If so converted, the Chapter 7 Trustee would proceed with the liquidation of the Debtor's assets to pay creditors' claims. The Chapter 7 Trustee could choose to sell the business it self, pay the remaining claims, and then pay Bankruptcy Estate income taxes on such sales proceeds, with the remaining surplus amounts (after being greatly reduced by the State and Federal income taxes, and the Chapter 7 Trustee's fees, which are based on a percentage amount of the monies disbursed to creditors, secured and unsecured, and for administrative expenses of the Bankruptcy Estate) the Debtor and its Responsible Representative (who are the Debtor's only shareholders).

Or the Chapter 7 Trustee may choose to shut down the business and then liquidate select assets of the business, pay creditor claims, pay the State and Federal Taxes, pay the Chapter 7 Trustee fees and other administrative expenses, and then turnover to the Debtor the remaining assets (for which there is no longer an operating business).

It appears that the Responsible Representatives are refusing to comply with the terms of the confirmed Amended Subchapter V Plan, the orders of this Court, and Federal Law, including the Bankruptcy Code, based on their belief in what the "moral law" should be. The Debtor/Debtor in Possession, the Responsible Representative, creditors, and judges are bound by the laws as written and decisions of the Supreme Court and Appellate Courts. None of them get to make up their own "moral laws" and unilaterally impose them on other parties.

Here, the Debtor obtained a small claims judgments against the two former employee Claimants. The Small Claims Judgment against Gina Windorski and Jacob Price is for $3,550.00, which was entered

on September 18, 2020. Exhibit C, Notice of Entry of Judgment, Dckt. 153; Exhibit D, Notice of Entry of Judgment, Dckt. 156 (the same Small Claims Judgment being filed as an exhibit to each of the two objections to claims).

The Amended Subchapter V Plan provides for the payment of 5% interest, commencing February 1, 2021, on the general unsecured claims, which include the claims of Gina Windorski (Proof of Claim 2-1) for $68,187.09, and Jacob Price (Proof of Claim 3-1) for $21,889.12. Confirmed Amended Subchapter V Plan, ¶ 11; Attachment to Order Confirming Plan, Dckt. 133. If the $3,550.00 judgment entered against Gina Windorski and Jacob Price is divided equally between them, that would be the sum of $1,775.00 that each of them owed to the Debtor. [Fn.1.]

FN. 1. Reviewing the respective Attachments to Proof of Claim 2-1 and Proof of Claim 3-1, the State Department of Labor Notice of Claim which states the amount claimed by each of the Claimants, does not take into account the Small Claims Judgment offset.

Providing the $1,775.00 owed by each of the former employee Claimants as an immediate offset against their respective claims against the Debtor and then computing the 5% per annum interest on the remaining balance of each claim, would produce the following results:

	Gina Windorski Claim	**Jacob Price Claim**
	$68,187.00	$21,889.12
Offset for 50% each of Debtor's Small Claims Court Judgment of $3,550.00	($1,775.00)	($1,775.00)
Net Claim Amount to be paid with 5% interest commencing February 1, 2021.	$66,412.00	$20,114.12
Simple Interest February 1, 2021 through January 31, 2022	$3,310.60	$1,005.70
Simple Interest February 1, 2022 through January 31, 2023	$3,310.60	$1,005.70
Simple Interest February 1, 2023 through January 31, 2024	$3,310.60	$1,005.70
Simple Interest February 1, 2024 through January 31, 2025	$3,310.60	$1,005.70
Simple Interest February 1, 2025 through March 31, 2025 (2 months at $275.84 and $83.81, respectively, on the two Claims).	$551.68	$167.62
	==========	==========

Projected April 3, 2025 Hearing Date Amount of Each Claim to be Paid.	$80,206.08	$24,304.54

The court does not make the above computation as a finding of fact or conclusion of law, but provides it to assist the Debtor/Debtor in Possession, its Responsible Representatives, and counsel for the Debtor/Debtor in Possession in computing the amount, identifying any reasons for a different amount, and to demonstrate the cost to the Debtor/Debtor in Possession and its Responsible Representative if refusing to perform the confirmed Amended Subchapter V Plan and complying with the orders of the court and Federal Law.

While the court believes that the two Responsible Representatives are convinced that their "moral laws" should control over the confirmed Amended Subchapter V Plan, orders of this court, and Federal Law, including the Bankruptcy Code, they do not. This appears to have cost the Debtor/Debtor in Possession, and ultimately its shareholders (the two Responsible Representative) $17,984.50 by not having yet made the payments on the two Bankruptcy Claims (POC 2-1 and POC 3-1).

The Responsible Representative failing to perform the confirmed Amended Subchapter V Plan and complying with the orders of this court and Federal Law, including the Bankruptcy Code, and having this court convert the case to one under Chapter 7 will cost them substantially more, including possibly having the Debtor/Debtor in Possession's business sold to a third-party or shut down and liquidated.

The court does not want to have such a result occur and affords (and requires) the two Responsible Representatives a final opportunity to appear in court, present in open court the cashiers' checks, or other certified funds drawn on a federally insured bank or savings and loan with physical branches in California, to pay the respective claims of Gina Windorski and Jacob Price in full, to deliver the cashier's checks or certified funds to the Subchapter V Trustee if he is in court or deliver them to the counsel for the Debtor/Debtor in Possession (who will be ordered to immediately deliver them to the Subchapter V Trustee), and demonstrate to the court that they are able to finish performing the confirmed Amended Subchapter V Plan, including the payment of all remaining claims and administrative expenses, including the Subchapter V Trustee's allowed fees and expenses.

Therefore, in addition to continuing this hearing, the court also will order Rajwant K. Malhi and Surjit Malhi, and each of them, as the Responsible Representatives of the Debtor/Debtor in Possession, to appear in person at the continued hearing on 10:30 a.m. on April 3, 2025 – **NO TELEPHONIC APPEARANCES PERMITTED**.

The hearing on the Motion to Dismiss is continued to 10:30 a.m. on April 3, 2025.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion To Dismiss or Convert filed by United States Trustee, Tracy Davis ("U.S. Trustee") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is **XXXXXXX**.

8. 10-92283-E-7 SERGIO/GENOVEVA MONTOYA
Pro Se
MOTION FOR PAYMENT OF UNCLAIMED FUNDS IN THE AMOUNT OF $146,317.73 WITH SERGIO MONTOYA
2-5-25 [90]

CASE CLOSED: 01/23/25

Sergio Montoya ("Debtor") moves the court for payment of unclaimed funds in this case in the amount of $146,317.73. Docket 90. According to the Chapter 7 Trustee's Final Account and Distribution Report, Docket 85, Debtor is entitled to the funds in this exact amount. Indeed, the Report shows the amount of $146,317.73 as "Surplus Funds Paid to Debtor 726(a)(6) (includes Payments to shareholders and limited partners)." Ex. 2 to Final Account, at 3, Docket 85. The same Report also shows that that amount was paid to the United States Bankruptcy Court, and so Debtor is now requesting those funds be paid to him.

The funds were not automatically disbursed as the Clerk of the Court needed to verify that co-debtor, Genoveva Montoya, also signed off on this Application. *See* Notice of Deficiency, Docket 91. Debtor Sergio Montoya has submitted a death certificate for his late wife to show that it is now only he who is entitled to claim the funds, his wife having passed away on September 7, 2014. *See* Certification of Vital Records at 2, Docket 93.

Debtor has presented evidence he is entitled to the funds. Debtor has submitted documentation to verify his identity is Sergio Montoya. Application for Unclaimed Funds at 7, Docket 90. Therefore, the Motion is granted, and the Clerk of the Court is ordered to pay Sergio Montoya unclaimed funds in the amount of $146,317.73.

ORDER FOR PAYMENT OF UNCLAIMED FUNDS

This matter comes before the Court pursuant to 11 U.S.C. §347(a), 28 U.S.C. §2042, and the application of Sergio Montoya, seeking payment of funds previously unclaimed in the above-entitled case. It appears from the application and supporting documentation that Sergio Montoya is entitled to the funds paid into Court.

Therefore,

IT IS ORDERED that the Clerk is directed to pay $146,317.73 from the unclaimed funds held by the Clerk of the Court to:

Sergio Montoya

The funds may be disbursed only after 14 calendar days from the entry of this court's order to allow for the appeal period to pass.

FINAL RULINGS

9.	**24-90693-E-7** **SSH-1**	**WILLIAM/SARA AMERSON** **Simran Hundal**	**CONTINUED MOTION TO AVOID LIEN OF BEACON SALES ACQUISITION, INC.** **1-29-25 [16]**

Final Ruling: No appearance at the April 3, 2025 hearing is required.

William Howard Amerson and Sara Nicole Amerson having filed a Notice of Dismissal, Dckt. 27, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Motion to Avoid Lien was dismissed without prejudice, and the matter is removed from the calendar.**