

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Modesto, California

April 6, 2023 at 10:30 a.m.

1. [22-90420-E-7](#)
[MJD-1](#)

ROBERT MERRICK
Gary Fraley

**MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR
3-12-23 [\[33\]](#)**

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, Debtor's Attorney, Chapter 7 Trustee, Trustee's Attorney, creditors, parties requesting special notice, and Office of the United States Trustee on March 12, 2023. By the court's calculation, 25 days' notice was provided. 14 days' notice is required.

The Motion to Extend Deadline to File a Complaint Objecting to Discharge was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, 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, -----.

<p>The Motion to Extend Deadline to File a Complaint Objecting to Discharge is XXXXXX.</p>
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Steve Savickas and Kristie Purdy, Creditors, (“Movant”) moves to extend the deadline to file a complaint objecting to Robert Allen Merrick’s (“Debtor”) discharge because:

1. Debtor filed a skeletal petition and did not file completed schedules or the statement of financial affairs until December 20, 2022.
2. The original § 341(a) meeting of creditors was scheduled for December 8, 2022, however, multiple delays on behalf of Debtor caused the § 341(a) meeting to be continued multiple times and occur and complete on February 16, 2023.
3. Movant has information and reason to believe there are additional assets in Debtor’s possession that were not disclosed in Debtor’s schedules, including:
 - a. Gold and silver silverware;
 - b. Dozens of gold bars;
 - c. Coin collection;
 - d. Diamond and Ruby tennis bracelet; and
 - e. 18 carat gold bracelet.
4. Movant has been trying to obtain counsel to prepare an objection to discharge, but as of the date of the Motion, have not been able to do so.

The court notes, the Motion was filed by attorney Matthew DeCaminada. If appears, for limited purposes of this Motion, Movant has obtained representation.

5. Movant is currently attempting to gain access to the location of the items.

DISCUSSION

The deadline for filing a complaint objecting to discharge was sixty (60) days after the first date set for the meeting of creditors. Federal Rules of Bankruptcy Procedure 4004(a). In the current case, this would be sixty (60) days after December 8, 2022. By stipulation, Movant and Debtor extended the deadline to object to March 13, 2023. Dckt. 29. The Motion requests that the deadline to object to Debtor’s discharge be extended to April 28, 2023.

The court may, on motion and after a noticed hearing, extend the time for objecting to the entry of discharge for cause. FED. R. BANKR. P. 4004(b)(1). The court may extend that deadline where the request for the extension of time was filed prior to the expiration of time for objection. *Id.*

In a motion to extend deadline, just as any other proceeding, the moving party must offer evidence to support its position. 9 Collier on Bankruptcy P 4004.03 (16th 2023). If a party has sufficient notice and information to file an objection in time, no extension is appropriate, especially if the moving party

has made no attempts at discovery during the time available to it. *Id.*; *Bywaters v. Alhuneidi*, No. 4:21-cv-636-JDK, 2022 U.S. Dist. LEXIS 11574, at *4 (E.D. Tex. Jan. 21, 2022) (“While a delay in finalizing the meeting of creditors may constitute cause for an extension, it does not always justify an extension. Especially where, as here, Appellant failed to timely conduct any other discovery.”).

As the Eastern District of California United Bankruptcy Court has discussed before:

The moving party has the burden of proof to show cause to extend the time for matters relating to the debtor's discharge. *See In re Stonham*, 317 B.R. 544, 547 (Bankr. D.Colo. 2004) (interpreting the "for cause" exception in Rule 4007(c) which limits the time to file a dischargeability complaint). The same standard has been applied to motions for additional time under Rule 1017(e)(1). *Molitor*, 395 B.R. at 205. The movant's burden of proof cannot be "satisfied with only a scintilla of evidence." *Stonham*, 317 B.R. at 547. The movant seeking an extension of time for cause must "establish at least a reasonable degree of due diligence to be accorded the requested extension." *Molitor*, 395 B.R. at 205 (citing *Stonham*, 317 B.R. at 547).

In re Bomarito, 448 B.R. 242, 248 (Bankr. E.D. Cal. 2011).

The instant Motion was filed on March 12, 2023, one day before the deadline. *See* Stipulation to Extend Deadline, Dckt. 28.

Debtor's completed schedules and statement of financial affairs were filed on December 20, 2022. Dckt. 22. When review of Movant's Declaration, much of which appears to be a copy and paste of the Motion (with minor changes), Movant admits they were able to review the schedules late December. Declaration, Dckt. 35 ¶ 2. Movant also admits that they attended the meeting of creditors “in an attempt to gather information from the Debtor concerning additional assets [they] believe he is in possession of.” *Id.* ¶ 5.

Movant has not adequately explained why they have been unable to find counsel after over three months of the completed schedules and statement of financial affairs being filed. If Movant knew of these additional assets when reviewing Debtor's Schedules in late-December, it appears Movant had sufficient notice and information to move forward with discovery surrounding these assets and time to timely file an objection to discharge.

Even if the court were to find Movant has diligently made discovery attempts regarding the undisclosed assets, Movant has not provided adequate evidence to support their knowledge of the additional assets. As far of personal knowledge testimony to establish Movant's knowledge of the undisclosed assets, Movant's Declaration states:

We attended the fourth continued meeting of creditors with the trustee on February 16th in an attempt to gather information from the Debtor concerning additional assets that we believe he is in possession of. Declaration, Dckt. 35 ¶ 5.

At the meeting, the Debtor was elusive in answering our questions regarding the additional assets. *Id.*

After the meeting of creditors was held we had information and reason to believe that there are additional assets that Debtor is in possession of that were not disclosed in Debtor's schedules *Id.* ¶ 6.

Movant does not indicate how they know of the undisclosed assets. Rather, Movant provides the court with testimony based on "information and belief." That declaration is the testimony of a witness presented in writing in lieu of the witness being put on the stand. Non-expert witness testimony must be based on the personal knowledge of the witness. Fed. R. Evid. 602.

The testimony falls short of providing the court with credible evidence of why Movant believes Debtor is in possession of the assets.

Here, Movant has not provided evidence as to why they believe Debtor is in the possession of undisclosed assets. Without this evidence, the court does not find reason to extend the deadline for filing a complaint.

At the hearing, ~~XXXXXXXXXX~~

~~The court finds that in the interest of Movant to complete investigation, namely continuing to gather all necessary financial information about Debtor's assets, there is sufficient cause to justify an extension of the deadline. Therefore, the Motion is granted, and the deadline for Movant to object to Debtor's discharge is extended to April 28, 2023.~~

~~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 Extend Deadline to File a Complaint Objecting to Discharge filed by Steve Savickas and Kristie Purdy, Creditors, ("Movant") 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, and the deadline for Movant to object to Robert Allen Merrick's ("Debtor") discharge is extended to April 28, 2023.~~

DEBTOR DISMISSED: 3/9/23

**The Court Sets This as a Tentative Ruling to Allow
Counsel for the Debtor and the Chapter 7 Trustee
to Address the Resetting of Deadlines in this Case**

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, Chapter 7 Trustee, creditors, and Office of the United States Trustee on March 21, 2023. By the court's calculation, 16 days' notice was provided. 28 days' notice is required.

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

The Motion to Vacate is granted, and the order dismissing the bankruptcy case (Dckt. 22) is vacated.

Dulce Rubi Iniguez Medina ("Debtor") filed the instant case on February 8, 2023. Dckt. 1. On March 9, 2023, Wayne Blackwelder, the Clerk of the Court ("Clerk"), dismissed the case for failure to timely file documents. Dckt. 22.

On March 21, 2023, Debtor filed this instant Motion to Vacate, claiming excusable neglect.

Debtor details ongoing safety and privacy concerns to Debtor's Counsel and Debtor's Counsel's family, which caused Debtor's Counsel to fail to file missing documents in this case, ultimately leading to dismissal. Debtor's Counsel filed a Declaration in support of this Motion, detailing the personal

circumstances leading to the failure to file the documents. Additionally, Debtor's Counsel filed the missing documents one day after dismissal, and the instant Motion was filed only twelve days after dismissal.

Debtor seeks to have the order dismissing the case vacated, per Federal Rule of Civil Procedure 60(b).

APPLICABLE LAW

Federal Rule of Civil Procedure Rule 60(b), as made applicable by Federal Rule of Bankruptcy Procedure 9024, governs the reconsideration of a judgment or order. Grounds for relief from a final judgment, order, or other proceeding are limited to:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

FED. R. CIV. P. 60(b). A Rule 60(b) motion may not be used as a substitute for a timely appeal. *Latham v. Wells Fargo Bank, N.A.*, 987 F.2d 1199, 1203 (5th Cir. 1993). The court uses equitable principles when applying Rule 60(b). See 11 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 2857 (3d ed. 1998). The so-called catch-all provision, Federal Rule of Civil Procedure 60(b)(6), is “a grand reservoir of equitable power to do justice in a particular case.” *Uni-Rty Corp. V. Guangdong Bldg., Inc.*, 571 F. App'x 62, 65 (2d Cir. 2014) (citation omitted). While the other enumerated provisions of Rule 60(b) and Rule 60(b)(6) are mutually exclusive, relief under Rule 60(b)(6) may be granted in extraordinary circumstances. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863 & n.11 (1988).

A condition of granting relief under Rule 60(b) is that the requesting party show that there is a meritorious claim or defense. This does not require a showing that the moving party will or is likely to prevail in the underlying action. Rather, the party seeking the relief must allege enough facts that, if taken as true, allow the court to determine if it appears that such defense or claim could be meritorious. 12 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶¶ 60.24[1]–[2] (3d ed. 2010); see also *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984).

Additionally, when reviewing a motion under Rule 60(b), courts consider three factors: “(1) whether the plaintiff will be prejudiced, (2) whether the defendant has a meritorious defense, and (3) whether culpable conduct of the defendant led to the default.” *Falk*, 739 F.2d at 463 (citations omitted).

DISCUSSION

As an initial policy matter, the finality of judgments is an important legal and social interest. The standard for determining whether a Rule 60(b)(1) motion is filed within a reasonable time is a case-by-case analysis. The analysis considers “the interest in finality, the reason for delay, the practical ability of the litigant to learn earlier of the grounds relied upon, and prejudice to other parties.” *Gravatt v. Paul Revere Life Ins. Co.*, 101 F. App’x 194, 196 (9th Cir. 2004) (citations omitted); *Sallie Mae Servicing, LP v. Williams (In re Williams)*, 287 B.R. 787, 793 (B.A.P. 9th Cir. 2002) (citation omitted).

The sole ground for the Motion to Dismiss was failure to timely file documents. The court finds the ongoing personal circumstances surrounding Debtor’s Counsel and Debtor’s Counsel’s family as excusable neglect in failing to file the documents.

Therefore, in light of the foregoing, the Motion is granted, and the order dismissing the bankruptcy case (Dckt. 22) is vacated.

Deadlines to Reset

When this Chapter 7 case was filed various deadlines for filing of certain motions and adversary proceedings were set. See, Notice of Chapter 7 Bankruptcy Case - No Proof of Claim Deadline; Dckt. 9. These matters, the original deadlines, and the agreed new deadlines that go with the vacating of the order dismissing the case are as follows:

Meeting of Creditors	March 23, 2023	To be Reset by the Chapter 7 Trustee
Filing of Objections to Discharge or the Nondischargeability of Debts - 11 U.S.C. § 727(a)(2) through (7) - 11 U.S.C. § 523(a)(2), (4), or (6) Denial of Discharge pursuant to § 727(a)(8) or (9)	May 22, 2023	XXXXXXX
Objection Pursuant to 11 U.S.C. § 707(b)	Within 10 days of the First Meeting of Creditors	Within 10 days of the rescheduled date for the first meeting of creditors.

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 Vacate filed by Dulce Rubi Iniguez Medina (“Debtor”) 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, and the order dismissing the bankruptcy case (Dckt. 22) is vacated.

IT IS FURTHER ORDERED, as agreed by the Debtor and the Chapter 7 Trustee at the hearing, that the following dates and deadlines will be rescheduled as follows:

1. The First Meeting of Creditors -

..... **Reset by the Chapter 7 Trustee**

2. Filing of Objections to Discharge or the Nondischargeability of Debts pursuant to 11 U.S.C. § 727(a)(2) through (7), and 11 U.S.C. § 523(a)(2), (4), or (6); and Denial of Discharge pursuant to § 727(a)(8) or (9) -

..... **XXXXXXX , 2023**

3. Objection Pursuant to 11 U.S.C. § 707(b) -

..... **Within 10 days of the rescheduled date for the first meeting of creditors.**

3. [22-90160-E-11](#)
[DDM-5](#)

EAGLE LEDGE FOUNDATION,
INC.
Dennis Miller

CONTINUED MOTION TO USE CASH
COLLATERAL AND/OR MOTION TO
GRANT REPLACEMENT LIENS ,
MOTION FOR ADEQUATE
PROTECTION, MOTION/APPLICATION
TO APPROVE DIP BUDGET
6-1-22 [\[35\]](#)

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.

Local Rule 9014-1(f)(4) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on creditors and Office of the United States Trustee on June 1, 2022. The court set the hearing for June 7, 2022. Dckt. 42.

The Motion to Use Cash Collateral and/or Motion to Grant Replacement Liens, Motion for Adequate Protection, and Motion/Application to Approve DIP Budget O.S.T. was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(4). Debtor, 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 to Use Cash Collateral and/or Motion to Grant Replacement Liens, Motion for Adequate Protection, and Motion/Application to Approve Debtor in Possession Budget is XXXXXXXXXXXXXXXX

Eagle Ledge Foundation, Inc., as the "Debtor" (not the Debtor in Possession) seeks to use cash collateral, provide adequate protection, grant replacement liens, and get an operating budget approved. This Motion is not filed by Eagle Ledge Foundation, Inc. as the debtor in possession in this case. Throughout the Motion it is only the Debtor, not the debtor in possession seeking to use property of the Bankruptcy Estate.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves in the place of a bankruptcy trustee as the fiduciary to the bankruptcy estate 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.

DISCUSSION

The Bankruptcy Estate includes the Debtor's pre-petition business and property. Debtor states that there are currently five active loans which total in the aggregate \$719,394.36. Motion, p. 4:14-15; Dckt. 35.

Upon receiving payments on these loans, the monies are deposited in interest bearing accounts, after deducting servicing fees, "for the benefit of the Debtor." *Id.*, p. 4:16-22.

Not more than two times per month, Debtor can request disbursements from the accounts. The Motion then states:

16. The Debtor believes the funds held by TMI and that will be collected on a postpetition basis by TMI may constitute cash collateral, and that the Collateral Agent may assert an interest in such funds for the benefit of the Certificate Holders, as such amounts represent proceeds of the mortgages held by the Debtor and the notes payable to the Debtor.

Id., ¶ 16. In a footnote, Debtor states that it does not admit any lien or secured claim. However, on the Schedules Debtor states that the Certificate Holders have claims secured by all of Debtor's assets, excluding the real property.

It is then further asserted that only the Collateral Agent is a person who can assert an interest in the property constituting cash collateral. It appears that this "Collateral Agent" is asserting the liens of the Certificate Holders.

Adequate Protection

In the Motion Debtor states having \$761,165.00 in its Operating Account. Debtor does not believe that these monies are subject to Creditor liens. The source of these monies is not identified in the Motion. However, on Schedule D, it is stated that the Collateral Agent for the Certificate Holders has a lien in all "cash, liquid security, and mortgage loan investments" of the Debtor.

To provide adequate protection for the Certificate Holders having claims (as stated on Schedule F for which it's Collateral Agent has a lien to secure their claims) totaling (\$4,043,001) (computed by deleting out the non Certificate creditors listed on Schedule F), Debtor states in the Motion:

24. As adequate protection of any interest the Collateral Agent may have in the loan proceeds collected on a post-petition basis, the Debtor proposes provide the Collateral Agent with monthly written reporting as to the status of collections and disbursements, in addition to complying with the reporting requirements under the Bankruptcy Code and Bankruptcy Rules (such as monthly operating reports).

25. To provide further adequate protection of the interests of any secured creditor, the Debtor proposes to open a third debtor-in-possession account (the "Collateral Account") and to the extent the balance of the Cash Proceeds in the Servicing Account exceeds \$75,000.00 on the last business day of the month, the Debtor, on or before the tenth day of next month, will direct TMI to transfer the funds in excess of \$75,000.00 to the Collateral Account.

However, it appears that the "adequate protection" is to merely a report of the status of the collateral and to transfer some of the existing collateral to the Collateral Agent.

Looking at Debtor's non-real property assets, it appears that the (\$4,043,001) is secured by personal property having a value, as stated by Debtor, of \$1,402,423. The purported adequate protection is to just hold part of the existing collateral as the collateral is reduced. Summary of Assets, Part 1; Dckt. 24.

Filed as Exhibit A in support of the Motion is an unauthenticated document titled Debtor's Proposed Budget. Dckt. 36. The Budget is stated to be:

	May 2022	June 2022	July 2022	August 2022	Sept 2022	Oct 2022	
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	TOTAL
Beginning Balance ¹	625,318.00	621,523.00	613,478.00	606,183.00	598,888.00	591,593.00	19,000.00
Cash Receipts ²	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00	21,000.00
Rental Income	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Income	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL SOURCES	628,818.00	625,023.00	616,978.00	609,683.00	602,388.00	595,093.00	40,000.00
Expenses							
Bank Fees	50.00	50.00	50.00	50.00	50.00	50.00	300.00
Copies/Postage	100.00	100.00	100.00	100.00	100.00	100.00	600.00
Insurance	0.00	500.00	0.00	0.00	0.00	0.00	500.00
Officer Salaries/ Payroll Taxes	6,145.00	6,145.00	6,145.00	6,145.00	6,145.00	6,145.00	36,870.00
Office Supplies	50.00	50.00	50.00	50.00	50.00	50.00	300.00
Property Management Fees		1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	7,500.00
TMI Loan Servicing and Escrow Fees	950.00	950.00	950.00	950.00	950.00	950.00	5,700.00
U.S. Trustee Fees	0.00	250.00	0.00	0.00	0.00	250.00	0.00
Legal	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Accounting Fees	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
TOTAL USES	7,295.00	11,545.00	10,795.00	10,795.00	10,795.00	11,045.00	53,770.00
ENDING BALANCE	621,523.00	613,478.00	606,183.00	598,888.00	591,593.00	584,048.00	-13,770.00

Reviewing this Budget, Debtor projects receiving \$3,500.00 in cash receipts, which appear to be the payments on the loan that are the collateral for Certificate Holders, which total \$21,000.00. For the period May 2022 through October 2022, Debtor projects spending (\$53,770.00).

Footnote 2 to the Budget states that Debtor's cash receipts are generated from collection of borrower loan payments. Thus, for that period Debtor projects losing \$32,770.00 from its operations (which appears to be a reduction in the Certificate Holder's collateral).

No Declarations or other authenticated documentary evidence is provided by Debtor.

JUNE 7, 2022 HEARING

At the June 7, 2022 hearing, the court determined that issuance of an interim order granting the relief and creating replacement liens was proper. Further hearing will be conducted at 2:00 p.m. on June 30, 2022.

JUNE 24, 2022 DECLARATION

On June 24, 2022, Mark Young, employed by TMI, filed a declaration stating TMI receives and processes loan payments from borrowers and manages Debtor's church bond portfolio. Dckt. 76. TMI has not and does not provide brokerage or investment advice to Debtor. Additionally, Mr. Young states TMI serves as an escrow agent, paying agent, and registrar, pursuant to the agreement with Debtor.

JUNE 30, 2022 HEARING

At the continued hearing, counsel for the Debtor in Possession reviewed for the court the updated budget, filed at Dckt. 79, which includes some additional expenses and income.

The Motion is Granted and the Debtor in Possession is authorized to use cash collateral as provided in the updated Budget filed on June 27, 2022, Dckt. 79, with replacement liens granted for creditors with secured claims to the extent that there is a diminution in their collateral. See Interim Order, Dckt. 60.

A continued hearing on the Motion shall be conducted at 10:30 a.m. on October 6, 2022, to consider a supplemental request to use cash collateral and grant replacement liens. Supplemental pleadings for the further use of cash collateral shall be filed and served on or before September 22, 2022. Oppositions, if any, may be presented orally at the hearing.

Counsel for Debtor shall prepare an order authorizing the use of cash collateral, granting of replacement liens, and setting the further hearing consistent with the Ruling above, and lodge the proposed order with the court. A copy of the updated budget, Dckt. 79, shall be attached to the proposed order.

Supplemental Pleadings

On September 21, 2022, Debtor filed Supplemental Pleadings and Exhibits. Dckts. 147, 148. Debtor states:

1. On September 15, 2022, Debtor in Possession filed their Chapter 11 Plan, Disclosure Statement, and Supporting Documents.
2. Debtor in Possession has acted in compliance with the Cash Collateral Orders.
3. Debtor in Possession seeks authorization for continued use of Cash Collateral in a manner consistent with the terms of prior Cash Collateral orders.
4. Debtor in Possession requests an order:
 - a. Granting the Cash Collateral Motion;
 - b. Authorizing Debtor's continued use of Cash Collateral;
 - c. Granting replacement liens and adequate protection;
 - d. Approving the Debtor in Possession budget on an interim basis;
 - e. Scheduling a final hearing to coincide with the hearing on confirmation of the Chapter 11 Plan to consider relief requested in this Motion on a final basis; and
 - f. Such other and further relief the court deems appropriate.

Debtor in Possession's exhibits include:

1. Debtor in Possession's Proposed Budget (Exhibit A, Dckt 148); and

2. A Third Interim Order for Cash Collateral granting and the above requested relief (Exhibit B, *Id.*).

At the October 6, 2022 hearing, counsel for the Debtor in Possession reported that the use is for the period through April 2023, which she foresees as being sufficient to run through the confirmation of the Plan.

The Motion is granted.

The hearing is continued to 10:30 a.m. March 30, 2023, for the filing of any supplemental requests for use of cash collateral.

APRIL 6, 2023 HEARING

MARCH 22, 2023 DEBTOR IN POSSESSION'S SUPPLEMENT TO MOTION

On March 22, 2023, Debtor in Possession filed a Supplement to the Motion. Dckt. 206. Debtor in Possession states:

1. Debtor in Possession's proposed six-month budget for the period of April 2023 through October 2023 is attached as Exhibit A.
2. The proposed fourth interim order is attached as Exhibit B.
3. Debtor in Possession has operated in compliance with the prior Cash Collateral Orders.
4. Debtor in Possession's Budget contemplates expenditures in line with prior cash collateral budgets.
5. Debtor in Possession recently secured access to the Indiana Avenue property in Chicago, after completing foreclosure, and anticipates incurring additional expenses to make the property saleable. Debtor in Possession is in the process of obtaining estimates and bids and will file an updated budget when the information is available.
6. The Debtor in Possession continues to have over \$700,000 in cash in the estate. Therefore, Debtor in Possession anticipates interim distributions in the amount of \$100,000, subject to an upcoming motion for court approval, to Certificate Holders in May 2023.

Debtor in Possession requests the entry of an order:

- a. Granting the Cash Collateral Motion;

- b. Authorizing Debtor's continued use of Cash Collateral, granting the replacement liens and adequate protection, and approving the DIP Budget on an interim basis;
- c. Scheduling a final hearing to coincide with the hearing on confirmation of the chapter 11 plan to consider the relief requested in this Cash Collateral Motion on a final basis; and
- d. Other and further relief the Court deems appropriate

April 6, 2023 Hearing

At the hearing, ~~XXXXXXXXXX~~

~~Counsel for the Debtor in Possession will prepare a proposed order consistent with the above ruling and lodge it with the court.~~