

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

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

DAY: TUESDAY
DATE: APRIL 19, 2022
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [19-27800](#)-A-7 **IN RE: EDUARDO/FLORINDA SAN ANTONIO**
[DNL-8](#)

MOTION FOR COMPENSATION FOR J. MICHAEL HOPPER, CHAPTER 7
TRUSTEE(S)
3-14-2022 [\[269\]](#)

ARASTO FARSAAD/ATTY. FOR DBT.
DEBTORS DISCHARGED: 02/02/2021

Final Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

Number: First and Final

Compensation: \$53,580.00

Expenses: \$0

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 Trustee, J. Michael Hopper, applies for first and final compensation.

COMPENSATION AND EXPENSES

A trustee's compensation is considered in accordance with §§ 326(a) and 330(a). In 2005, "Congress removed Chapter 7 trustees from the list of professionals subject to the Section 330(a)(3) factors. . . . [and] introduced a new provision to Section 330 requiring courts to treat the reasonable compensation awarded to trustees as a 'commission, based on Section 326.'" *Matter of JFK Capital Holdings, L.L.C.*, 880 F.3d 747, 752 (5th Cir. 2018) (quoting 11 U.S.C. § 330(a)(7)). "[A] trustee's request for compensation should be presumed reasonable as long as the amount requested does not exceed the statutory maximum calculated pursuant to § 326. [A]bsent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review. If the court has found that extraordinary circumstances are present, only then does it become appropriate to conduct a further inquiry to determine whether there exists a rational relationship between the compensation requested and the services rendered." *In re Ruiz*, 541 B.R. 892, 896 (B.A.P. 9th Cir. 2015) (second alteration in original) (citations omitted) (internal quotation marks omitted).

In short, § 330(a)(7) "treats the commission as a fixed percentage, using Section 326 not only as a maximum but as a baseline

presumption for reasonableness in each case." *Matter of JFK Capital Holdings*, 880 F.3d at 755. This provision "is best understood as a directive to simply apply the formula of § 362 in every case." *Id.* at 753-54. The "reduction or denial of compensation . . . should be a rare event" occurring only when truly exceptional circumstances are present. *Id.* at 756.

In this Chapter 7 case, the trustee has applied for an allowance of compensation and reimbursement of expenses. The court finds (1) that the compensation requested by the trustee is consistent with 11 U.S.C. § 326(a); (2) that no extraordinary circumstances are present in this case, see *In re Salgado-Nava*, 473 B.R. 911 (B.A.P. 9th Cir. 2012); and (3) that expenses for which reimbursement is sought are actual and necessary.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's application for allowance of compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent(s) for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows to the trustee compensation in the amount of \$53,580.00 and reimbursement of expenses in the amount of \$0.

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

2. [19-27800](#)-A-7 **IN RE: EDUARDO/FLORINDA SAN ANTONIO**
[DNL-9](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DESMOND, NOLAN,
LIVAICH & CUNNINGHAM FOR J. RUSSELL CUNNINGHAM, TRUSTEES
ATTORNEY(S)
3-14-2022 [\[274\]](#)

ARASTO FARSAD/ATTY. FOR DBT.
DEBTORS DISCHARGED: 02/02/2021

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Number: First and Final Application for Compensation

Compensation: \$24,131.50

Expenses: \$516.72

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, J. Michael Hopper, Chapter 7 trustee, has applied for an allowance of first and final compensation and reimbursement of expenses for his attorneys the Law Office of Desmond, Nolan, Livaich and Cunningham. The applicant requests that the court allow compensation in the amount of \$24,131.50 and reimbursement of expenses in the amount of \$516.72.

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

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

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

J. Michael Hopper's application on behalf of the Law Office of Desmond, Nolan, Livaich and Cunningham for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent(s) for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$24,131.50 and reimbursement of expenses in the amount of \$516.72.

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

3. [20-24707](#)-A-7 **IN RE: LAYARD/MADORA THOMAS**
[ADR-3](#)

MOTION TO AVOID LIEN OF GLCS, LLC
3-15-2022 [\[44\]](#)

JUSTIN KUNEY/ATTY. FOR DBT.
DEBTORS DISCHARGED: 02/08/2021

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject Property: 7424 Martignetti Court, Sacramento, California

Lien Avoided: \$7,681.16 - Gold Line Credit Services

Consensual Liens:

- \$301,673.00 Shellpoint Mortgage

- \$19,404.00 SMUD

Exemption: \$170,000.00

Value of Property: \$350,000.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true.

TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

Debtors seek an order avoiding the judicial lien of Gold Line Credit Services, recorded April 3, 2012.

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The liens against the subject real property, listed in the reverse order of their priority are: (i) Cach, LLC, and (ii) Gold Line Credit Services. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$170,000.00 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$491,077.00. The value of the property is \$350,000.00. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the motion will be granted and the respondent's judicial lien will be avoided entirely.

4. [20-24707](#)-A-7 **IN RE: LAYARD/MADORA THOMAS**
[ADR-4](#)

MOTION TO AVOID LIEN OF CACH, LLC
3-15-2022 [\[49\]](#)

JUSTIN KUNEY/ATTY. FOR DBT.
DEBTORS DISCHARGED: 02/08/2021

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject Property: 7424 Martignetti Court, Sacramento, California

Lien Avoided: Cach, LLC - \$2,151.95

Consensual Liens:

- \$301,673.00 Shellpoint Mortgage
- \$19,404.00 SMUD

Judicial Lien: \$7,681.16 - Gold Line Credit Services

Exemption: \$170,000.00

Value of Property: \$350,000.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Debtors seek an order avoiding the judicial lien of Cach, LLC, recorded July 30, 2014.

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). “[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens.” *Id.*; 11 U.S.C § 522(f)(2)(B).

The liens against the subject real property, listed in the reverse order of their priority are: (i) Cach, LLC, and (ii) Gold Line Credit Services. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$170,000.00 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent’s lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$493,228.95. The value of the property is \$350,000.00. The respondent’s judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property’s value by an amount greater than or equal to the judicial lien. As a result, the motion will be granted and the respondent’s judicial lien will be avoided entirely.

5. [21-23107](#)-A-7 **IN RE: GREGORY GARCIA**
[SLC-1](#)

MOTION TO EMPLOY WEST AUCTIONS, INC. AS AUCTIONEER,
AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND
AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES
3-15-2022 [\[29\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.
SHERI CARELLO/ATTY. FOR MV.
DEBTORS DISCHARGED: 12/06/2021

Final Ruling

Motion: Sell Property and Compensate Auctioneer

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

Disposition: Granted

Order: Prepared by moving party

Property: 2014 Toyota Tacoma

Sale Type: Public auction

Auctioneer: West Auctions, Inc.

Compensation Approved: 15% of gross sale proceeds

Costs Approved: not to exceed \$850.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written

opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee, Sheri Carello, seeks an order authorizing the sale of a 2014 Toyota Tacoma at public auction. The trustee requests the court approve the employment of West Auctions, Inc. and approve compensation at 15% of the gross sale proceeds and costs not to exceed \$850.00. The motion also requests waiver of the stay of the order provided by Rule 6004(h).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

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

6. [21-23716](#)-A-7 **IN RE: TIMOTHY KRIEGER**
[RLC-1](#)

MOTION TO COMPEL ABANDONMENT
3-15-2022 [\[26\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.
DEBTOR DISCHARGED: 01/27/2022
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Compel Abandonment of Property of the Estate

Disposition: Denied without prejudice

Order: Civil minute order

NOTICE

"The due process requirements for notice are relatively minimal; they merely require notice 'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *In re 701 Mariposa Project, LLC*, 514 B.R. 10, 15 (B.A.P. 9th Cir.

2014) (citing *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652, 94 L.Ed. 865 (1950)).

LBR 9014-1(f)

In the Eastern District of California notice of a motion must comply with the requirement of LBR 9014-1(f)(1), (2). The rule allows a choice of two different notice periods. LBR 9014-1(f)(1) requires 28 days' notice of the motion and written opposition to be filed with the court and served on the moving party not later than 14 days prior to the hearing on the motion. Conversely, LBR 9014-1(f)(2) requires only 14 days' notice of the motion and does not require the opposing party to file and serve written opposition prior to the hearing on the motion. See, LBR 9014-1(f)(1), (2).

LBR 9014-1(d)(3)(B)(i)

The notice of hearing shall advise potential respondents *whether and when written opposition must be filed*, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition.

. . .

LBR 9014-1(d)(3)(B) (emphasis added).

The notice filed and served in this matter states that the motion was filed pursuant to "Local Rule of Practice 9014(f)(2)". See, *Notice*, ECF No. 27, 1:18.

The notice further provides as follows.

YOU ARE FURTHER NOTIFIED that pursuant to Local Rule 9014-1(f) opposition, if any, to the Motion shall be in writing and shall be served and filed with the Court by the responding party at least fourteen (14) calendar days preceding the date or continued date of the hearing. Opposition must be filed with the clerk of the Court, and served upon counsel for Timothy Krieger, Stephen M. Reynolds, 424 Second Street, Suite A, Davis, CA 95616.

Id., 2:1-6.

The notice contains conflicting provisions as the motion purports to be brought under LBR 9014-1(f)(2) which does not require written opposition to the motion. Yet the body of the notice states that written opposition must be filed and served within 14 days of the hearing as if the motion was brought under LBR 9014-1(f)(1).

The court cannot determine whether the motion is brought under LBR 9014-1(f)(1) or (f)(2). Nor will the court presume the conclusion an opposing party might reach about whether written opposition is

necessary. The notice given in this matter does not satisfy the requirements of LBR 9014(d)(3)(B).

Creditors and parties in interest have not received "notice reasonably calculated . . . to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *SEC v. Ross*, 504 F.3d 1130, 1138 (9th Cir. 2007) (quoting *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Further, LBR 9014-1(d)(3) requires that the notice of hearing advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with the opposition. Because creditors do not have adequate notice of when and how to present their objections, due process has not been satisfied.

The court will deny the motion without prejudice.

CIVIL MINUTE ORDER

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

The debtor's motion to compel abandonment has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

7. [20-21743-A-7](#) **IN RE: PATH LABS, LLC, A DELAWARE LIMITED LIABILITY COMPANY**
[HSM-14](#)

MOTION TO ABANDON
3-28-2022 [[190](#)]

ERIC SCHWAB/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

Tentative Ruling

Motion: Authorize Trustee's Abandonment of Property of the Estate

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

Disposition: Granted only as to the business assets described in the motion

Order: Prepared by moving party pursuant to the instructions below

Asset Description: electronic devices currently in the possession of storage vendor, Digital Evidence Ventures. Assets consist of hard drives, cellular phones, and computer tablets, including all information stored thereon.

Value: \$0

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

11 U.S.C. § 554(a)

"After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a).

The chapter 7 trustee moves for an order authorizing abandonment of the bankruptcy estate's interest in the electronic devices currently in the possession of storage vendor, Digital Evidence Ventures ("DEV"), and all digital information stored thereon. The assets consist of various hard drives, cellular phones, and computer tablets, including all information stored thereon, in whatever form or medium they may be so stored. See Motion, ECF No. 190, 2:10-15.

The assets are no longer of any value or benefit to the estate because the Trustee has concluded her asset administration and litigation activities in this case. The assets have no realizable monetary value. The information on the devices no longer has any value to the trustee.

Further the trustee desires to abandon the assets as they may contain sensitive information. The trustee wishes to abandon the assets at this time so that the debtor may promptly determine how to manage them, including disposing of them and the information thereon. See *Id.*, 2:26-28, 3:1-3.

The assets described above are either burdensome to the estate or of inconsequential value to the estate. An order authorizing the trustee's abandonment of such assets is warranted. The order will

authorize abandonment of only the assets that are described in the motion.

8. [20-21743](#)-A-7 **IN RE: PATH LABS, LLC, A DELAWARE LIMITED LIABILITY COMPANY**
[HSM-15](#)

MOTION FOR COMPENSATION FOR KIMBERLY J. HUSTED, CHAPTER 7 TRUSTEE(S)
3-28-2022 [\[179\]](#)

ERIC SCHWAB/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

Number: First and Final Application for Compensation

Compensation: \$17,237.19

Reimbursed Expenses: \$4,218.28

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 Trustee, Kimberly Husted, applies for first and final compensation.

COMPENSATION AND EXPENSES

A trustee's compensation is considered in accordance with §§ 326(a) and 330(a). In 2005, "Congress removed Chapter 7 trustees from the list of professionals subject to the Section 330(a)(3) factors. . . . [and] introduced a new provision to Section 330 requiring courts to treat the reasonable compensation awarded to trustees as a 'commission, based on Section 326.'" *Matter of JFK Capital Holdings, L.L.C.*, 880 F.3d 747, 752 (5th Cir. 2018) (quoting 11 U.S.C. § 330(a)(7)). "[A] trustee's request for compensation should be presumed reasonable as long as the amount requested does not exceed the statutory maximum calculated pursuant to § 326. [A]bsent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review. If the court has found that extraordinary circumstances are present, only then does it become appropriate to conduct a further inquiry to determine whether there exists a rational relationship between the compensation requested and the services rendered." *In re Ruiz*, 541 B.R. 892, 896 (B.A.P. 9th Cir. 2015) (second alteration in original) (citations omitted) (internal quotation marks omitted).

In short, § 330(a)(7) "treats the commission as a fixed percentage, using Section 326 not only as a maximum but as a baseline presumption for reasonableness in each case." *Matter of JFK Capital Holdings*, 880 F.3d at 755. This provision "is best understood as a directive to simply apply the formula of § 362 in every case." *Id.* at 753-54. The "reduction or denial of compensation . . . should be a rare event" occurring only when truly exceptional circumstances are present. *Id.* at 756.

In this Chapter 7 case, the trustee has applied for an allowance of compensation and reimbursement of expenses. The court finds (1) that the compensation requested by the trustee is consistent with 11 U.S.C. § 326(a); (2) that no extraordinary circumstances are present in this case, see *In re Salgado-Nava*, 473 B.R. 911 (B.A.P. 9th Cir. 2012); and (3) that expenses for which reimbursement is sought are actual and necessary.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's application for allowance of compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows to the trustee compensation in the amount of \$17,237.19 and reimbursement of expenses in the amount of \$4,218.28.

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

9. [20-21743](#)-A-7 **IN RE: PATH LABS, LLC, A DELAWARE LIMITED
LIABILITY COMPANY**
[HSM-16](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HEFNER, STARK
AND MAROIS, LLP FOR HOWARD S. NEVINS, TRUSTEES ATTORNEY(S)
3-28-2022 [\[184\]](#)

ERIC SCHWAB/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Second and Final Application

Compensation: \$84,045.00

Reimbursed Expenses: \$3,146.50

Previously Approved - First Interim

Compensation: \$72,716.00

Reimbursement of Expenses: \$949.70

Final Compensation and Expenses - Aggregate

Compensation: \$156,761.00

Reimbursement of Expenses: \$4,096.20

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, the law firm of Hefner, Stark and Marois, LLP, attorneys for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$84,045.00 and reimbursement of expenses in the amount of \$3,146.50.

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

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

The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Hefner, Stark and Marois, LLP's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$84,045.00 and reimbursement of expenses in the amount of \$3,146.50. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

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

10. [20-21743](#)-A-7 **IN RE: PATH LABS, LLC, A DELAWARE LIMITED LIABILITY COMPANY**
[KJH-3](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,
ACCOUNTANT(S)
3-28-2022 [[193](#)]

ERIC SCHWAB/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

Second and Final Application

Compensation: \$13,129.00

Reimbursed Expenses: \$12.70

Previously Approved – First Interim

Compensation: \$13,627.50

Reimbursement of Expenses: \$37.40

Final Compensation and Expenses - Aggregate

Compensation: \$26,756.50

Reimbursement of Expenses: \$50.01

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Gabrielson and Company, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$13,129.00 and reimbursement of expenses in the amount of \$12.70.

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

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

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Gabrielson and Company's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$13,129.00 and reimbursement of expenses in the amount of \$12.70. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount

allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

11. [14-28849](#)-A-7 **IN RE: DANIEL/ANGELA FLORENCE**
[SCG-2](#)

MOTION TO AVOID LIEN OF PORTFOLIO RECOVERY ASSOCIATES, LLC
3-21-2022 [\[31\]](#)

SALLY GONZALES/ATTY. FOR DBT.
DEBTORS DISCHARGED: 12/01/2014

Final Ruling

Motion: Avoid Lien that Impairs Exemption
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Prepared by moving party

Subject Property: 1837 Cagney Way, Sacramento, California
Lien Avoided: \$3,741.90 Portfolio Recovery Associates, LLC
Consensual Liens: \$392,249.00 Wells Fargo Home Mortgage
Judicial Liens:

- \$1,435.41 Credit Services of Oregon, Inc.
- \$7,812.76 Cach, LLC

Exemption: \$1.00

Value of Property: \$360,000.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Debtors seek an order avoiding the judicial lien of Portfolio Recovery Associates, LLC.

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an

exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The liens against the subject real property, listed in the reverse order of their priority are: (i) Portfolio Recovery Associates, (ii) Cach, LLC, and (iii) Credit Services of Oregon, Inc. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$1.00 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$401,498.17. The value of the property is \$360,000.00. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, motion will be granted, and the respondent's judicial lien will be avoided entirely.

12. [14-28849](#)-A-7 **IN RE: DANIEL/ANGELA FLORENCE**
[SCG-3](#)

MOTION TO AVOID LIEN OF CREDIT SERVICES OF OREGON, INC.
3-21-2022 [[36](#)]

SALLY GONZALES/ATTY. FOR DBT.
DEBTORS DISCHARGED: 12/01/2014

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject Property: 1837 Cagney Way, Sacramento, California

Lien Avoided: \$1,435.41 Credit Services of Oregon, Inc.

Consensual Liens: \$392,249.00 Wells Fargo Home Mortgage

Exemption: \$1.00

Value of Property: \$360,000.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Debtors seek an order avoiding the judicial lien of Credit Services of Oregon, Inc.

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The liens against the subject real property, listed in the reverse order of their priority are: (i) Portfolio Recovery Associates, (ii) Cach, LLC, and (iii) Credit Services of Oregon, Inc. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$1.00 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$392,250.00. The value of the property is \$360,000.00. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together

exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the motion will be granted, and the respondent's judicial lien will be avoided entirely.

13. [14-28849](#)-A-7 **IN RE: DANIEL/ANGELA FLORENCE**
[SCG-4](#)

MOTION TO AVOID LIEN OF CACH, LLC
3-21-2022 [\[41\]](#)

SALLY GONZALES/ATTY. FOR DBT.
DEBTORS DISCHARGED: 12/01/2014

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject Property: 1837 Cagney Way, Sacramento, California

Lien Avoided: \$7,812.76 Cach, LLC

Consensual Liens: \$392,249.00 Wells Fargo Home Mortgage

Judicial Liens:

- \$1,435.41 Credit Services of Oregon, Inc.

Exemption: \$1.00

Value of Property: \$360,000.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Debtors seek an order avoiding the judicial lien of Portfolio Recovery Associates, LLC.

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an

exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The liens against the subject real property, listed in the reverse order of their priority are: (i) Portfolio Recovery Associates, (ii) Cach, LLC, and (iii) Credit Services of Oregon, Inc. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$1.00 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$393,685.41. The value of the property is \$360,000.00. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the motion will be granted, and the respondent's judicial lien will be avoided entirely.

14. [21-23051](#)-A-7 **IN RE: NICHOLAS/JENNIFER WILLIAMS**
[DEF-3](#)

CONTINUED MOTION TO ABANDON
10-20-2021 [\[48\]](#)

DAVID FOYIL/ATTY. FOR DBT.
DEBTORS DISCHARGED: 01/11/2022

Final Ruling

This matter was resolved by Stipulation and Order, ECF No. 109. The court will remove this matter from the calendar. No appearances are required.

15. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[HSM-27](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH SUMMITBRIDGE NATIONAL INVESTMENTS V LLC, W.
DONALD GIESEKE, FELDERSTEIN FITZGERALD WILLOUGHBY PASCUZZI &
RIOS LLP, ET AL.
3-9-2022 [\[1813\]](#)

CHRISTOPHER BAYLEY/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Civil minute order

Parties: Summitbridge National Investments V, LLC
 W. Donald Gieseke
 Felderstein Fitzgerald Willoughby Pascuzzi & Rios, LLP
 Sierra Constellation Partners, LLC
 Prologis, L.P.
 Distribution Drive Partners, LLC
 Legal Vision Group, LLC
 James Anglum

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

BACKGROUND

Chapter 7 trustee, Kimberly J. Husted, seeks an order approving the compromise of controversies identified in the motion as follows.

The proposed compromises and resulting Agreement, negotiated and executed by the parties, resolve significant disputes concerning the allowance of various administrative expense claims, the relative priorities of those claims, and the timing for and amounts of distributions of funds by the Trustee to the claimants. Summitbridge National Investments V, LLC is a superpriority claimant while the remaining parties to the agreement are Chapter 11 administrative claimants.

This case was converted from a chapter 11 to one under chapter 7. Significant administrative claims were incurred during the pendency of the chapter 11 phase of this case.

SummitBridge has agreed through the Agreement to the compromise and reduction of its superpriority claim to avoid delay in payment and the expense of further litigation. This compromise will then allow for the distribution to the other Chapter 11 Administrative Claimants in the estimated and approximate amount of 50.9% of their respective claims.

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise. The compromise is reflected in the settlement agreement filed concurrently with the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Kimberly J. Husted's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement filed concurrently with the motion as Exhibit A and filed at docket no. 1815.

16. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[HSM-28](#)

MOTION TO ABANDON
3-9-2022 [\[1804\]](#)

CHRISTOPHER BAYLEY/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

Final Ruling

Motion: Authorize Trustee's Abandonment of Property of the Estate

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

Disposition: Granted only as to the business assets described in the motion

Order: Prepared by moving party pursuant to the instructions below

Asset Description: all remaining Books and Records of the estate, including but not limited to all documents, files, records, computers, servers, and external hard drives on which such Books and Records are stored.

Value: None

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

11 U.S.C. § 554(a)

"After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a).

The chapter 7 trustee moves for an order authorizing her abandonment of the bankruptcy estate's interest in all remaining Books and Records of the estate. The Books and Records include but are not limited to all documents, files, records, computers, servers, and external hard drives on which such Books and Records are stored, in whatever form or medium they may be so stored, and wherever located. See Motion, ECF No. 1804, 2:17-21.

The assets are no longer of any value or benefit to the estate because the trustee has concluded her asset administration and litigation activities in this case.

Moreover, the estate is incurring approximately \$120.00 per month with Corodata, a records storage company, for the storage and maintenance of the Books and Records, in both physical and electronic / digital forms. Since there is no further value to be derived from the Books and Records, there is no reason to incur any further expense maintaining them. See *Id.*, 3:4-8.

The assets described above are either burdensome to the estate or of inconsequential value to the estate. An order authorizing the trustee's abandonment of such assets is warranted. The order will authorize abandonment of only the assets that are described in the motion.

17. [18-22453](#)-A-7 **IN RE: ECS REFINING, INC.**
[HSM-29](#)

MOTION FOR ADMINISTRATIVE EXPENSES
3-9-2022 [\[1808\]](#)

CHRISTOPHER BAYLEY/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

Final Ruling

Motion: Allowance and Payment of Administrative Expenses

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

Disposition: Granted

Order: Prepared by moving party

Description of Expenses: ArcherHall \$3,980.00; Corodata actual, not to exceed \$2,000.00; United States Trustee Claim 368-2 \$22,694.79

Statutory Basis for Administrative Priority: § 503(b)(1)(A) ("actual and necessary expenses of preserving the estate")

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee Kimberly Husted seeks an order allowing the claims of ArcherHall, Corodata, and the United States Trustee as administrative expenses under 11 U.S.C. § 503(b) (1) (B).

ADMINISTRATIVE EXPENSES

"A creditor claiming administrative expense treatment under § 503(b) (1) (A) must show that the claim: [1] arose postpetition; [2] arose from a transaction with the trustee or DIP (as opposed to the preceding [prepetition] entity) or that the claimant gave consideration to the trustee or DIP; and [3] directly and substantially benefited the estate." Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 17:507 (rev. 2017) (citing cases).

ArcherHall

ArcherHall's final billing in this case, is in the amount of \$3,980.00. ArcherHall has provided critical digital services to the estate and to the trustee's other professionals. See Invoice, Exhibit A, ECF No. 1810. The court will allow this claim in the amount of \$3,980.00.

Corodata

The trustee seeks allowance of the Corodata administrative claim and authorization to pay the remaining balance due Corodata for its final storage services up to the date of abandonment. Corodata is currently storing 452 boxes of records at a cost of just under \$120.00 per month. The trustee estimates the final costs to be \$2,000.00. The court will allow this claim in an amount not to exceed \$2,000.00.

United States Trustee Claim No. 368-2

The United States Trustee claims the sum of \$22,694.79, as set forth in its Proof of Claim No. 368-2 (amended) filed October 24, 2018. This claim was not incurred during the chapter 7 trustee's administration of this case. This claim is for quarterly fees incurred but unpaid during the chapter 11 phase of this case. The United States Trustee asserts that its chapter 11 administrative claim has equal priority with all chapter 7 administrative claims, based upon applicable Ninth Circuit authority, *United States Trustee v. Endy (In re Endy)*, 104 F3d 1154 (9th Cir 1997). The chapter 7 trustee does not contest the United States Trustee's position. The court will authorize the payment of the United States' Trustee's administrative claim.

Each of these expenses arose postpetition. They arose from transactions between the claimant(s) and the estate. And by incurring these expenses, the estate received in exchange a direct and substantial benefit. Thus, the expenses described are actual and necessary costs or expenses of preserving the estate under § 503(b) (1) (A).

These expenses will be allowed as an administrative expense under § 503(b) (1) (A) and may be distributed in accordance with the priorities set forth in § 726(a) (1) and § 507(a) of the Bankruptcy Code.

18. [21-21457](#)-A-7 **IN RE: RICHARD/GLORIA GOYDICH**
[GM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-18-2022 [\[38\]](#)

BONNIE BAKER/ATTY. FOR DBT.
GERMAIN LABAT/ATTY. FOR MV.
DEBTORS DISCHARGED: 08/23/2021
REVERSE MORTGAGE FUNDING, LLC VS.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted in part, denied in part as moot

Order: Civil minute order

Subject: 103 South Page Avenue, Endicott, New York

Value of Collateral: \$117,000.00

Aggregate of Liens: \$211,000.49

Discharge: August 23, 2021

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated* by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Movant, Reverse Mortgage Funding, LLC, seeks an order granting relief from the automatic stay of 11 U.S.C. § 362 to proceed with its state law remedies regarding the subject property.

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a) (1). The party seeking stay relief bears the

burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

As to the Debtor

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied as moot as to the debtor.

As to the Estate

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Reverse Mortgage Funding, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 103 South Page Avenue, Endicott, New York. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

19. [21-22976](#)-A-7 **IN RE: THE DESIGN BUILD COMPANY, LLC**
[DNL-10](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH NICK KIMBER, DAVID LEKANDER, LEKANDER
CONSTRUCTION AND BRIAN BRADFORD
3-22-2022 [[118](#)]

ANTHONY ASEBEDO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy

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

Disposition: Granted

Order: Civil minute order

Parties: Nick Kimber; David DeKander; LaKander Construction; Brian Bradford

Subject: Sonoma County Superior Court Case # SCV-267583

Settlement: \$5,000.00; general mutual releases

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

BACKGROUND

Chapter 7 trustee, J. Michael Hopper, seeks an order approving the compromise of controversy in Sonoma County Superior Court Case No. SCV-267583 (LeKander Case). The LeKander parties are former Debtor employees who continued to work on, and complete construction projects initiated by the Debtor.

The debtor filed the LeKander Case by filing a complaint that seeks damages for: (1) intentional interference with prospective economic advantage; (2) misappropriation of trade secrets; (3) breach of the duty of loyalty; and (4) violation of Business and Professions Code section 17200. The debtor valued the claim in its Schedule A/B at \$500,000.00.

The Trustee has been advised that prosecution of the pending case against the LeKander Parties would cost at least \$100,000.00, a sum that exceeds the funds presently on hand in the estate.

The parties have agreed to the following terms. The LeKander Parties shall pay the Trustee \$5,000.00; each party shall pay its own attorney fees and costs; and the parties agree to general mutual releases however, the third parties and their transferees are excluded from the Trustee's release and the LeKander Parties' Release.

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise. The compromise is reflected in the settlement agreement filed concurrently with the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

J. Michael Hopper's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement filed concurrently with the motion as exhibit and filed at docket no. 121.

20. [21-22976](#)-A-7 **IN RE: THE DESIGN BUILD COMPANY, LLC**
[DNL-11](#)

MOTION FOR ADMINISTRATIVE EXPENSES
3-22-2022 [\[123\]](#)

ANTHONY ASEBEDO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

Final Ruling

Motion: Allow Administrative Expense [Estate Taxes]

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

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

ALLOWANCE OF ADMINISTRATIVE EXPENSE

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Clooback*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

J. Michael Hopper, the chapter 7 trustee seeks an order allowing payment of the estate's liability to the Franchise Tax Board ("FTB") in the amount of: (a) \$800.00 for the 2022 tax year; and (b) \$800.00 for each year that the case remains open on the date such tax is due, as an administrative expense pursuant to 11 U.S.C. § 503(b)(1)(B). In addition, the trustee seeks an order allowing payment of the estate's liability to the FTB in an amount not to exceed \$6,400.00 for the 2021 tax year.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, the taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's motion for allowance of administrative expense has been presented to the court. Having entered the default of respondent(s) for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court allows California state taxes of: (a) \$800.00 for the 2022 tax year; and (b) \$800.00 for each year that the case remains open on the date such tax is due, as an administrative expense pursuant to 11 U.S.C. § 503(b) (1) (B).

IT IS FURTHER ORDERED that the court allows California state taxes in an amount not to exceed \$6,400.00 for the 2021 tax year as an administrative expense under 11 U.S.C. § 503(b) (1) (B).

21. [21-22976](#)-A-7 **IN RE: THE DESIGN BUILD COMPANY, LLC**
[DNL-12](#)

MOTION TO SELL
3-22-2022 [\[127\]](#)

ANTHONY ASEBEDO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: Nissan Forklift

Buyer: John Currier

Sale Price: \$4,600.00

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

J. Michael Hopper, chapter 7 trustee, seeks an order authorizing the sale of a Nissan Forklift to John Currier for \$4,600.00.

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

22. [21-22496](#)-A-7 **IN RE: LILLIAN/ISAGANI SISAYAN**
[CLH-3](#)

CONTINUED OBJECTION TO HOMESTEAD EXEMPTION
2-28-2022 [[267](#)]

STEPHAN BROWN/ATTY. FOR DBT.
CINDY HILL/ATTY. FOR MV.

No Ruling

23. [21-22496](#)-A-7 **IN RE: LILLIAN/ISAGANI SISAYAN**
[DNL-6](#)

OBJECTION TO HOMESTEAD EXEMPTION
2-24-2022 [[254](#)]

STEPHAN BROWN/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

24. [21-22496](#)-A-7 **IN RE: LILLIAN/ISAGANI SISAYAN**
[DNL-7](#)

AMENDED OBJECTION TO DEBTORS' CLAIM OF EXEMPTIONS
3-2-2022 [[273](#)]

STEPHAN BROWN/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

No Ruling

25. [21-22496](#)-A-7 **IN RE: LILLIAN/ISAGANI SISAYAN**
[DNL-8](#)

MOTION FOR TURNOVER OF PROPERTY
3-14-2022 [\[284\]](#)

STEPHAN BROWN/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

No Ruling

26. [21-22496](#)-A-7 **IN RE: LILLIAN/ISAGANI SISAYAN**
[PGM-2](#)

MOTION BY PETER G. MACALUSO TO WITHDRAW AS ATTORNEY
3-16-2022 [\[298\]](#)

STEPHAN BROWN/ATTY. FOR DBT.

No Ruling

27. [21-24199](#)-A-7 **IN RE: TASHA SAWYER**
[PSB-1](#)

MOTION TO COMPEL ABANDONMENT
4-4-2022 [\[23\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.
DEBTOR DISCHARGED: 03/22/2022

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Prepared by moving party

Subject: 1531 Baines Ave, Sacramento, California
Value: \$519,914.00
1st Trust Deed: \$217,594.00
Exemption: \$420,000.00
Non-Exempt Equity: \$0

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks an order compelling the abandonment of estate property located at 1531 Baines Ave, Sacramento, California.

The movant bears the burden of proof. *In re Pilz Compact Disc, Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The real property described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment is warranted. The court will grant the motion.

28. [21-22496](#)-A-7 **IN RE: LILLIAN/ISAGANI SISAYAN**
[DNL-13](#)

MOTION FOR TURNOVER OF PROPERTY
4-5-2022 [\[326\]](#)

STEPHAN BROWN/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

No Ruling