UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

April 24, 2025 at 10:00 a.m.

1.	**24-24023-E-11** **BPC-2**	**NEXT HILL ENTERPRISES, LLC** **Richard Jare**	**CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY** **1-31-25 [53]**

DAVID PICK FAMILY PARTNERSHIP, L.P.

Item 1 thru 3

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—Hearing Required.

Sufficient Notice not Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, creditors holding the twenty largest unsecured claims, other parties in interest, and Office of the United States Trustee on January 31, 2025. By the court's calculation, 27 days' notice was provided. 28 days' notice is required. Movant is one day late of the required notice period. At the hearing, the court shortened the notice period to the time given.

The Motion for Relief from the Automatic Stay 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). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief from the Automatic Stay is xxxxxxx.

April 24, 2025 Hearing

The court continued the hearing on this Motion as Debtor in Possession had made the adequate protection payments required by 11 U.S.C. § 362(d)(3), but the court wanted to continue this matter in case Movant had any other grounds for relief.

Movant filed an Amended Motion for Relief on April 10, 2025, again on the grounds that Debtor in Possession is not making required adequate protection payments.

The Amended Motion has been filed under Docket Control Number BPC-3, not BCP-2. Notwithstanding that clerical error, the Amended Motion is applicable to this Contested Matter.

The Amended Motion states that the Debtor in Possession is now in default for two of the adequate protection payments, each in the amount of the nondefault interest on Movant's claim. The two payments in default are for the March 6, 2025 and April 5, 2025 payments. Amd. Mtn. P. 6:11-13; Dckt. 74. No declaration is provided in support of the Amended Motion.

At the hearing, **xxxxxxx**

REVIEW OF MOTION

David Pick Family Partnership, L.P., ("Movant") moves this court for an order granting relief pursuant to 11 U.S.C. § 362(d)(3) against the real property bearing APN 054-371-019 and having a mailing address of 425 Pleasant Valley Road, Diamond Springs, CA ("Property"). Movant pleads that on December 6, 2024, this court issued a ruling that Next Hill Enterprises, LLC ("Debtor in Possession") is a single asset real estate case pursuant to 11 U.S.C. § 101(51B). Order, Docket 52. Movant pleads that Debtor in Possession has not tendered interest payments on its claim or otherwise proposed a Plan within 30 days of the court issuing the Order on December 6, 2024. Mot. 2:6-16. Therefore, Movant requests the court grant relief pursuant to 11 U.S.C. § 362(d)(3).

Movant does not file any evidence in support of the Motion.

Debtor in Possession's Opposition

Debtor in Possession filed an Opposition on February 13, 2025. Docket 62. Debtor in Possession opposes on the following grounds:

1. Movant does not submit evidence in support of the Motion. Opp'n 1:21-22.

2. Movant has not filled out the relief form stay form. *Id.* at 2:5-9.

3. Debtor in Possession is holding at least one interest payment of $2,733.33 and it ready to tender the payment to Movant immediately. *Id.* at 2:10-25.

4. Movant does not have a secured claim in the second parcel of real property bearing APN 054-361-009 ("Parcel 2"), so Debtor in Possession seeks to clarify the Motion does not seek relief to Parcel 2. *Id.* at 2:27-3:10.

5. Debtor in Possession argues the first post-petition adequate protection payment was not due on January 6, 2025, 30 days after the court's December 6, 2024 Order. Rather, the first payment was due on February 1, 2025, in accordance with the note securing the Property stating that payments are due on the first of each month. *Id.* at 3:11-19.

6. Local Bankruptcy Rule 4001-1(b)(1)(C) imposes a duty on Movant to reach out to Debtor in Possession and advise Debtor in Possession of the delinquency, which Movant did not do. *Id.* at 3:21-4:8.

7. Debtor in Possession does not concede Movant is even secured by the Property. Debtor in Possession suggests the Note secured by the Property is faulty. *Id.* at 4:13-5:13.

8. Debtor in Possession can tender the payments for January and February, if the court determines January 6 was the first day payments were due, in open court at the February 27, 2025 hearing. *Id.* at 5:14-18.

Creditor's Reply

Creditor filed a Reply on February 20, 2025. Docket 66. Creditor states:

1. The evidence supporting the Motion is already on the record at Docket No. 21 and is cited to within the Motion. While the Motion did not attach its own declaration, the Court is already apprised of the facts at issue. Reply 2:20-22.

2. Under 11 U.S.C. § 362(d)(3), the Debtor is required to commence nondefault interest payments to the secured creditor no later than 30 days after the date the order is entered designating the case as a single asset real estate. The Court entered its Order designating this case as a single asset real estate case on December 6, 2024. The Debtor was required to file a plan of reorganization with a reasonable likelihood of being confirmed within a reasonable time or commence nondefault interest payments to the Movant no later than January 6, 2025. As of the date of the filing of this reply, the Debtor is still not in compliance with Section 362(d)(3) and a second nondefault interest payment has come due. *Id.* at 3:11-18.

3. The payment was due on January 6, not February 1. *Id.* at 4:12-17.

4. Movant does not intend to seek relief regarding Parcel 2. *Id.* at 3:19-21.

5. Local Bankruptcy Rule 4001-1(b)(1)(C) does not apply in Chapter 11 cases. *Id.* at 3:22-4:4.

6. Debtor in Possession mut bring an adversary proceeding if it wishes to dispute the validity of the instrument secured by the Property. The instrument is valid and enforceable. *Id.* at 5:6-26.

DISCUSSION

Movant's basis for relief is pursuant to 11 U.S.C. § 362(d)(3), which states:

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

> (3)with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—
>
> > (A)the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or
> >
> > (B)the debtor has commenced monthly payments that—
> >
> > > (i)may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and
> > >
> > > (ii)are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate. . .

Collier's Treatise states regarding the subject:

The purpose of section 362(d)(3) is to address perceived abuses in single asset real estate cases, in which debtors have attempted to delay mortgage foreclosures even when there is little chance that they can reorganize successfully. Section 362(d)(3) attempts to shorten such cases by requiring that the court grant relief from the stay if a reasonable plan is not filed promptly or payments are not commenced. The court may, of course, grant relief under subsection 362(d)(1) or (2) when it is appropriate to do so even if the applicable time period in subsection (d)(3) has not run. This might occur, for example, if the court determines that the case was commenced in bad faith and that the debtor is not entitled to bankruptcy relief.

Although technically the court may condition or modify the stay rather than terminate it, it appears that the legislative intention was to terminate the stay when the debtor neither proposes a viable plan nor makes payments to the secured party. A court

should refuse to terminate the stay only when there is a strong reason for offering lesser relief.

3 COLLIER ON BANKRUPTCY ¶ 362.07[5][b].

In this case, the court determined the case to be a single asset real estate case by Order date December 6, 2024. Docket 52. The language of 11 U.S.C. § 362(d)(3) imposes a time line from that date: within 30 days, Debtor in Possession must have either proposed a plan of reorganization that has a reasonable possibility of being confirmed, or Debtor in Possession has commenced making monthly interest payments on the secured claim. There is no plan on file and the record reflects Debtor in Possession has not begun making interest payments.

Debtor in Possession offers many arguments in support of why the Motion should be denied, including the suggestion that the underlying note secured by Parcel 1 is not enforceable. Debtor in Possession has presented such arguments before and the court has informed Debtor in Possession that if it wishes to challenge the validity of a note, that type of determination and action must be brought as an adversary proceeding pursuant to Fed. R. Bankr. P. 7001. Debtor in Possession lobbed other arguments in support of denying the Motion, even citing a Local Bankruptcy Rule section that only pertains to Chapter 13 and Chapter 12 cases. Such arguments are not persuasive.

The essential facts before the court are that the Debtor in Possession must have begun making its interest payments within 30 days after December 6, 2024, and Debtor in Possession has not done so. In this type of instance, the court is bound by 11 U.S.C. § 362(d)(3) and must grant relief.

However, Debtor in Possession suggest that it has funds on hand to make the two interest payments that were due and owing.

At the hearing, counsel for the Debtor in Possession had in hand two cashier's checks for the interest payments due in January and February 2025. As shown on the record, there was some confusion on behalf of the Debtor in Possession when the payments should start, believing that they were for the next monthly payment, which would be February 2025, and not in January 2025, since the 30 day period ended after January 1, 2025.

Counsel for the Debtor in Possession agreed that further arguing such point did not make economic sense, and the Debtor in Possession was ready to immediately had deliver the checks to Movant's counsel's Sacramento Office. Counsel for Movant stated that he would call Debtor in Possession's counsel after the hearing to confirm where the checks should be delivered.

The court addressed with counsel for the Debtor in Possession, with the Responsible Representative for the Debtor in Possession present at the hearing, the need to move forward with the prosecution of this Case. This case was filed September 9, 2024, with no plan filed or indication how the Debtor in Possession will diligently prosecute this case (now six months into the Case).

Counsel for the Debtor in Possession and the Debtor in Possession constructively engaged with the court on this point.

The court concludes that given the "confusion" of when the first payment was due and that the Debtor in Possession was having the January and February 2025 immediately delivered to Movant, the

Motion for Relief pursuant to 11 U.S.C. § 362(d)(3) is denied, without prejudice to Movant filing an amended motion for relief, to be heard on the April 10, 2025 continued hearing date on this Motion. The court concludes that this provides Movant with a form of adequate protection by keeping these proceedings "alive" and affording the Movant to continue to prosecute this Motion and not have to commence a new contested matter.

The hearing is continued to 10:00 a.m. on April 24, 2025. An amended motion for relief shall be filed on or before April 10, 2025. Opposition may be orally presented at the hearing, and the court will set a briefing schedule if sufficient grounds for opposition are stated.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by David Pick Family Partnership, L.P.("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 for Relief from the Automatic Stay pursuant to 11 U.S.C. § 362(d)(3) is **xxxxxxx**.

2.	**24-24023-E-11 BPC-3**	**NEXT HILL ENTERPRISES, LLC Richard Jare**	**MOTION FOR RELIEF FROM AUTOMATIC STAY 4-10-25 [74]**

DAVID PICK FAMILY PARTNERSHIP, L.P. VS.

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, other parties in interest, and Office of the United States Trustee on April 10, 2025. By the court's calculation, 14 days' notice was provided. 14 days' notice is required.

The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing, **----------**.

The Motion for Relief from the Automatic Stay is xxxxxxx .

David Pick Family Partnership, L.P., ("Movant") moves this court for an order granting relief pursuant to 11 U.S.C. § 362(d)(3) against the real property bearing APN 054-371-019 and having a mailing address of 425 Pleasant Valley Road, Diamond Springs, CA ("Property"). Movant pleads that on December 6, 2024, this court issued a ruling that Next Hill Enterprises, LLC ("Debtor in Possession") is a single asset real estate case pursuant to 11 U.S.C. § 101(51B). Order, Docket 52.

This is the second Motion for Relief brought in this case on the same grounds by Movant. Debtor in Possession cured the default in required interest payments in response to the prior Motion. However, Debtor again has failed to tender at least two adequate protection interest payments, giving rise to this second Motion. Mot. 2:13-17. Therefore, Movant requests the court grant relief pursuant to 11 U.S.C. § 362(d)(3).

Movant does not file any evidence in support of the Motion.

DISCUSSION

Movant's basis for relief is pursuant to 11 U.S.C. § 362(d)(3), which states:

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

> (3)with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—
>
> > (A)the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or
> >
> > (B)the debtor has commenced monthly payments that—
> >
> > > (i)may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and
> > >
> > > (ii)are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate. . .

Collier's Treatise states regarding the subject:

The purpose of section 362(d)(3) is to address perceived abuses in single asset real estate cases, in which debtors have attempted to delay mortgage foreclosures even when there is little chance that they can reorganize successfully. Section 362(d)(3) attempts to shorten such cases by requiring that the court grant relief from the stay if a reasonable plan is not filed promptly or payments are not commenced. The court may, of course, grant relief under subsection 362(d)(1) or (2) when it is appropriate to do so even if the applicable time period in subsection (d)(3) has not run. This might occur, for example, if the court determines that the case was commenced in bad faith and that the debtor is not entitled to bankruptcy relief.

Although technically the court may condition or modify the stay rather than terminate it, it appears that the legislative intention was to terminate the stay when the debtor neither proposes a viable plan nor makes payments to the secured party. A court should refuse to terminate the stay only when there is a strong reason for offering lesser relief.

3 COLLIER ON BANKRUPTCY ¶ 362.07[5][b].

In this case, the court determined the case to be a single asset real estate case by Order date December 6, 2024. Docket 52. The language of 11 U.S.C. § 362(d)(3) imposes a time line from that date: within 30 days, Debtor in Possession must have either proposed a plan of reorganization that has a reasonable possibility of being confirmed, or Debtor in Possession has commenced making monthly interest payments on the secured claim. There is no plan on file and the record reflects Debtor in Possession has again failed to make the required interest payments. At the hearing, **XXXXXXX**

Therefore, relief is granted pursuant to 11 U.S.C. § 362(d)(3). The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by David Pick Family Partnership, L.P., ("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 **XXXXXXX** ~~granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property bearing APN 054-371-019 and having a mailing address of 425 Pleasant Valley Road, Diamond Springs, CA ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.~~
>
> ~~No other or additional relief is granted.~~

3. 24-24023-E-11 CAE-1 — NEXT HILL ENTERPRISES, LLC — CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 9-9-24 [1]

Debtor's Atty: Richard L. Jare

Notes:
Continued from 3/5/25 to be heard in conjunction with the continued hearing on the Motion for Relief From the Automatic Stay. Counsel for the Debtor in Possession reporting that the Debtor in Possession's principals are considering potential investors, as well as marketing the property for sale.

The Status Conference is xxxxxxx

APRIL 22, 2025 STATUS CONFERENCE

At the Status Conference, xxxxxxx

MARCH 5, 2025 STATUS CONFERENCE

On February 28, 2025, the court entered an order continuing the hearing on the Motion for Relief From the Automatic Stay filed by David Pick Family Partnership, L.P. ("Creditor") to April 24, 2025. The Debtor in Possession has commenced making the monthly interest payments, commencing with the January 2025 payment to Creditor.

The Debtor commenced this voluntary Chapter 11 Case on September 9, 2024. Petition; Dckt. 1. In reviewing the latest Monthly Operating Report (Dckt. 65), it states that since this Case was filed the total receipts received by the Debtor in Possession are $2,790.

The property of the Bankruptcy Estate consists of two unimproved parcels of law, which Debtor states on Schedule A/B have a combined value of $1,320,000. Dckt. 1 at 8-9. The Debtor had no other assets as of the commencement of this Bankruptcy Case. See Schedule A/B; Dckt. 1. Several liens encumber these unimproved parcels of land.

At the Status Conference, counsel for the Debtor in Possession reports that the Debtor in Possession's principals are considering a potential investors, as well as marketing the property for sale.

The Status Conference is continued to 2:00 p.m. April 24, 2025.

DECEMBER 5, 2024 STATUS CONFERENCE

The court having determined this to be a single asset real estate case, the Status Conference is continued to 2:00 p.m. on March 5, 2025, to allow the Debtor in Possession and counsel for the Debtor in Possession to focus on the diligent prosecution of this Case.

OCTOBER 24, 2024 STATUS CONFERENCE

This voluntary Chapter 11 Case was filed by Next Hill Enterprises, LLC on September 9, 2024, and the Debtor is serving as the Debtor in Possession. The Schedules show that the only assets of the Debtor, and now the Bankruptcy Estate, are the two Parcels, which Debtor schedules as having a value of $1,320,000. As shown on Schedule A/B the Debtor, and now the Bankruptcy Estate are devoid of any other assets - not even two nickels to rub together. Dckt. 1 at 7-10.

Looking at the Statement of Financial Affairs, Part 1, filed by Debtor, it states that there no gross revenue from the operation of the Debtor's business. Dckt. 1 at 20.

The Monthly Operating Report for September 2024 has been filed by the Debtor in Possession. Dckt. 35. It states that the was $0.00 cash balance at the start of the month and that $25 was received in September 2024. Further, that there were no disbursements.

At the Status Conference, the Parties addressed the prosecution of this Case. The U.S. Trustee reported that the Meeting of Creditors has been continued to October 30, 2024.

The hearing on the Motion for the Court to Designate this a Single Asset Real Estate Case has been continued to 10:30 a.m. on December 5, 2024.

The Status Conference is continued to 10:30 a.m. on December 5, 2024 (Specially Set Time).

4. 24-24880-E-7 KRISTOPHER ROHDE
DVW-1 Michael Hays

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-10-25 [58]

U.S. BANK TRUST NATIONAL ASSOCIATION VS.

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, creditors, and Office of the United States Trustee on April 10, 2025. By the court's calculation, 14 days' notice was provided. 14 days' notice is required.

The Motion for Relief from the Automatic Stay 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, ----------.

The Motion for Relief from the Automatic Stay is granted.

U.S. Bank Trust National Association, Not in its Individual Capacity, but Solely as Trustee of the Truman 2021 SC9 Title Trust ("Movant") seeks relief from the automatic stay with respect to Kristopher Timothy Rhode's ("Debtor") real property commonly known as 16 Niagara Way, Chico, California 95928 ("Property"). Movant has provided the Declaration of Rosa B. Chapa to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 60.

Movant alleges Debtor was not an obligor of the Note securing the Property nor was Debtor the owner of the Property. Mot. 2:8-18, Docket 58. Instead, Debtor became the successor of interest in the Property, after the original borrower, Larry E. Rohde unfortunately passed away. *Id.* Debtor filed a Chapter 13 on October 29, 2024, but it was later converted to a Chapter 7 on January 21, 2025. *Id.* at 25-26.

Movant argues Debtor has not made six post-petition payments, with a total of $6,706.20 in post-petition payments past due. Decl. 3:11-18, Docket 60. Movant also provides evidence that there are nine pre-petition payments in default, with a pre-petition arrearage of $10,059.30. *Id.*

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $211,989.24 (Decl. 3:19-20, Docket 60), while the value of the Property is determined to be $399,200.00, as stated in Schedules A/B filed by Debtor. Schedule A/B at 1, Docket 11.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Here, Debtor has not made six post-petition payments. Thus, the court determines that cause exists for terminating the automatic stay. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

11 U.S.C. § 362(d)(2)

A debtor has no equity in property when the liens against the property exceed the property's value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988); 3 COLLIER ON BANKRUPTCY ¶ 362.07[4][b] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (stating that Chapter 13 debtors are rehabilitated, not reorganized). The Ninth Circuit has held that a 20% equity cushion is sufficient to provide a secured creditor with adequate protection. *In re Mellor*, 734 F.2d 1396, 1401 (9th Cir. 1984).

Here, the court cannot grant relief pursuant to 11 U.S.C. § 362(d)(2). Debtor has scheduled the Property at a value of $399,200, which far exceeds the value of the debt in the amount of $211,989.24. The Motion is denied as to any 11 U.S.C. § 362(d)(2) relief.

Attorneys' Fees Requested
Request for Attorneys' Fees

Movant alleges that pursuant to Movant's Deed of Trust, Debtor agreed that should a legal proceeding in bankruptcy commence, Movant is entitled to reasonable attorneys' fees. Mot. 4:8-19, Docket 58. Movant claims that paragraph seven of the Deed of Trust lays out the agreement. *Id.* After reviewing the evidence, it is paragraph nine, not seven, that permits Movant's recovery of fees. Ex. 3 at 12, Docket 61.

The court finds fees in the amount of $1,427 to be reasonable and awards them as part of this Motion.

Federal Rule of Bankruptcy Procedure 4001(a)(3)
Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by U.S. Bank Trust National Association, Not in its Individual Capacity, but Solely as Trustee of the Truman 2021 SC9 Title Trust ("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 automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 16 Niagara Way, Chico, California 95928 ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.
>
> **IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.
>
> **IT IS FURTHER ORDERED** that Movant's is awarded $1,427 in attorney's fees related to prosecuting this Motion pursuant to the language of paragraph nine of the Deed of Trust found at Exhibit 3, Docket 61..
>
> No other or additional relief is granted.

5. 24-25684-E-7 KMM-1 | **DUSTIN FISHER** **Stephan Brown** | **MOTION FOR RELIEF FROM AUTOMATIC STAY** **3-24-25 [16]**

SERVBANK, SB VS.

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—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, creditors, and Office of the United States Trustee on March 24, 2025. By the court's calculation, 31 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay 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). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief from the Automatic Stay is granted.

Servbank, SB as attorney-in-fact Panorama Mtg Group, LLC., ("Movant") seeks relief from the automatic stay with respect to Dustin Russell Fisher's ("Debtor") real property commonly known as 5813 Littlestone St., Sacramento, California, 95835 ("Property"). Movant has provided the Declaration of Greg Vigil to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 18.

Movant argues Debtor has not made four post-petition payments, with a total of $24,579.44 in post-petition payments past due. Decl. 3:9-12, Docket 18. Movant also provides evidence that there are four pre-petition payments in default, with a pre-petition arrearage of $23,642.78. *Id*.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on April 10, 2025. Opp'n, Docket 27. Debtor asserts that Movant is adequately protected because of the equity cushion and adequate protection payments. Opp'n 2:20-25, Docket 27. Debtor requests the court deny Movant's motion so the Chapter 7 Trustee can independently review the Property and see if liquidating it would realize a return to creditors.

CHAPTER 7 TRUSTEE'S NON-OPPOSITION

Geoffrey Richards ("the Chapter 7Trustee") filed a Non-Opposition on April 15, 2025.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $680,842.54 (Decl. 3:1-8, Docket 18), while the value of the Property is determined to be $694,428.00, as stated in Schedules A/B and D filed by Debtor. Schedule A/B at 11, Docket 1.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Here, Debtor is in default on four post-petition payments. *In re Ellis*, 60 B.R. 432. Further, the equity Debtor has in the property, totaling $13,585.46, is not enough to adequately protect Movant as it is far below the 20% equity cushion as prescribed in *In re Mellor*, 734 F.2d 1396, 1401 (9th Cir. 1984). Moreover, the Trustee has determined he does not oppose the Motion, having performed his review. Thus, the court determines that cause exists for terminating the automatic stay. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by Servbank, SB as attorney-in-fact Panorama Mtg Group, LLC., ("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 automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 5813 Littlestone St., Sacramento, California, 95835 ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable

nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

No other or additional relief is granted.

FINAL RULINGS

6. 23-22719-E-7 KMM-1 | **ANA/FRANCISCO CORRAL** | **MOTION FOR RELIEF FROM AUTOMATIC STAY**
Scott Johnson | **3-24-25 [73]**

TOYOTA MOTOR CREDIT CORPORATION VS.

Final Ruling: No appearance at the April 24, 2025 Hearing is required.

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 24, 2025. By the court's calculation, 31 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay 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 for Relief from the Automatic Stay is granted.

Toyota Motor Credit Corporation ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2016 Toyota Prius, VIN ending in 3003701 ("Vehicle"). The moving party has provided the Declaration of Debra Knight to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Ana Lilia Corral and Francisco Corral ("Debtor"). Decl., Docket 76.

Movant argues that pursuant to the terms of the Retail Installment Sale Contract, Debtor's loan matured on January 22, 2025 and to date Debtor has an outstanding balance totaling $8,102.80. Decl. 4:1-5, Docket 76.

J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. C, Docket 77. The Report has been properly authenticated and is accepted as a market report or commercial

publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $8,102.80 (Declaration, Docket 76), while the value of the Vehicle is determined to be $15,375.00, as stated on the J.D. Power Valuation Report.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Here, Debtor has not made a post-petition payment. Thus, the court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by Toyota Motor Credit Corporation ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2016 Toyota Prius, VIN ending in 3003701 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

No other or additional relief is granted.

7. **25-20828-E-7** **KRISTOPHER SHIREY** **MOTION FOR RELIEF FROM AUTOMATIC STAY**
RMP-1 **Anh Nguyen** **3-19-25 [11]**

CARRINGTON MORTGAGE SERVICES, LLC VS.

Final Ruling: No appearance at the April 24, 2025 Hearing is required.

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 19, 2025. By the court's calculation, 36 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay 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 for Relief from the Automatic Stay is granted.

Carrington Mortgage Services, LLC, ("Movant") seeks relief from the automatic stay with respect to Kristopher Alexander Shirey's ("Debtor") real property commonly known as 1617 S. 5th Street, Terre Haute, Indiana, 47802 ("Property"). Movant has provided the Declaration of E.C. Arroyo to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 15.

Movant argues Debtor has not made one post-petition payments, with a total of $1,662.23 in post-petition payments past due. Decl. 3:15-20, Docket 15. Movant also provides evidence that there are thirty pre-petition payments in default, with a pre-petition arrearage of $41,707.31. *Id*.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $225,178.72 (Decl. 4:3-9, Docket 15), while the value of the

Property is determined to be $142,000.00, as stated in Schedules A/B filed by Debtor. Schedule A/B at 11, Docket 1.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Here, Debtor has not made one post-petition payment, and has also not made thirty pre-petition payments. Thus, the court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

11 U.S.C. § 362(d)(2)

A debtor has no equity in property when the liens against the property exceed the property's value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988); 3 COLLIER ON BANKRUPTCY ¶ 362.07[4][b] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (stating that Chapter 13 debtors are rehabilitated, not reorganized). The Ninth Circuit has held that a 20% equity cushion is sufficient to provide a secured creditor with adequate protection. *In re Mellor*, 734 F.2d 1396, 1401 (9th Cir. 1984). Based upon the evidence submitted, the court determines that there is no equity in the Property for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Property is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

Attorneys' Fees Requested
Request for Attorneys' Fees

In the Motion, almost as if an afterthought, Movant requests that it be allowed attorneys' fees. The Motion does not allege any contractual or statutory grounds for such fees. No dollar amount is requested for such fees. No evidence is provided of Movant having incurred any attorneys' fees or having any obligation to pay attorneys' fees. Based on the pleadings, the court would either: (1) have to award attorneys' fees based on grounds made out of whole cloth, or (2) research all of the documents and California statutes and draft for Movant grounds for attorneys' fees, and then make up a number for the amount of such fees out of whole cloth. The court is not inclined to do either.

Furthermore, a claim for attorney's fees and related nontaxable expenses must be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages. FED. R. CIV. P. 54(d)(2)(A); FED. R. BANKR. P. 7054, 9014.

Federal Rule of Bankruptcy Procedure 4001(a)(3)
Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by Carrington Mortgage Services, LLC, ("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 automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 1617 S. 5th Street, Terre Haute, Indiana, 47802 ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.
>
> **IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.
>
> **IT IS FURTHER ORDERED** that Movant is not awarded attorneys' fees as part of this Motion.
>
> No other or additional relief is granted.

8. **25-20451-E-7** **KEVIN/STACY BURT** **MOTION FOR RELIEF FROM**
MJ-1 **Pauldeep Bains** **AUTOMATIC STAY**
3-5-25 [13]

ACAR LEASING LTD VS.

Final Ruling: No appearance at the April 24, 2025 Hearing is required.

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 5, 2025. By the court's calculation, 50 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay 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 for Relief from the Automatic Stay is granted.

ACAR Leasing LTD d/b/a GM Financial Leasing ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2022 Chevrolet Bolt EUV, VIN ending in 4109014 ("Vehicle"). The moving party has provided the Declaration of Phillip Ford Sr. to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Kevin Stanley Burt and Stacy Marie Burt ("Debtor"). Decl., Docket 15.

Movant argues Debtor intends to surrender the Vehicle per their Statement of Intention. Exhibit D, Docket 16. Movant also provides evidence that Debtor owes four pre-petition payments totaling $3,107.36. Decl. 2:22-25, Docket 15.

The Chapter 7 Trustee filed a Non-Opposition on March 22, 2025.

J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. C, Docket 16. The Report has been properly authenticated and is accepted as a market report or commercial

publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $33,225.59 (Decl. 3:3-7, Docket 15), while the value of the Vehicle is determined to be $25,150.00, as stated on the J.D. Power Valuation Report.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Debtor, per their Statement of Intention, intends to surrender the Vehicle. As such, Debtor does not intend to pay pre-petition fees on the Vehicle. Thus, the court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

11 U.S.C. § 362(d)(2)

A debtor has no equity in property when the liens against the property exceed the property's value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988); 3 COLLIER ON BANKRUPTCY ¶ 362.07[4][b] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (stating that Chapter 13 debtors are rehabilitated, not reorganized). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Vehicle is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

Federal Rule of Bankruptcy Procedure 4001(a)(3)
Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States

Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by ACAR Leasing LTD d/b/a GM Financial Leasing ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2022 Chevrolet Bolt EUV, VIN ending in 4109014 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.
>
> **IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.
>
> No other or additional relief is granted.

9. 25-20664-E-7 PVR-1 | **HELEN OTS** **Thomas Amberg** | **MOTION FOR RELIEF FROM AUTOMATIC STAY** **3-21-25 [11]**

SCHOOLSFIRST FEDERAL CREDIT UNION VS.

Final Ruling: No appearance at the April 24, 2025 Hearing is required.

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, 2025. By the court's calculation, 34 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay 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 for Relief from the Automatic Stay is granted.

SchoolsFirst Federal Credit Union ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2022 Rivian R1T, VIN ending in 010324 ("Vehicle"). The moving party has provided the Declaration of Dioselin Hernandez to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Helen Climena Ots ("Debtor"). Decl., Docket 15.

Movant argues Debtor has not made one post-petition payment, with a total of $1,425.24 in post-petition payments past due. Decl. 2:12-15, Docket 15. Movant also provides evidence that there is one pre-petition payment in default, with a pre-petition arrearage of $1,445.54. *Id.*

Kelley Blue Book Pricing Report Provided

Movant has also provided a copy of the Kelley Blue Book Pricing Report for the Vehicle. Ex. 4, Docket 14. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

DEBTOR'S NON-OPPOSITION

Debtor filed a Non-Opposition on March 26, 2025. Docket 17.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $78,380.20 (Decl. 2:12-15 Docket 15), while the value of the Vehicle is determined to be $40,506.00, as stated on the Kelley Blue Book Pricing Report, which is slightly more than the retail value.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Debtor is behind on one post-petition payment. Further, Debtor does not oppose Movant's motion, thus the court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

11 U.S.C. § 362(d)(2)

A debtor has no equity in property when the liens against the property exceed the property's value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988); 3 COLLIER ON BANKRUPTCY ¶ 362.07[4][b] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (stating that Chapter 13 debtors are rehabilitated, not reorganized). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Vehicle is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

Federal Rule of Bankruptcy Procedure 4001(a)(3)
Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by SchoolsFirst Federal Credit Union ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2022 Rivian R1T, VIN ending in 010324 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.
>
> **IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.
>
> No other or additional relief is granted.