UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, April 30, 2025
Department A – Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at https://www.caeb.uscourts.gov/Calendar/CourtAppearances. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the Pre-Hearing Dispositions prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the CourtCall Appearance Information.

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

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

9:30 AM

1. 25-10721-A-11 **IN RE: RIDGELINE CAPITAL INVESTMENTS, LLC**
UST-1

MOTION TO DISMISS CASE
4-1-2025 [81]

TRACY DAVIS/MV
MICHAEL TOTARO/ATTY. FOR DBT.
DEANNA HAZELTON/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part, denied in part; the case will be dismissed without a 180-day bar to refiling.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here in part. The court will grant the motion to dismiss but not grant the requested 180-day bar to refiling. This matter will proceed as scheduled.

As an informative matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked that service was effectuated by Rule 5 and Rules 7005, 9036 Service. Doc. #85. However, Federal Rule of Bankruptcy Procedure ("Rule") 9014 requires service of a motion to dismiss be made pursuant to Rule 7004 on the debtor, which was done. In Section 6, the declarant should have checked the appropriate box under Section 6A in addition to the boxes in Section 6B.

Tracy Hope Davis, the United States Trustee for Region 17 ("UST"), moves to dismiss the chapter 11 bankruptcy case of Ridgeline Capital Investments, LLC ("Debtor") pursuant to 11 U.S.C. § 1112(b). Doc. #81. UST argues that Debtor's bankruptcy case should be dismissed for cause under 11 U.S.C. § 1112(b) because (a) Debtor filed the case in bad faith, and (b) Debtor has no likelihood of reorganization or rehabilitation. Id. UST also asks the court to enter a 180-day bar to refiling. Id.

Judicial Notice

In a footnote within the memorandum of points and authorities, UST requests the court take judicial notice of the pleadings and documents filed in this bankruptcy case ("Second Bankruptcy Case") and in In re Ridgeline Capital Investments, LLC, Case No. 24-11545 (Bankr. E.D. Cal.) ("First Bankruptcy Case"). Doc. #84. As a procedural matter, the request for judicial notice does not comply with LBR 9014-1(d)(4), which requires that every document listed in LBR 9014-1(d)(1) be filed as a separate document, and Federal Rule of Evidence

201(c), which requires the party requesting special notice to set forth the grounds on which the court can take such notice. Because UST is requesting the court take judicial notice of two separate bankruptcy dockets, this request should have been made in a separate pleading. However, the court, on its own, can take judicial notice of pleadings filed in the Second Bankruptcy Case as well as in the First Bankruptcy Case and does so. Fed. R. Evid. 201; Bank of Am., N.A. v. CD-04, Inc. (In re Owner Mgmt. Serv., LLC), 530 B.R. 711, 717 (Bankr. C.D. Cal. 2015).

Relevant Facts

Debtor filed the First Bankruptcy Case as a single asset real estate chapter 11 bankruptcy on June 4, 2024. Case No. 24-11545, Doc. #1. Debtor's primary asset, as set forth in the First Bankruptcy Case, is an interest in real property located at 45200 Oak Manor Court, Temecula, California (the "Property"). Case No. 24-11545, Doc. ##1, 55. Debtor's schedules in the First Bankruptcy Case reflect the Property's fair market value in the amount of $4.3 million. Id. Creditors with claims secured by the Property consist of Metro R.E. 2023-224, LLC ("Metro") in the amount of $3,077,108.51 and Riverside County Treasurer-Tax Collector in the amount of $80,480.38. Case No. 24-11545, Doc. #55; Case No. 24-11545, Claims 1-1, 5-1.

On October 21, 2024, Metro filed a motion for relief from stay in the First Bankruptcy Case. Case No. 24-11545, Doc. #150. An order granting relief from stay pursuant to 11 U.S.C. § 362(d)(3) was entered on November 25, 2024. Case No. 24-11545, Order, Doc. #183. Metro proceeded to set a foreclosure sale of the Property for December 11, 2024 at 9:00 a.m. Civil Minutes, Doc. #87. Meanwhile, Attorney Michael R. Totaro ("Debtor's Counsel") entered the First Bankruptcy Case on behalf of Debtor, filed a motion to dismiss the First Bankruptcy Case on November 27, 2024, and, on December 10, 2024, filed the Second Bankruptcy Case in San Diego. Doc. #1; Case No. 24-11545, Doc. #184. In the Second Bankruptcy Case, Debtor listed an additional interest in real property located at 15955 Running Deer Trail, Poway, California 92604 (the "Poway Property"). On December 11, 2024, the court denied Debtor's motion to dismiss the First Bankruptcy Case. Case No. 24-11545, Order, Doc. #191.

On December 18, 2024, UST filed a motion to convert the First Bankruptcy Case from chapter 11 to chapter 7, which was granted on January 16, 2025. Case No. 24-11545, Doc. ##196, 204. On January 30, 2025, an Order to Show Cause as to why the Second Bankruptcy Case should not be ordered transferred to the Eastern District of California and an order staying the Second Bankruptcy Case ("Order to Show Cause") was issued. Case No. 24-11545, Doc. #217. The Order to Show Cause was concluded, and the Second Bankruptcy Case was transferred to the Eastern District of California on February 27, 2024. Order, Doc. #50; Case No. 24-11545, Doc. #229. Metro filed a motion for relief from the automatic stay for the Property in the Second Bankruptcy Case pursuant to 11 U.S.C. § 362(d)(1) and (d)(4), which was granted on April 9, 2025. Order, Doc. #90.

UST argues that the Second Bankruptcy Case should be dismissed for cause under 11 U.S.C. § 1112(b) because Debtor did not file the Second Bankruptcy Case in good faith. Doc. #81. UST also seeks a 180-day bar to refiling to permit Metro sufficient time to complete its foreclosure of the Property and pursue its state law remedies. Id.

Dismissal

"Dismissal of a chapter 11 case under 11 U.S.C. § 1112(b) requires a two-step analysis." Moore v. United States Tr. for Region 16 (In re Moore), 583 B.R. 507, 511 (C.D. Cal. 2018). It must first be determined that there is "cause" to act, and it then must be determined that dismissal, rather than conversion to

chapter 7 or appointment of a trustee, is in the best interests of the creditors and the estate. Id. (citing Nelson v. Meyer (In re Nelson), 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006)). While § 1112(b)(4) of the Bankruptcy Code identifies specific conduct constituting cause, "bankruptcy courts may look beyond 11 U.S.C. § 1112(b)(4) and 'consider other factors as they arise, and to use its equitable powers to reach an appropriate result in individual cases.'" Id. at 512 (quoting Pioneer Liquidating Corp. v. United States Tr. (In re Consol. Pioneer Mortg. Entities), 248 B.R. 368, 375 (B.A.P. 9th Cir. 2000)).

"Dismissal for a lack of good faith in filing is a matter for the bankruptcy court's discretion." In re Stolrow's, Inc., 84 B.R. 167, 170 (B.A.P. 9th Cir. 1988). A bankruptcy court "may consider any factors which evidence an intent to abuse the judicial process and the purposes of" reorganization. Marshall v. Marshall (In re Marshall), 721 F.3d 1032, 1048 (9th Cir. 2013) (quoting Phoenix Piccadilly, Ltd. v. Life Ins. Co. of Va. (In re Phoenix Piccadilly, Ltd.), 849 F.2d 1393, 1394 (11th Cir. 1988)). The debtor bears the burden of proving that the bankruptcy petition was filed in good faith. Id. (citations omitted).

A number of factors typically present when a bankruptcy court determines that a bankruptcy petition is not filed in good faith. These factors are as follows:

(1) the debtor has only one asset;

(2) the debtor has an ongoing business to reorganize;

(3) there are any unsecured creditors;

(4) the debtor has any cash flow or sources of income to sustain a plan of reorganization or to make adequate protection payments; and

(5) the case is essentially a two-party dispute capable of prompt adjudication in state court.

St. Paul Self Storage Ltd. P'ship v. Port Auth. (In re St. Paul Self Storage Ltd. P'ship), 185 B.R. 580, 582-83 (B.A.P. 9th Cir. 1995). It matters not whether all the factors listed are present, and it may be the case that only a few factors weigh so heavily as to be determinative. Can-Alta Props., Ltd. v. State Sav. Mortg. Co. (In re Can-Alta Props., Ltd.), 87 B.R. 89, 91-92 (B.A.P. 9th Cir. 1988).

The court finds that cause exists to dismiss Debtor's chapter 11 case because (a) Debtor filed the Second Bankruptcy Case in bad faith, and (b) Debtor has no likelihood of reorganization or rehabilitation.

Applying the factors for determining bad faith to this case, Debtor's sole asset is the Property. Doc. #1; Memo P&A, Doc. #84. While Debtor's schedules reflect a 70% interest in the Poway Property, Debtor's Counsel admits this is an error. Decl. of Michael R. Totaro, Doc. #49; Memo P&A, Doc. #84. Debtor has no ongoing business to reorganize because Debtor has not generated any gross revenue since 2022. Statement of Financial Affairs, Doc. #1; Memo P&A, Doc. #84. Further, it appears that the Second Bankruptcy Case was filed to delay foreclosure of the Property by Metro. Memo P&A, Doc. #84. UST states that the amount of the unsecured debt is unclear because Debtor's listing of creditor's status as secured or unsecured are different between the First Bankruptcy Case and the Second Bankruptcy Case. Doc. #1; Memo P&A, Doc. #84. In the Second Bankruptcy Case, the three unsecured creditors are marked as disputed which, if Debtor prevails, would leave no unsecured creditors. Id. Debtor has not presented any evidence that it has cash flow or other sources of income to sustain a plan. Id. Finally, this case is a two-party dispute between Debtor and Metro, who was granted relief from the automatic stay in the First

Bankruptcy Case prior to Debtor filing this case. Id. The primary reason for filing this new case was to halt Metro's foreclosure sale of the Property and attempt to list the Property for sale once more. Id.; Doc. ##6, 11, 61.

Lastly, UST states Debtor had ample opportunity to confirm a plan and sell the Property in the First Bankruptcy Case but was unable to do so, and any chapter 11 reorganization or rehabilitation for Debtor in this case seems unrealistic and/or futile. Memo P&A, Doc. #84.

Accordingly, UST's motion to dismiss under 11 U.S.C. § 1112(b) will be granted. Because Debtor is already in a chapter 7 in the First Bankruptcy Case, the court finds that conversion is not in the best interests of creditors and the estate, so dismissal rather than conversion is appropriate.

180-Day Bar to Refiling

Section 349 states that dismissal of a bankruptcy does not "prejudice the debtor with regard to filing of a subsequent petition." 11 U.S.C. § 349(a). However, while § 349(a) established a general rule that dismissal of a bankruptcy case is without prejudice, it expressly grants a bankruptcy court the authority to dismiss the case with prejudice. See Franco v. U.S. Tr. (In re Franco), No. CC-15-1281-KiTaL, 2016 Bankr. LEXIS 2185 (B.A.P. 9th Cir. 2016).

UST states that the Second Bankruptcy Case was filed for the purpose of Debtor receiving the benefit of the automatic stay and to buy more time for Debtor to sell the Property. Memo P&A, Doc. #84. UST further states that any subsequent bankruptcies filed by Debtor would only serve to hold Metro hostage and force Metro to seek relief from stay in each case. Id.

However, in Metro's motion for relief from the automatic stay with respect to the Property filed and granted in the Second Bankruptcy Case, the court granted Metro relief from stay pursuant to 11 U.S.C. § 362(d)(4). Order, Doc. #90. Therefore, assuming Metro has recorded that order, there would be no automatic stay with respect to the Property if Debtor were to file another bankruptcy case. Therefore, a 180-day refiling bar is not necessary to permit Metro sufficient time to foreclose on the Property, and the court will not grant a 180-day bar in this case.

Conclusion

Accordingly, this motion will be granted in part and denied in part. UST's motion to dismiss under 11 U.S.C. § 1112(b) will be granted and the Second Bankruptcy Case will be dismissed. The court will deny UST's request for a 180-day bar to refiling in the Second Bankruptcy Case.

2. 24-12873-A-11 **IN RE: GRIFFIN RESOURCES, LLC**
CAE-1

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION 10-2-2024 [1]

RILEY WALTER/ATTY. FOR DBT.

NO RULING.

3. 24-12873-A-11 **IN RE: GRIFFIN RESOURCES, LLC**
DOJ-1

CONTINUED OBJECTION TO DEBTOR'S ELECTION TO BE DESIGNATED AS A SMALL BUSINESS SUBCHAPTER V
12-6-2024 [91]

CALIFORNIA GEOLOGIC ENERGY MANAGEMENT DIVISION/MV
RILEY WALTER/ATTY. FOR DBT.
ALICE SEGAL/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

4. 25-10074-A-12 **IN RE: CAPITAL FARMS, INC**
FW-6

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
4-15-2025 [146]

CAPITAL FARMS, INC./MV
PETER FEAR/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Capital Farms, Inc. ("Debtor"), the debtor in this chapter 12 case, moves the court for authorization to assume a lease agreement ("Agreement") entered into pre-petition with lessor ATK Brewer 315, LLC ("Lessor") with respect to 315 acres of agricultural land bearing Placer County Assessor's Parcel Nos. 017-130-006 and 017-130-021 (collectively, the "Property"). Doc. #146; Decl. of Shawn Gill, Doc. #148. Debtor is the lessee under the Agreement. Gill Decl., Doc. #148; Ex. A, Doc. #149. Debtor leases the Property from Lessor on which Debtor conducts its farming operations. Id.

The Agreement commenced on January 1, 2016, and ends on December 31, 2040. Ex. A, Doc. #149. The lease payments are set as follows: (1) a minimum cash rent ("MCR") payment of $275.00 per 302.4 plantable acres in the amount of $83,160.00 for year 1 through 5, and $775.00 per 302.4 plantable acres in the amount of $243,360.00 for year 6 through 24; (2) commencing year 6 and every year thereafter, Debtor will pay the greater of the MCR or the crop share rent("CSR") unless the CSR exceeds the MCR during the first five years, then the CSR shall be due; and (3) in subpar production years beginning in year 6, for the years in which crop demand or the commodity price for each of the crops

are more than twenty percent below the year's industry average or each crop's production was more than twenty percent below the prior year, the MCR shall be reduced to the greater of $387.50 per acre or CSR. Id. Debtor is current with all of its respective pre- and post-petition obligations under the Agreement. Gill Decl., Doc. #148.

Section 365(a) of the Bankruptcy Code provides that, subject to court approval, the debtor-in-possession may assume an executory contract of the debtor. In evaluating a decision under § 365(a) to assume an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Grp., Inc. (In re Pomona Valley Med. Grp., Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted). The bankruptcy court should approve the assumption under § 365(a) unless the debtor in possession's conclusion is based on bad faith, whim, or caprice. Id.

Here, Debtor states that assumption of the Agreement is in the best interest of the estate. Doc. #146; Gill Decl., Doc. #148. Debtor conducts farming operations on the Property. Gill Decl., Doc. #148. Because the Agreement has not expired and not in default, Debtor intends to assume the Agreement pursuant to 11 U.S.C. §365(a). Id. Should the Debtor breach the Agreement, Debtor intends to promptly cure any default, compensate or provide adequate assurance to compensate the non-debtor party for any pecuniary loss and provide adequate assurance of future performance under the agreement. Id. The court finds that Debtor's decision to assume the Agreement is based on its sound business judgment.

Accordingly, pending opposition being raised at the hearing, the motion will be GRANTED, and Debtor will be authorized to assume the Agreement in conformance with Debtor's motion. Doc. #146.

5. 25-10505-A-11 **IN RE: WATTS CHOPPING**
YW-2

CONTINUED MOTION TO USE CASH COLLATERAL AND/OR MOTION FOR ADEQUATE PROTECTION
3-4-2025 [21]

WATTS CHOPPING/MV
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Granted on a final basis through August 31, 2025.

NO ORDER REQUIRED.

On April 25, 2025, the court issued an order granting use of cash collateral on a final basis through August 31, 2025. Doc. #75.

6. 25-10721-A-11 **IN RE: RIDGELINE CAPITAL INVESTMENTS, LLC**
CAE-1

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
12-10-2024 [1]

MICHAEL TOTARO/ATTY. FOR DBT.

NO RULING.

1. 25-10811-A-7 **IN RE: PAUL TYLAR**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT INFORMATION IN PACER
4-2-2025 [13]

PETER FEAR/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

On April 2, 2025, this court issued an order to show cause ("OSC") why sanctions should not be imposed for the failure of counsel for the debtor to update contact information in PACER. Doc. #13. The OSC was issued because there was a discrepancy between the email address for debtor's counsel in PACER and the email address for debtor's counsel listed on the petition that was filed in this bankruptcy case. Id.

On April 11, 2025, counsel for the debtor filed a response to the OSC explaining that counsel for debtor has two email addresses on file with this court in PACER, fearnotice@gmail.com and pfear@ecf.courtdrive.com. Doc. #16. The former email is accessible by all staff in the office and counsel for the debtor receives notices from the court at this email address. Id. This email address is designed to receive only emails from the court to make sure that emails from the court are prioritized. Id. The latter email is used to collect electronically filed documents for the firm's document management system. Id. However, neither of these email addresses are the email address of counsel for the debtor, which is the email address that is on the petition. Thus, the court issued the OSC.

Based on the explanation provided by counsel for the debtor, the court finds that counsel for the debtor has sufficiently explained the discrepancy between the email address for debtor's counsel in PACER and the email address for debtor's counsel listed on the petition. Accordingly, the OSC is vacated. No appearance is necessary.

2. 25-10744-A-7 **IN RE: CRISTIAN MORELOS GUIDO**
DMG-1

MOTION TO DISMISS DUPLICATE CASE
4-9-2025 [13]

CRISTIAN MORELOS GUIDO/MV
D. GARDNER/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order

Local Rule of Practice ("LBR") 9014-1(f)(2) allows a moving party to file and serve a motion on at least 14 days' notice "unless additional notice is required by the Federal Rules of Bankruptcy Procedure." Federal Rule of Bankruptcy Procedure ("Rule") 2002(a)(4) requires at least 21 days' notice by mail to all creditors of the hearing for a motion to dismiss a chapter 7 case.

Here, notice of this motion was sent by mail on April 10, 2025 with a hearing date set for April 30, 2025, which is only 20 days before the hearing. Because this motion to dismiss was set for hearing on less than 21 days' notice, this motion is DENIED WITHOUT PREJUDICE for improper notice under Rule 2002(a)(4).

3. 24-11362-A-7 **IN RE: CRISPIN TRINIDAD**
LNH-3

MOTION TO SELL AND/OR MOTION TO PAY
4-9-2025 [35]

IRMA EDMONDS/MV
LAYNE HAYDEN/ATTY. FOR DBT.
LISA HOLDER/ATTY. FOR MV.

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

DISPOSITION: Granted subject to higher and better offers.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion subject to higher and better offers. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Irma Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Crispin Trinidad, Jr. ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of real property located at 250 Kelly Avenue, Parlier, California (the "Property") to Matias Ortega Martinez and Rosa Angelica Martinez (collectively, "Buyers") for the purchase price of $325,000.00, subject to higher and better bids at the hearing. Doc. #35. Trustee states that any liens or encumbrances attaching to the Property will be paid at close and out of escrow. Doc. #35; Decl. of Trustee, Doc. #38. Trustee also seeks authorization to pay a commission for the sale to Robert Casey of Berkshire Hathaway HomeServices California Realty ("Broker"). Doc. #35.

Selling Property of Estate under 11 U.S.C. § 363(b)(1) Permitted

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887

(Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. #35. After preforming an investigation, Trustee believes the Property is valued at $325,000.00. Decl. of Trustee, Doc. #38. Buyers tendered an offer of $325,000.00, which Trustee has accepted conditioned upon the court's approval and better and higher offers at the hearing. Id. The sale is "as is, where is" with no warranties or representations of any nature. Doc. #35. Buyers have made an initial deposit of $5,000.00. Id. Based upon estimates obtained from the preliminary title report, the sales contract, and charges common in the industry, Trustee estimates a benefit to the estate of $37,388.50. Decl. of Trustee, Doc. #38. Property taxes are current, and there are no liens or encumbrances. Id. Trustee expects to pay a $6,500.00 commission to Broker and $6,500.00 in costs of sale. Id.

The Property will be sold at a price greater than the aggregate value of all liens on the Property and it appears that the sale of the estate's interest in the Property is in the best interests of the estate, the Property will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, pending opposition being raised at the hearing and subject to overbid offers made at the hearing, the court will GRANT Trustee's motion and authorize the sale of the Property pursuant to 11 U.S.C. § 363(b)(1). The motion does not specifically request, nor will the court authorize, the sale free and clear of any liens or interests. Trustee indicates that there are no liens or encumbrances on the Property.

Compensation to Broker

Trustee also seeks authorization to pay Broker a commission for the sale of the Property. This court has determined that employment of Broker is in the best interests of the estate and has previously authorized a percentage commission payment structure pursuant to 11 U.S.C. § 328. Order, Doc. #30.

Trustee seeks to pay Broker a 2% commission on the sale of the Property as the real estate broker for the sale, with the commission to be shared with any participating buyer's agent pursuant to custom and any cooperating broker's agreement. Decl. of Trustee, Doc. #38. Trustee estimates that Broker's commission for the sale of the Property will equal $6,500.00. Id. The court finds the compensation sought is reasonable, actual, and necessary.

Conclusion

Accordingly, subject to overbid offers made at the hearing, the court will GRANT Trustee's motion and authorize the sale of the Property to Buyers pursuant to 11 U.S.C. § 363(b)(1). Trustee is authorized to pay Broker for services as set forth in the motion.

4. 25-10770-A-7 **IN RE: MARY TORRES**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT INFORMATION IN PACER
4-1-2025 [12]

GABRIEL WADDELL/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

On April 1, 2025, this court issued an order to show cause ("OSC") why sanctions should not be imposed for the failure of counsel for the debtor to update contact information in PACER. Doc. #12. The OSC was issued because there was a discrepancy between the email address for debtor's counsel in PACER and the email address for debtor's counsel listed on the petition that was filed in this bankruptcy case. Id.

On April 11, 2025, counsel for the debtor filed a response to the OSC explaining that counsel for debtor has two email addresses on file with this court in PACER, fearnotice@gmail.com and gwaddell@ecf.courtdrive.com. Doc. #15. The former email is accessible by all staff in the office and counsel for the debtor receives notices from the court at this email address. Id. This email address is designed to receive only emails from the court to make sure that emails from the court are prioritized. Id. The latter email is used to collect electronically filed documents for the firm's document management system. Id. However, neither of these email addresses are the email address of counsel for the debtor, which is the email address that is on the petition. Thus, the court issued the OSC.

Based on the explanation provided by counsel for the debtor, the court finds that counsel for the debtor has sufficiently explained the discrepancy between the email address for debtor's counsel in PACER and the email address for debtor's counsel listed on the petition. Accordingly, the OSC is vacated. No appearance is necessary.

5. 25-10777-A-7 **IN RE: MARTIN ARRECHAVALETA**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT INFORMATION IN PACER
4-2-2025 [13]

JEFFREY ROWE/ATTY. FOR DBT.

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the incorrect contact information was updated by the debtor's counsel. Therefore, this order to show cause will be VACATED. No appearance is necessary.

6. 25-10778-A-7 **IN RE: ROSA NAVARRETE**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT INFORMATION IN PACER
4-2-2025 [12]

JEFFREY ROWE/ATTY. FOR DBT.

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the incorrect contact information was updated by the debtor's counsel. Therefore, this order to show cause will be VACATED. No appearance is necessary.

7. 25-10787-A-7 **IN RE: MICHEAL WALLIS**
SKI-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-2-2025 [11]

AMERICREDIT FINANCIAL SERVICES, INC./MV
LAYNE HAYDEN/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Americredit Financial Services, Inc. dba GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2016 Ford Flex, VIN: 2FMHK6C83GBA06896 ("Vehicle"). Doc. #11.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must

be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor is in default. Movant has produced evidence that the debtor is delinquent by $26,554.37. Decl. of Phillip Ford, Doc. #16. The last payment on the account was received on November 6, 2023, and applied to the payment due May 6, 2023. Id. In addition, Movant does not have proof the Vehicle is insured by the debtor with Movant named as loss payee. Id.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at $11,900.00 and the debtor owes $26,554.37. Decl. of John Eng, Doc. #15.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the Vehicle is a depreciating asset and there is no proof of insurance.

8. 25-10191-A-7 **IN RE: LISA PLUMLEE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-9-2025 [22]

MARK ZIMMERMAN/ATTY. FOR DBT.
$34.00 FILING FEE PAID 4/14/25

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fees now due have been paid. Therefore, this order to show cause will be VACATED.