

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

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: TUESDAY
DATE: MAY 5, 2020
CALENDAR: 10:00 A.M. CHAPTER 7 CASES

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. 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.

1. [20-11103](#)-A-7 **IN RE: JAN JACKSON**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-3-2020 [\[12\]](#)

AMERICREDIT FINANCIAL
SERVICES, INC./MV
SCOTT LYONS/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2015 Chevrolet Camaro SS

Value of Collateral: \$20,300.00

Aggregate of Liens: \$25,003.00

Statement of Intention: Not listed, ECF 1.

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

DEFAULT OF RESPONDENT

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

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, **annul**, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 provided secured car debtors a safe harbor against § 362(d)(2) (no equity) stay relief. That safe harbor is comprised of two parts. First, not later than 30 days after filing the petition or before the meeting of creditors (whichever is earlier), the debtor shall file a Statement of Intent signaling his/her/their intention retain or surrender the property and, if stated intention is to retain the property, whether he she intended to redeem the property, 11 U.S.C. § 722, or reaffirm the debt secured by the property, 11 U.S.C. § 524(c). 11 U.S.C. §§ 362(h)(1)(A), 521(a)(2)(A). Second, not later than 30 days after the date first set for the meeting of creditors the debtor must perform his/her/their Statement of Intention. 11 U.S.C. §§ 362(h)(1)(B), 521(a)(2)(B). Failure to file and to perform the Statement of Intention terminates the stay as to personal property, *In re Jones*, 591 F.3d 308, 311 (4th Cir. 2010); *In re Dumont*, 581 F.3d 1104, 1110 (9th Cir. 2009), and the property ceases to be property of the estate. *Id.* But the stay does not terminate, and the property remains property of the estate, if the debtor declares an intention to reaffirm the debt under the terms of the original contract and the creditors refuse to do so. 11 U.S.C. § 362(h)(1)(B).

In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. Moreover, the debtor has not demonstrated an intention to reaffirm the debt on its original terms and that the affected creditors refused to do so. As a consequence, the motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2015 Chevrolet Camaro SS, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing

may pursue its rights against the property pursuant to applicable non-bankruptcy law.

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

2. [20-11316](#)-A-7 **IN RE: IMANI WILSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-17-2020 [[17](#)]

Final Ruling

An Order having been filed on 4/30/20, ECF #24, approving the payment of the filing fee in installments, the order to show cause is discharged. The case will remain pending.

3. [18-14920](#)-A-7 **IN RE: SOUTH LAKES DAIRY FARM, A CALIFORNIA
GENERAL PARTNERSHIP
[BMJ-15](#)**

MOTION TO PAY
4-3-2020 [[274](#)]

DAVID SOUSA/MV
JACOB EATON/ATTY. FOR DBT.
JOHN WASTE/ATTY. FOR MV.

Final Ruling

Motion: Additional Expenses

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

Disposition: Granted

Order: Prepared by moving party

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

By previous order of this court, ECF No. 232, the auctioneer was permitted to seek additional expenses. Based on the motion, as well as the lack of opposition by parties in interest, additional expenses of \$2,986.73 are approved.

4. [17-11824](#)-A-7 **IN RE: HORISONS UNLIMITED**
[WF-63](#)

OBJECTION TO CLAIM OF DEEBA ABEDI, CLAIM NUMBER 76
3-27-2020 [[1173](#)]

JAMES SALVEN/MV
CECILY DUMAS/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.

Final Ruling

Objection: Omnibus Objection to Claim

Notice: LBR 3007-1(b)(2); no written opposition required

Disposition: Overruled

Order: Civil minute order

James Salven, the Chapter 7 trustee, objects to the allowance of Claim No. 76 filed by claimant Deeba Abedi. The court will overrule the objection for the reasons discussed.

SERVICE INSUFFICIENT

Rule 3007 requires service of claim objections. It provides: "Service of the objection and notice shall also be made by first-class mail or other permitted means on the debtor or debtor in possession, the trustee, and, if applicable, the entity filing the proof of claim under Rule 3005." Fed. R. Bankr. P. 3007(a)(2)(B).

The present objection has not been served on the debtor or debtor's attorney as required by Rule 3007.

CIVIL MINUTE ORDER

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

James Salven's claim objection has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the objection is overruled without prejudice.

5. [19-12927](#)-A-7 **IN RE: CEDAR MILL FARMS, LLC**
[HLF-2](#)

MOTION BY JUSTIN D. HARRIS TO WITHDRAW AS ATTORNEY
4-1-2020 [\[79\]](#)

JUSTIN HARRIS/ATTY. FOR DBT.

Final Ruling

Motion: Attorney's Withdrawal from Representation of a Client

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

Disposition: Granted

Order: Prepared by movant pursuant to the instructions below

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

Under California Rule of Professional Conduct 1.16(c), "[i]f permission for termination of a representation is required by the rules of a tribunal, a lawyer shall not terminate a representation before that tribunal without its permission."

An attorney's withdrawal from representing a client is governed by LBR 2017-1(e) and the Rules of Professional Conduct of the State Bar of California. LBR 2017-1(e) provides that "an attorney who has appeared may not withdraw leaving the client in propria persona without leave of court upon noticed motion and notice to the client and all other parties who have appeared." This local rule also mandates that the attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw.

California Rule of Professional Conduct 1.16(a) provides for mandatory withdrawal in several specified circumstances. Rule 1.16(a)(1) provides that: "Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

"(1) the lawyer knows* or reasonably should know* that the client is bringing an action, conducting a defense, asserting a position in litigation, or taking an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person;*

"(2) the lawyer knows* or reasonably should know* that the representation will result in violation of these rules or of the State Bar Act;

"(3) the lawyer's mental or physical condition renders it unreasonably difficult to

carry out the representation effectively; or

"(4) the client discharges the lawyer."

The court finds that the attorney's withdrawal from the representation is proper. In the order's recitals, the order shall state the client's last known address and, if known, the client's phone number. The order's substantive provisions shall include a provision requiring the attorney to comply with California Rule of Professional Conduct 1.16(e)(1), (2) upon the withdrawal.

6. [19-12927](#)-A-7 **IN RE: CEDAR MILL FARMS, LLC**
[RH-3](#)

MOTION FOR AUTHORITY TO LEASE REAL PROPERTY TO PG&E FOR A
TEMPORARY CONSTRUCTION EASEMENT
3-26-2020 [[74](#)]

JAMES SALVEN/MV
JUSTIN HARRIS/ATTY. FOR DBT.
ROBERT HAWKINS/ATTY. FOR MV.

No Ruling

7. [19-12927](#)-A-7 **IN RE: CEDAR MILL FARMS, LLC**
[RH-4](#)

MOTION TO PAY AND/OR MOTION TO USE CASH COLLATERAL
3-26-2020 [[69](#)]

JAMES SALVEN/MV
JUSTIN HARRIS/ATTY. FOR DBT.
ROBERT HAWKINS/ATTY. FOR MV.

No Ruling

8. [20-10330](#)-A-7 **IN RE: SAS XPRESS, INC.**
[SSW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-3-2020 [\[7\]](#)

BMO HARRIS BANK N.A./MV
NEIL SCHWARTZ/ATTY. FOR DBT.
SCOTT WELTMAN/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2017 Utility Refrigerated Vans (Vin No. 1UYVS2534HU768004 and 1UYVS2538HU768006), 2017 Utility Refrigerated Van (Vin No. 1UYVS2530HU800303), 2017 Kenworth T680 (VIN No. 1XKYD49X5HJ140148)

DEFAULT OF RESPONDENT

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

STAY RELIEF

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value *after* the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2012) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 provided secured car debtors a safe harbor against § 362(d)(2) (no equity) stay relief. That safe harbor is comprised of two parts. First, not later than 30 days after filing the petition or before the meeting of creditors (whichever is earlier), the debtor shall file a Statement of Intent signaling his/her/their intention retain or surrender the property and, if stated intention is to retain the property, whether he she intended to redeem the property, 11 U.S.C. § 722, or reaffirm the debt secured by the property, 11 U.S.C. § 524(c). 11 U.S.C. §§ 362(h)(1)(A), 521(a)(2)(A). Second, not later than 30 days after the date first set for the meeting of creditors the debtor must perform his/her/their Statement of Intention. 11 U.S.C. §§ 362(h)(1)(B), 521(a)(2)(B). Failure to file and to perform the Statement of Intention terminates the stay as to personal property, *In re Jones*, 591 F.3d 308, 311 (4th Cir. 2010); *In re Dumont*, 581 F.3d 1104, 1110 (9th Cir. 2009), and the property ceases to be property of the estate. *Id.* But the stay does not terminate, and the property remains property of the estate, if the debtor declares an intention to reaffirm the debt under the terms of the original contract and the creditors refuse to do so. 11 U.S.C. § 362(h)(1)(B).

LOAN AGREEMENT 1

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract for subject properties known as 2017 Utility Refrigerated Vans (Vin No. 1UYVS2534HU768004 and 1UYVS2538HU768006) that are secured by a security interest in the debtor's vehicles described above. Exhibit A, ECF 11. The debtor has defaulted on such loan with the moving party, and 10 pre-petition payments aggregating \$29,972.90 and 2 postpetition payments aggregating \$5,994.58 are past due.

Also, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The value of the subject property is \$40,500.00, and the aggregate of liens encumbering the property is \$70,992.44. Moreover, the debtor has not demonstrated an intention to reaffirm the debt on its original terms and that the affected creditors refused to do so. As a consequence, the motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived.

LOAN AGREEMENT 2

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract for the subject property known as 2017 Utility Refrigerated Van (Vin No. 1UYVS2530HU800303) that is secured by a security interest in the debtor's vehicle described above. Exhibit D, ECF 12. The debtor has defaulted on such loan with the moving party, and 10 pre-petition payments aggregating \$15,084.40 and 2 postpetition payments aggregating \$3,016.88 are past due.

Therefore, cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived.

LOAN AGREEMENT 3

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract for the subject property known as 2017 Kenworth T680 (VIN No. 1XKYD49X5HJ140148) that is secured by a security interest in the debtor's vehicle described above. Exhibit G, ECF 13. The debtor has defaulted on such loan with the moving party, and 10 pre-petition payments aggregating \$29,949.10 and 2 postpetition payments aggregating \$5,989.82 are past due.

Also, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The value of the subject property is \$57,050.00, and the aggregate of liens encumbering the property is \$76,390.47. Moreover, the debtor has not demonstrated an intention to reaffirm the debt on its original terms and that the affected creditors refused to do so. As a consequence, the motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2017 Utility Refrigerated Vans (Vin No. 1UYVS2534HU768004 and 1UYVS2538HU768006), 2017 Utility Refrigerated Van (Vin No. IUYVS2530HU800303), and 2017 Kenworth T680 (VIN No. 1XKYD49X5HJ140148) as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

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

9. [20-10430](#)-A-7 **IN RE: NOEMI SOLANO**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-31-2020 [[16](#)]

KINECTA FEDERAL CREDIT
UNION/MV
BENNY BARCO/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2018 Honda Civic

Value of Collateral: \$16,575.00

Aggregate of Liens: \$29,006.06

Statement of Intention: Intent to Surrender, ECF 1

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

DEFAULT OF RESPONDENT

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

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 provided secured car debtors a safe harbor against § 362(d)(2) (no equity) stay relief. That safe harbor is comprised of two parts. First, not later than 30 days after filing the petition or before the meeting of creditors (whichever is earlier), the debtor shall file a Statement of Intent signaling his/her/their intention retain or surrender the property and, if stated intention is to retain the property, whether he she intended to redeem the property, 11 U.S.C. § 722, or reaffirm the debt secured by the property, 11 U.S.C. § 524(c). 11 U.S.C. §§ 362(h)(1)(A), 521(a)(2)(A). Second, not later than 30 days after the date first set for the meeting of creditors the debtor must perform his/her/their Statement of Intention. 11 U.S.C. §§ 362(h)(1)(B), 521(a)(2)(B). Failure to file and to perform the Statement of Intention terminates the stay as to personal property, *In re Jones*, 591 F.3d 308, 311 (4th Cir. 2010); *In re Dumont*, 581 F.3d 1104, 1110 (9th Cir. 2009), and the property ceases to be property of the estate. *Id.* But the stay does not terminate, and the property remains property of the estate, if the debtor declares an intention to reaffirm the debt under the terms of the original contract and the creditors refuse to do so. 11 U.S.C. § 362(h)(1)(B).

In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. Moreover, the debtor has not demonstrated an intention to reaffirm the debt on its original terms and that the affected creditors refused to do so. As a consequence, the motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2018 Honda Civic, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue

its rights against the property pursuant to applicable non-bankruptcy law.

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

10. [18-11240](#)-A-7 **IN RE: DIANA XAVIER**
[TMT-7](#)

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, CHAPTER 7
TRUSTEE(S)
1-17-2019 [[133](#)]

JUSTIN HARRIS/ATTY. FOR DBT.

Final Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

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

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

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

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the application is approved on a final basis. The court allows to the trustee compensation in the amount of \$7,000.00 and reimbursement of expenses in the amount of \$337.79.

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

11. [20-11051](#)-A-7 **IN RE: STEVEN/REBECCA KING**
[ASW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-3-2020 [[14](#)]

VILLAGE CAPITAL AND
INVESTMENT, LLC/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
CAREN CASTLE/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 1417 Janet Dr, Exeter, CA 93221

Value of Collateral: \$255,000.00

Liens Encumbering Collateral: \$308,168.48

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

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

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

Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 1417 Janet Dr, Exeter, CA 93221, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

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

12. [20-11167](#)-A-7 **IN RE: DAVE BLAIR**
[VVF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-2-2020 [[12](#)]

AMERICAN HONDA FINANCE
CORPORATION/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
VINCENT FROUNJIAN/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2018 Honda HR-V

Value of Collateral: \$15,825.00

Aggregate of Liens: \$28,112.57

Statement of Intention: Intent to Surrender, ECF 1

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

DEFAULT OF RESPONDENT

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

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 provided secured car debtors a safe harbor against § 362(d)(2) (no equity) stay relief. That safe harbor is comprised of two parts. First, not later than 30 days after filing the petition or before the meeting of creditors (whichever is earlier), the debtor shall file a Statement of Intent signaling his/her/their intention retain or surrender the property and, if stated intention is to retain the property, whether he she intended to redeem the property, 11 U.S.C. § 722, or reaffirm the debt secured by the property, 11 U.S.C. § 524(c). 11 U.S.C. §§ 362(h)(1)(A), 521(a)(2)(A). Second, not later than 30 days after the date first set for the meeting of creditors the debtor must perform his/her/their Statement of Intention. 11 U.S.C. §§ 362(h)(1)(B), 521(a)(2)(B). Failure to file and to perform the Statement of Intention terminates the stay as to personal property, *In re Jones*, 591 F.3d 308, 311 (4th Cir. 2010); *In re Dumont*, 581 F.3d 1104, 1110 (9th Cir. 2009), and the property ceases to be property of the estate. *Id.* But the stay does not terminate, and the property remains property of the estate, if the debtor declares an intention to reaffirm the debt under the terms of the original contract and the creditors refuse to do so. 11 U.S.C. § 362(h)(1)(B).

In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. Moreover, the debtor has not demonstrated an intention to reaffirm the debt on its original terms and that the affected creditors refused to do so. As a consequence, the motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2018 Honda HR-V, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue

its rights against the property pursuant to applicable non-bankruptcy law.

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

13. [19-14781](#)-A-7 **IN RE: DEVON PERRYMAN**
[BLF-3](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH DEVON JORDON PERRYMAN
3-31-2020 [\[37\]](#)

IRMA EDMONDS/MV
SCOTT LYONS/ATTY. FOR DBT.
LORIS BAKKEN/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy

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

Disposition: Granted

Order: Civil minute order

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

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

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

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as exhibit and filed at docket no. 40.

14. [17-12389](#)-A-7 **IN RE: DON ROSE OIL CO., INC.**
[WF-22](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH TARGA LIQUIDS MARKETING AND TRADE, LLC
4-3-2020 [[1053](#)]

RANDELL PARKER/MV
RILEY WALTER/ATTY. FOR DBT.
DANIEL EGAN/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy

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

Disposition: Granted

Order: Civil minute order

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

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

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

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as exhibit and filed at docket no. 1055.

15. [17-12389](#)-A-7 **IN RE: DON ROSE OIL CO., INC.**
[WF-23](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH IDEMITSU APOLLO CORPORATION
4-3-2020 [[1058](#)]

RANDELL PARKER/MV
RILEY WALTER/ATTY. FOR DBT.
DANIEL EGAN/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy

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

Disposition: Granted

Order: Civil minute order

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

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

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

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as exhibit and filed at docket no. 1060.

16. [17-12389](#)-A-7 **IN RE: DON ROSE OIL CO., INC.**
[WF-24](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH ROBERT MOORE
4-3-2020 [[1063](#)]

RANDELL PARKER/MV
RILEY WALTER/ATTY. FOR DBT.
DANIEL EGAN/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy

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

Disposition: Granted

Order: Civil minute order

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

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and

equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

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

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as exhibit and filed at docket no. 1065.

17. [20-11089](#)-A-7 **IN RE: ELIZABETH GONZALEZ-LOPEZ**
[VVF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-6-2020 [[12](#)]

AMERICAN HONDA FINANCE
CORPORATION/MV
GRISELDA TORRES/ATTY. FOR DBT.
VINCENT FROUNJIAN/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2018 Honda Civic

Value of Collateral: \$17,125.00

Aggregate of Liens: \$28,426.52

Statement of Intention: Intent to Surrender, ECF 1.

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

DEFAULT OF RESPONDENT

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

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 provided secured car debtors a safe harbor against § 362(d)(2) (no equity) stay relief. That safe harbor is comprised of two parts. First, not later than 30 days after filing the petition or before the meeting of creditors (whichever is earlier), the debtor shall file a Statement of Intent signaling his/her/their intention retain or surrender the property and, if stated intention is to retain the property, whether he she intended to redeem the property, 11 U.S.C. § 722, or reaffirm the debt secured by the property, 11 U.S.C. § 524(c). 11 U.S.C. §§ 362(h)(1)(A), 521(a)(2)(A). Second, not later than 30 days after the date first set for the meeting of creditors the debtor must perform his/her/their Statement of Intention. 11 U.S.C. §§ 362(h)(1)(B), 521(a)(2)(B). Failure to file and to perform the Statement of Intention terminates the stay as to personal property, *In re Jones*, 591 F.3d 308, 311 (4th Cir. 2010); *In re Dumont*, 581 F.3d 1104, 1110 (9th Cir. 2009), and the property ceases to be property of the estate. *Id.* But the stay does not terminate, and the property remains property of the estate, if the debtor declares an intention to reaffirm the debt under the terms of the original contract and the creditors refuse to do so. 11 U.S.C. § 362(h)(1)(B).

In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. Moreover, the debtor has not demonstrated an intention to reaffirm the debt on its original terms and that the affected creditors refused to do so. As a consequence, the motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2018 Honda Civic, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy

Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

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