

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Fredrick E. Clement  
Bankruptcy Judge

Bakersfield Federal Courthouse  
510 19<sup>th</sup> Street, Second Floor  
Bakersfield, California

**WEDNESDAY**

**MAY 6, 2015**

**PRE-HEARING DISPOSITIONS**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**MATTERS RESOLVED BEFORE HEARING**

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

**ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. [15-11000](#)-A-13 ERNEST/BARBARA SANDOVAL ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-15-15 [[22](#)]

**Tentative Ruling**

If the filing fee for the Amended Verification and Master Address List in the sum has not been paid by the time of the hearing, the case will be dismissed without further notice or hearing.

2. [15-10003](#)-A-13 ALLISON SMITH CONTINUED ORDER TO SHOW CAUSE -  
FAILURE TO PAY FEES  
3-11-15 [[24](#)]
- SUSAN SALEHI/Atty. for dbt.  
FINAL INSTALLMENT FEE PAID  
4/8/15

**Final Ruling**

The filing fee having been paid in full, the order to show cause is discharged.

3. [11-62705](#)-A-13 DONALD NEUFELD MOTION FOR COMPENSATION FOR  
LKW-5 LEONARD K. WELSH, DEBTORS  
ATTORNEY(S)  
4-3-15 [[76](#)]
- LEONARD WELSH/Atty. for dbt.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Application:** Allowance of Interim 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**

In this Chapter 13 case, Leonard K. Welsh, counsel for the debtor, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$1,402.50 and reimbursement of expenses in the amount of \$33.42.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

#### **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.

Leonard K. Welsh's application for allowance of interim 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 an interim basis. The court allows interim compensation in the amount of \$1,402.50 and reimbursement of expenses in the amount of \$33.42. The aggregate allowed amount equals \$1,435.92. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$1,435.92 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

4. [14-14809](#)-A-13 RICKY/SHANNON SARGENT  
PLG-3  
RICKY SARGENT/MV  
RABIN POURNAZARIAN/Atty. for dbt.  
STIPULATION AND ORDER 4/9/15

MOTION TO VALUE COLLATERAL OF  
EDWARDS FEDERAL CREDIT UNION  
3-31-15 [[54](#)]

#### **Final Ruling**

Having been resolved by stipulation and order, the matter is dropped as moot.

5. [14-15909](#)-A-13 ALVARO/LILIA LOPEZ  
MHM-1  
MICHAEL MEYER/MV  
NIMA VOKSHORI/Atty. for dbt.

MOTION TO DISMISS CASE  
3-13-15 [[30](#)]

**No tentative ruling.**

6. [15-10409](#)-A-13 GABRIEL DIAZ  
RDW-1  
CAM VII TRUST/MV  
RABIN POURNAZARIAN/Atty. for dbt.  
REILLY WILKINSON/Atty. for mv.

OBJECTION TO CONFIRMATION OF  
PLAN BY CAM VII TRUST  
4-14-15 [[21](#)]

**Tentative Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained

**Order:** Civil minute order

No responding party is required to file written opposition to the motion; opposition may be presented at the hearing. LBR 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

**GROUND FOR DENIAL OF CONFIRMATION**

The court will sustain the objection and deny confirmation on the ground that the plan is unsigned. Section 6 requires signatures as "certifications that the standard plan form has not been altered."

**ARREARAGES RAISED BY SECURED CREDITOR**

Secured Creditor CAM VII Trust has filed proof of claim no. 2, and the court takes judicial notice of this claim's contents and accepts its authenticity in the absence of a good faith authenticity objection. It appears that Secured Creditor's claim has been classified as a Class 1 claim. Secured Creditor states its claim is based on a note secured by a first deed of trust against 8401 Persimmon Dr., Bakersfield, CA. The plan at Class 1 shows a first deed of trust against property having the same address, and listing the Class 1 creditor's name as BSI Financial Services, Inc. (The proof of claim shows that payment should be sent to CAM VII Trust "c/o BSI Financial Services.")

The plan payment is presently \$2,723. Using the plan's own figures (including the plan's figure for the arrearage amount) and assuming a 9% figure for trustee's compensation, the plan payment should be approximately \$2719.78 for months 1-4 and \$2689.35 for months 5-60. The proposed plan payment is \$2723.00.

Secured Creditor's proof of claim shows \$58,641.95 as the amount of arrearage and other charges as of the time the case was filed. The attachment B 10A supporting claim no. 2 also shows \$58,641.95 as the total amount necessary to cure default as of the petition date. However, the plan shows only \$53,449.00 as the amount of arrears owed on the Class 1 claim. The difference between the plan's amount and

the proof of claim's amount is \$5192.95.

The plan at section 2.04 says that the proof of claim, not the plan, controls the amount and classification of a claim absent a claim objection or some other motion that affects the claim. The arrearage shown in Claim No. 2 exceeds the arrearage provided in the plan by the amount of \$5192.95, which amount divided by 60 (the plan's term), plus the assumed 9% of trustee's compensation, equals approximately \$95.11. Thus, the plan payment should be approximately \$2814.89 (\$2719.78 + \$95.11) in months 1-4 and \$2784.46 (\$2689.35 + 95.11).

The debtor's net income on Schedule J, Line 23c, is \$2,777.91. The debtor's net income is not much less than the court's approximated plan payment for months 5-60. But it is about \$36.98 less than the court's approximated plan payment for months 1-4, which could put the debtor behind about \$147.92 by month 5. The debtor should consider the feasibility of the plan given the proper amount of arrearage in the Secured Creditor's claim, or object to the claim if the debtor disagrees with the arrearage amount.

7.	<a href="#">15-10014</a> -A-13      LORNA MANGIDUYOS MHM-1 MICHAEL MEYER/MV	MOTION TO DISMISS CASE 3-9-15 [ <a href="#">22</a> ]
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**Final Ruling**

**Motion:** Dismiss Case

**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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. The debtor has failed to appear at the March 4, 2015, § 341 meetings of creditors or continued meetings of creditors.

8.	<a href="#">11-17219</a> -A-13      PATRICIA GALLAND MHM-5 MICHAEL MEYER/MV ROBERT WILLIAMS/Atty. for dbt. WITHDRAWN	MOTION TO DISMISS CASE 3-9-15 [ <a href="#">82</a> ]
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**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

9.	<a href="#">15-10423</a> -A-13      NICK/CHRISTINA NGIRAILILD	ORDER TO SHOW CAUSE - FAILURE
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TO PAY FEES  
4-13-15 [[17](#)]

PATRICK KAVANAGH/Atty. for dbt.  
\$80.00 FEE PAID 4/23/15

**Final Ruling**

The filing fee paid, the order to show cause is discharged.

10. [10-63832](#)-A-13      YAKDAN AL QAISI AND SARWA      MOTION TO DISMISS CASE  
MHM-3      ALDOORI      3-9-15 [[80](#)]  
MICHAEL MEYER/MV  
SHANE REICH/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

11. [13-15032](#)-A-13      EDWARD/JULIE GONZALES      MOTION TO DISMISS CASE  
MHM-1      3-10-15 [[23](#)]  
MICHAEL MEYER/MV  
SUSAN SALEHI/Atty. for dbt.

**Final Ruling**

**Motion:** Dismiss Case

**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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$1320.

12. [13-17241](#)-A-13 JANET CHRISTIANSEN  
PK-3

MOTION FOR COMPENSATION FOR  
PATRICK KAVANAGH, DEBTORS  
ATTORNEY(S)  
4-7-15 [[40](#)]

PATRICK KAVANAGH/Atty. for dbt.

### **Final Ruling**

**Application:** Compensation and Expenses

**Disposition:** Denied without prejudice

**Order:** Prepared by moving party

All creditors and parties in interest have not received sufficient notice. The hearing on an application for approval of compensation or reimbursement of expenses, when the application requests approval of an amount exceeding \$1000, must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

13. [15-10642](#)-A-13 ARISTEO RODRIGUEZ AND  
PLG-1 ESTHER ALCANTAR  
ARISTEO RODRIGUEZ/MV  
RABIN POURNAZARIAN/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
BANK OF AMERICA, N.A.  
3-24-15 [[14](#)]

### **Final Ruling**

**Motion:** Value Collateral [Real Property; Not Principal Residence]

**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 respondent 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).

### **VALUATION OF COLLATERAL**

To value collateral, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. The motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j).

Under § 506 of the Bankruptcy Code, "a secured creditor's claim is to be divided into secured and unsecured portions, with the secured portion of the claim limited to the value of the collateral." *Assocs. Commercial Corp. v. Rash*, 520 U.S. 953, 961 (1997) (citing *United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 238-39 (1989)); accord *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1168-69 (9th Cir. 2004) (citing 11 U.S.C. § 506). "To separate the secured from the unsecured portion of a claim, a court must compare the creditor's claim to the value of 'such property,' i.e., the collateral." *Rash*, 520 U.S. at 961.

"Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest." 11 U.S.C. § 506(a)(1). In the lien stripping context, a replacement-value standard is proper when the debtor proposes to retain and use the collateral. *Rash*, 520 U.S. at 962-63.

The moving party must provide factual grounds for the proposed value of the collateral. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally*, 368 F.3d at 1173.

The motion requests that the court value real property collateral securing the respondent's claim. The real property is located at 8802 High Ridge Dr., Bakersfield, CA, and is not the debtor's principal residence. Schedule A shows that the property is a rental property.

The court values the collateral at \$215,000. The responding creditor's claim is secured only to the extent of the collateral's value unencumbered by any senior liens. See 11 U.S.C. § 506(a).

#### **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 debtor's motion to value real property collateral 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 real property collateral located at 8802 High Ridge Dr., Bakersfield, CA, has a value of \$215,000. Senior liens on the collateral secure debt in the amount of \$229,121.98. The respondent has a secured claim in the amount of \$0.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.



14. [15-10043](#)-A-13 JON/KATHLEEN QUIJADA  
NES-2  
JON QUIJADA/MV  
NEIL SCHWARTZ/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO VALUE COLLATERAL OF  
SANTANDER CONSUMER USA, INC  
4-13-15 [[27](#)]

### **Tentative Ruling**

**Motion:** Value Collateral [Real Property; Principal Residence]

**Notice:** Written opposition filed by the responding party

**Disposition:** Continued for an evidentiary hearing

**Order:** Civil minute order or scheduling order

### **SUPPLEMENTAL DECLARATION REQUIRED**

No later than 14 days prior to next continued hearing date on this matter, the movant will file a supplemental declaration stating whether the subject vehicle was purchased, and the purchase money debt incurred, more than 910 days before the petition date. See § 1325(a) (hanging paragraph).

### **EVIDENTIARY HEARING**

The motion seeks to value real property collateral that is the moving party's principal residence. The court will hold a scheduling conference for the purpose of setting an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d). An evidentiary hearing is required because the disputed, material factual issue of the collateral's value must be resolved before the court can rule on the relief requested.

All parties shall appear at the hearing for the purpose of determining the nature and scope of the matter, identifying the disputed and undisputed issues, and establishing the relevant scheduling dates and deadlines. Alternatively, the court may continue the matter to allow the parties to file a joint status report that states:

- (1) all relief sought and the grounds for such relief;
- (2) the disputed factual or legal issues;
- (3) the undisputed factual or legal issues;
- (4) whether discovery is necessary or waived;
- (5) the deadline for Rule 26(a)(1)(A) initial disclosures;
- (6) the deadline for Rule 26(a)(2) expert disclosures (including written reports);
- (7) the deadline for the close of discovery;
- (8) whether the alternate-direct testimony procedure will be used;
- (9) the deadlines for any dispositive motions or evidentiary motions;
- (10) the dates for the evidentiary hearing and the trial time that will be required;
- (11) any other such matters as may be necessary or expedient to the resolution of these issues.

Unless the parties request more time, such a joint status report shall be filed 14 days in advance of the continued hearing date. The parties may jointly address such issues orally at the continued hearing in lieu of a written joint status report.

15. [12-11246](#)-A-13 VICKY/ANIBAL CABRERA MOTION TO DISMISS CASE  
MHM-3 3-10-15 [[103](#)]  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.  
MICHAEL MEYER/Atty. for mv.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

16. [12-16549](#)-A-13 VANESSA WARD MOTION TO DISMISS CASE  
MHM-3 3-10-15 [[61](#)]  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

17. [10-62657](#)-A-13 RICK/SHAWN LOPEZ MOTION TO DISMISS CASE  
MHM-2 3-9-15 [[88](#)]  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

18. [15-10162](#)-A-13 JAIME/RUTH GARZA MOTION TO VALUE COLLATERAL OF  
PK-3 ROBERT HARTLEY  
JAIME GARZA/MV 4-2-15 [[55](#)]  
PATRICK KAVANAGH/Atty. for dbt.

**Final Ruling**

**Motion:** Value Collateral [Real Property; Principal Residence]

**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 respondent 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).

**VALUATION OF COLLATERAL**

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 11900 Christy Ave., Bakersfield, CA.

The court values the collateral at \$385,000. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

#### **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 debtor's motion to value real property collateral 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 real property collateral located at 11900 Christy Ave., Bakersfield, CA, has a value of \$385,000. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

19. [15-10162](#)-A-13 JAIME/RUTH GARZA  
PK-4  
JAIME GARZA/MV

MOTION TO VALUE COLLATERAL OF  
CALHFA MORTGAGE ASSISTANCE  
CORPORATION  
4-2-15 [[63](#)]

PATRICK KAVANAGH/Atty. for dbt.

### **Final Ruling**

**Motion:** Value Collateral [Real Property; Principal Residence]

**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 respondent 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).

### **VALUATION OF COLLATERAL**

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 11900 Christy Ave., Bakersfield, CA.

The court values the collateral at \$385,000. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

### **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 debtor's motion to value real property collateral 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 real property collateral located at 11900 Christy Ave., Bakersfield, CA, has a value of \$385,000. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

20. [15-10373](#)-A-13 GREGORIO/CYNTHIA SALAZAR CONTINUED MOTION TO CONFIRM  
SJS-1 PLAN  
GREGORIO SALAZAR/MV 2-17-15 [[18](#)]  
SUSAN SALEHI/Atty. for dbt.

### **Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by Chapter 13 trustee, approved by debtor's counsel

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 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

21. [14-14878](#)-A-13 BRIAN/DIANA POOLE MOTION TO CONFIRM PLAN  
RSW-1 3-10-15 [[32](#)]  
BRIAN POOLE/MV  
ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Pending

**Order:** Pending

The motion requests confirmation of the Chapter 13 plan in this case. 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1). The Chapter 13 trustee opposes the motion, objecting to

confirmation. But the moving party has not filed a reply to the opposition.

#### **CONFIRMATION**

Without the benefit of a reply, the court cannot determine whether the grounds for the trustee's opposition are disputed or undisputed. As a result, the court does not consider the matter to be ripe for a decision in advance of the hearing.

If such grounds are undisputed, the moving party may appear at the hearing and affirm that they are undisputed. The moving party may opt not to appear at the hearing, and such nonappearance will be deemed by the court as a concession that the trustee's grounds for opposition are undisputed and meritorious.

If such grounds are disputed, the moving party shall appear at the hearing. The court may either (1) rule on the merits and resolve any disputed issues appropriate for resolution at the initial hearing, or (2) treat the initial hearing as a status conference and schedule an evidentiary hearing to resolve disputed, material factual issues or schedule a further hearing after additional briefing on any disputed legal issues.

#### **75 DAY ORDER**

A Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

22. [14-11379](#)-A-13 ROBERTA CUMBERLAND  
PK-3

MOTION FOR COMPENSATION FOR  
PATRICK KAVANAGH, DEBTORS  
ATTORNEY(S)  
3-24-15 [[61](#)]

PATRICK KAVANAGH/Atty. for dbt.  
RESPONSIVE PLEADING

#### **Tentative Ruling**

**Application:** Allowance of Interim 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**

In this Chapter 13 case, Patrick Kavanagh, successor counsel for the debtor, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$4,330.00 and reimbursement of expenses in the amount of \$144.80.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

## **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.

Patrick Kavanagh's application for allowance of interim 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 an interim basis. The court allows interim compensation in the amount of \$4,330.00 and reimbursement of expenses in the amount of \$144.80. The aggregate allowed amount equals \$4,474.80. As of the date of the application, the applicant held a retainer in the amount of \$1,200.00. The amount of \$3,274.80 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

23. [12-13093](#)-A-13 LONNIE/BROOK HAYES  
PK-1  
LONNIE HAYES/MV  
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO MODIFY PLAN  
3-25-15 [[30](#)]

### Final Ruling

**Motion:** Confirm Modified Chapter 13 Plan

**Notice:** LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by Chapter 13 trustee, approved by debtor's counsel

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 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

24. [11-11298](#)-A-13 WHITNEY/RACHELLE EARLS  
KDG-2

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF KLEIN, DENATALE,  
GOLDNER, COOPER, ROSENLIEB &  
KIMBALL, LLP FOR JACOB L.  
EATON, DEBTORS ATTORNEY(S)  
3-18-15 [[72](#)]

JACOB EATON/Atty. for dbt.

### Tentative Ruling

**Application:** Allowance of Interim Compensation and Expense  
Reimbursement

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

**Disposition:** Approved in part, denied in part

**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

In this Chapter 13 case, Klein DeNatale, counsel for the debtors, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation



in the amount of \$3,345.00 and reimbursement of expenses in the amount of \$30.08.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

#### **DIRECT PAYMENT OF DEBTOR'S COUNSEL**

Debtor's confirmed Chapter 13 plan § 3.07, filed February 3, 2011, ECF #5, provides, "Except to the extent the court approves, and claimant agrees to, different treatment, and unless section 1326(b)(3)(B) is applicable, approved administrative expenses shall be paid in full through the plan."

Klein DeNatale's Second Application for Allowance of Fees and Expenses ¶ 18, filed March 18, 2015, ECF #72, provides, "The fees and expenses requested by Applicant will be paid by the Chapter 13 Trustee through the Plan and by the Debtors directly. Payment to Applicant will not affect the feasibility of the Plan because (a) there is \$3,319.24 in available funds held by the Chapter 13 Trustee for attorneys fees and expenses, and (b) Debtors can pay \$55.84 directly to Applicant without affecting their ability to continue to pay their Chapter 13 Plan payments to the Trustee."

Federal Rule of Bankruptcy Procedure 9013 provides, "'A request for an order, except when an application is authorized by the rules, shall be by written motion, unless made during a hearing. The motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Every written motion, other than one which may be considered ex parte, shall be served by the moving party within the time determined under Rule 9006(d)...." If Klein DeNatale's intends this to seek the order described in § 3.07 of the plan, authorizing direct payment of fees by the debtor, will be denied as not fully and fairly raised in the application. No such request for relief is contained in the title of the document. The application does not include a prayer summarizing the relief sought. The requested relief consists of five and one-half lines of text on page five of the fee application. The issue has not been fairly raised in the application.

#### **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.

Klein DeNatale's application for allowance of interim 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 FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that any request for an order authorizing the debtors to pay Klein DeNatale directly, rather than through the office of the Chapter 13 trustee is denied.

1. [11-63273](#)-A-13 DARRIN/ERIN WEDEKING  
SJS-2  
DARRIN WEDEKING/MV  
  
SUSAN SALEHI/Atty. for dbt.  
RESPONSIVE PLEADING

2. [11-63273](#)-A-13 DARRIN/ERIN WEDEKING  
[14-1144](#)  
WEDEKING ET AL V. SALLIE MAE,  
INC. ET AL  
SUSAN SALEHI/Atty. for pl.  
RESPONSIVE PLEADING

No tentative ruling.

10:30 a.m.

1. [12-11008](#)-A-7      RAFAEL ALONSO      CONTINUED PRE-TRIAL CONFERENCE  
VG-5      RE: MOTION TO COMPEL  
VINCENT GORSKI/MV      6-13-14 [[34](#)]  
NICHOLAS ANIOTZBEHERE/Atty. for dbt.  
PHILLIP GILLET/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

2. [11-62509](#)-A-7      SHAVER LAKEWOODS      CONTINUED OBJECTION TO CLAIM OF  
HDN-4      DEVELOPMENT INC.      SIERRA PINES AT SHAVER LAKE  
GORDON LOO/MV      HOMEOWNERS ASSOCIATION, CLAIM  
NUMBER 10  
HENRY NUNEZ/Atty. for dbt.      8-25-14 [[164](#)]  
RESPONSIVE PLEADING

**No tentative ruling.**

3. [15-10315](#)-A-7      MARIA ROCHA      MOTION FOR RELIEF FROM  
APN-1      AUTOMATIC STAY  
FORD MOTOR CREDIT COMPANY/MV      3-27-15 [[11](#)]  
FRANK SAMPLES/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 2014 Ford Mustang

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).

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 Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

4. [12-16817](#)-A-7 GREGORY STURGES  
RP-1  
RANDELL PARKER/MV  
  
PATRICK KAVANAGH/Atty. for dbt.  
VINCENT GORSKI/Atty. for mv.
- MOTION FOR COMPENSATION FOR  
RANDELL PARKER, CHAPTER 7  
TRUSTEE(S)  
4-3-15 [[286](#)]

**No tentative ruling.**

5. [15-11126](#)-A-7 CHARILYN BRADFORD  
  
WILLIAM EDWARDS/Atty. for dbt.  
\$335 FILING FEE PAID 4/13/15
- ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-7-15 [[12](#)]

**Final Ruling**

The filing fee paid in full, the order to show cause is discharged.

6. [15-10127](#)-A-7 VICTOR HART  
PD-1  
FEDERAL NATIONAL MORTGAGE  
ASSOCIATION/MV  
STEVEN STANLEY/Atty. for dbt.  
JONATHAN CAHILL/Atty. for mv.
- MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-23-15 [[13](#)]

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 9819 Vertrice Avenue, Bakersfield, California

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).

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 Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

7. [13-10247](#)-A-7 FLIGHT TEST ASSOCIATES, MOTION FOR COMPENSATION  
KDG-10 INC. 4-8-15 [[143](#)]  
LEONARD WELSH/Atty. for dbt.

**No tentative ruling.**

8. [13-10247](#)-A-7 FLIGHT TEST ASSOCIATES, CONTINUED MOTION FOR CONTEMPT  
KDG-9 INC. 3-11-15 [[132](#)]  
JEFFREY VETTER/MV  
LEONARD WELSH/Atty. for dbt.  
LISA HOLDER/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

9. [10-11054](#)-A-7 RONALD/SUSAN SMITH MOTION FOR COMPENSATION BY THE  
KDG-4 LAW OFFICES OF JOSEPH A. BLUMEL  
III, P.S., OF JAMES, VERNON AND  
WEEKS, P.A., OF MCDONALD AND  
LIND, P.C., OF KOSNOFF PLLC  
SPECIAL COUNSEL(S)  
4-7-15 [[72](#)]

### **Final Ruling**

**Application:** Compensation and Expenses

**Disposition:** Denied without prejudice

**Order:** Prepared by moving party

All creditors and parties in interest have not received sufficient notice. The hearing on an application for approval of compensation or reimbursement of expenses, when the application requests approval of an amount exceeding \$1000, must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

10. [14-15860](#)-A-7 PAUL CARAKER  
PPR-1  
BANK OF AMERICA, N.A./MV  
D. GARDNER/Atty. for dbt.  
ASYA LANDA/Atty. for mv.  
DISCHARGED

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-12-15 [[16](#)]

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 2003 Fleetwood 39Z

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).

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 Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

11. [15-10662](#)-A-7 TONY/MISTY MCDOWELL  
JHW-1  
TD AUTO FINANCE LLC/MV  
NEIL SCHWARTZ/Atty. for dbt.  
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-20-15 [[9](#)]

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 2013 Kia Soul

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).

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 Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

12. [15-10663](#)-A-7      RONNY FERGUSON      MOTION FOR RELIEF FROM  
JHW-1      AUTOMATIC STAY  
TD AUTO FINANCE LLC/MV      4-7-15 [[13](#)]  
NEIL SCHWARTZ/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:** Prepared by moving party

**Subject:** 2013 Kia Sorrento

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).

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 Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

13. [15-10997](#)-A-7      LOREN FEDERSON      MOTION FOR RELIEF FROM  
APN-1      AUTOMATIC STAY  
FORD MOTOR CREDIT COMPANY/MV      3-31-15 [[10](#)]  
D. GARDNER/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Order:** Prepared by moving party

**Subject:** 2013 Ford Mustang

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).

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 Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

14. [15-11500](#)-A-7 KATIE RICE  
DRJ-1  
SCOTTSMEN TOO LIMITED  
PARTNERSHIP/MV

DAVID JENKINS/Atty. for mv.  
OST 4/27/15

MOTION FOR RELIEF FROM  
AUTOMATIC STAY , MOTION TO  
CONFIRM TERMINATION OR ABSENCE  
OF STAY  
4-24-15 [[14](#)]

No tentative ruling.

11:00 a.m.

1. [14-13325](#)-A-7 JESUS BARAJAS  
[14-1121](#)  
BARAJAS V. SEQUOIA CONCEPTS,  
INC. ET AL  
PATRICK KAVANAGH/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
10-9-14 [1]

No tentative ruling.

2. 14-15196-A-7 JUAN VALDIVIA  
15-1014  
VALDIVIA V. RANCHO SANTA FE  
THRIFT AND LOAN ASSOCIATION ET  
PATRICK KAVANAGH/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
1-29-15 [1]

## Final Ruling

The adversary proceeding dismissed, the status conference is concluded.



11:30 a.m.

1. [15-10303](#)-A-7 AARON/ANDREA STEWART

PRO SE REAFFIRMATION AGREEMENT  
WITH STATE FARM BANK, FSB - 07  
VOLKSWAGEN PASSAT  
4-14-15 [[13](#)]

CURTIS FLOYD/Atty. for dbt.

**No tentative ruling.**

2. [15-10303](#)-A-7 AARON/ANDREA STEWART

PRO SE REAFFIRMATION AGREEMENT  
WITH STATE FARM BANK, FSB - 04  
TOYOTA SEQUOIA  
4-14-15 [[15](#)]

CURTIS FLOYD/Atty. for dbt.

**No tentative ruling.**

3. [15-10315](#)-A-7 MARIA ROCHA

REAFFIRMATION AGREEMENT WITH  
TOYOTA MOTOR CREDIT CORPORATION  
3-31-15 [[17](#)]

FRANK SAMPLES/Atty. for dbt.

**No tentative ruling.**

4. [15-10647](#)-A-7 MARTIN MARSH

PRO SE REAFFIRMATION AGREEMENT  
WITH DESERT VALLEYS FEDERAL  
CREDIT UNION  
3-25-15 [[15](#)]

**No tentative ruling.**

5. [15-10663](#)-A-7 RONNY FERGUSON

PRO SE REAFFIRMATION AGREEMENT  
WITH HARLEY-DAVIDSON CREDIT  
CORP  
3-31-15 [[10](#)]

NEIL SCHWARTZ/Atty. for dbt.

**No tentative ruling.**

1:30 p.m.

1. [14-12637](#)-A-11 TOURE/ROLANDA TYLER CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
5-21-14 [[1](#)]  
LEONARD WELSH/Atty. for dbt.

**Final Ruling**

The status conference is continued to June 3, 2015, at 1:30 p.m.

2. [14-12637](#)-A-11 TOURE/ROLANDA TYLER CONTINUED DISCLOSURE STATEMENT  
LKW-8 1-30-15 [[159](#)]  
LEONARD WELSH/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

The matter is continued to June 3, 2015, at 1:30 p.m.

3. [14-12637](#)-A-11 TOURE/ROLANDA TYLER MOTION FOR COMPENSATION FOR  
LKW-9 LEONARD K. WELSH, DEBTORS  
ATTORNEY(S)  
4-14-15 [[196](#)]  
LEONARD WELSH/Atty. for dbt.

**Tentative Ruling**

**Application:** Allowance of Interim Compensation and Expense  
Reimbursement

**Notice:** LBR 9014-1(f)(2); no 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). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**COMPENSATION AND EXPENSES**

In this Chapter 11 case, Leonard K. Welsh, counsel for the debtor in possession, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$10,735.00 and reimbursement of expenses in the amount of \$183.20.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

#### **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.

Leonard K. Welsh's application for allowance of interim 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 an interim basis. The court allows interim compensation in the amount of \$10,735.00 and reimbursement of expenses in the amount of \$183.20. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

4.     [13-12358](#)-A-11     CENTRAL VALLEY SHORING,     MOTION FOR FINAL DECREE AND  
          LKW-17           INC.                                 ORDER CLOSING CASE  
          CENTRAL VALLEY SHORING,                     4-10-15 [[300](#)]  
          INC./MV  
          LEONARD WELSH/Atty. for dbt.

#### **Tentative Ruling**

**Motion:** Enter Final Decree Closing Chapter 11 Case

**Notice:** LBR 9014-1(f)(2); no 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). 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 § 350(a) and Federal Rule of Bankruptcy Procedure 3022, the court must enter a final decree closing a case when the estate has been "fully administered." 11 U.S.C. § 350(a); Fed. R. Bankr. P.

3022. "However, neither the Bankruptcy Code nor the Federal Rules of Bankruptcy Procedure define the term 'fully administered.'" See *In re Ground Sys., Inc.*, 213 B.R. 1016, 1018 (B.A.P. 9th Cir. 1997) (denying motion for entry of final decree because debtor's plan required estate to remain open pending completion of plan payments and such a plan requirement did not run afoul of the Code and Federal Rules of Bankruptcy Procedure).

The Advisory Committee Note to Rule 3022 lists a number of factors for courts to consider in determining whether the estate has been fully administered. See Fed. R. Bankr. P. 3022 advisory committee's note-1991 Am. These factors present a court with "flexibility in determining whether an estate is fully administered," and "not all of the factors . . . need to be present to establish that a case is fully administered for final decree purposes." *In re Provident Fin., Inc.*, Nos. MT-10-1134-JuPaD, MT-10-1135-JuPaD, Bankr. No. 09-61756, 2010 WL 6259973 (B.A.P. 9th Cir. Oct. 12, 2010) (unpublished opinion).

The Advisory Committee Note also states that entry of a final decree "should not be delayed solely because the payments required by the plan have not been completed." Fed. R. Bankr. P. 3022 advisory committee's note-1991 Am. It further provides that "[t]he court should not keep the case open only because of the possibility that the court's jurisdiction may be invoked in the future. A final decree closing the case after the estate is fully administered does not deprive the court of jurisdiction to enforce or interpret its own orders and does not prevent the court from reopening the case for cause pursuant to § 350(b) of the Code." *Id.*

Here, factors supporting a finding of full administration of the estate have been satisfied. The order confirming the plan has become final pursuant to Rule 8002 and payments under the confirmed plan have commenced. All motions, other than this motion, contested matters, and adversary proceedings have been resolved. No other factors listed in the advisory committee note have been contested by any creditor or party in interest.

2:00 p.m.

1.     [10-12709](#)-A-11     ENNIS COMMERCIAL                     CONTINUED STATUS CONFERENCE RE:  
      [15-1010](#)           PROPERTIES, LLC                     COMPLAINT  
      ENNIS COMMERCIAL PROPERTIES,  
      LLC ET AL V. HERITAGE OAKS           1-23-15 [[1](#)]  
      MICHAEL GOMEZ/Atty. for pl.

**Final Ruling**

The status conference is continued to May 20, 2015, at 2:00 p.m. in Fresno.

2.     [10-62315](#)-A-11     BEN ENNIS                             CONTINUED STATUS CONFERENCE RE:  
      [15-1006](#)           STAPLETON V. HERITAGE OAKS           COMPLAINT  
      BANCORP                             1-16-15 [[1](#)]  
      MICHAEL GOMEZ/Atty. for pl.  
      ORDER CONTINUING TO 6/24/15

**Final Ruling**

The status conference is continued to June 24, 2015, at 2:00 p.m. in Fresno.