

**UNITED STATES BANKRUPTCY COURT**  
**Eastern District of California**

**Honorable Ronald H. Sargis**  
**Bankruptcy Judge**  
**Modesto, California**

**May 22, 2025 at 10:00 a.m.**

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1.	<a href="#"><u>24-90418-E-11</u></a> <b>ART BUILDINGS LLC</b>	<b>MOTION FOR RELIEF FROM</b>
	<a href="#"><u>ROM-4</u></a> <b>Michael Berger</b>	<b>AUTOMATIC STAY</b>
		<b>4-16-25 [<a href="#"><u>116</u></a>]</b>

**ROMSPEN CALIFORNIA MORTGAGE  
LIMITED PARTNERSHIP VS.**

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor’s Attorney, attorneys of record, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 36 days’ notice was provided. 28 days’ notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

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

Romspen California Mortgage Limited Partnership, an Ontario, Canada limited partnership (“Romspen”) seeks relief from the automatic stay with respect to Art Buildings LLC’s (“Debtor in Possession”) real property commonly described as a Development Parcel approved for a 168 Unit Apartment Building located at 3200 Atherstone Road in Turlock, California (“Property”). Romspen also seeks relief from the stay as to various items of personal property on the Property. Romspen has provided the Declaration of Pierre Leonard to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 118.

Romspen moves for relief pursuant to 11 U.S.C. §§ 362(d)(1), (2), and (3) as this is a single asset real estate (“SARE”) case. Romspen states:

1. This SARE case has been pending for over eight months without any adequate protection payments to Romspen, without a viable plan on file, and with no prospects for successfully reorganizing. Mot. 1:11-13.
2. Debtor has no bank accounts, no employees, no source of income, and no ongoing business processes. Debtor's monthly operating reports have consistently showed no activity for the past eight months. *Id.* at 3:17-19.
3. On January 16, 2025, the Court denied Debtor's request to approve the Disclosure Statement. After the Court denied approval of the Disclosure Statement, Debtor has done nothing in the case. Debtor has not filed a revised disclosure statement or updated its Plan.
4. Romspen obtained a recent appraisal of the Real Property (the "Romspen Appraisal") from Integral Realty Resources, a nationally recognized appraisal firm with an office in Sacramento, California. The Romspen Appraisal establishes the Real Property's value, as of March 13, 2025, at \$3,950,000. *Id.* at 9:5-8.
5. Romspen is not adequately protected. Romspen has received no payments, and the Debtor generates no revenue to make payments. *Id.* at 6:23-24.
6. Over eight months into this bankruptcy case the only credible evidence of the value of the Real Property shows it is worth \$3,950,000. Romspen holds an uncontested prepetition claim for \$3,840,860.06. Post petition, Romspen's loan has accrued \$410,218.82 in additional interest plus additional amounts in legal fees recoverable under the loan documents, thus erasing any equity cushion that may have existed at the beginning of the case. *Id.* at 7:18-22.
7. The Plan has no reasonable possibility of being confirmed. Here, the Debtor's case has been pending for over eight months, and there is no reasonable path to reorganization. The Plan is not supported by an approved disclosure statement, and solicitation has therefore not even begun. *Id.* at 9:23-25.

## **DEBTOR IN POSSESSION'S RESPONSE**

Debtor in Possession filed an Opposition on May 8, 2025. Debtor in Possession states:

1. Debtor in Possession does not currently generate income from the Property and Debtor has no employees. Opp'n at 2:8-15, Docket 150.
2. Romspen's interest is adequately protected as Debtor in Possession believes the Property has an estimated value of \$11,000,000. *Id.*
3. Moreover, Debtor in Possession is proposing to refinance the loan and pay Romspen in full. Debtor in Possession has filed a Motion for Authorization of Post-Petition Financing which is set for June 12, 2025. *Id.* at 3:11-15.

4. Debtor in Possession would not be able to pay its unsecured creditors if relief is granted, the Property being the only asset in the case. *Id.* at 3:18-23.

Debtor in Possession filed the Declarations of Dr. Davinder Sandhu and Satpreet Thiara in support of the oppositions. Decls., Dockets 151-52. Mr. Sandhu, a principal of Perfect Logistics, the largest unsecured creditor in the case, testifies that he is willing to be a co-borrower on a refinancing loan to enable Debtor in Possession to successfully reorganize in chapter 11. Decl. ¶ 7, Docket 151.

Mr. Thiara, the managing member of Debtor in Possession, testifies that the company Elevated Equities, LLC has given Debtor in Possession an offer to refinance. Decl. ¶ 5, Docket 152.

## **ROMSPEN'S REPLY**

Romspen filed a Reply on May 15, 2025. Docket 156. Romspen reiterates its factual grounds for granting relief, and notifies the court Debtor in Possession has withdrawn its motion to approve post-petition financing.

## **DISCUSSION**

It is undisputed that Debtor in Possession's chances of reorganizing in Chapter 11 depend on a sale or refinance, Debtor in Possession not generating any income from the Property. Debtor in Possession's main point of opposition is that there is a deal to refinance the Property on the table and an accompanying motion to approve the post-petition financing. However, on May 13, 2025, Debtor in Possession withdrew its Motion, and it appears there has been no progress in the case otherwise.

The court denied approval of Debtor's Disclosure statement on January 16, 2025. Order, Docket 95. There has been no subsequent Amended Disclosure Statement or Amended Plan on file. This being a SARE case, it is incumbent upon Debtor in Possession to propose a Plan with a reasonable possibility of being confirmed in a reasonable time. Debtor in Possession has not done so.

At the hearing, **XXXXXXX**

## **Debtor in Possession Motion to Authorize Post-Petition Financing**

On May 7, 2025, the Debtor in Possession filed a combined Motion/Notice of Motion, Points and Authorities, Declaration of Satpreet Thiara/Declaration of Dr. Davinder Sandhu as one 19 page pleading. Dckt. 143 and 147. This is in gross violation of Local Bankruptcy Rules 9014-1(d) (4) and 9004-1(c), requiring these pleadings to be filed as separate documents.

On May 13, 2025, the Debtor in Possession filed a Notice of voluntary dismissal of the Motion to obtain post-petition financing. Dckt. 153. In doing this it is not clear whether the Debtor in Possession intends to pursue the duplicate Motion/Notice/Memorandum of Points and Authorities/Declaration of Satpreet Thiara/Declaration of Dr. Davinder Sandhu filed on May 7, 2025 (Dckt. 147).

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

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

The court determines that cause exists for terminating the automatic stay, including Creditor’s interest not being adequately protected pending some speculative refinance or sale. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

### **11 U.S.C. § 362(d)(2)**

A debtor has no equity in property when the liens against the property exceed the property’s value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988). The Ninth Circuit has held that a 20% equity cushion is sufficient to provide a secured creditor with adequate protection. *In re Mellor*, 734 F.2d 1396, 1401 (9th Cir. 1984).

Romspen has submitted a valuation of the Property in the amount of \$3,950,000. *See* Ex. C, Docket 119. Romspen holds an uncontested prepetition claim for \$3,840,860.06 with further costs and expenses accruing post-petition. POC 3-1. Based upon the evidence submitted, the court determines that there is no equity in the Property for either Debtor or the Estate. 11 U.S.C. § 362(d)(2).

### **11 U.S.C. § 362(d)(3)**

11 U.S.C. § 362(d)(3) states:

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

(3)with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—

(A)the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

(B)the debtor has commenced monthly payments that—

(i)may, in the debtor’s sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

(ii)are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor’s interest in the real estate. . .

Collier’s Treatise states regarding the subject:

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

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

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

In this case, it is uncontested that this is a SARE case. The language of 11 U.S.C. § 362(d)(3) imposes a time line from that date: within 30 days, Debtor in Possession must have either proposed a plan of reorganization that has a reasonable possibility of being confirmed, or Debtor in Possession has commenced making monthly interest payments on the secured claim. There is no plan on file that has a reasonable possibility of being confirmed, the court denying approval of Debtor in Possession’s Disclosure Statement. The record further reflects Debtor in Possession has not begun making any interest payments. Therefore, the court finds grounds to grant relief pursuant to 11 U.S.C. § 362(d)(3).

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

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

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, as Debtor in Possession has engaged in unreasonable delay in the case and has made no adequate protection payments throughout the case, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 13:19-24.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

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

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Romspen California Mortgage Limited Partnership, an Ontario, Canada limited partnership (“Romspen”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as commonly described as a Development Parcel approved for a 168 Unit Apartment Building located at 3200 Atherstone Road in Turlock, California (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.

U.S. BANK TRUST NATIONAL  
ASSOCIATION VS.

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on all creditors and partes in interest on April 18, 2025. By the court’s calculation, 34 days’ notice was provided. 28 days’ notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is xxxxxxx.**

Movant, U.S. Bank Trust National Association, As Trustee of the Igloo Series IV Trust, its successors and/or assigns (“Movant”) seeks relief from the automatic stay with respect to Jeffery Edward Arambel’s (“Debtor in Possession”) real property commonly known as 49 Echo Court, Patterson, CA 95363 (“Property”). Movant has provided the Declaration of Jody Lee to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 125.

Movant argues Debtor has not made five post-petition payments, with a total of \$38,859.89 in post-petition payments past due. Declaration ¶ 14, Docket 125. Movant also provides evidence that there is one pre-petition payments in default, with a pre-petition arrearage of \$7,864.54. *Id.* Therefore, Movant seeks relief pursuant to 11 U.S.C. § 362(d)(1).

Movant makes an argument that the case was presumptively filed under bad faith pursuant to 11 U.S.C. § 362(c)(3). Although Debtor in Possession’s prior case was not dismissed, Movant argues the principle of filing the second case in bad faith remains unchanged. Mot. 6:20-21.

**DEBTOR IN POSSESSION’S OPPOSITION**

Debtor in Possession filed an Opposition on May 8, 2025. Docket 144. Debtor in Possession states:

1. Movant is adequately protected. Even under Movant's valuation, there is a 19% equity cushion. Under Debtor in Possession's valuation, there is closer to a 50% equity cushion. *Id.* at 2:8-16.
2. Debtor in Possession is committed to curing any post-petition default which include principal and interest payments, so Debtor in Possession proposes to make monthly payments in the amount of \$15,062 which represents a double payment on the regular monthly payment of \$7,531. *Id.* at 2:12-16.
3. Debtor's previous bankruptcy case has not been dismissed, therefore, 11 U.S.C. Section 363(c)(3)(A) does not apply pursuant to the text of the statute. Nor is there any case law cited by U.S. Bank applying this code section to previous case that was not dismissed, but in fact is a case with a confirmed Chapter 11 plan of reorganization. *Id.* at 2:19-22.

## DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$632,758.69 (Declaration ¶ 13, Docket 125), while the value of the Property is determined to be \$1,290,000, as stated in Schedules A/B and D filed by Debtor. Am. Schedule A/B at 4, Docket 91. Movant filed a Zillow report in support of the Motion showing the valuation to be \$876,700. Ex. 5, Docket 126. This is hearsay evidence, Movant telling the court to accept as true the valuation is what Zillow says it is. Fed. R. Evid. 801. The court does not find a Zillow valuation to be a market report relied on by the public (Fed. R. Evid. 803(17)) or any other exception to hearsay.

Moreover, the court disagrees that 11 U.S.C. § 362(c)(3) supports a presumption that this case was filed in bad faith. 11 U.S.C. § 362(c)(3) states:

(c)Except as provided in subsections (d), (e), (f), and (h) of this section—

...

(3)if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b). . .

The plain language of the statute clearly only applies to a subsequently filed case when the earlier case was filed and dismissed within the 1-year period. There is no merit in Movant's argument supporting the assertion that the court should apply this language to the present case.

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

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re*



*Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

In this case, Debtor in Possession admits he has missed the post-petition payments, but Debtor in Possession has offered a repayment schedule. Moreover, Movant is adequately protected, having close to a 50% equity cushion. Debtor in Possession suggests the court give Movant a conditional order, only granting relief if the increased post-petition payments are not made.

Though having defaulted in multiple monthly payments the Debtor in Possession now states that he can make double the normal monthly payment. Looking at the latest Monthly Operating Report filed, that being for April 2025 (Dckt 150), the Debtor in Possession reports having insignificant cash, only \$159. Dckt. 150 at 2. In the attachment to the Monthly Operating Report (Dckt. 151) the Debtor in Possession shows the estate's bank account to have only a \$159.13 balance. It is unclear how the Debtor in Possession will make double payments to Creditor after having defaulted for multiple months in making the regular payment.

At the hearing, **XXXXXXX**

No other or additional relief is granted by the court.

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

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by U.S. Bank Trust National Association, As Trustee of the Igloo Series IV Trust, its successors and/or assigns ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is **XXXXXXX**.

**BANK OZK VS.**

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, and Office of the United States Trustee on May 8, 2025. By the court's calculation, 14 days' notice was provided. 14 days' notice is required.

The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

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<p><b>The Motion for Relief from the Automatic Stay is granted.</b></p>
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Bank OZK ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2021 Wildwood Heritage 26BHHL Trailer, VIN ending in 1930 ("Trailer"). The moving party has provided the Declaration of Kimera Miller to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Cory Ryan Walker and Esmeralda Walker ("Debtor"). Decl., Docket 19.

Movant argues Debtor has not made two post-petition payments and eight pre-petition payments with a total arrearage of \$3,671.20. Decl. ¶ 8. Movant also informs the court Debtor has opted to surrender the Trailer.

**NADA Valuation Report Provided**

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

**DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$38,257.89 (Declaration ¶ 10, Docket 19), while the value of the Trailer is determined to be \$26,300, as stated on the NADA Valuation Report.

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

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

The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

### **11 U.S.C. § 362(d)(2)**

A debtor has no equity in property when the liens against the property exceed the property’s value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988)

Based upon the evidence submitted, the court determines that there is no equity in the Trailer for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Trailer is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Trailer, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

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

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, as Debtor has opted to surrender the Trailer, that the court grant relief from the Rule as adopted by the United States Supreme Court.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

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

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Bank OZK (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Trailer, under its security agreement, loan documents granting it a lien in the asset identified as a 2021 Wildwood Heritage 26BHHL Trailer, VIN ending in 1930 (“Trailer”), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Trailer to the obligation secured thereby.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.

JASWINDER KAUR VS.

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

**NO OFFICIAL CERTIFICATE OF SERVICE SHEET USED**

Though notice was provided, Movant has not complied with Local Bankruptcy Rule 7005-1 which requires the use of a specific Eastern District of California Certificate of Service Form (Form EDC 007-005). This required Certificate of Service form is required not merely to provide for a clearer identification of the service provided, but to ensure that the party providing the service has complied with the requirements of Federal Rule of Civil Procedure 5, 7, as incorporated into Federal Rule of Bankruptcy Procedure 7005, 7007, and 9014(c).

**NOTICE AS A MOTION UNDER LBR 9014-1(f)(1) OR (f)(2) IS UNCLEAR**

Parkash Pabla and Jaswinder Kaur ("Movant") has not specified clearly whether the Motion is noticed according to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). The Notice of Motion states that a hearing will be held on May 22, 2025, and opposition must be filed no later than 7 days before the hearing. There is no language in the Eastern District's Local rules that permit for notice with a 7 day deadline for opposition. The court treats the Motion as being noticed according to Local Bankruptcy Rule 9014-1(f)(2). Counsel is reminded that not complying with the Local Bankruptcy Rules is cause, in and of itself, to deny the motion. LOCAL BANKR. R. 1001-1(g), 9014-1(c)(l).

The Motion for Relief from the Automatic Stay was set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 11 Subchapter V Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

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**The Motion for Relief from the Automatic Stay is denied without prejudice.**

**NO DOCKET CONTROL NUMBER**

Movant is reminded that the Local Bankruptcy Rules require the use of a new Docket Control Number with each motion. LOCAL BANKR. R. 9014-1(c). Here, the moving party failed to use a Docket Control Number. That is not correct. LOCAL BANKR. R. 1001-1(g), 9014-1(c)(l).

#### **NO RELIEF FROM STAY SUMMARY SHEET**

Local Bankruptcy Rule 4001-1(a)(3) states:

With all motions for relief from stay, the movant shall file and serve as a separate document completed Form EDC 3-468, Relief from Stay Summary Sheet.

This is yet another rule counsel for Movant has not compiled with.

#### **NO EXHIBIT INDEX**

Local Bankruptcy Rule 9004-2(d)(2) states:

Each exhibit document filed shall have an index at the start of the document that lists and identifies by exhibit number/letter each exhibit individually and shall state the page number at which it is found within the exhibit document.

There is no exhibit index at the start of Movant's Exhibit document at Docket 22.

The court has historically granted a party the opportunity to correct procedural deficiencies at the hearing. However, in this situation, the procedural errors cannot be merely corrected on the record at the hearing. It appears counsel for Movant has not even glanced at the Eastern District's Local Rules before filing this Motion. The court is denying the Motion without prejudice, Movant filing this Motion in gross violation of the Eastern District's Local Rules, including Rules 7005-1, 9014-1(f), 9014-1(c), 9004-2(d)(2), and 4001(a)(3).

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

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Parkash Pabla and Jaswinder Kaur ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is denied without prejudice.