UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

May 29, 2025 at 10:00 a.m.

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1. **25-21003-E-7** **VANESSA PALMA** **MOTION FOR RELIEF FROM AUTOMATIC STAY**
KMM-1 **Pro Se** **4-17-25 [12]**

AMERICAN CREDIT ACCEPTANCE, LLC VS.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) on Aril 17, 2025. By the court's calculation, 42 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.

American Credit Acceptance, LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2019 Volkswagen Jetta, VIN ending in 9972 ("Vehicle"). The moving party has provided the Declaration of Samantha Booker to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Vanessa M. Palma ("Debtor"). Decl., Docket 14.

Movant argues Debtor has not made twelve pre-petition payments each in the amount of $556.20. *Id.* at 2:25-27. Movant notes that it is Debtor's intention to retain the Vehicle and enter into a Reaffirmation Agreement, but Movant states Debtor must cure any outstanding delinquency. There is no evidence on file of any missed post-petition payments.

The Chapter 7 Trustee filed a Non-Opposition on May 5, 2025.

J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. D, Docket 15. 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 ($21,945.34) (Declaration 4:1-2, Docket 14), while the value of the Vehicle is determined to be $14,900.00, as stated on the J.D. Power Valuation Report.

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

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

The court determines that cause exists for terminating the automatic stay, including Movant's interest not being adequately protected. 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 Vehicle for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Vehicle is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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 Vehicle, 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.

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 American Credit Acceptance, LLC ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2019 Volkswagen Jetta, VIN ending in 9972 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

No other or additional relief is granted.

2.	**24-23905-E-12 BJ-3**	**DEAVER RANCH, INC., A CALIFORNIA CORPORATION David Goodrich**	**MOTION FOR RELIEF FROM AUTOMATIC STAY , MOTION FOR RELIEF FROM CO-DEBTOR STAY , AND/OR MOTION FOR ADEQUATE PROTECTION 5-14-25 [481]**

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA VS.

ALL DEAVER RANCH, INC JOINTLY ADMINISTERED CASES MATTERS WILL BE HEARD ON THE 10:30 A.M. CALENDAR

Item 1 thru 4 on the 10:30 Calendar

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on all creditors and parties in interest on May 14, 2025. By the court's calculation, 15 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 12 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion for Relief from the Automatic Stay is granted.

Prudential Insurance Company of America ("Movant", "Prudential") seeks relief from the automatic stay with respect to Deaver Ranch, Inc.'s ("Debtor in Possession") real and personal property subject to Prudential's Deed of Trust, Security Agreement, Crop Filing and Fixture Filing with Assignment of Rents and Proceeds, Leases and Agreements made by Debtor in Possession to Placer Title Company, as trustee, for the benefit of Prudential, on March 15, 2018 and recorded on March 19, 2018 in the Official Records of Amador County as Document Number 2018-0001933-00. Ex. 3, Docket 484. The property subject to this Motion is:

1. Real property commonly known as: (a) 21643 Shenandoah School Road, Plymouth, CA (house with vineyards and farmland on approximately 88 acres); (b) 19940 Shenandoah School Road, Plymouth, CA (vineyards, farmland on approximately 41.86 acres, 2 modular homes); (c) 21424 Shenandoah School Road, Plymouth, CA (Vineyards, house, barns pasture on approximately 108.3 acres); (d) 19944 Shenandoah School Road, Plymouth, CA (approximately 40 acres, 6-8 acres of pasture with the remaining land on vineyards); and (e) 11850 Shenandoah School Road, Plymouth, CA (raw land [approximately 10 acres]. Mot. 6:18-24.

2. The leasehold interests under the Commercial Lease Agreement dated May 10, 2017 between Mary Jo Bigwood as Lessor and Shenandoah Investment Properties, a California Corporation, as lessee, for the real property consisting of a winery facility, twelve acres of vineyards and related facilities commonly known as 12455 Steiner Road, Amador County, California; (b) Water Rights; (c) the Rents and Proceeds; and (d) any lease, whether written or oral, in favor of Debtor of any of Movant' s real property collateral. Mot. 6:25-7:2.

3. Any of the Property which, under applicable law, is not real property or effectively made part of the real property by the provisions of [the] Deed of Trust; and any and all other property now or hereafter described on any Uniform Commercial Code Financing Statement naming Borrower as Debtor and [Prudential] as Secured Party and affecting property in any way connected with the use and enjoyment of the Property (any and all such other property constituting "Property" for purposes of [the] Deed of Trust)." Mot. 7:4-9. Ex. 10, Docket 484.

(collectively, "Property").

Prudential excludes the following assets from this Motion:

1. Vehicles, rolling stock, farm machinery (including tractors, combines and other farm machinery), or any other "equipment", as defined in Article 9 of the Uniform Commercial Code, that is not part of the Improvements; or

2. portable irrigation motors on wheels customarily towed by a motorized vehicle; or

3. any mobile or manufactured home that may be located on the Land.

Mot. 6:12-16.

Movant has provided the Declaration of Sean Kolb to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 483.

Movant argues Debtor in Possession defaulted under the terms of its loan for the August 1, 2023 payment and the February 1, 2024 payment. Mot. 7:13-14. The delinquency was never cured and Prudential

accelerated the entire amount of the loan on May 5, 2024. As of May 8, 2025, there was due, owing and unpaid to Prudential pursuant to the Loan the sum of $5,499,313.96, which includes unpaid principal of $4,206,500.48, accrued and unpaid interest (including default interest) of $804,609.36, late charges of $15,517.84, prepayment of $67,542.93, and other charges and fees, including portions of attorney fees incurred and appraisal fees. Interest is currently accruing at the default rate of 15% per annum under the terms of the Loan, and at a rate of$1,789.15 per day after May 8, 2025. Decl. ¶ 10, Docket 483.

DISCUSSION
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.

Co-Debtor Stay

Movant, out of an abundance of caution, requests a waiver of the Co-Debtor stay as provided in 11 U.S.C. § 1201. 11 U.S.C. § 1201 states:

> (a)Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured such debt, unless—
>
> (1)such individual became liable on or secured such debt in the ordinary course of such individual's business; or
>
> (2)the case is closed, dismissed, or converted to a case under chapter 7 of this title.

There have been no facts to support the idea that this loan is a consumer debt. The loan appears strictly business related, which would not give rise to the Co-Debtor stay. At the hearing, **XXXXXXX**

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, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court.

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

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by Prudential Insurance Company of America ("Movant", "Prudential") 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 property identified as:
>
> 1. Real property commonly known as: (a) 21643 Shenandoah School Road, Plymouth, CA (house with vineyards and farmland on approximately 88 acres); (b) 19940 Shenandoah School Road, Plymouth, CA (vineyards, farmland on approximately 41.86 acres, 2 modular homes); (c) 21424 Shenandoah School Road, Plymouth, CA (Vineyards, house, barns pasture on approximately 108.3 acres); (d) 19944 Shenandoah School Road, Plymouth, CA (approximately 40 acres, 6-8 acres of pasture with the remaining land on vineyards); and (e) 11850 Shenandoah School Road, Plymouth, CA (raw land [approximately 10 acres]. Mot. 6:18-24.
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> 2. The leasehold interests under the Commercial Lease Agreement dated May 10, 2017 between Mary Jo Bigwood as Lessor and Shenandoah Investment Properties, a California Corporation, as lessee, for the real property consisting of a winery facility, twelve acres of vineyards and related

facilities commonly known as 12455 Steiner Road, Amador County, California; (b) Water Rights; (c) the Rents and Proceeds; and (d) any lease, whether written or oral, in favor of Debtor of any of Movant' s real property collateral. Mot. 6:25-7:2.

3. Any of the Property which, under applicable law, is not real property or effectively made part of the real property by the provisions of [the] Deed of Trust; and any and all other property now or hereafter described on any Uniform Commercial Code Financing Statement naming Borrower as Debtor and [Prudential] as Secured Party and affecting property in any way connected with the use and enjoyment of the Property (any and all such other property constituting "Property" for purposes of [the] Deed of Trust)." Mot. 7:4-9. Ex. 10, Docket 484.

(collectively, "Property"), to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.

3. 24-23905-E-12 CAE-1 — DEAVER RANCH, INC., A CALIFORNIA CORPORATION — CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 8-30-24 [1]

ALL DEAVER RANCH, INC JOINTLY ADMINISTERED CASES MATTERS WILL BE HEARD ON THE 10:30 A.M. CALENDAR

Debtor's Atty: David M. Goodrich

Notes:
Continued from 5/22/25 to be heard in conjunction with other matters on the calendar.

The Status Conference is xxxxxxx

MAY 29, 2025 STATUS CONFERENCE

On May 5, 2025, the Debtor in Possession filed an updated Status Report. Dckt. 475. The reorganization appears to hinge on the Debtor in Possession a new vineyard lease for future operations. The Debtor in Possession is also exploring whether proceeding outside of bankruptcy presents a viable option.

At the Status Conference, **xxxxxxx**

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

DAVID PICK FAMILY PARTNERSHIP, L.P. VS.

Item 4 thru 5

THE COURT WILL CALL ITEM 7 (FEE APPLICATION) ON THE 10:30 A.M. CALENDAR AT 10:00 A.M., AND IF ALL NECESSARY PARTIES ARE PRESENT WILL ADDRESS THAT MATTER ON THE 10:00 CALENDAR

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

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

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

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

The Motion for Relief from the Automatic Stay is xxxxxxx.

May 29, 2025 Hearing

The court continued the hearing on this Motion as Movant agreed to a short continuance for a further hearing and to see how the Debtor in Possession will move forward in prosecuting this case. The

court set the deadline of May 19, 2025 to file an Amended Motion or Supplemental Motion in continuing the hearing. Order, Docket 91. Movant filed the Supplemental Motion on May 19, 2025. Docket 94. Movant states:

1. At the most recent hearing, which was held on April 24, 2025, counsel for the Debtor gave to the Court a check for $13,666.66 – which represented nondefault interest payments for the months of January, February, March, April, and May of 2025. *Id.* at 2:10-12.

2. At the April 24, 2025 hearing, counsel for the Debtor indicated that his client had not communicated with him regarding, or provided any funding for him to prepare, a plan. *Id.* at 2:16-17.

3. Also at the April 24, 2025 hearing, counsel for the Lender expressed concerns over the status of the Debtor's insurance policy on the Property. Specifically, the Lender is not listed as an additional insured in the Debtor's policy – which is specifically required in the Deed of Trust. As of the date of the filing of this Motion, counsel for the Lender has not received confirmation that these insurance issues have been remedied by the Debtor. *Id.* at 3:3-7.

4. It also appears Debtor in Possession is not paying real estate taxes. *Id.* at 3:7-10.

5. Movant requests the court grant relief.

At the hearing, **xxxxxxx**

REVIEW OF MOTION

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

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

Debtor in Possession's Opposition

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

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

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

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

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

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

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

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

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

Creditor's Reply

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

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

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

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

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

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

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

DISCUSSION

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

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

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

Collier's Treatise states regarding the subject:

The purpose of section 362(d)(3) is to address perceived abuses in single asset real estate cases, in which debtors have attempted to delay mortgage foreclosures even when there is little chance that they can reorganize successfully. Section 362(d)(3) attempts to shorten such cases by requiring that the court grant relief from the stay

> if a reasonable plan is not filed promptly or payments are not commenced. The court may, of course, grant relief under subsection 362(d)(1) or (2) when it is appropriate to do so even if the applicable time period in subsection (d)(3) has not run. This might occur, for example, if the court determines that the case was commenced in bad faith and that the debtor is not entitled to bankruptcy relief.
>
> Although technically the court may condition or modify the stay rather than terminate it, it appears that the legislative intention was to terminate the stay when the debtor neither proposes a viable plan nor makes payments to the secured party. A court should refuse to terminate the stay only when there is a strong reason for offering lesser relief.

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

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

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

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

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

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

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

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

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

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

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

April 24, 2025 Hearing

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

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

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

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

At the hearing, Debtor in Possession's Managing Member appeared and presented a cashier's check for $13,666.66 in open court. Debtor in Possession's counsel was appearing telephonically due to having vehicle problems. Movant's counsel appeared telephonically from the Southern California Office. The Managing Member handed the cashier's check to the court, where it was held until later that morning a courier from Movant's counsel's Sacramento Office appeared in court to take possession of the check. The courier taking possession of the check was performed on the record with Movant's counsel telephonically appearing and confirming that the check be given to the courier.

Movant's counsel expressed concern that the managing members of the Debtor in Possession were not communicating about how the reorganization was progressing, had allowed the require adequate

protection payments to go into default, and had not provided confirmation that Movant is a named additional insured under the Estate's insurance policy.

Movant agreed to a short continuance for a further hearing and to see how the Debtor in Possession will move forward in prosecuting this case. Debtor in Possession's counsel spoke sternly about his client's lack of communication and the need to focus on how it can fulfill its obligations and obtain the benefits of a Chapter 11 reorganization (even if it is "just" to recover the equity in the property and not develop it).

The continuance will allow the managing members to immediately begin communicating with their counsel. Additionally, the Parties can work out more detailed adequate protection orders they may be requesting from the court.

The hearing on the Motion for Relief from the Automatic Stay is continued to 10:00 a.m. on May 29, 2025.

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 Amended Motion for Relief from the Automatic Stay filed by David Pick Family Partnership, L.P.("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion for relief is **xxxxxxx**.

5. 24-24023-E-11 CAE-1 — NEXT HILL ENTERPRISES, LLC — CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 9-9-24 [1]

Debtor's Atty: Richard L. Jare

Notes:
Continued from 4/24/25. The court ordered the Managing Member signing the Bankruptcy Petition for the Debtor, Payam Sanatkar, attend the continued Status Conference in person - No Telephonic Appearances Permitted for the Managing Member.

[BPC-3] Order granting Motion for Relief From Automatic Stay filed by David Pick Family Partnership, LP filed 4/28/25 [Dckt 90]

The Status Conference is xxxxxxx

MAY 29, 2025 STATUS CONFERENCE

No updated Status Report had been filed as of the court's May 27, 2025 review of the Docket for this Bankruptcy Case. The last Monthly Operating Report was filed on February 14, 2025, Dckt. 65, and is the Monthly Operating Report for January 2025.

Looking at that Monthly Operating Report, the Bankruptcy Estate has real estate inventory worth $1,320,000. Additionally, it is reported that there is ($786,235) in pre-petition secured debt. MOR Part 2, §§ a and b. Dckt. 65 at 2.

Two secured claims have been filed in this Case. Proof of Claim 2-1 has been filed by La Grou John and Cynthia as Trustees, for a claim in the amount of ($79,748.89). The Bankruptcy Estate's real estate asset described as "Parcel 2, as shown on that certain Parcel Map filed in the office of the County Recorder of said County on November 3, 1980 in Book 27 of Parcel Maps, Page 143 (the *"Parcel 2 Property*"). This is consistent with the Debtor listing this Creditor on Schedule D, § 2.8. Schedule D; Dckt. 1 at 15.

Proof of Claim 5-1 has been filed by the David Pick Family Partnership, L.P. asserting a secured claim in the amount of ($453,688.84). The description of the real property securing this creditor's claim includes: "Said Land is also shown as Tract 1 on that certain Record of Survey filed in the Office of the County Recorder of El Dorado County on October 8, 1990, in Book 17 of Records of Surveys, at page 136 (the *"136 Property"*). Attachment to Proof of Claim 5-1 at 16. This is consistent with the Debtor listing this Creditor on Schedule D, § 2.7. Schedule D; Dckt. 1 at 14.

El Dorado County has filed Proof of Claim asserting priority unsecured claims. Proof of Claim 6-1 asserts a priority claim for "Property Taxes" in the amount of ($31,225.01). The real property for which this tax relates is stated to be APN 054-371-019-000, which matches up to the asset listed by Debtor on Schedule A/B, § 55.1, the 136 Property . Dckt. 1 at 8. It appears that this may be a secured claim as it has been scheduled by the Debtor.

The Debtor has scheduled the following creditors, who have not yet filed proofs of claim, as having claims secured by the real estate inventory in the Bankruptcy Estate:

A. 3409 Arden Partners, LLC, listing a ($275,000.00) secured claim, with the 136 Property securing this claim.

B. El Dorado County Tax Collector, listing a ($19,000.00) secured claim, with the 136 Property securing this claim.

C. El Dorado County Tax Collector, listing a ($2,000.00) secured claim, with the Parcel 2 Property securing this claim

D. "Joyce Berger, trustee, and," listing a ($2,000.00) secured claim, with the 136 Property securing this claim.

Schedule D; Dckt. 1.

On its face, it would appear that the Bankruptcy Estate has $1,320,000 in real estate inventory that is secured by "only" approximately ($831,437) in secured claims. That leaves $488,563 in gross equity (before costs of sale) for this Bankruptcy Estate to pay claims of creditors with secured, priority unsecured, and general unsecured claims, as well as administrative expenses.

This Bankruptcy Case having been filed on September 9, 2024, the Fiduciary Representatives of the Debtor in Possession have had eight months to "turn dirt into dollars" and protect the half a million dollars in equity in this Bankruptcy Estate. However, these Representative with fiduciary duties to the Bankruptcy Estate appear unable to fulfill their duties and have the real property assets of this Bankruptcy Estate properly administered.

The Fiduciary Representatives have been unable to file monthly operating reports for February, March and April of 2015. The Fiduciary Representative purported to file a Status Conference Report for the October 2024 Status Conference, but it was merely the U.S. Trustee's "Chapter 11 Initial Reporting Requirements and Document Requests. Dckt. 36. No updated Status Reports were filed by the Fiduciary Representatives for the December 5, 2024 Status Conference, the March 5, 2025 status Conference, or the April 22, 2025 Status Conference.

The Fiduciary Representatives have not any pleadings, such a motion to employ a real estate broker, motion to approve disclosure statement, or a plan of reorganization. The Responsible Representative of the Debtor appear to be in a state of somnolence [Fn.1.] with respect to doing anything to prosecute this Chapter 11 Case. Rather, the Fiduciary Representatives appear to have made their "Chapter 11 plan of action" to merely use the automatic stay to hold off creditors which the Fiduciary Representative sit back and dream of what could be (or could have been).

FN. 1. The Cleveland Clinic provides an online medical definition of what is somnolence, stating:

Somnolence (Drowsiness)

> Somnolence, also known as drowsiness or excessive sleepiness, is wanting to fall asleep. You usually notice this right before bedtime. But somnolence can also interfere with your daytime activities. It can happen with several underlying conditions and as a side effect of several types of medications. Treatment options are available.

https://my.clevelandclinic.org/health/symptoms/somnolence-drowsiness.

The Fiduciary Representatives have

It appears that given the Fiduciary Representatives' inability to fulfill their duties and prosecute this Bankruptcy Case, as well as they being stated to be half a million dollars in gross equity in the real estate inventory in this Case, cause may exist to convert this case to one under Chapter 7 and have a Chapter 7 trustee take over fulfilling the fiduciary duties for the Debtor in Possession.

At the Status Conference, **XXXXXXX**

APRIL 22, 2025 STATUS CONFERENCE

At the Status Conference, the respective counsel addressed the challenges faced in the prosecution of this Case.

The Status Conference is continued to 10:00 a.m. on May 29, 2025.

The court orders that the Managing Member signing the Bankruptcy Petition for the Debtor, Payam Sanatkar, attend the Status Conference in person - No Telephonic Appearance Permitted for the Managing Member.

MARCH 5, 2025 STATUS CONFERENCE

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

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

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

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

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

DECEMBER 5, 2024 STATUS CONFERENCE

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

OCTOBER 24, 2024 STATUS CONFERENCE

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

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

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

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

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

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

6. **25-20053-E-11 MJM-1** | **MOORE HOLDINGS, LLC** **Stephan Brown** | **MOTION FOR RELIEF FROM AUTOMATIC STAY** **5-1-25 [112]**

POPPY BANK VS.

Item 5 thru 6 on the 11:30 Calendar

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and all creditors and parties in interest on May 1, 2025. By the court's calculation, 28 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 denied without prejudice.~~

Review of Minimum Pleading Requirements for a Motion

The Supreme Court requires that the motion itself state with particularity the grounds upon which the relief is requested. FED. R. BANKR. P. 9013. The Rule does not allow the motion to merely be a direction to the court to "read every document in the file and glean from that what the grounds should be for the motion." That "state with particularity" requirement is not unique to the Bankruptcy Rules and is also found in Federal Rule of Civil Procedure 7(b).

Consistent with this court's repeated interpretation of Federal Rule of Bankruptcy Procedure 9013, the bankruptcy court in *In re Weatherford*, applied the general pleading requirements enunciated by the United States Supreme Court to the pleading with particularity requirement of Bankruptcy Rule 9013. *See In re Weatherford*, 434 B.R. 644, 646 (N.D. Ala. 2010) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007)). The *Twombly* pleading standards were restated by the Supreme Court in *Ashcroft v. Iqbal* to apply to all civil actions in considering whether a plaintiff had met the minimum basic pleading requirements in federal court. *See* 556 U.S. 662 (2009).

Federal Rule of Bankruptcy Procedure 9013 incorporates the "state with particularity" requirement of Federal Rule of Civil Procedure 7(b), which is also incorporated into adversary proceedings by Federal Rule of Bankruptcy Procedure 7007. Interestingly, in adopting the Federal Rules of Civil Procedure and of Bankruptcy Procedure, the Supreme Court endorsed a stricter, state-with-particularity-the-

grounds-upon-which-the-relief-is-based standard for motions rather than the "short and plain statement" standard for a complaint.

Law and motion practice in bankruptcy court demonstrates why such particularity is required in motions. Many of the substantive legal proceedings are conducted in the bankruptcy court through the law and motion process. These include sales of real and personal property, valuation of a creditor's secured claim, determination of a debtor's exemptions, confirmation of a plan, objection to a claim (which is a contested matter similar to a motion), abandonment of property from the estate, relief from the automatic stay, motions to avoid liens, objections to plans in Chapter 13 cases (akin to a motion), use of cash collateral, and secured and unsecured borrowing.

The court in *Weatherford* considered the impact to other parties in a bankruptcy case and to the court, holding,

> The Court cannot adequately prepare for the docket when a motion simply states conclusions with no supporting factual allegations. The respondents to such motions cannot adequately prepare for the hearing when there are no factual allegations supporting the relief sought. Bankruptcy is a national practice and creditors sometimes do not have the time or economic incentive to be represented at each and every docket to defend against entirely deficient pleadings. Likewise, debtors should not have to defend against facially baseless or conclusory claims.

In re Weatherford, 434 B.R. at 649–50; *see also In re White*, 409 B.R. 491, 494 (Bankr. N.D. Ind. 2009) (holding that a proper motion must contain factual allegations concerning requirements of the relief sought, not conclusory allegations or mechanical recitations of the elements).

The courts of appeals agree. The Tenth Circuit Court of Appeals rejected an objection filed by a party to the form of a proposed order as being a motion. *St. Paul Fire & Marine Ins. Co. v. Continental Casualty Co.*, 684 F.2d 691, 693 (10th Cir. 1982). The Seventh Circuit Court of Appeals refused to allow a party to use a memorandum to fulfill the pleading with particularity requirement in a motion, stating:

> Rule 7(b)(1) of the Federal Rules of Civil Procedure provides that all applications to the court for orders shall be by motion, which unless made during a hearing or trial, "shall be made in writing, [and] *shall state with particularity the grounds therefor*, and shall set forth the relief or order sought." The standard for "particularity" has been determined to mean "reasonable specification."

Martinez v. Trainor, 556 F.2d 818, 819–20 (7th Cir. 1977) (citing 2-A JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶ 7.05 (3d ed. 1975)).

Not stating with particularity the grounds in a motion can be used as a tool to abuse other parties to a proceeding, hiding from those parties grounds upon which a motion is based in densely drafted points and authorities—buried between extensive citations, quotations, legal arguments, and factual arguments. Noncompliance with Federal Rule of Bankruptcy Procedure 9013 may be a further abusive practice in an attempt to circumvent Bankruptcy Rule 9011 by floating baseless contentions to mislead other parties and the court. By hiding possible grounds in citations, quotations, legal arguments, and factual arguments, a movant bent on mischief could contend that what the court and other parties took to be claims or factual contentions in the points and authorities were "mere academic postulations" not intended to be

representations to the court concerning any actual claims and contentions in the specific motion or an assertion that evidentiary support exists for such "postulations."

Grounds Stated in Motion

Movant has not provided any grounds, merely unsupported conclusions of law. The insufficient statement made by Movant is:

> A. Secured creditor Poppy Bank brings this Motion for Relief from Automatic Stay based on 11 U.S.C. section 362(d)(1), (2) and (3) and Local Eastern District of California Bankruptcy Rules 4001-1 and 9014-1. Mot. at 2:1-3.

That "ground" is merely a conclusion of law by Movant. Presumably, Movant believed that the court would make those conclusions, but the "grounds" cannot merely state the anticipated conclusions.

Movant is reminded that "[f]ailure of counsel or of a party to comply with these [Local Bankruptcy] Rules . . . may be grounds for imposition of any and all sanctions authorized by statute or rule within the inherent power of the Court, including without limitation, **dismissal of any action**, entry of default, finding of contempt, imposition of monetary sanctions or attorneys' fees and costs, and other lesser sanctions." LOCAL BANKR. R. 1001-1(g) (emphasis added).

The Motion states that grounds are found in:

A. The Notice of Hearing;
B. Memorandum of Points and Authorities;
C. Three Declarations; and
D. Whatever else is presented prior to or at the hearing.

In addition, Movant has filed 134 pages of Exhibits.

The court generally declines an opportunity to do associate attorney work and assemble motions for parties. It may be that Movant believes that the Points and Authorities is "really" the motion and should be substituted by the court for the Motion. That belief fails for multiple reasons. One is that under Local Bankruptcy Rule 9014-1(d)(4), a motion and a memorandum of points and authorities are separate documents, even though they may be filed as one document when not exceeding six pages. *See* Local Bankruptcy Rule 9014-(d)(4). The court has not waived that Local Rule for Movant.

In looking at the Points and Authorities, only one reference is made to the exhibits. Points and Authorities, p. 4:12-16; Dckt. 115. This is a reference only to Exhibit A filed in a previous contested matter in this Bankruptcy Case, the Motion to Employ Real Estate Broker. The Points and Authorities makes no reference to the 134 pages of Exhibits filed in support of the "Motion" for Relief From the Automatic Stay.

At the hearing, **xxxxxxx**

THE MOTION

Poppy Bank ("Movant," "Poppy") seeks relief from the automatic stay with respect to Moore Holdings, LLC (" Debtor in Possession") real property commonly known as 2151 Professional Drive,

Roseville, CA 95661 ("Property"). Movant has provided the Declarations of Justin Schlageter and Lisa Mills to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decls., Dockets 114, 117.

Movant seeks relief pursuant to 11 U.S.C. §§ 362(d)(1), (2), and (3), this being a singe asset real estate ("SARE") case. Movant alleges in its Memorandum of Points and Authorities:

> 1. Poppy recently obtained an appraisal from an experienced and highly reputable company, which shows that DIP has no equity in the property, that the property does not provide adequate protection, and that the plan of liquidation is not feasible. Mem. 2:5-7.
>
> 2. As of April 30, 2025, Debtor in Possession owes Poppy $2,289,815.12 on the 2017 loan that is secured by the Property. *Id.* at 3:3-4.
>
> 3. Debtor in Possession has maintained that the Property is worth $3,500,000. On April 1, 2025, Poppy engaged CRBE to provide an appraisal of the Property for the purpose of forming an opinion about the fair market value. As of April 5, 2025, the appraised as-is value of the Subject Property is $2,350,000. *Id.* at 3:16-23.
>
> 4. There is no equity in the Property, and the Property is not necessary for an effective reorganization. The Property is not necessary for an effective reorganization because Debtor in Possession has not proposed a reasonable plan with a reasonable likelihood of confirmation.
>
> 5. Poppy's interest is not adequately protected, there being no equity cushion and monthly payments of $4,000 are not enough to cover the interest accrual of $15,465 per month. *Id.* at 8:9-16.
>
> 6. Finally, Debtor in Possession has not proposed a reasonable plan with a reasonable likelihood of confirmation, and os relief should be granted pursuant to 11 U.S.C. § 362(d)(3). The Plan proposes to sell the Property for $3.5 million and pay all claims in full. However, the Plan fails because the Property is only worth $2,350,000.

Mr. Schlageter testifies that he is the First Vice President on the Valuation & Advisory Services division of CBRE in their Sacramento office and that he assisted in appraising the Property. Decl. ¶¶ 1, 3, Docket 114. Mr. Schlageter states:

> I inspected the exterior of the Subject Property; collected and confirmed data related to the Subject Property, comparables and the neighborhood/market area; analyzed market data, and discussed property values with market participants. No interior inspection was performed, so it was assumed that the interior condition of the Subject Property was similar to the exterior condition.

Id. at ¶ 4.

Debtor in Possession's Opposition

Debtor in Possession filed an Opposition and supporting documents on May 15, 2025. Dockets 133-37. Debtor in Possession states:

1. Debtor in Possession timely filed a Plan that contemplates marketing and selling the Property. The Property sits within Roseville's premier office and medical hub, directly across from Kaiser Permanente's Roseville Medical Center, which is undergoing a $298 million expansion on the parking lot adjacent to the Property, scheduled for completion in 2027. The Property is listed for sale at $3.5 million. Multiple parties, including Kaiser Permanente, have expressed interest in the Property. Opp'n 2:8-19.

2. Approximately one year ago, on May 23, 2024, Poppy ordered and BBG Real Estate Services ("BBG") conducted an appraisal found an "as-is" value of $2.55 million (at 17 percent occupancy) and a prospective-year value of $3.2 million. Even a year ago time, BBG valued the Property at $3.2 million for June 2025, which is significantly higher than the $2.35 million valuation now claimed by Poppy under CBRE appraisal. *Id.* at 2:20-28.

3. The property is fully insured, professionally maintained, and rental income exceeds the operating costs. The case is just four months old; the Debtor will amend its Plan and Disclosure Statement before the confirmation hearing to address the U.S. Trustee's objections and will continue to market the Property. *Id.* at 3:12-15.

4. The CBRE appraisal should not be given much evidentiary weight because there was no interior inspection conducted, the comparables used in the CBRE report are out-of-market and inappropriate, the CBRE report uses the more pessimistic income approach, and Poppy's own BBG report shows a higher valuation than CBRE's report.

5. The CBRE report should not be admitted into evidence because Mr. Schlageter does not authenticate the appraisal report, he merely summarizes what is said in it. *Id.* at 5:15-20.

6. Given the correct valuation of $3.5 million, relief should be denied because Poppy has adequate protection in the form of $4,000 monthly payments and an equity cushion of 27%-33%, and the Plan has a reasonable chance of confirmation with some minor amendments.

Debtor in Possession submits the Declaration of Josie Jerde in support. Docket 134. Ms. Jerde testifies she has been employed to market and sell the Property, and she set a listing price of $3.5 million which reflects current fair-market value and is supported by the comparative data included in the May 14, 2025, Listing-Agent Report. Decl. ¶ 6; Dckt. 134. She testifies she has been actively marketing the Property and has hosted site visits or exchanged diligence materials with at least nine distinct prospective purchasers, including Epic Real Estate, American Horizon Property Management, a CPA firm represented by Michael Bathla, Berkshire Hathaway, a local investor, a logistics company, and Kaiser Permanente. *Id.* at 2:14-18.

DISCUSSION

Relief in this contested matter depends directly on the value of the Property. If the Property is valued in the range of $3.2 – $3.5 million, then Poppy is adequately protected, there is equity in the Property, and Debtor in Possession has proposed a Plan that has a reasonable likelihood of confirmation. If the Property is valued at $2.35 million, then Poppy is not adequately protected and Debtor in Possession is not proposing a Plan with a reasonable likelihood of confirmation.

Poppy submits the appraisal report of CBRE to show that the value of the Property is valued at $2.35 million. Ex. B, Docket 116. Debtor in Possession makes an evidentiary objection to the admission of this report, asserting that Mr. Schlageter did not properly authenticate it. The court disagrees. In Mr. Schlageter's Declaration at paragraphs 7 and 8, he testifies he appraised the Property and Exhibit B is his appraisal report. Decl., Docket 114. This testimony is sufficient to lay a foundation for the report. Fed. R. Evid. 901.

However, there are obvious issues with the CBRE report. The appraisal is not comprehensive, Mr. Schlageter failing to inspect the interior of the Property. The Property was also appraised by BBG, hired by Poppy, in 2024 in the amount of $2.55 million at 17% occupancy. The Property now sits at 55% occupancy. Decl. ¶ 8, Docket 135. Moreover, BBG valued the Property at $3.2 million for June 2025. Mr. Schlageter does not explain how the valuation can drop so much given Poppy's prior valuation from BBG and the increased tenancy.

It also appears Mr. Schlageter does not fully discuss the sub-market in which the Property sits in the CBRE report. Kaiser is planning major improvements to the area to the tune of $298 million. The BBG report calculated this improvement in its report, noting a demand for office space that benefits Debtor in Possession. Mr. Schlageter mentioned the Kaiser improvements on his appraisal. Ex. B at 25, Docket 116. It is not clear to the court how this information was calculated in Mr. Schlageter's report.

The Property has been on the market since March 4, 2025, and has already garnered noticeable interest at the listing price of $3.5 million. Mr. Schlageter in his appraisal report notes that exposure time and the marketing period are expected to last from 6 – 9 months. Appraisal Report, ex. B at 16, Docket 116. The Property has not even been on the market yet for 3 months but is still garnering attention. Debtor in Possession has employed a licensed broker to market and sell the Property and it is her opinion that the Property should be listed at $3.5 million.

The Supreme Court has handed down the legal standard in the context of a Motion for Relief under 11 U.S.C. § 362(d)(2), stating:

> Once the movant under § 362(d)(2) establishes that he is an undersecured creditor, it is the burden of the debtor to establish that the collateral at issue is "necessary to an effective reorganization." What this requires is not merely a showing that if there is conceivably to be an effective reorganization, this property will be needed for it; but that the property is essential for an effective reorganization that is in prospect. This means, as many lower courts, including the en banc court in this case, have properly said, that there must be a reasonable possibility of a successful reorganization within a reasonable time.

United Sav. Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd., 484 U.S. 365, 376 (1988) (internal quotations omitted).

At the hearing, **xxxxxxx**

~~The court finds Debtor in Possession is moving and prosecuting this case. There is a reasonable possibility of a successful reorganization within a reasonable time under these facts. The Motion is denied without prejudice.~~

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 Poppy Bank ("Movant," "Poppy") 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.~~

7. 25-20189-E-7 CVN-13 | **STEVEN MUEHLHAUSER** Scott Johnson | **MOTION FOR RELIEF FROM AUTOMATIC STAY** 4-16-25 [15]

MERIDIAN APARTMENTS, LP VS.

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and other parties in interest on April 25, 2025. By the court's calculation, 34 days' notice was provided. 14 days' notice is required.

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

The Motion for Relief from the Automatic Stay is granted.

Meridian Apartments, LP ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as1228 Meridian Way, Rocklin, CA 95765 ("Property"). The moving party has provided the Declaration of Kelley Borden to introduce evidence as a basis for Movant's contention that Steven Muehlhauser ("Debtor") does not have an ownership interest in or a right to maintain possession of the Property. Decl., Docket 18.

The Chapter 7 Trustee filed a Non-Opposition on April 21, 2025.

Movant presents evidence that it is the owner of the Property. *Id.* at ¶ 3; Ex. 1, Docket 19. Based on the evidence presented, Debtor would be at best a tenant at sufferance. Movant commenced an unlawful detainer action in California Superior Court, County of Placer, on January 21, 2025. Decl. ¶ 6.

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

Movant has presented a colorable claim for title to and possession of this real property. As stated by the Bankruptcy Appellate Panel, relief from stay proceedings are summary proceedings that address issues arising only under 11 U.S.C. Section 362(d). *Hamilton v. Hernandez (In re Hamilton)*, No. CC-04-1434-Mack, 2005 Bankr. LEXIS 3427, at *8–9 (B.A.P. 9th Cir. Aug. 1, 2005) (citing *Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985)). The court does not determine underlying issues of ownership, contractual rights of parties, or issue declaratory relief as part of a motion for relief from the automatic stay in a Contested Matter (Federal Rule of Bankruptcy Procedure 9014).

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, to exercise its rights to obtain possession and control of the Property, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

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

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

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

No other or additional relief is granted by the court.

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

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by Meridian Apartments, LP ("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 automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as as1228 Meridian Way, Rocklin, CA 95765.
>
> **IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.
>
> No other or additional relief is granted.

FINAL RULINGS

8. **25-20859-E-7** **JUSTINE/BRYAN CORTRIGHT** **MOTION FOR RELIEF FROM AUTOMATIC STAY**
AP-1 **Scott Shumaker** **4-30-25 [14]**

PLAZA HOME MORTGAGE, INC.
VS.

Final Ruling: No appearance at the May 29, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and other parties in interest on April 30, 2025. By the court's calculation, 29 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Relief from the Automatic Stay is granted.

Plaza Home Mortgage, Inc. ("Movant") seeks relief from the automatic stay with respect to Justine Lorina Cortright and Bryan M. Cortright's ("Debtor") real property commonly known as 2603 Cascade Trail, Cool, CA 95614 ("Property"). Movant has provided the Declaration of Diego Rojas to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 16.

Movant argues Debtor defaulted in payments beginning October 1, 2023. Mot. 2:21-22. Debtor states it is their intention to surrender the Property. Ex. 4 at 23, Docket 17.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset owed to Movant is determined to be $382,476.23 (Declaration ¶ 10, Docket 16), while the value of the Property is determined to be $497,000.00, as stated in Schedules A/B and D filed by Debtor. Schedule A/B at 12, Docket 1.

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

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

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.

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, based on Debtor's voluntary surrender of the Property, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 3:21-4:1..

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 Plaza Home Mortgage, Inc. ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 2603 Cascade Trail, Cool, CA 95614 ("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.

9. **25-21159-E-7** **ANGELO/LISA TENORIO** **MOTION FOR RELIEF FROM AUTOMATIC STAY**
DVW-1 **John Downing** **4-29-25 [15]**

21ST MORTGAGE CORPORATION
VS.

Final Ruling: No appearance at the May 29, 2025 hearing is required.

21st Mortgage Corporation, having filed a Notice of Withdrawal, Dckt. 22, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Motion for Relief was dismissed without prejudice, and this Matter is removed from the Calendar.**

10. 24-22984-E-7 JCW-1 | **LUIS/KARLA SANCHEZ** Peter Macaluso | **MOTION FOR RELIEF FROM AUTOMATIC STAY** 4-29-25 [100]

ALLY BANK VS.

Final Ruling: No appearance at the May 29, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and other parties in interest on April 29, 2025. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Relief from the Automatic Stay is granted.

Ally Bank ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2024 Ford F-150 SuperCrew Cab Raptor Pickup 4D 5 ½ ft, VIN ending in 9876 ("Vehicle"). The moving party has provided the Declaration of Maria Rhodes to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Luis A. Sanchez and Karla Mariela Sanchez ("Debtor"). Decl., Docket 102.

Movant asserts the Vehicle was repossessed when Debtor surrendered the Vehicle on January 15, 2025. Decl. ¶ 11, Docket 102. Movant asserts Debtor has not made six post-petition payments, with a total of $9,992.94 in post-petition payments past due. Declaration ¶ 12, Docket 102.

Kelley Blue Book Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. 3, Docket 103. 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
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.

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 Vehicle, 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, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. As Creditor has been in possession of the Vehicle for some time due to debtor surrendering the Vehicle, the court will grant relief from the fourteen-day stay.

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 Ally Bank ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2024 Ford F-150 SuperCrew Cab Raptor Pickup 4D 5 ½ ft, VIN ending in 9876 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially

sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

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

No other or additional relief is granted.

11. 25-21393-E-7 DW-1 | **CHANCELLOR KIRVEN** | **Taras Kurta** | **MOTION FOR RELIEF FROM AUTOMATIC STAY** | **4-18-25 [12]**

TOYOTA MOTOR CREDIT CORPORATION VS.

Item 20 on the 10:30 Calendar

Final Ruling: No appearance at the May 29, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, and Office of the United States Trustee on April 18, 2025. By the court's calculation, 41 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Relief from the Automatic Stay is granted.

PLEADINGS FILED AS ONE DOCUMENT

Movant filed the Motion, Exhibits, and Declaration in this matter as one document. That is not the practice in the Bankruptcy Court. "Motions, notices, objections, responses, replies, declarations, affidavits, other documentary evidence, exhibits, memoranda of points and authorities, other supporting documents, proofs of service, and related pleadings shall be filed as separate documents." LOCAL BANKR.

R. 9004-2(c)(1). Counsel is reminded of the court's expectation that documents filed with this court comply as required by Local Bankruptcy Rule 9004-1(a). Failure to comply is cause to deny the motion. LOCAL BANKR. R. 1001-1(g), 9014-1(l).

These document filing rules exist for a very practical reason. Operating in a near paperless environment, the motion, points and authorities, declarations, exhibits, requests for judicial notice, and other pleadings create an unworkable electronic document for the court (some running hundreds of pages). It is not for the court to provide secretarial services to attorneys and separate an omnibus electronic document into separate electronic documents that can then be used by the court.

THE MOTION

Toyota Motor Credit Corporation ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2019 Toyota Camry, VIN ending in 1338 ("Vehicle"). The moving party has provided the Declaration of Debra Knight to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Chancellor Andrew Kirven ("Debtor"). Decl. attached to Motion, Docket 12.

Movant argues the full balance owed on the loan in the amount of $23,798.11 was accelerated due to default and became fully due on December 15, 2022. Declaration 2:1-15, Docket 12.

J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. E, Docket 12. 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 $23,798.11 (Declaration, Docket 12), while the value of the Vehicle is determined to be $14,875.00, as stated on the J.D. Power Valuation Report.

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

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

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 Vehicle for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Vehicle is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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 Vehicle, 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, in order to protect against further loss of Toyota's interest in the collateral due to the lack of adequate protection, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 3:7-9.

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 Toyota Motor Credit Corporation ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and

successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2019 Toyota Camry, VIN ending in 1338 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

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

No other or additional relief is granted.