

UNITED STATES BANKRUPTCY COURT

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Sacramento, California

June 12, 2025 at 10:30 a.m.

1. [24-23905](#)-E-12  
[SGG-9](#)

DEAVER RANCH, INC., A  
CALIFORNIA CORPORATION  
David Goodrich

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF GOLDEN GOODRICH  
LLP FOR DAVID M. GOODRICH,  
DEBTORS ATTORNEY(S)  
5-14-25 [\[487\]](#)

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

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

Sufficient Notice not 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, 29 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days' notice when requested fees exceed \$1,000.00); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition). Movant is six days late of the required notice period. At the hearing, **XXXXXXX**

The Motion for Allowance of Professional Fees 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 Allowance of Professional Fees is granted.**

Golden Goodrich LLP ("Firm," "Applicant"), general bankruptcy counsel for Debtor Shenandoah Investment Properties, Inc. ("SIP"), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period August 30, 2024, through May 13, 2025. The order of the court approving employment of Applicant was entered on October 28, 2024. Dckt. 123. Applicant requests fees in the amount of \$56,975.00 and costs in the amount of \$1,055.55.

June 12, 2025 at 10:30 a.m.

Page 1 of 70

Prudential Insurance Company of America (“Prudential”) filed an Objection on May 29, 2025. Docket 502. Prudential does not oppose the reasonableness of fees but does oppose Debtor paying any of these fees with Prudential cash collateral.

## **APPLICABLE LAW**

### **Reasonable Fees**

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney’s services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the attorney exercise reasonable billing judgment?

*In re Garcia*, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

### **Lodestar Analysis**

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

### **Reasonable Billing Judgment**

Even if the court finds that the services billed by an attorney are “actual,” meaning that the fee application reflects time entries properly charged for services, the attorney must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. An attorney must exercise good billing judgment with regard to the services provided because the court’s authorization to employ an attorney to work in a bankruptcy case does not give that attorney “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to

a possible recovery. *Id.*; see also *Brosio v. Deutsche Bank Nat'l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

*In re Puget Sound Plywood*, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant’s services for the Estate include generally representing Debtor SIP throughout the case. The court finds the services were beneficial to Client and the Estate and were reasonable.

## **FEES AND COSTS & EXPENSES REQUESTED**

### **Fees**

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

General Case Administration: Applicant spent 26.10 hours in this category. Applicant assisted the Debtor with reporting requirements and compliance tasks. Applicant assisted in (i) planning case direction and strategy, (ii) reviewing budget and cash collateral projections, (iii) reviewing the notice of the Trustee’s appointment, (iv) preparing status reports, (v) preparing for and attending status conferences, (vi) assisting the Debtor in preparing and filing monthly operating reports, and (vii) assisting the Debtor in analyzing its lease for the premises with Ken Deaver’s sister and whether to assume the lease. Mot. 10:14-27.

The Firm assisted debtor in jointly administering the cases, valuing the collateral, and defending against a dismissal Motion. *Id.* at 11:1-28.

Business Operations: Applicant spent 1.70 hours in this category. Applicant conferred with the Debtor regarding budgets, variance reports, the purchase of grapes for wine making, possible tax obligations, and issues with the lease of the premises. *Id.* at 12:7-24.

Meeting of Creditors: Applicant spent 3.80 hours in this category. Applicant worked with the Debtor’s principals to prepare them for the 341(a) meeting of creditors held on October 4 and December 6, 2024. The Firm also communicated with other parties about the meeting. *Id.* at 13:1-5.

Cash Collateral: Applicant spent 27.20 hours in this category. Applicant assisted the Debtor in preparing 13-week and 1-year budgets and obtaining authorization to use cash collateral to enable the Debtor

to continue operating its business and to pay necessary expenses, including payroll, utilities, shipping costs, supplies and other operating expenses. *Id.* at 13:8-15:26.

Plan of Reorganization: Applicant spent 17.60 hours in this category. Applicant prepared the Debtor's Chapter 12 Plan of Reorganization Dated December 2, 2024 ("Plan") which was filed on December 2, 2024, within the deadline for the Debtor to propose a plan. *Id.* at 16:1-11.

Employment Applications: Applicant spent 8.60 hours in this category. *Id.* at 16:12-21.

Objections to Employment Applications: Applicant spent 9 hours in this category. Applicant responded to various objections to employment. *Id.* at 16:22-17:6.

Fee Application: Applicant spent 10.10 hours in this category. *Id.* at 17:7-11.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
David M. Goodrich, Attorney	62.00	\$750.00	\$46,500.00
Claudia M. Yoshonis, Paralegal	4.00	\$250.00	\$1,000.00
Cynthia B. Meeker, Paralegal	37.90	\$250.00	<u>\$9,475.00</u>
<b>Total Fees for Period of Application</b>			\$56,975.00

### Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$1,055.55 pursuant to this application.

The costs requested in this Application are,

<b>Description of Cost</b>	<b>Per Item Cost, If Applicable</b>	<b>Cost</b>
Photocopies	\$0.20	\$538.00
Bulk postage		\$331.76
CourtCall		\$86.30
Online research		\$99.49

<b>Total Costs Requested in Application</b>	<b>\$1,055.55</b>
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The court does not reimburse the cost of court call. The attorneys are free to appear in person, and by availing themselves of court call, they can bill at their desk without the included expense of traveling. Therefore, the cost of \$86.30 is not allowed as part of this application.

## DISCUSSION

Prudential's objection is well taken. In *In re Proalert, LLC*, 314 B.R. 436 (B.A.P. 9th Cir. 2004), the Ninth Circuit Bankruptcy Appellate Panel discussed the notion of using a creditor's cash collateral to pay attorney's fees. The Bankruptcy Appellate Panel in *Proalert* held:

Most of the § 363 cases cited by the parties do not discuss directly the relationship between § 363 and § 506(c), but a careful reading of most of these cases confirms that the key consideration in deciding whether to allow the use of cash collateral is whether the secured creditor's interest is adequately protected. *See In re James Wilson Assocs.*, 965 F.2d 160, 171 (7th Cir.1992)(permitting debtor to use cash collateral to pay attorney fees because secured creditor adequately protected); *In re Ranch Partners, Ltd.*, 146 B.R. 833 (D.Colo.1992)(stating that a debtor may not use cash collateral to pay reorganization-related attorney fees absent compliance with § 363(c)(2)); *In re Atrium Dev. Co.*, 159 B.R. 464 (Bankr.E.D.Va.1993)(§ 363(c) permits a debtor to use cash collateral if court finds secured creditor adequately protected); *In re Precast Structures, Inc.*, 122 B.R. 304 (Bankr.S.D.Tex.1990) (allowing use of cash collateral to pay debtor's counsel where creditor over collateralized and thus adequately protected); *In re Triplett*, 87 B.R. 25, 27 (Bankr.W.D.Tex.1988)(cash collateral may be used "for the general benefit of the estate and need not be devoted exclusively to the protection of the creditor or the collateral").

*Proalert*, 314 B.R. at 444. Collier's Treatise on Bankruptcy states in regard to using cash collateral to pay attorney's fees:

In certain instances, a trustee or debtor in possession may seek to pay professional fees and expenses from a secured creditor's collateral. In *In re Flagstaff Foodservice Corp.*, the Court of Appeals for the Second Circuit held that, in general, the claims of professionals, including those for compensation, may not be satisfied out of encumbered assets. The *Flagstaff* court recognized two instances in which such expenses are chargeable against a lender's collateral:

- when the expenses are for the direct and primary benefit of a creditor holding a security interest in the particular collateral as provided for in section 506(c), or
- when the secured lender consents to the application or charge.

Pursuant to section 506(c), a secured creditor's cash or other collateral may be used to compensate professionals only if, inter alia, their services were of direct benefit to the creditor.

In *In re Ranch Partners, Ltd.*, the district court held that cash collateral may not be used to pay reorganization-related professional fees unless the value of the assets subject to the security interest is more than the secured creditor's claim. The Ranch Partners court limited the debtor's use of cash collateral to the payment of professional fees incurred solely in managing and preserving the secured property. Other courts have held that cash collateral may be used to pay reorganization-related professional fees even if the secured creditor is undersecured, so long as the secured creditor's interest is adequately protected.

Regardless of any benefit to the secured creditor, courts have permitted the payment of estate professionals' fees from cash collateral when a secured creditor has impliedly or expressly consented to allowing such payment. This consent is often provided for in a negotiated "carve out" from a secured lender's liens and claims, which is commonly set forth as part of a debtor-in-possession financing order or agreed cash collateral order. For example, in *In re Evanston Beauty Supply, Inc.*, the court observed that such carve outs were essential in order to ensure that all parties in interest were adequately represented. The *Evanston Beauty Supply* court explained that such negotiated carve outs "are used in order to avoid skewing the necessary balance of debtor and creditor protection needed to foster the reorganization process."

3 COLLIER ON BANKRUPTCY ¶ 330.05[1].

In the contested matter before the court, there has been no showing Prudential is adequately protected. The court cannot authorize any use of Prudential's cash collateral without the consent of Prudential, or a finding that Prudential is adequately protected. It may be that the fees are reasonable but this court is without authority to compel the Debtor to pay the award.

## **FEES AND COSTS & EXPENSES ALLOWED**

### **Fees**

#### **Hourly Fees**

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$56,975.00 are approved pursuant to 11 U.S.C. § 330.

### **Costs & Expenses**

First and Final Costs in the amount of \$969.25 are approved pursuant to 11 U.S.C. § 330.

Applicant is allowed the following amounts as compensation to this professional in this case:

Fees	\$56,975.00
Costs and Expenses	\$969.25

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

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 Allowance of Fees and Expenses filed by Golden Goodrich LLP (“Firm,” “Applicant”), general bankruptcy counsel for Debtor Shenandoah Investment Properties, Inc. (“SIP”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Golden Goodrich LLP is allowed the following fees and expenses as a professional of the Estate:

Golden Goodrich LLP, Professional employed by Debtor

Fees in the amount of \$56,975.00

Expenses in the amount of \$969.25,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for Debtor.

**The Status Conference in this Case Set for  
11:00 a.m. on June 12, 2025, Will Be Conducted  
at 10:30 a.m. in Conjunction with This Motion**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and all creditors and parties in interest on May 2, 2025. By the court's calculation, 41 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(3) (requiring twenty-one days' notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition).

The Motion for Approval of Compromise 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 Approval of Stipulation Between MCAP LLC ("Debtor in Possession") and creditors Michael K. Tansy and Pepa Sandalska, husband and wife, and Merced Hospitality, Inc. (collectively, "Creditors"), is granted.**

Debtor in Possession MCAP LLC requests that the court approve a stipulation with Creditors Michael K. Tansy, Pepa Sandalska, and Merced Hospitality, Inc., for treatment of Creditors' claims under the proposed Chapter 11 Plan.

**STIPULATION**

Debtor in Possession and Creditors stipulate to Creditors' treatment, subject to approval by the court upon the following facts (the full terms of the Stipulation are set forth in the Stipulation filed in support of the Motion, Ex. 1, Dckt. 50):

Under the terms of the Stipulation, Debtor will pay Creditors the sum of \$205,000.00, which includes all outstanding interest and late fees through May 1, 2025, plus \$10,500.00 in foreclosure fees, plus \$ 1,500.00 in appraisal costs. Said amount of \$205,000.00 will be payable seven days following entry of the order of the



Bankruptcy Court approving the Stipulation. Debtor also agrees to pay the full outstanding principal on the Loan of \$1,200,000.00 within 60 days following payment of the \$205,000, but in no event later than May 31, 2025.

As material consideration for Creditors' forbearance from filing a Motion for Relief from Stay, Debtor agrees that should it default on the payment terms set forth in the Stipulation, that Creditors can proceed with filing a motion for relief from stay on an *Ex Parte* Notice.

Mot. 3:4-15.

## DISCUSSION

In reviewing the Claims Register for this Bankruptcy Case, Creditors have not filed a proof of claim in this Case. On Schedule D, Debtor does not list Michael K. Tansy, Pepa Sandalska, or Merced Hospitality, Inc. as having claims against the Debtor. Dckt. 1 at 12-13. There is a creditor listed as Monterey Peninsula Capital Partners, Inc. as having a claim for (\$1,200,000) that is secured by the 3955 Coffee Road Property. Dckt. 1 at 12.

Bruce Packnit, a member of the Debtor, testifies that on February 25, 2025, the Debtor borrowed \$1,200,000 from Creditors. Dec., ¶ 4; Dckt. 49. Then in September 2023, the Debtor and Creditors modified the loan. *Id.*; ¶ 6. Mr. Packnit testifies that when the Schedules were filled out, the names of Creditors were not list on Schedule D, but only the name of the loan servicer. *Id.*; ¶ 7.

The Debtor in Possession has provided a copies of the February 25, 2022 Promissory Note, the Deed of Trust securing the (\$1,200,000) Note, and the Modification and Extension Agreement. Exhibits A, B and C attached to the Stipulation; Dckt. 50).

Proofs of Claim have only been filed by the Internal Revenue Service (general unsecured), the Stanislaus County Tax Collector (secured priority), and the California Franchise Tax Board (priority unsecured). The unsecured claims total less than \$4, 500. Proofs of Claim 1-1, 2-1, and 3-1.

Here, Debtor in Possession argues the Stipulation should be approved as Creditors hold the largest claim, and the largest secured claim in the case, and their claim is contemplated in this liquidation Plan. Mot. 3:19-22. Debtor in Possession further argues the Stipulation is in the best interest of creditors as is reduces administrative costs and legal fees. *Id.* at 3:23-26. The Motion to Approve the Stipulation was filed and was set for hearing pursuant to Fed. R. Bankr. P. 9019 and Local Bankruptcy Rule 9019-1. A total of 41 days notice was provided with oppositions and responses to be heard at the hearing. The Motion's Certificate of Service provides for all who received notice of this Stipulation.

While stating in the Motion that the "Debtor" (and not the Debtor in Possession) will pay Creditors \$205,000 within seven (7) days after the entry of the order approving the Stipulation and then \$1,200,000 within thirty days after making the \$205,000 payment - But In No Event Later Than **May 31, 2025**, the Debtor in Possession does not explain where the Debtor (all of whose assets are in the Bankruptcy Estate) or the Debtor in Possession will obtain the monies to make these payments. Looking at the latest Monthly Operating Report filed, for the month of April 2025, the end of April 2025 cash balance held by the Debtor in Possession was only \$114 and the only asset of the estate was the real property stated to have a value of \$1,800,000.

The Debtor, and not the Debtor in Possession, has filed a proposed Chapter 11 Plan and Disclosure Statement on February 19, 2025. Dckt. 31, 32. The Debtor has not set a hearing for approval of the Disclosure Statement. In the Declaration of Bryce Packnit, a member of the Debtor, filed with the Plan and Disclosure Statement, Mr. Packnit testifies that the Debtor's proposed Plan is to be funded by obtaining \$200,000 in post-petition financing and then selling the Property of the Estate to pay all claims in full. Dec., ¶ 6; Dckt. 33. The loan is to be obtained from Perfect Logistics Inc., which holds an 88% member interest in the Debtor.

In his Declaration Mr. Packnit testifies that Perfect Logistics, Inc., c/o Davindar Sindhui is the managing member of the Debtor, and that Mr. Packnit is "only" a member. *Id.*; ¶ 13. Mr. Packnit does not state how he, as a member but not a managing member appears to be acting as the Responsible Representative for the Debtor in Possession.

At the hearing, **XXXXXXX**

~~Debtor in Possession and Creditors have responsibly addressed these issues, allowed Counsel to participate in the solution, and have presented a Stipulation that allows Debtor in Possession to move on in the case.~~

~~—————The Motion is granted.~~

The court shall issue a minute 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 to Approve Stipulation filed by MCAP LLC ("Debtor in Possession") 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 Approval of Stipulation between MCAP LLC and creditors Michael K. Tansy and Pepa Sandalska, husband and wife, and Merced Hospitality, Inc., is granted, and the respective rights and interests of the parties are settled on the terms set forth in the executed Stipulation filed as Exhibit 1 in support of the Motion (Dckt. 50).

**IT IS FURTHER ORDERED** that:

- ~~1. Debtor in Possession shall pay Creditors the sum of \$205,000.00, which includes all outstanding interest and late fees through May 1, 2025, plus \$10,500.00 in foreclosure fees, plus \$1,500.00 in appraisal costs. Said amount of \$205,000.00 shall be payable seven days following entry of the order of the Bankruptcy Court approving the Stipulation.~~

~~2. Debtor in Possession shall pay the full outstanding principal on the Loan of \$1,200,000.00 within 60 days following payment of the \$205,000, but in no event later than May 31, 2025.~~

~~3. As material consideration for Creditors' forbearance from filing a Motion for Relief from Stay, Creditors can proceed with filing a motion for relief from stay on an *Ex Parte* Notice should Debtor in Possession default on the payment terms set forth in the Stipulation.~~

3. [25-90013-E-7](#)  
[FAT-1](#)

ABRIEL/ESMERALDA  
RODRIGUEZ  
Flor Tataje

MOTION TO CONVERT CASE FROM  
CHAPTER 7 TO CHAPTER 13  
5-11-25 [\[54\]](#)

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on all creditors and parties in interest on May 14, 2025. By the court's calculation, 29 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(4) (requiring twenty-one-days' notice).

The Motion to Convert 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 to Convert the Chapter 7 Bankruptcy Case to a Case under Chapter 13 is granted, and the case is converted to one under Chapter 13.**

Abriel M. Rodriguez and Esmeralda G. Rodriguez ("Debtor") seek to convert this case from one under Chapter 7 to one under Chapter 13. The Bankruptcy Code authorizes a one-time, near-absolute right of conversion from Chapter 7 to Chapter 13. 11 U.S.C. § 706(a); *see also Marrama v. Citizens Bank of Mass.*, 549 U.S. 365 (2007).

Debtor asserts that the case should be converted because they originally filed in *pro se* without the advice of legal counsel, and it appears Debtor would fail the means test and must do a Chapter 13 case. Decl. ¶ 3-5, Docket 56.

Here, Debtor's case has not been converted previously, and Debtor qualifies for relief under Chapter 13. Notice was provided to the Chapter 7 Trustee, Office of the United States Trustee, and other interested parties. No opposition has been filed.

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 to Convert filed by Abriel M. Rodriguez and Esmeralda G. Rodriguez ("Debtor") 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 to Convert is granted, and the case is converted to a proceeding under Chapter 13 of Title 11, United States Code.

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

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

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

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

The Certificate of Service, Dckt. 49, documents service having been made on parties in interest on November 1, 2024. At least fourteen days notice is required (L.B.R. 9014-1(f)(2)), and twenty days notice was given.

The Motion for Authority to Use Cash Collateral was set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor in Possession, creditors, 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.

No opposition was stated at the hearing.

<b>The Motion for Authority to Use Cash Collateral is <span style="color: red;">xxxxxxx</span>.</b>
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#### **June 12, 2025 Hearing**

The court continued the hearing on the use for cash collateral having granted use through June 30, 2025. Order, Docket 88. Debtor in Possession was to file and serve supplemental pleadings by June 3, 2025. *Id.* A review of the Docket on June 9, 2025 reveals nothing new has been filed in the case.

At the hearing, **XXXXXXX**

## REVIEW OF THE MOTION

Heritage Home Furnishings, LLC (“Debtor in Possession”) moves for an order approving the use of cash collateral from generated from the business, a family-owned California limited liability company created in 2009 which operates as a commercial furniture retailer with a showroom and separate warehouse located in Turlock, CA. Debtor in Possession requests the use of cash collateral to continue the Debtor’s operations and to reorganize.

Debtor in Possession proposes to use cash collateral to be allocated to critical business expenses necessary to sustain operations, including payment of rent to maintain the premises, payroll to retain essential employees, inventory purchases to meet customer demand, and adequate protection payments to secured creditors. Mot. 3:14-21, Docket 41.

In the Motion the Debtor in Possession requests that replacement liens be granted creditors in the new cash proceeds generated from the operation of the business. While not expressly stating such, the regular practice is to grant such replacement liens in the same priority as the original lien and to the extent that the creditor’s collateral was reduced through the use of cash collateral (thus, a creditor’s collateral is not increased).

Debtor in Possession proposes that the cash collateral be approved with a 10% variance in each category and that remaining funds be retained by Debtor in Possession.

In the prayer, Debtor/Debtor in Possession requests that a super-priority claim be granted pursuant to 11 U.S.C. § 503(b) and § 507(b) to the extent that there has been a diminution in the amount of Creditor’s collateral, notwithstanding the replacement lien. Motion, p. 7:18-21; Dckt. 41.

Debtor in Possession has submitted a proposed Stipulation with the court between it and the Small Business Administration (“SBA”). Exhibit A; Dckt. 43. The Stipulation calls for providing the SBA with superpriority claim pursuant to 11 U.S.C. §§ 503(b), 507(b), to the extent that the use of cash collateral results in a diminution of the SBA cash collateral notwithstanding the replacement lien.

The Debtor/Debtor in Possession also seeks authorization to make adequate protection payment in the amount of \$731 monthly.

With respect to the “super priority claim,” Congress provides for a super priority administrative expense in 11 U.S.C. § 507(b), stating:

(b) If the trustee, under section 362, 363, or 364 of this title, **provides adequate protection of the interest of a holder of a claim secured by a lien on property** of the debtor and if, notwithstanding such protection, such creditor has a claim allowable under subsection (a)(2) [unsecured administrative expense] of this section arising from the stay of action against such property under section 362 of this title, from the use, sale, or lease of such property under section 363 of this title, or from the granting of a lien under section 364(d) of this title, then such creditor’s claim

under such subsection shall have priority over every other claim allowable under such subsection.

Collier's Treatise on Bankruptcy states:

A creditor seeking to assert a claim under section 507(b) must meet three criteria. First, the trustee must have, under section 362, 363 or 364(d), provided adequate protection of the interest of the holder of a claim secured by a lien on property.<sup>1</sup> Second, such creditor must have a claim allowable under section 507(a)(2). Third, the claim must have arisen from either the stay of action against property under section 362, from the use, sale or lease of property under section 363, or from the granting of a lien under section 364(d).

4 COLLIER ON BANKRUPTCY ¶ 507.14[1].

This priority administrative expense arises statutorily when the adequate protection lien provided.

## **APPLICABLE LAW**

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves as the trustee in the Chapter 11 case when so qualified under 11 U.S.C. § 322. As a debtor in possession, the debtor in possession can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b)(2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

## **DISCUSSION**

Debtor in Possession has shown that the proposed use of cash collateral is in the best interest of the Estate. The proposed use provides for making expenses to continue operating the business and reorganize in Chapter 11. The Motion is granted, and Debtor in Possession is authorized to use the cash collateral for the period September 9, 2024 (the commencement of this Case), through February 14, 2025, including required adequate protection payments of \$731 to the SBA. The court does not pre-judge and authorize the use of any monies for “plan payments” or use of any “profit” by Debtor in Possession. All surplus cash collateral is to be held in a cash collateral account and accounted for separately by Debtor in Possession.

The Stipulation between Debtor in Possession and the SBA is not approved at this time, the court finding a noticed motion is required.

The court continues the hearing to 10:30 a.m. on January 30, 2025, for Debtor in Possession to file a Supplement to the Motion to extend authorization. That Supplement is due by January 21, 2025, with any opposition to be presented orally at the continued hearing.

### **January 30, 2025 Hearing**

The court continued the hearing on this Motion, having granted the use of cash collateral through February 14, 2025. Order, Docket 54. A review of the Docket on January 27, 2025 reveals that Debtor in Possession has filed a proposed Plan. Docket 56. On or before January 21, 2025, Debtor in Possession was to file and serve supplemental pleadings for the further use of cash collateral and notice of the January 30, 2025 hearing.

Debtor in Possession has not filed supplemental pleadings as of the court’s January 29, 2025, review of the Docket.

On December 9, 2024, a Subchapter V Plan was filed. Dckt. 56. No order setting a hearing on confirmation has been entered. <sup>FN.1.</sup>

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FN. 1. The voluminous text in the Order Setting Subchapter V Chapter 11 Status Conference Date (Dckt. 6), paragraph 4 is titled “Filing of Plan and Lodging of Confirmation Hearing Order.” In that paragraph it states that the plan proponent shall lodge with the court the proposed order setting the hearing for confirmation.

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At the hearing, counsel for the Debtor/Debtor in Possession reports that he has been communicating with the SBA for the further use of cash collateral.

### **February 13, 2025 Hearing**

The court continued the hearing on this Motion and Debtor in Possession informed the court it was communicating with the SBA regarding the use of cash collateral. A review of the Docket on February 6, 2025 reveals nothing new has been filed with the court.

The morning of the hearing, the Debtor in Possession filed two supplemental pleadings. The first is a supplemental Points and Authorities. Dckt. 78. The Debtor in Possession proposes adding monthly adequate protection payments to the SBA in the amount of \$731. The Debtor in Possession is projecting \$3,519 in positive monthly cash flow after paying the monthly expenses and the adequate protection payments and the two vehicle payments.

The second Supplemental Pleading is the declaration of managing member Fabiola Sanchez Sandoval, providing testimony concerning updating the proposed budget and the Second Stipulation with the SBA.

The testimony states that the Second Stipulation was agreed to on or about February 13, 2025 (the day of the hearing). It states that the Second Stipulation is attached as an exhibit, with the Exhibit B filed at Docket 80 a copy of the Stipulation.

The Subchapter V Trustee supports the continued use of Cash Collateral.

The Motion is granted and the use of Cash Collateral, pursuant to the budgets that are consistent with the Second Stipulation for Use of Cash Collateral is authorized through June 30, 2025.

The hearing is continued to 10:30 a.m. on June 12, 2025, specially set to the Court's Sacramento Division Courthouse Calendar.

On or before May 29, 2025, the Debtor/Debtor in Possession may file supplemental pleadings for the use of cash collateral. Opposition may be stated orally at the hearing.

**Counsel for the Debtor/Debtor in Possession shall prepare and lodge with the court a proposed order consistent with this Ruling.**

Item 5 thru 6

**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 all creditors and parties in interest on May 22, 2025. By the court's calculation, 21 days' notice was provided. 14 days' notice is required.

The Motion to Abandon 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 to Abandon is granted.**

After notice and hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(a). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

The Motion filed by Kimberly J. Husted ("the Chapter 7 Trustee") requests that the court authorize her to abandon property commonly known as 2016 9th Street, Sacramento, CA 95818 ("Property"). Trustee explains secured claims in the Property total \$624,594 and the listing price for the Property would likely need to be well below \$555,000 due to various issues with the Property. Mot. 2:17-21.

The Declaration of Chapter 7 Trustee has been filed in support of the Motion and provides testimony that there is over \$100,000 in negative equity in the Property. Decl. ¶ 10.

The court finds that the Property secures claims that exceed the value of the Property, and there are negative financial consequences for the Estate if it retains the Property. The court determines that the Property is of inconsequential value and benefit to the Estate and authorizes the Chapter 7 Trustee to abandon the Property.

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 to Abandon Property filed by Kimberly J. Husted (“the Chapter 7 Trustee”) 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 to Compel Abandonment is granted, and the Property identified as 2016 9th Street, Sacramento, CA 95818 (“Property”) is abandoned to Reginald Alonzo Jackson by this order, with no further act of the Chapter 7 Trustee required.

6. [24-25836](#)-E-7  
[KMT-4](#)

**REGINALD JACKSON**  
**Pro Se**

**MOTION TO APPROVE USE OF ESTATE  
PROPERTY**  
**5-22-25 [49]**

**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 all creditors and parties in interest on May 22, 2025. By the court’s calculation, 21 days’ notice was provided. 14 days’ notice is required.

The Motion to Approve Use of Estate Property 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 to Approve Use of Estate Property is granted.**

The Motion filed by the Chapter 7 Trustee Kimberly J. Husted (“Trustee”) requests that the court authorize her to exercise the right to revoke The Jackson Family Revocable Trust, U/A dated June 25, 2013 (“Trust”) pursuant to 11 U.S.C. § 363(b). Trustee asserts:

1. Among the scheduled assets of the Debtor's bankruptcy estate is the Debtor's interest in certain real property generally located at 1100 Rio Norte Way, Sacramento, CA 95834 ("Property"), valued at \$450,000 and subject to a secured claim in the amount of \$267,701.00. Mot. 2:3-5.
2. The Property was community property and is held by the Trust. The Trust was created by the Debtor and his former spouse on June 25, 2013, and the Trust was restated and amended on or about February 6, 2020 ("Amendment"). Under section 5.A of the Amendment, the Trust can be revoked "in or whole or in part by an acknowledged instrument in writing signed by either of the Trustors." *Id.* at 2:7-10.
3. The Trustee obtained a payoff demand from the secured creditor and as of April 27, 2025, the amount due is \$292,849.88. The Trustee also understands that there may be past due taxes of approximately \$10,679.96 for the Subject Property. After taking into consideration secured claims, the past due taxes, and costs of sale, the Trustee believes there is equity in the Subject Property for the benefit of the estate (assuming a sale price of \$400,000). *Id.* at 2:15-19.

Trustee submits her own Declaration in support of the Motion to authenticate the facts alleged and the Exhibits. Decl., Docket 51.

## DISCUSSION

11 U.S.C. § 541(a)(1) states:

(a)The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1)Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2)All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A)under the sole, equal, or joint management and control of the debtor;  
or

(B)liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

A debtor's interest in a trust is property of the bankruptcy estate. *See In re Cutter*, 386 B.R. 6 (B.A.P. 9th Cir. 2008) ("[W]hile assets transferred to a trust do not ordinarily become property of the bankruptcy estate of the trust's trustee, powers that a debtor who is trustee of a trust may exercise for his or

her own benefit become property of the estate.”). A bankruptcy trustee can use property of the estate after notice and a hearing. 11 U.S.C. § 363(b).

In this contested matter, Trustee seeks permission to revoke the Trust in order to liquidate the Property for the benefit of creditors. Trustee has the ability to do so, stepping into Debtor’s shoes who was able to revoke the Trust himself. Trustee has presented evidence revoking the Trust and selling the Trust Property will benefit creditors of the Estate. Therefore, the Motion is granted.

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 to Approve Use of Estate Property filed by the Chapter 7 Trustee, Kimberly J. Husted (“Trustee”), 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 Chapter 7 Trustee, Kimberly J. Husted, is authorized to revoke The Jackson Family Revocable Trust, U/A dated June 25, 2013.

**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, all creditors and parties in interest, and Office of the United States Trustee on February 24, 2025. By the court’s calculation, 31 days’ notice was provided. 21 days’ notice is required. FED. R. BANKR. P. 2002(a)(2) (requiring twenty-one days’ notice).

The Motion to Sell Property 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, **XXXXXXX**

<b>The Motion to Sell Property is granted.</b>
--

The Bankruptcy Code permits Geoffrey Richards, the Chapter 7 Trustee, (“Movant”) to sell property of the estate after a noticed hearing. 11 U.S.C. § 363. Here, Movant proposes to sell the following assets of the Estate:

1. drills; wood cutter; levelers; 20 wheel barrows; and utility trailer for a package price of \$2,725;
2. a 2004 Ford F250 for \$6,000;
3. and a 2001 Bayliner Marine Corp Capri boat for \$3,775.

(“Property”).

The proposed purchasers of the Property are Debtors, David Sandoval Serrato and Sarita Elena Sandoval (“Debtor”), and the terms of the sale are:

Trustee will sell the estate's interest in the Subject Property "as-is" and "where-is" with no warranties or guarantees, subject to the existing liens and encumbrances, if any, to the Debtors, for \$12,500.00.

Mot. 2:15-18.

### **Proposed Overbidding Procedures**

(a) Overbidding shall start at \$13,000.00, with the overbids in minimum \$500.00 increments. The successful bidder, if not David Sandoval Serrato and Sarita Elena Sandoval, will be required to sign a Purchase and Sale Agreement with the same terms as Exhibit "A" to the Motion to Sell. Any and all costs of transfer, including, but not limited to Broker fees, would be the sole responsibility of the buyer.

(b) To qualify as a bidder, the bidder must send to the Trustee at P. O. Box 579, Orinda, CA 94563 or her attorney, at the address above, a Cashier's Check or a certified check for \$500.00 (representing the \$500 initial overbid) made payable to "Geoffrey Richards, Ch. 7 Trustee, In re Sandoval" such that it is received by no later than 5 p.m. on June 9, 2025. This Cashier's or certified check shall serve as a non-refundable deposit if the overbid is successful.

(c) The successful overbidder must deliver to the Trustee a Cashier's or certified check for the overbid amount within 10 days of Court approval of the sale.

Mot. 2:24-3:11.

The court finds the proposed overbidding instructions to be reasonable and adopts them for purposes of this Motion.

### **DISCUSSION**

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: **XXXXXXX**.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because estate is avoiding any cost of sale by selling the Property back to the Debtor, and the Estate will be realizing a return for creditors.

### **Request for Waiver of Fourteen-Day Stay of Enforcement**

Federal Rule of Bankruptcy Procedure 6004(h) stays an order granting a motion to sell for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court because the Debtor is purchasing back the Property for themselves. Mot. 3:21-22..

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 6004(h), and this part of the requested relief is granted.

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 to Sell Property filed by Geoffrey Richards, the Chapter 7 Trustee, (“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 Geoffrey Richards, the Chapter 7 Trustee, is authorized to sell pursuant to 11 U.S.C. § 363(b) to Debtors, David Sandoval Serrato and Sarita Elena Sandoval (“Debtor”), the following assets of the estate:

1. drills; wood cutter; levelers; 20 wheel barrows; and utility trailer for a package price of \$2,725;
2. a 2004 Ford F250 for \$6,000; and
3. a 2001 Bayliner Marine Corp Capri boat for \$3,775,

(“Property”), on the following terms:

- A. The Property shall be sold to Buyer for \$12,500.00, on the terms and conditions set forth in the Purchase Agreement, Exhibit A, Dckt. 28, and as further provided in this Order.
- B. The sale proceeds shall first be applied to assessments, liens, and other customary and contractual costs and expenses incurred to effectuate the sale.
- C. The Chapter 7 Trustee is authorized to execute any and all documents reasonably necessary to effectuate the sale.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 6004(h) is waived for cause.



Debtor's Atty: Stephen M. Reynolds

Notes:

Continued from 4/10/25. Counsel for the Debtor in Possession reported that the Debtor in Possession intends to proceed with a sale of the Property of the Estate which should conclude this case.

[UST-1] Order denying Trustee's Motion to Dismiss Case filed 4/11/25 [Dckt 101]

**The Status Conference is XXXXXXX**

### **JUNE 12, 2025 STATUS CONFERENCE**

A review of the Docket did not disclose there being an updated Status Report having been filed. The latest Monthly Operating Report Filed, for the month of February 2025, shows the Estate then holding \$13,920 in cash and having other assets worth \$7,513,921. Dckt. 69. The court has authorized the private sale, without providing for overbids, so long as all creditor claims are paid in full. Order; Dckt. 98.

At the Status Conference, XXXXXXX

**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 all creditors and parties in interest on December 23, 2024. By the court's calculation, 31 days' notice was provided. 42 days' notice is required. FED. R. BANKR. P. 2002(b) (requiring twenty-eight days' notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition). Movant is 11 days late of the required notice period. The hearing being continued, the service issue is resolved.

The Motion to Approve Disclosure Statement 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 to Approve Disclosure Statement is XXXXXXX.**

### June 12, 2025 Hearing

The court continued the hearing on this Motion as counsel for the Debtor in Possession reported that with the potential sale of Property of the Estate, it is likely that this case will be fully resolved with there being funds to pay all claims in full. Continuance of this hearing was requested to allow for the sale motion to be set and heard. The sale Motion was to be filed in April. A review of the Docket on June 10, 2025 reveals nothing new has been filed with the court.

At the hearing, XXXXXXX

### REVIEW OF THE DISCLOSURE STATEMENT

Case filed: September 17, 2024

Background: Rayani Holdings, LLC ("Debtor in Possession") is a California Limited Liability Company first organized in June 2023. Debtor was organized to purchase and develop certain real property located

in Lincoln, California (APN 021-274-054-000 and 021-274-057-000 hereinafter “Property”) which is approximately 8.85 acres. Debtor has obtained a tentative map splitting the two parcels into six, progress toward a final map is being made. The Property is well located and in the path of development. Debtor has employed an experienced commercial real estate broker who is actively marketing the Property. The Property is listed at \$7,700,000 and the broker is in communication with a number of qualified buyers.

The Property was purchased for \$5,500,000 in June 2023. There was a down payment of \$1,000,000 and take back financing of \$4,500,000 all due and payable in one year. The case was filed due to Debtor in Possession defaulting on monthly payments on its loan in Spring of 2024.

Disclosure Statement 3:19-4:8, Docket 43.

Creditor/Class	Treatment	
Class 1: JAS Land Fund 1, LLC	Claim Amount	XXXXXXXX
	Impairment	Yes
	The secured claim of JAS Land Fund 1, LLC (“Creditor”) is a first priority deed of trust secured by the Property APN 021-274-054-000 and 021-274-057-000 Lincoln, California. It shall be paid in full upon the sale of the real property	
Class 2: General Unsecured Claims	Claim Amount	XXXXXXXX
	Impairment	Yes
	The allowed general unsecured claims will be paid upon the sale of the real property. No general unsecured claims have been identified.	
Class 3: Interest of the Debtor	Claim Amount	XXXXXXXX
	Impairment	Yes
	The property of the estate shall revert to the Debtor upon the Plan Effective Date.	

#### A. C. WILLIAMS FACTORS PRESENT

  Y   Incidents that led to filing Chapter 11

  Y   Description of available assets and their value

  Y   Anticipated future of Debtor

  Y   Source of information for D/S

  Y   Disclaimer

☐Y Present condition of Debtor in Chapter 11

☐N Listing of the scheduled claims

☐Y Liquidation analysis

☐N Identity of the accountant and process used

☐Y Future management of Debtor

☐N The Plan is attached

*In re A. C. Williams Co.*, 25 B.R. 173 (Bankr. N.D. Ohio 1982); *see also In re Metrocraft Pub. Servs., Inc.*, 39 B.R. 567 (Bankr. N.D. Ga. 1984).

## **OBJECTIONS**

### **JAS Land Fund 1, LLC, Secured Creditor**

Creditor is objecting to Debtor's proposed combined plan of reorganization for the following reasons:

1. The Disclosure Statement fails to provide adequate information. Specifically, the Plan omits any key details about the Plan of reorganization, fails to include deadlines, and is vague in its terms. The Plan merely states the Debtor in Possession intends to market and sell the Property, which is nothing more than wishful thinking. Opp'n 2:22-28, Docket 48.
2. The proposed Plan is not confirmable for the same reasons as above, so the court should not approve the Disclosure Statement. *Id.* at 3:18-4:6.

### **U.S. Trustee's Opposition**

Tracy Hope Davis, the U.S. Trustee ("U.S. Trustee") filed her Opposition on January 8, 2025. Docket 50. U.S. Trustee objects on the following grounds:

1. Neither the Plan nor the Disclosure Statement appear to address the treatment of Placer County's secured claim of more than \$168,000. *Id.* at 2:4-5.
2. Neither the Plan nor the Disclosure Statement expressly address the expected timing of distributions to general unsecured creditors. The Plan states only that Class 2 general unsecured creditors "will be paid upon the sale of the real property." Further, although the Plan states that no general unsecured claims "have been identified," it appears that the IRS, the FTB, and Frayji Design Group each have modest general unsecured claims. *Id.* at 2:6-9.

3. Neither the Plan nor the Disclosure Statement address the payment of post-confirmation quarterly fees under 28 U.S.C. 1930(a)(6) or the filing of post-confirmation quarterly reports. *Id.* at 2:10-12.
4. Neither the Plan nor the Disclosure Statement address the Debtor's failure to file monthly operating reports for September 2024, October 2024, and November 2024, as required by Local Rule 2015-1. *Id.* at 2:12-14.

## APPLICABLE LAW

Before a disclosure statement may be approved after notice and a hearing, the court must find that the proposed disclosure statement contains "adequate information" to solicit acceptance or rejection of a proposed plan of reorganization. 11 U.S.C. § 1125(b).

"Adequate information" means information of a kind, and in sufficient detail, so far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of the holders of claims against the estate to make a decision on the proposed plan of reorganization. 11 U.S.C. § 1125(a).

Courts have developed lists of relevant factors for the determination of adequate disclosure. *E.g., In re A. C. Williams, supra.*

There is no set list of required elements to provide adequate information per se. A case may arise where previously enumerated factors are not sufficient to provide adequate information. Conversely, a case may arise where previously enumerated factors are not required to provide adequate information. *In re Metrocraft Pub. Servs., Inc.*, 39 B.R. 567 (Bank. N.D. Ga. 1984). "Adequate information" is a flexible concept that permits the degree of disclosure to be tailored to the particular situation, but there is an irreducible minimum, particularly as to how the plan will be implemented. *Official Comm. of Unsecured Creditors v. Michelson*, 141 B.R. 715, 718–19 (Bankr. E.D. Cal. 1992).

The court should determine what factors are relevant and required in light of the facts and circumstances surrounding each particular case. *In re East Redley Corp.*, 16 B.R. 429 (Bankr. E.D. Pa. 1982).

The court begins its analysis with the statutory requirements of 11 U.S.C. § 1125 for a disclosure statement. Solicitation of an acceptance or rejection of a plan may be made with a written disclosure statement which was approved by the court. The disclosure statement must provide "adequate information." The term "adequate information" is defined in 11 U.S.C. § 1125(a)(1) to be,

(1) "adequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan and in determining whether a disclosure statement provides adequate information, the court

shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;...

Determination of whether there is “adequate information” is a subjective determination made by the bankruptcy court on a case by case basis. *In re Texas Extrusion Corp.*, 844 F.2d 1142 (5th Cir. 1988), *cert. denied* 488 U.S. 926 (1988). Non-bankruptcy rules and regulations concerning disclosures do not govern the determination of whether a disclosure statement provides adequate information. 11 U.S.C. § 1125(d); *Yell Forestry Products, Inc. v. First State Bank*, 853 F.2d 582 (8th Cir. 1988).

## **DISCUSSION**

The court finds that adequate information has not been provided in this case. The Disclosure Statement and Plan state that there are no general unsecured claims identified. However, The claims registry reveals three have been filed to date. POCs 1-1, 2-1, and 4-1. Moreover, the Disclosure Statement and Plan entirely neglect to provide for the secured claim of Placer County in the amount of \$168,366.25. POC 3-1.

The Disclosure Statement states as the means for implementing the Plan:

Debtor shall continue to actively market the real property of the estate. Management is also pursuing finalization of the existing tentative map that will allow the sale of separate parcels. Management reserves the right to obtain new financing or equity that will pay the claims in this case.

Disclosure Statement 9:16-21, Docket 43.

This statement fails to provide interested parties with any time line on progress or details surrounding the sale. It appears the Plan is going to be a liquidation plan, but that also there may be a refinancing to pay creditors in the future. The Disclosure Statement is vague and does not provide adequate information.

Moreover, Debtor in Possession has not timely filed monthly operating reports for September, October, and November of 2024.

At the hearing, the parties requested that the hearing be continued to allow for further negotiations over the Plan terms.

The hearing is continued to 11:30 a.m. on March 27, 2025.

## **March 27, 2025 Hearing**

The court continued the hearing on approving the Disclosure Statement to permit further negotiations over the Plan terms. A review of the Docket on March 25, 2025 reveals Debtor in Possession has not filed any new pleadings related to the Disclosure Statement.

At the hearing, the Parties addressed “tweaks” being made to the Plan, and requested a short continuance.

The Motion to Approve Disclosure Statement is continued to 10:30 a.m. on April 10, 2025 (Specially set day and time).

### **April 10, 2025 Hearing**

The court continued the hearing on this Motion to permit Parties to finish up some small tweaks to Plan terms. A review of the Docket on April 7, 2025 reveals Debtor in Possession has not filed any new pleadings related to the Disclosure Statement.

At the hearing, counsel for the Debtor in Possession reported that with the potential sale of Property of the Estate (the motion to be filed the week of April 14, 2025, it is likely that this case will be fully resolved and there being funds to pay all claims in full. Continuance of this hearing was requested to allow for the sale motion to be set and heard.

The hearing on the Motion to Approve Disclosure Statement is continued to 10:30 a.m. on June 12, 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 Motion to Approve Disclosure Statement filed by Rayani Holdings, LLC (“Debtor in Possession”), 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 to Approve Disclosure Statement is  
**XXXXXXX.**

**Items 10 thru 11**

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

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

Sufficient Notice not Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and creditors that have filed claims on May 13, 2025. By the court's calculation, 30 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(2) (requiring twenty-one days' notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition). Movant is five days short of the required notice period.

At the hearing, **XXXXXXX**

The Motion to Sell Property 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.

<b>The Motion to Sell Property is <del>granted</del>.</b>
---

The Bankruptcy Code permits Irma Edmonds, the Chapter 7 Trustee, ("Movant") to sell property of the estate after a noticed hearing. 11 U.S.C. § 363. Here, Movant proposes to sell a 2016 Honda Civic, vin ending in 5389 ("Vehicle"), through an auction process.

The proposed terms of the sale include the sale being made as-is without any warranty and sold for the best price at a public auction through Baird Auction & Appraisal, professional employed by the Estate. Mot. 2:7-17.

**DISCUSSION**

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: **XXXXXXX**.



Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because an auction will likely expose the Vehicle to more buyers, increasing the return for creditors of the Estate.

Movant has estimated a 15 percent auctioneer's commission on the gross proceeds of the sale and reasonable expenses to be \$500 incurred in preparing the vehicle for sale. As part of the sale in the best interest of the Estate, the court permits Movant to pay the auctioneer an amount not more than 15 percent commission. The court also approves costs in the amount of \$500, these costs and fees being reasonable in the industry.

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 to Sell Property filed by Irma Edmonds, the Chapter 7 Trustee, ("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 Irma Edmonds, the Chapter 7 Trustee, is authorized to sell pursuant to 11 U.S.C. § 363(b) a 2016 Honda Civic, vin ending in 5389 ("Vehicle"), on the following terms:~~

- ~~A. The Vehicle shall be sold to the highest bidder at a public auction on or after June 12, 2025.~~
- ~~B. The Vehicle shall be sold as-is without any other warranties.~~
- ~~C. The sale proceeds shall first be applied to closing costs, real estate commissions, prorated real property taxes and assessments, liens, and other customary and contractual costs and expenses incurred to effectuate the sale.~~
- ~~D. The Chapter 7 Trustee is authorized to execute any and all documents reasonably necessary to effectuate the sale.~~
- E. The Chapter 7 Trustee is authorized to pay an auctioneer's commission in an amount not more than 15 percent of the actual purchase price upon consummation of the sale, and \$500 in expenses. The 15 percent commission and \$500 in expenses shall be paid to the Chapter 7 Trustee's auctioneer, Baird Auction & Appraisal.

**Final Ruling:** No appearance at the June 12, 2025 hearing is required.

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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 creditors that have filed claims on May 13, 2025. By the court’s calculation, 30 days’ notice was provided. 28 days’ notice is required.

The Motion to Employ 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.

<p><b>The Motion to Employ is granted.</b></p>
--

The Chapter 7 Trustee, Irma Edmonds (“Trustee”), seeks to employ Baird Auction & Appraisal (“Auctioneer”) pursuant to Local Bankruptcy Rule 9014-1(f)(1) and Bankruptcy Code Sections 328(a) and 330. Trustee /seeks the employment of Auctioneer to sell a 2016 Honda Civic, vin ending in 5389 (“Vehicle”).

Jeffrey Baird testifies that he will diligently market and sell the Vehicle on behalf of the Estate. Decl. ¶ 3, Docket 21. Mr. Baird testifies that he and the firm do not represent or hold any interest adverse to Debtor or to the Estate and that they have no connection with Debtor, creditors, the U.S. Trustee, any party in interest, or their respective attorneys. *Id.* at ¶ 2.

Pursuant to § 327(a), a trustee or debtor in possession is authorized, with court approval, to engage the services of professionals, including attorneys, to represent or assist the trustee in carrying out the trustee’s duties under Title 11. To be so employed by the trustee or debtor in possession, the professional must not hold or represent an interest adverse to the estate and be a disinterested person.

Section 328(a) authorizes, with court approval, a trustee or debtor in possession to engage the professional on reasonable terms and conditions, including a retainer, hourly fee, fixed or percentage fee, or contingent fee basis. Notwithstanding such approved terms and conditions, the court may allow compensation different from that under the agreement after the conclusion of the representation, if such

terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of fixing of such terms and conditions.

Taking into account all of the relevant factors in connection with the employment and compensation of Auctioneer, considering the declaration demonstrating Auctioneer does not hold an adverse interest to the Estate and is a disinterested person, the nature and scope of the services to be provided, the court grants the motion to employ Baird Auction & Appraisal as Auctioneer for the Chapter 7 Estate. Approval of the commission is subject to the provisions of 11 U.S.C. § 328 and review of the fee at the time of final allowance of fees for the professional.

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 to Employ filed by Chapter 7 Trustee, Irma Edmonds (“Trustee”) 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 to Employ is granted, effective June 12, 2025, and Trustee is authorized to employ Baird Auction & Appraisal (“Auctioneer”) for the Chapter 7 Bankruptcy Estate of Luis Antonio Villagomez and Diana Carolina Villagomez.

**IT IS FURTHER ORDERED** that no compensation is permitted except upon court order following an application pursuant to 11 U.S.C. § 330 and subject to the provisions of 11 U.S.C. § 328.

**IT IS FURTHER ORDERED** that no hourly rate or other term referred to in the application papers is approved unless unambiguously so stated in this order or in a subsequent order of this court.

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

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

Sufficient Notice not 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 12, 2025. By the court’s calculation, 31 days’ notice was provided. 35 days’ notice is required. FED. R. BANKR. P. 2002(a)(2) (requiring twenty-one days’ notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days’ notice for written opposition). Movant is four days short of the required notice period.

At the hearing, **XXXXXXX**

The Motion to Sell Property 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.

<b>The Motion to Approve Sale.</b>
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Though the Motion is titled “MOTION TO APPROVE SALE AGREEMENT, AND EMPLOYMENT AND COMPENSATION TO AUCTIONEER,” it actually is a “simple” Motion to Sell property to the Debtors. It appears that the title to the pleading contains a simple clerical error.

The Bankruptcy Code permits Chapter 7 Trustee, Nikki B. Farris, (“Movant”) to sell property of the estate after a noticed hearing. 11 U.S.C. § 363. Here, Movant proposes to sell the following assets of the Estate:

- (i) a 2019 F-450 with 450,000 miles (“2019 Ford”);
- (ii) a 2017 Dodge Ram with 527,000 miles (“2017 Dodge”);
- (iii) a 2005 Carson Utility Trailer (“Carson Trailer”);
- (iv) a 2017 Carrier Trailer (“Carrier Trailer”); and
- (v) a 2006 Kaufman Trailer (“Kaufman Trailer”).

The proposed purchaser of the Property is Jason Douglas Hudspeth and Sherry Lee Hudspeth (“Debtor”), and the terms of the sale are:

- A. A net purchase price of \$33,428.04,
- B. To be payable in equal monthly installments on the first of each month beginning on April 1, 2025 for twenty-four (24) months, which shall be in the amount of \$1,392.83 per month,
- C. And for purposes of overbidding, the sale agreement allocates the following prices: (i) \$16,347.08 for the 2017 Dodge; (ii) \$25,501.00 for the 2019 Ford; (iii) \$1,000 for the 2005 Carson Trailer; (iv) \$6,000 for the 2017 Carrier Trailer; and (v) \$6,000 for the Kaufman Trailer.

Mot. 1:25-2:7.

The court would note this sale agreement appears to be an unsecured loan from the Bankruptcy Estate to Debtor, there being no security interest involved in the transaction.

At the hearing, **XXXXXXX**

## **DISCUSSION**

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: **XXXXXXX**.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because the Estate is able to avoid paying an auctioneer to sell the property. Moreover, Movant provides evidence that the values are fair and even higher than estimated by an auctioneer in some cases. Decl. ¶ 4, Docket 60.

## **Request for Waiver of Fourteen-Day Stay of Enforcement**

Federal Rule of Bankruptcy Procedure 6004(h) stays an order granting a motion to sell for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court because there is no anticipated opposition. Mot. 5:5-8.

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 6004(h), and this part of the requested relief is granted.

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 to Sell Property filed by Chapter 7 Trustee, Nikki B. Farris, (“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 Chapter 7 Trustee, Nikki B. Farris, is authorized to sell pursuant to 11 U.S.C. § 363(b) to Jason Douglas Hudspeth and Sherry Lee Hudspeth (“Debtor”) or nominee (“Buyer”), the following items of property:

- (i) a 2019 F-450 with 450,000 miles (“2019 Ford”);
- (ii) a 2017 Dodge Ram with 527,000 miles (“2017 Dodge”);
- (iii) a 2005 Carson Utility Trailer (“Carson Trailer”);
- (iv) a 2017 Carrier Trailer (“Carrier Trailer”); and
- (v) a 2006 Kaufman Trailer (“Kaufman Trailer”).

The property shall be sold on the following terms:

- A. The Property shall be sold to Buyer for a net purchase price of \$33,428.04, to be payable in equal monthly installments on the first of each month beginning on April 1, 2025 for twenty-four (24) months, which shall be in the amount of \$1,392.83 per month, on the terms and conditions set forth in the Purchase Agreement, Exhibit A, Dckt. 59, and as further provided in this Order.
- B. The sale proceeds shall first be applied to closing costs, real estate commissions, prorated real property taxes and assessments, liens, and other customary and contractual costs and expenses incurred to effectuate the sale.
- C. The Chapter 7 Trustee is authorized to execute any and all documents reasonably necessary to effectuate the sale.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 6004(h) is waived for cause.

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

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

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Local Rule 9014-1(f)(3) 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 June 5, 2025. By the court's calculation, 7 days' notice was provided. The court set the hearing for June 12, 2025. Dckt. 34.

The Motion for Authority to Use Cash Collateral was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). 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.

**The Motion for Authority to Use Cash Collateral is ~~granted on an interim basis for the period of May 23, 2025 through July 10, 2025.~~**

**The continued hearing on the Motion shall be conducted at XXXXXXX.**

A debtor identified as Costa Farms, the Debtor and serving as the Debtor in Possession ("Debtor in Possession") moves for an order approving the use of cash collateral. This Bankruptcy Case was filed in pro se and counsel for the Debtor in Possession filed a Substitution on May 29, 2025. Dckt. 10.

On the Petition the Debtor is stated to be Costa Farms. However, the Petition, ¶ 2, states that Costa Farms has used another name in the past 8 years, that being "David Costa." Dckt. 1.

The Petition further states that the Debtor is a partnership. *Id.* at ¶ 6.

On Schedule A/B the Debtor lists various items of personal property, including crops, for which a value of \$1,615,640 is stated. Sch. A/B; Dckt. 15 at 3-6. Debtor also lists 80 acres of real property in Oakdale, California, stating a value of \$3,000,000. *Id.* at 6. The Debtor states that its interest in the real property is that of "Owner/Surviving Partner." *Id.*

On the Statement of Financial Affairs, ¶ 28 requires all partners who were in control of the Debtor when the case was filed to be listed. *Id.* at 19. No persons are listed in response to ¶ 29.

On the signature page to the Statement of Financial Affairs, David Costa signs it, stating that his position with the Debtor is “100% Partner.”

This causes a question to arise - whether Costa Farms is a separate legal entity (such as a partnership, corporation, limited liability company, and the like) or just a business that is operated by David Costa as a sole proprietorship.

On the Schedules, the only creditor listed is American AgCredit, FLCA with a claim secured by the real property. Scheduled D, E/F; Dckt. 15 at 9-11.

In reviewing the Statement of Financial Affairs, the Debtor lists having “Interest Payments Received in 2024 in the amount of \$200,000 from as non-business revenue. Stmt Fin Affairs, ¶ 2; Dckt. 15. The court does not see an asset or assets listed on Schedule A/B that would generate \$200,000 on interest income for the Debtor.

#### **Possible Additional Rights of a Farmer or Assets of the Estate**

David Costa states that it has been the failure of Mid Valley Nut Company to pay for the agricultural products purchased that has cause the financial distress. The court does not see on Schedule A/B any rights or assets listed arising under the Perishable Agricultural Commodities Act (“PACA”). 7 U.S.C. § 499a - § 499t.

Interestingly, the Mid Valley Nut Bankruptcy Case, 24-90741, is assigned to the same judge as this case. On the Mid Valley Nut Schedules, Costa Farms is listed as having a (\$1,369,906.74) claim which is secured by a lien described as a “First priority lien against cash, accounts receivable, and nut oil.” 24-90741; Schedule D, ¶ 2.14.

#### **REVIEW OF THE MOTION**

Debtor in Possession seeks authorization to use \$6,000.00 of cash collateral to pay the following expenses:

1. Payment to secured creditor:
  - a. American AgCredit, FLCA: \$ 3,000.00
2. Average Monthly expenses;
  - a. Materials \$ 2,000.00
  - b. Utilities \$ 500.00
  - c. Inventory: \$ 100.00



d. Insurance \$ 400.00.

Mot. 2:19-25. Debtor in Possession states there is cash on hand of \$25,000.00 with accounts receivable in the amount of \$1,123,140.00. *Id.* at 3:1-2.

Debtor in Possession explains the largest reason for filing is an unpaid debt owed to the Debtor in Possession by Mid Valley Nut Company, Inc., which is in its own bankruptcy case. Mot. 4:21-22. Therefore, Debtor in Possession seeks authority to use the cash collateral to operate and maintain the business and pay critical expenses during the pendency of this case.

Debtor in Possession files the Declaration of David Roy Costa, who is identified as the owner of Costa Farms, in support to authenticate the facts in the Motion. Decl., Docket 27. There is an attach six-month estimated budget filed as Exhibit A, Docket 28.

In his Declaration, Mr. Costa states that due to the Chapter 11 Bankruptcy Case of Mid-Valley Nut Company, he has not been paid \$1,369,906.74. Dec., ¶ 2; Dckt. 27. Due to that non-payment by Mid Valley Nut Company, Mr. Costa went into default for the house payments. *Id.*

At this point, if there is a legal entity known as Costa Farms, the filing of bankruptcy by that entity would not protect Mr. Costa's home from foreclosure. The automatic stay provisions of 11 U.S.C. § 362(a) only apply to the debtor, specific property of the debtor, and property of the bankruptcy estate.

Mr. Costa says that he solely manages the farm's daily operations, there are no employees, and contractors are hire on an as-needed basis.

## **APPLICABLE LAW**

Pursuant to 11 U.S.C. § 1203, a debtor in possession serves as the trustee in the Chapter 12 case and shall perform all the functions and duties, except the duties specified in paragraphs (3) and (4) of section 1106(a), of a trustee serving in a case under chapter 11, including operating the debtor's farm or commercial fishing operation. 11 U.S.C. § 1203. As a debtor in possession, the debtor in possession can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b)(2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

## DISCUSSION

In the Motion, the Debtor in Possession states that the following entities hold an interest in the Bankruptcy Estate's (not the Debtor's) cash collateral:

- A. American AgCredit: \$353,493.21
- B. Stanislaus County Tax Collector: \$745.05
- C. Tilbury Auto Parts: \$15,310.22
- D. Wright's Petroleum: \$30,418.29
- E. George W. Lowry, Inc.: \$126,541.84
- F. J.M. Equipment Company: \$25,969.74
- G. N&S Tractor, Inc.: \$24,836.49

Motion, ¶ 14; Dckt. 25. American AgCredit is the only creditor listed on the Schedules and it is stated to have a "mortgage lien" on the real property listed on Schedule A/B. It is unclear how the other creditors listed above may have a lien on the cash collateral.

Debtor in Possession has shown that the proposed use of cash collateral is in the best interest of the Estate. The proposed use provides for operating the farm business and generating income to fund a Chapter 12 plan.

While the Motion requests very limited use of cash collateral, it is unclear who is the debtor in this Bankruptcy Case. It is also unclear as to how and what David Costa is doing in light of Mid Valley Nut Company having defaulted in the plan payments and how other non-business debts are being paid.

At the hearing, ~~XXXXXXX~~

~~Therefore, the Motion for Authority to Use Cash Collateral is granted on an interim basis for the period of May 23, 2025 through July 10, 2025. The continued hearing on the Motion shall be heard on XXXXXXX:~~

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 Authority to Use Cash Collateral filed by Costa Farms, Debtor and Debtor in Possession (“Debtor in Possession”) 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, pursuant to this order, for the period May 23, 2025 through July 10, 2025, and the cash collateral may be used to pay the following expenses:~~

- ~~1. Payment to secured creditor:~~
  - ~~a. American AgCredit, FLCA: \$ 3,000.00~~
- ~~2. Average Monthly expenses;~~
  - ~~a. Materials \$ 2,000.00~~
  - ~~b. Utilities \$ 500.00~~
  - ~~c. Inventory: \$ 100.00~~
  - ~~d. Insurance \$ 400.00.~~

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~~**IT IS FURTHER ORDERED** that the creditors having an interest in the cash collateral are given replacement liens in the post-petition proceeds in the same priority, validity, and extent as they existed in the cash collateral expended, to the extent that the use of cash collateral resulted in a reduction of a creditor's secured claim.~~

**IT IS FURTHER ORDERED** that the hearing on the Motion is continued to **XXXXXXX**, to consider a Supplement to the Motion to extend the authorization to use cash collateral. On or before **XXXXXXX**, Debtor in Possession shall file and serve supplemental pleadings for the further use of cash collateral and notice of the **XXXXXXX** hearing. Any opposition to the requested use of cash collateral may be presented orally at the hearing.

# FINAL RULINGS

14. [24-90418-E-11](#)  
[MJB-5](#)

ART BUILDINGS LLC  
Michael Berger

MOTION FOR ORDER AUTHORIZING  
POST-PETITION FINANCING  
5-7-25 [[147](#)]

**Final Ruling:** No appearance at the June 12, 2025 hearing is required.  
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The case having previously been dismissed, the Motion is denied as moot without prejudice.  
Order, Docket 164.

**The Motion to Dismiss is denied as moot without prejudice, the case having been dismissed on June 2, 2025.**

The court shall issue a minute 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 Order Authorizing Post-Petition Financing having been presented to the court, the case having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is denied without prejudice as moot, the case having been dismissed.

Items 15 thru 16

Debtor's Atty: Chris D. Kuhner

Notes:

Continued from 4/3/25. Counsel for the Debtor in Possession reported that he and the Debtor in Possession have been reviewing possible ways to move forward in light of the relief from the stay having been granted.

Operating Reports filed: 4/15/25; 5/16/25

[UST-1] Motion of the United States Trustee to Convert or Dismiss Chapter 11 Case filed 4/17/25 [Dckt 118]; set for hearing 6/12/25 at 10:30 a.m.

[SAD-1] Motion for Relief from Automatic Stay [movant - U.S. Bank Trust National Association] filed 4/18/25 [Dckt 123]; heard 5/22/25 and continued to 6/12/25 at 10:00 a.m.

[CDK-2] Debtor's Motion to Extend the Effective Date of the Order Granting Relief from the Automatic Stay or Vacate the Order Granting Relief from the Automatic Stay filed 4/25/25 [Dckt 131]; motion dismissed without prejudice filed 5/12/25 [Dckt 149]

**The Status Conference is concluded and removed from the Calendar, the court having granted the U.S. Trustee's Motion to Dismiss this Bankruptcy Case.**

**JUNE 12, 2025 STATUS CONFERENCE**

The U.S. Trustee has sought, and now obtained, dismissal of this Bankruptcy Case. The Debtor and Debtor in Possession do not oppose dismissal of the Case, but oppose conversion. The grounds stated by the U.S. Trustee include the inability of the Debtor in Possession to move forward to prosecute a Plan in this Case since it was filed October 17, 2024.

The court has granted the Motion to Dismiss this Bankruptcy Case, and the Status Conference is concluded.

**Final Ruling:** No appearance at the June 12, 2025 hearing is required.

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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 in Possession and all creditors and parties in interest on April 17, 2025. By the court's calculation, 56 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss 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 to Dismiss Case is granted.**

The United States Trustee, Tracy Davis ("U.S. Trustee"), seeks dismissal of the case on the basis that:

1. Jeffrey Edward Arambel ("Debtor in Possession") is not taking steps to move the case forward. Debtor in Possession's cumulative receipts during the case have been \$0.00; his cumulative disbursements have been \$0.00; and his cash on hand is \$159. Moreover, the Court granted stay relief to secured creditor SBN V Ag I LLC, effective 12:01 p.m. on May 1, 2025, which applies to most of the real property scheduled on the Debtor in Possession's amended Schedule A/B. Mot. 1:1-16.
2. Debtor in Possession has failed to provide U.S. Trustee with proof of insurance on various parcels of real property. *Id.* at 2:18-3:9.

U.S. Trustee submitted the Declaration of Carla K. Cordero to authenticate the facts alleged in the Motion. Decl., Docket 120.

Debtor in Possession filed a Non-Opposition on May 29, 2025, requesting the court grant dismissal as opposed to conversion. Docket 155. Debtor in Possession states:

Although there are assets remaining in this Bankruptcy Case, the Debtor believes it is in the best interest of the creditors and the bankruptcy estate to dismiss this Bankruptcy Case leaving creditors the ability to pursue those claims and the Debtor to monetize any assets to pay those creditors if such circumstances arise.

Non-Opp'n at 3:19-22.

U.S. Trustee also requests conversion rather than dismissal. Mot. 3:13-14.

## **APPLICABLE LAW**

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: “[f]irst, it must be determined that there is ‘cause’ to act[;] [s]econd, once a determination of ‘cause’ has been made, a choice must be made between conversion and dismissal based on the ‘best interests of the creditors and the estate.’” *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under sections 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

And under 11 U.S.C. § 1112(b)(1)(4)(C) and (H), the court may grant conversion or dismissal for a:

(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public. . .

(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any). . .

Collier’s Treatise states on the subject:

The types of insurance that may be necessary to protect the estate and the public, depending on the debtor’s business, may include all or some combination of fire and extended liability insurance, general liability insurance, worker’s compensation and unemployment insurance, employee health insurance, malpractice insurance, product liability insurance and liquor or dramshop insurance. The United States trustee, who is charged with responsibility for supervising chapter 11 cases, also requires the debtor to maintain appropriate insurance coverage. “The dollar amount of the insurance coverage must be sufficient to cover the fair market value of the estate’s property. . .”

The United States trustee is charged with, inter alia, monitoring plans and disclosure statements, verifying reports and schedules, reporting possible criminal activity and



supervising the progress of cases under chapter 11 and may gather information from the debtor regarding operations in order to perform these duties. In small business cases, the United States trustee may require extensive access to the debtor's operations and business records in order to comply with the requirements of the office. The failure to comply with these requests, if the requests are reasonable, constitutes cause to convert or dismiss the case. However, a delayed response by the debtor is not always viewed as "cause" to dismiss or convert a case.

7 COLLIER ON BANKRUPTCY ¶ 1112.04[6][C] & [H].

## **DISCUSSION**

In this case, the court finds dismissal is the proper course of action. Debtor in Possession is not generating funds and the court has granted relief from stay from a substantial portion of the assets in the case. Debtor in Possession has not proposed a Plan of Reorganization and agrees the case should be dismissed. Debtor in Possession's liabilities being greater than his assets, the Motion is granted and the case is dismissed.

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 To Dismiss filed by United States Trustee, Tracy Davis, 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 case is dismissed.

**Final Ruling:** No appearance at the June 12, 2025 hearing is required.

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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 all creditors and parties in interest on May 12, 2025. By the court's calculation, 31 days' notice was provided. 28 days' notice is required.

The Motion to Compel Abandonment 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 to Compel Abandonment is granted.**

After notice and a hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or is of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(b). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

The Motion filed by Manon Maria Josefien Berning ("Debtor") requests the court to order Loris L. Bakken ("the Chapter 7 Trustee") to abandon property commonly known as 1423 Argonaut Lane in West Point, CA 95255 ("Property"). The Property is encumbered by the lien of PennyMac Loan Services, LLC, securing a claim of \$198,291.00. Schedule D at 20, Docket 1. The Declaration of Debtor has been filed in support of the Motion and values the Property at \$318,400.00. Decl. ¶ 4, Docket 21. Debtor claimed a homestead exemption in any equity in the Property. Schedule C, Docket 1.

The Chapter 7 Trustee filed a Non-Opposition on June 2, 2025.

The court finds that the debt secured by the Property exceeds the value of the Property and that there are negative financial consequences to the Estate caused by retaining the Property. The court determines that the Property is of inconsequential value and benefit to the Estate and orders the Chapter 7 Trustee to abandon the property.

**CHAMBERS PREPARED ORDER**

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 to Compel Abandonment filed by Manon Maria Josefien Berning (“Debtor”) 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 to Compel Abandonment is granted, and the Property identified as 1423 Argonaut Lane in West Point, CA 95255 and listed on Schedule A / B by Debtor is abandoned by the Chapter 7 Trustee, Loris L. Bakken (“Trustee”) to Manon Maria Josefien Berning by this order, with no further act of the Trustee required.

18. [24-24835-E-7](#)  
[KJH-2](#)

**DEJA VU SHOWGIRLS -  
SACRAMENTO, LLC**  
Anthony Asebedo

**MOTION FOR COMPENSATION FOR  
MICHAEL GABRIELSON,  
ACCOUNTANT(S)**  
5-2-25 [\[54\]](#)

**Final Ruling: No appearance at the June 12, 2025 Hearing is required.**

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Local Rule 9014-1(f)(1) Motion—No Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 7 Trustee, all creditors and parties in interest, and Office of the United States Trustee on May 2, 2025. By the court’s calculation, 41 days’ notice was provided. 35 days’ notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days’ notice when requested fees exceed \$1,000.00); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days’ notice for written opposition).

The Motion for Allowance of Professional Fees 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.

<b>The Motion for Allowance of Professional Fees is granted.</b>
--

Michael Gabrielson, the Accountant (“Applicant”) for Chapter 7 Trustee Kimberly Husted and the Estate of Deja Vu Showgirls - Sacramento, LLC makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period December 16, 2024 through May 2, 2025. The order of the court approving employment of Applicant was entered on November 25, 2024. Dckt. 24. Applicant requests fees in the amount of \$4,401.50 and costs in the amount of \$160.29.

## **APPLICABLE LAW**

### **Reasonable Fees**

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the professional’s services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the professional exercise reasonable billing judgment?

*In re Garcia*, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

### **Lodestar Analysis**

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

### **Reasonable Billing Judgment**

Even if the court finds that the services billed by a professional are “actual,” meaning that the fee application reflects time entries properly charged for services, the professional must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. A

professional must exercise good billing judgment with regard to the services provided because the court's authorization to employ a professional to work in a bankruptcy case does not give that professional "free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery," as opposed to a possible recovery. *Id.*; see also *Brosio v. Deutsche Bank Nat'l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) ("Billing judgment is mandatory."). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

*In re Puget Sound Plywood*, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant's services for the Estate include tax consultation services and administrative functions for preparing this Application. The court finds the services were beneficial to Client and the Estate and were reasonable.

## **FEES AND COSTS & EXPENSES REQUESTED**

### **Fees**

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

Prepared Federal and California S Corporation Income Tax Returns: Applicant spent 6.9 hours in this category. This category included preparing and finalizing 2024 through March 21, 2025 federal and California S Corporation income tax returns. Mot. 2:8-15.

Prepared Payroll Tax Returns: Applicant spent 1.6 hours in this category. This category included preparing and finalizing 2024 FUTA and 4th Quarter 2024 Form 941 federal payroll tax returns. Mot. 2:17-27.

Preparing the Fee Application: Applicant spent 1.0 hours in this category.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
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Michael Gabrielson	0.8	\$445.00	\$578.50
Michael Gabrielson	8.7	\$465.00	<u>\$4,045.50</u>
<b>Total Fees for Period of Application</b>			\$4,401.50

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$71.28 pursuant to this application.

The costs requested in this Application are,

<b>Description of Cost</b>	<b>Per Item Cost, If Applicable</b>	<b>Cost</b>
Postage	-----	\$101.09
Copying Charges	-----	\$59.20
<b>Total Costs Requested in Application</b>		\$160.29

### **FEES AND COSTS & EXPENSES ALLOWED**

#### **Fees**

#### **Hourly Fees**

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$4,401.50 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

### **Costs & Expenses**

First and Final Costs in the amount of \$160.29 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Applicant is allowed, and the Chapter 7 Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$4,401.50
Costs and Expenses	\$160.29

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

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 Allowance of Fees and Expenses filed by Michael Gabrielson, the Accountant (“Applicant”) for Chapter 7 Trustee Kimberly Husted and the Estate of Deja Vu Showgirls - Sacramento, LLC having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Michael Gabrielson is allowed the following fees and expenses as a professional of the Estate:

Michael Gabrielson, Professional employed by the Chapter 7 Trustee

Fees	\$4,401.50
Costs and Expenses	\$160.29,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as Accountant for Chapter 7 Trustee Kimberly Husted and the Estate of Deja Vu Showgirls - Sacramento, LLC.

**IT IS FURTHER ORDERED** that the Chapter 7 Trustee is authorized to pay the fees and costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

19. [24-90343-E-7](#)  
[GEL-1](#)

**MARTINEZ PALLET  
SERVICES, INC.**  
Gabriel Liberman

**CONTINUED MOTION TO USE CASH  
COLLATERAL AND/OR MOTION FOR  
ADEQUATE PROTECTION , MOTION  
FOR SCHEDULING DEADLINES  
RELATING TO A FINAL HEARING ON  
USE OF CASH COLLATERAL  
7-3-24 [\[15\]](#)**

**Final Ruling:** No appearance at the June 12, 2025 hearing is required.  
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The case having previously been converted to one under Chapter 7, the Motion is denied as moot without prejudice. Order, Docket 149.

**The Motion to Use Cash Collateral is denied as moot without prejudice, the case having been converted to one under Chapter 7 on May 29, 2025.**

The court shall issue a minute 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 to Use Cash Collateral having been presented to the court, the case having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is denied as moot without prejudice, the case having been converted to one under Chapter 7.

20. [24-20145-E-7](#)  
[GMR-3](#)

**DONALD DUPONT**  
**Pro Se**

**MOTION FOR COMPENSATION FOR**  
**MICHAEL R. GABRIELSON,**  
**ACCOUNTANT(S)**  
**5-2-25 [260]**

**Final Ruling: No appearance at the June 12, 2025 Hearing is required.**  
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Local Rule 9014-1(f)(1) Motion—No Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Chapter 7 Trustee, all creditors and parties in interest, and Office of the United States Trustee on May 2, 2025. By the court’s calculation, 41 days’ notice was provided. 35 days’ notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days’ notice when requested fees exceed \$1,000.00); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days’ notice for written opposition).

The Motion for Allowance of Professional Fees 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.

<b>The Motion for Allowance of Professional Fees is granted.</b>
--

Michael Gabrielson, the Accountant (“Applicant”) for Chapter 7 Trustee Geoffrey Richards and the Estate of Donald Fred DuPont, Jr., makes a First and Final Request for the Allowance of Fees and Expenses in this case.



Fees are requested for the period March 2, 2025, through May 1, 2025. The order of the court approving employment of Applicant was entered on August 11, 2024. Dckt. 203. Applicant requests fees in the amount of \$2,046.00 and costs in the amount of \$91.15.

## **APPLICABLE LAW**

### **Reasonable Fees**

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the professional's services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the professional exercise reasonable billing judgment?

*In re Garcia*, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

### **Lodestar Analysis**

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

### **Reasonable Billing Judgment**

Even if the court finds that the services billed by a professional are “actual,” meaning that the fee application reflects time entries properly charged for services, the professional must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. A professional must exercise good billing judgment with regard to the services provided because the court’s authorization to employ a professional to work in a bankruptcy case does not give that professional “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to a possible recovery. *Id.*; *see also Brosio v. Deutsche Bank Nat’l Tr. Co. (In re Brosio)*, 505

B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

*In re Puget Sound Plywood*, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant’s services for the Estate include tax consultation services and administrative functions for preparing this Application. The court finds the services were beneficial to Client and the Estate and were reasonable.

## **FEES AND COSTS & EXPENSES REQUESTED**

### **Fees**

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

Prepared 2024 Federal and California Estate Income Tax Returns: Applicant spent 3.5 hours in this category. This category included preparing and finalizing 2024 federal and California estate income tax returns, including preparation of Cloobek motion and related documents to obtain authority to pay administrative income tax liabilities of the estate. Mot. 2:9-12.

Preparing the Fee Application: Applicant spent 0.9 hours in this category.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
Michael Gabrielson	4.4	\$465.00	<u>\$2,046.00</u>
<b>Total Fees for Period of Application</b>			\$2,046.00

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$91.15 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Postage	-----	\$67.05
Copying Charges	-----	\$24.10
<b>Total Costs Requested in Application</b>		<b>\$91.15</b>

## **FEES AND COSTS & EXPENSES ALLOWED**

### **Fees**

#### **Hourly Fees**

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$2,046.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

### **Costs & Expenses**

First and Final Costs in the amount of \$91.15 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Applicant is allowed, and the Chapter 7 Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$2,046.00
Costs and Expenses	\$91.15

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

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 Allowance of Fees and Expenses filed by Michael Gabrielson, the Accountant (“Applicant”) for Chapter 7 Trustee Geoffrey Richards and the Estate of Donald Fred DuPont, Jr., having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Michael Gabrielson is allowed the following fees and expenses as a professional of the Estate:

Michael Gabrielson, Professional employed by the Chapter 7 Trustee

Fees	\$2,046.00
Costs and Expenses	\$91.15,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as Accountant for Chapter 7 Trustee Geoffrey Richards and the Estate of Donald Fred DuPont, Jr.

**IT IS FURTHER ORDERED** that the Chapter 7 Trustee is authorized to pay the fees and costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

21. [25-21165-E-7](#)

**RUBEN RIVERA MARTINEZ**  
**Carl Gustafson**

**CONTINUED ORDER TO SHOW CAUSE  
FOR FAILURE TO UPDATE CONTACT  
INFORMATION IN PACER  
4-4-25 [13]**

**Final Ruling: No appearance at the June 12, 2025 Hearing is required.**

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The Order to Show Cause (“O.S.C.”) was served by the Clerk of the Court on Debtor’s Attorney, Carl Gustafson, as stated on the Certificate of Service on April 4, 2025. The court computes that 36 days’ notice has been provided.

The court issued an Order to Show Cause based on a discrepancy between the email address for Debtor's counsel in PACER and on the petition. Specifically, Mr. Gustafson omitted any email address for him or his office on the petition.

<b>The Order to Show Cause is discharged.</b>
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#### **REVIEW OF O.S.C.**

On April 22, 2025, Mr. Gustafson filed a Response to this O.S.C. Mr. Gustafson states:

1. The omission of an email address from the voluntary petition helps efficiently manage messages from the Court and other parties. Counsel operates different emails in each district in which he operates. However, the software Counsel uses does not permit this distinction. Furthermore,

counsel has different email accounts for clients of various types (bankruptcy, student loan, creditors, etc.) These emails allow Counsel to better serve his clients, including Debtor herein, Mr. Martinez. Response 3:16-20.

2. Counsel found no specific requirement to list his email address in the petition and found that continued use of his various email addresses. *Id.* at 3:21-22.
3. Even if the factual allegation in the OSC is accurate — that the email address listed in PACER differs from the one listed on the petition, which is blank — that difference is not a violation of any rule and is not sanctionable. *Id.* at 5:12-14.

## **DISCUSSION**

The O.S.C. was issued pursuant to Local Bankruptcy Rule 5005.5-1(e). That rule states:

(e) Duty to Maintain PACER Account. Each registered user of CM/ECF and/or PACER shall maintain a complete and accurate PACER registration. That registration shall include a valid email address for receiving notice, Fed. R. Bankr. P. 9036, and, where applicable, shall include the law firm affiliation of the registered user. The registered user shall update PACER registration promptly whenever a material change occurs.

It is apparent there is no requirement to fill in the email address option on Form 101 from Local Bankruptcy Rule 5005.5-1(e).

The court has not found a Local Rule on point that would require Counsel to disclose the email address on Form 101. However, at the top of Form 101, parties are directed to “Answer every question.” Form 101 at 1.

### **May 8, 2025 Hearing**

At the hearing counsel reported on his active work in addressing this information and working with the Clerk of the Court.

The hearing on the Order to Show Cause is continued to 10:30 a.m. on June 12, 2025, for the court's administrative tracking purposes.

### **June 12, 2025 Hearing**

The court continued the hearing on the O.S.C. for the court’s administrative tracking purposes, Counsel for Debtor actively working on the issue. On May 13, 2025, Debtor filed an amended signature page to correct the Petition default. The signature pages cures the defect, correcting the email address.

The O.S.C. is discharged.

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 Order to Show Cause 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 Order to Show Cause is discharged.

22. [22-90379-E-7](#)  
[GMR-2](#)

**JAMES MAHONEY**  
**David Johnston**

**MOTION FOR COMPENSATION FOR**  
**MICHAEL R. GABRIELSON,**  
**ACCOUNTANT(S)**  
**5-5-25 [158]**

**Final Ruling: No appearance at the June 12, 2025 Hearing is required.**

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Local Rule 9014-1(f)(1) Motion—No Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Chapter 7 Trustee, all creditors and parties in interest, and Office of the United States Trustee on May 5, 2025. By the court’s calculation, 38 days’ notice was provided. 35 days’ notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days’ notice when requested fees exceed \$1,000.00); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days’ notice for written opposition).

The Motion for Allowance of Professional Fees 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.

<b>The Motion for Allowance of Professional Fees is granted.</b>
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Michael Gabrielson, the Accountant (“Applicant”) for Chapter 7 Trustee Geoffrey Richards and the Estate of James R. Mahoney, makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period March 27, 2025, through May 2, 2025. The order of the court approving employment of Applicant was entered on August 11, 2024. Dckt. 139. Applicant requests fees in the amount of \$1,953.00 and costs in the amount of \$73.17.

## **APPLICABLE LAW**

### **Reasonable Fees**

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the professional's services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the professional exercise reasonable billing judgment?

*In re Garcia*, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

### **Lodestar Analysis**

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

### **Reasonable Billing Judgment**

Even if the court finds that the services billed by a professional are “actual,” meaning that the fee application reflects time entries properly charged for services, the professional must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. A professional must exercise good billing judgment with regard to the services provided because the court’s authorization to employ a professional to work in a bankruptcy case does not give that professional “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to a possible recovery. *Id.*; *see also Brosio v. Deutsche Bank Nat’l Tr. Co. (In re Brosio)*, 505

B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

*In re Puget Sound Plywood*, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant’s services for the Estate include tax consultation services and administrative functions for preparing this Application. The court finds the services were beneficial to Client and the Estate and were reasonable.

## **FEES AND COSTS & EXPENSES REQUESTED**

### **Fees**

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

Prepared 2025 Federal and California Estate Income Tax Returns: Applicant spent 3.5 hours in this category. This category included preparing and finalizing 2025 federal and California estate income tax returns, including determination of gain on sale of real property. Mot. 2:7-9.

Preparing the Fee Application: Applicant spent 1.0 hours in this category.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
Michael Gabrielson	4.2	\$465.00	<u>\$1,953.00</u>
<b>Total Fees for Period of Application</b>			\$1,953.00

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$73.17 pursuant to this application.



The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Postage	-----	\$47.87
Copying Charges	-----	\$25.30
<b>Total Costs Requested in Application</b>		<b>\$73.17</b>

## **FEES AND COSTS & EXPENSES ALLOWED**

### **Fees**

#### **Hourly Fees**

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$1,953.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

### **Costs & Expenses**

First and Final Costs in the amount of \$73.17 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Applicant is allowed, and the Chapter 7 Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$1,953.00
Costs and Expenses	\$73.17

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

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 Allowance of Fees and Expenses filed by Michael Gabrielson, the Accountant (“Applicant”) for Chapter 7 Trustee Geoffrey Richards and the Estate of James R. Mahoney, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Michael Gabrielson is allowed the following fees and expenses as a professional of the Estate:

Michael Gabrielson, Professional employed by the Chapter 7 Trustee

Fees	\$1,953.00
Costs and Expenses	\$73.17,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as Accountant for Chapter 7 Trustee Geoffrey Richards and the Estate of James R. Mahoney.

**IT IS FURTHER ORDERED** that the Chapter 7 Trustee is authorized to pay the fees and costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

23. [24-23395](#)-E-7  
[BHS-5](#)

ALAN ROSA  
Michael Benavides

**MOTION FOR COMPENSATION FOR  
BARRY H. SPITZER, TRUSTEES  
ATTORNEY(S)  
5-8-25 [57]**

**Final Ruling:** No appearance at the June 12, 2025 hearing is required.  
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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, all creditors and parties in interest, and Office of the United States Trustee on May 8, 2025. By the court’s calculation, 35 days’ notice was provided. 35 days’ notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days’ notice when requested fees exceed \$1,000.00); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days’ notice for written opposition).

The Motion for Allowance of Professional Fees 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.

<b>The Motion for Allowance of Professional Fees is granted.</b>
--

The Law Office of Barry H. Spitzer, the Attorney (“Applicant”) for the Chapter 7 Trustee, Nikki B. Farris, and the Estate of Alan Whitneymemo Rosa (“Client”), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period January 27, 2025 through May 8, 2025. The order of the court approving employment of Applicant was entered on January 29, 2025, with an effective date of January 27, 2025. Dckt. 29. Applicant requests fees in the amount of \$8,930.00 and costs in the amount of \$70.58.

## **APPLICABLE LAW**

### **Reasonable Fees**

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney's services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the attorney exercise reasonable billing judgment?

*In re Garcia*, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

### **Lodestar Analysis**

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

### **Reasonable Billing Judgment**

Even if the court finds that the services billed by an attorney are “actual,” meaning that the fee application reflects time entries properly charged for services, the attorney must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. An attorney must exercise good billing judgment with regard to the services provided because the court’s authorization to employ an attorney to work in a bankruptcy case does not give that attorney “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to a possible recovery. *Id.*; *see also Brosio v. Deutsche Bank Nat’l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913

n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

(a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?

(b) To what extent will the estate suffer if the services are not rendered?

(c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

*In re Puget Sound Plywood*, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant’s services for the Estate include liquidating certain claims Debtor had against PG&E. The court finds the services were beneficial to Client and the Estate and were reasonable.

## **FEES AND COSTS & EXPENSES REQUESTED**

### **Fees**

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

1. Reviewed the court file and documents related to the PG&E wildfire case;
2. Significant communications with the Trustee and the attorneys representing the Debtor in the PG&E wildfire case;
3. Prepared motions to approve the settlement on the PG&E wildfire case;
4. Prepared employment-related and fee-related documents for myself, as well as Special Counsel; and
5. Court appearance.

Mot. 3:6-14.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
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Barry H. Spitzer	18.8	\$475.00	<u>\$8,930.00</u>
<b>Total Fees for Period of Application</b>			\$8,930.00

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$70.58 pursuant to this application.

The costs requested in this Application are,

<b>Description of Cost</b>	<b>Per Item Cost, If Applicable</b>	<b>Cost</b>
Parking	-----	\$4.50
Copying		\$47.10
Postage		\$18.98
<b>Total Costs Requested in Application</b>		\$70.58

### **FEES AND COSTS & EXPENSES ALLOWED**

#### **Fees**

#### **Hourly Fees**

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$8,930.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

#### **Costs & Expenses**

First and Final Costs in the amount of \$70.58 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Applicant is allowed, and the Chapter 7 Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$8,930.00
Costs and Expenses	\$70.58

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

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 Allowance of Fees and Expenses filed by The Law Office of Barry H. Spitzer, the Attorney (“Applicant”) for the Chapter 7 Trustee, Nikki B. Farris, and the Estate of Alan Whitneykemo Rosa (“Client”) 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 Law Office of Barry H. Spitzer is allowed the following fees and expenses as a professional of the Estate:

The Law Office of Barry H. Spitzer, Professional employed by the Chapter 7 Trustee

Fees	\$8,930.00
Costs and Expenses	\$70.58,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for the Chapter 7 Trustee.

**IT IS FURTHER ORDERED** that the Chapter 7 Trustee is authorized to pay the fees and costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.