UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

July 29, 2013 at 10:00 a.m.

No written opposition has been filed to the following motions set for argument on this calendar:

4, 11, 12, 13, 21

When Judge McManus convenes court, he will ask whether anyone wishes to oppose one of these motions. If you wish to oppose the motion, tell Judge McManus there is opposition. Please do not identify yourself or explain the nature of your opposition. If there is opposition, the motion will remain on calendar and Judge McManus will hear from you when he calls the motion for argument.

If there is no opposition, the moving party should inform Judge McManus if it declines to accept the tentative ruling. Do not make your appearance or explain why you do not accept the ruling. If you do not accept the ruling, Judge McManus will hear from you when he calls the motion for argument.

If no one indicates they oppose the motion and if the moving party does not reject the tentative ruling, that ruling will become the final ruling. The motion will not be called for argument and the parties are free to leave (unless they have other matters on the calendar).

MOTIONS ARE ARRANGED ON THIS CALENDAR IN TWO SEPARATE SECTIONS. A CASE MAY HAVE A MOTION IN EITHER OR BOTH SECTIONS. **THE FIRST SECTION INCLUDES ALL MOTIONS THAT WILL BE RESOLVED WITH A HEARING. A TENTATIVE RULING IS GIVEN FOR EACH MOTION. THE SECOND SECTION INCLUDES ALL MOTIONS THAT HAVE BEEN RESOLVED BY THE COURT WITHOUT A HEARING. A FINAL RULING IS GIVEN FOR EACH MOTION. WITHIN EACH SECTION, CASES ARE ORGANIZED BY THE LAST TWO DIGITS OF THE CASE NUMBER.**

ITEMS WITH TENTATIVE RULINGS: IF A CALENDAR ITEM HAS BEEN SET FOR HEARING BY THE COURT PURSUANT TO AN ORDER TO SHOW CAUSE OR AN ORDER SHORTENING TIME, OR BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(1) OR LOCAL BANKRUPTCY RULE 9014-1(f)(1), AND IF ALL PARTIES AGREE WITH THE TENTATIVE RULING, THERE IS NO NEED TO APPEAR FOR ARGUMENT. HOWEVER, IT IS INCUMBENT ON EACH PARTY TO ASCERTAIN WHETHER ALL OTHER PARTIES WILL ACCEPT A RULING AND FOREGO ORAL ARGUMENT. IF A PARTY APPEARS, THE HEARING WILL PROCEED WHETHER OR NOT ALL PARTIES ARE PRESENT. AT THE CONCLUSION OF THE HEARING, THE COURT WILL ANNOUNCE ITS DISPOSITION OF THE ITEM AND IT MAY DIRECT THAT THE TENTATIVE RULING, AS ORIGINALLY WRITTEN OR AS AMENDED BY THE COURT, BE APPENDED TO THE MINUTES OF THE HEARING AS THE COURT'S FINDINGS AND CONCLUSIONS.

IF A MOTION OR AN OBJECTION IS SET FOR HEARING BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(2) OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED TO DEVELOP THE WRITTEN RECORD FURTHER.

IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON AUGUST 26, 2013 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY AUGUST 12, 2013, AND ANY REPLY MUST BE FILED AND SERVED BY AUGUST 19, 2013. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

ITEMS WITH FINAL RULINGS: THERE WILL BE NO HEARING ON THE ITEMS WITH FINAL RULINGS. INSTEAD, EACH OF THESE ITEMS HAS BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING ALSO WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

ORDERS: UNLESS THE COURT ANNOUNCES THAT IT WILL PREPARE AN ORDER, THE PREVAILING PARTY SHALL LODGE A PROPOSED ORDER WITHIN 14 DAYS OF THE HEARING.

MATTERS FOR ARGUMENT

1. 13-26404-A-7 MATTHEW/CYNTHIA STUART — MOTION FOR RELIEF FROM AUTOMATIC STAY
RMD-1 — 6-24-13 [16]
HSBC BANK USA, N.A. VS.

Tentative Ruling: The motion will be granted in part and denied in part.

The movant, HSBC Bank U.S.A., seeks relief from the automatic stay as to a real property in Chico, California.

With respect to the debtor, the property has a value of $363,912 and it is encumbered by claims totaling approximately $352,876. The movant's deed is the only encumbrance against the property. This leaves approximately $11,912 of equity in the property.

Given this equity, relief from stay as to the debtor under 11 U.S.C. § 362(d)(2) is not appropriate.

Further, there is no evidence in the record establishing that the property is depreciating in value. Under United Sav. Ass'n. Of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988), a secured creditor's interest in its collateral is considered to be inadequately protected only if that collateral is depreciating or diminishing in value. The creditor, however, is not entitled to be protected from an erosion of its equity cushion due to the accrual of interest on the secured obligation. In other words, a secured creditor is not entitled to demand, as a measure of adequate protection, that "the ratio of collateral to debt" be perpetuated. See Orix Credit Alliance, Inc. v. Delta Resources, Inc. (In re Delta Resources, Inc., 54 F.3d 1200, 1202 (11th Cir. 1995).

The movant has an equity cushion of approximately $11,912. This equity cushion is sufficient to adequately protect the movant's interest in the property until the debtor obtains a discharge or the case is closed without entry of a discharge. See 11 U.S.C. § 362(c)(1) & (c)(2). At that point, the automatic stay will expire as a matter of law. The debtor is scheduled to obtain a discharge soon after August 12, 2013. The trustee filed a report of no distribution on June 14, 2013 and there is nothing in the file suggesting that the case will remain open a significant period beyond August 12, 2013. Thus, relief from stay as to the debtor under 11 U.S.C. § 362(d)(1) is not appropriate either. The motion will be denied as to the debtor.

As to the estate, the analysis is different. The trustee filed a report of no distribution on June 14, 2013.

The court concludes that this is cause for the granting of relief from stay as to the estate. Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

The loan documentation contains an attorney's fee provision and the movant is an over-secured creditor. The motion demands payment of fees and costs. The court concludes that a similarly situated creditor would have filed this motion. Under these circumstances, the movant is entitled to recover reasonable fees and costs incurred in connection with prosecuting this motion. See 11 U.S.C. § 506(b). See also Kord Enterprises II v. California Commerce Bank (In re Kord Enterprises II), 139 F.3d 684, 689 (9th Cir. 1998).

Therefore, the movant shall file and serve a separate motion seeking an award of fees and costs. The motion for fees and costs must be filed and served no later than 14 days after the conclusion of the hearing on the underlying motion. If not filed and served within this deadline, or if the movant does not intend to seek fees and costs, the court denies all fees and costs. The order granting the underlying motion shall provide that fees and costs are denied. If denied, the movant and its agents are barred in all events from recovering any fees and costs incurred in connection with the prosecution of the motion.

If a motion for fees and costs is filed, it shall be set for hearing pursuant to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). It shall be served on the debtor, the debtor's attorney, the trustee, and the United States Trustee. Any motion shall be supported by a declaration explaining the work performed in connection with the motion, the name of the person performing the services and a brief description of that person's relevant professional background, the amount of time billed for the work, the rate charged, and the costs incurred. If fees or costs are being shared, split, or otherwise paid to any person who is not a member, partner, or regular associate of counsel of record for the movant, the declaration shall identify those person(s) and disclose the terms of the arrangement with them.

Alternatively, if the debtor will stipulate to an award of fees and costs not to exceed $750, the court will award such amount. The stipulation of the debtor may be indicated by the debtor's signature, or the debtor's attorney's signature, on the order granting the motion and providing for an award of $750.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

2. 97-35304-A-7 BAY AREA HOLDINGS, INC. MOTION TO APPROVE COMPENSATION OF SPECIAL COUNSEL (FEES $37,317) 5-30-13 [274]
MHK-1

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from July 1, 2013, to allow the movant to supplement the record. The movant has filed a supplemental declaration. An amended ruling from July 1 follows.

Donald Walker, special counsel for the trustee, has filed his first and final motion for approval of compensation. The requested compensation consists of $37,317 in fees, representing 126.5 hours of work at $295 an hour. This motion covers the period from October 30, 2006 through April 29, 2009. The court approved the movant's employment as the trustee's special counsel on November 6, 2006. Docket 236. The movant was retained to help the trustee collect a judgment for $273,000, plus interest.

The trustee opposes the motion, claiming that while the movant located assets for collection of the judgment, the movant abandoned his representation of the estate, when the judgment debtor and his wife asserted exemptions in the located assets. Also, the trustee questions the validity of the time entries submitted by the movant.

The movant replies, contending that the trustee had expected him to represent the estate in an adversary proceeding initiated over the exempt status of the assets located by the movant, even though he was retained only to collect on a judgment. The movant disputes that he abandoned representation of the estate.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

Although the movant was employed under a 50% contingency fee agreement, he is seeking to recover substantially less ($37,317) than what he would be entitled to under the contingency arrangement ($62,500, as alleged by the movant).

The court agrees with the movant that, even though he may not be entitled to his bargained for fee in representing the estate, he should be entitled to recover at least the fees for the actual work he performed, as it was by his efforts that the assets of the judgment debtor were located and attached.

The court has reviewed the movant's supplemental declaration and attached time entries, filed on July 15, 2013. Dockets 303 & 304. It concludes that the requested compensation is for actual and necessary services rendered in the administration of this estate. The additional explanation of time entries containing lumped tasks resolves the lumping issue. The requested fees are reasonable. The movant's explanation of how he billed for his travel time addresses the court's concerns on this point as well. The movant's strategy of traveling to meet persons with information pertaining to the collection of the judgment actually benefitted the estate, as it saved the fees, costs and delay associated with subpoenaing the persons. The court notes also that the movant did not bill the estate for much of his travel time.

The requested compensation will be approved.

3.	13-25128-A-7	BRANDEE GREEN AND TAVIO MEEKS	MOTION TO RECONSIDER 7-3-13 [32]

Tentative Ruling: None. Appearances required.

4.	09-43132-A-7 GJH-2	TSAR	MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY (FEES $30,949.70, EXP. $199.04) 7-8-13 [84]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by counsel for the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

Hughes Law Corporation, attorney for the trustee, has filed its first interim motion for approval of compensation. The requested compensation consists of $30,949.70 in fees and $199.04 in expenses, for a total of $31,148.74. This motion covers the period from December 4, 2009 through December 31, 2012, except for services pertaining to a claim filed by Lisa Taylor. The court approved the movant's employment as the trustee's attorney on December 8, 2009. In performing its services, the movant charged hourly rates of $150, $175, $185, $195, $290, $310, $330 and $350.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) reviewing petition documents, (2) analyzing assets for recovery, (3) attending the meeting of creditors, (4) investigating allegations of wrongdoing perpetrated by the debtor's former management, (5) collecting assets for the estate, (6) litigating a claim and negotiating a settlement pertaining to a bequest, (7) obtaining the turnover of an annuity, and (8) preparing and filing employment and compensation motions.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will be approved.

5. 13-22534-A-11 SUPPLY HARDWARE, INC. — MOTION TO USE CASH COLLATERAL O.S.T. 7-25-13 [107]
WSS-6

Tentative Ruling: The motion will be granted.

The debtor is requesting permission for use of cash collateral under two new stipulations with the secured creditor, NCB Capital Corporation. Those two stipulations cover use for the periods of June 1 through June 30 and July 1 through July 31, respectively.

The motion will be granted and the court will approve the two new stipulations for use of cash collateral between the debtor and NCB. The two new stipulations are "under the same terms and conditions as the prior stipulation[s]," permitting cash collateral use through May 31, 2013.

6. 13-24841-A-11 PETER ALBERS — MOTION TO EMPLOY BROKER 6-28-13 [125]
PLC-8

Tentative Ruling: The motion will be denied without prejudice.

The hearing on this motion was continued from July 8, 2013 to allow the debtor to file the listing agreement with the proposed broker for the estate. The debtor has not filed the listing agreement and clarified the terms of employment.

The debtor requests approval to employ Mel Gadbut as a real estate broker for

the estate. Mr. Gadbut will assist the estate with the marketing and sale of a dairy farm real property in Dixon, California.

The proposed compensation for Mr. Gadbut is a two percent (2%) commission of the sales price, "subject to an exclusion list of potential buyers."

If someone from that list purchases the property, Mr. Gadbut will be compensated only in the amount of $25,000 plus actual expenses.

Subject to court approval, 11 U.S.C. § 327(a) permits a trustee to employ a professional to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions."

Mr. Gadbut is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate.

However, the court will not approve Mr. Gadbut's employment because the listing agreement is not part of the record on this motion and the court is not clear about whether the 2% commission includes or is separate and independent from Mr. Gadbut's actual expenses.

7. 13-24841-A-11 PETER ALBERS — MOTION TO SELL O.S.T. 7-23-13 [170]
PLC-10

Tentative Ruling: The motion will be granted in part.

The debtor is asking the court to approve a procedure for the sale of the debtor's dairy property, consisting of five parcels and including two sites, site A (consisting of three parcels) and site B (consisting of two parcels).

The proposed procedure includes a sealed bid process, via which the debtor will solicit sealed bids and assist in prospective purchaser's due diligence until 4:00 p.m. on September 16, 2013. Qualified bids cannot be contingent and will be treated as irrevocable until two business days after closing of the sale. There will be no break-up, topping or termination fees. The winning bidder will have to close the sale by September 30, 2013.

The debtor will open the bids at 5:00 p.m. on September 15, 2013 at the office of the debtor's counsel. The debtor shall be required to accept the highest bid, or combination of bids for site A and site B, that is at least in the amount of $11 million.

The motion says that under the proposed procedure the debtor would not seek court approval of a bid or combination of bids of at least $11 million. On the other hand, a winning bid or combination of bids of less than $11 million would require court approval, subject to overbidding, pursuant to the terms of a stalking horse agreement.

Importantly, the closing of the sale of the site B parcels will be conditioned on the closing of the sale of the site A parcels. Thus, if the site A parcels do not sell, the debtor may cancel any sale of the site B parcels.

For more details about the terms of the procedure and stalking horse agreement, parties in interest should review the motion.

The sealed bid procedure will run concurrently with presently pending sales of the sites. The debtor has signed two letters of intent to enter into purchase and sale agreements with respect to the two sites. The debtor expects to have the motions for those pending sales heard on August 19, 2013. The sealed bid procedure will serve as a backup to the pending sales.

The sale of the dairy property is in the best interest of the creditors and the estate as it is likely to generate sufficient funds to pay all creditors in full. The sealed bid process will give the debtor some flexibility to maximize the proceeds from the sale of the property. The court will approve the sales procedure, including the sealed bid process, as it is in the best interests of the creditors and the estate.

However, subject to hearing from parties in interest, the court is not inclined to approve a sale of the property for at least $11 million at this time. Given the relative complexity of the proposed sales procedure and sealed bid process, the potential for conflict is sufficiently serious to warrant court approval of any sale of the property, after the winning bid has been ascertained.

More, the court cannot make 11 U.S.C. § 363(m) findings and conclusions at this time. The sealed bid process terms state that each sealed "bid contains a commitment by the buyer to be prepared to provide admissible evidence . . . establishing the Potential Bidder's good faith and lack of collusion, within the meaning of section 363(m)." Motion at 4. The court cannot make good faith determinations without knowing at the least the identity of the buyer.

The court will require the debtor to obtain court approval for any and all sales of the property, even of a sale that is for at least $11 million.

The motion will be granted in part. The court is not approving any sales of the property by the granting of this motion.

8. 11-42346-A-7 ERNEST BEZLEY — MOTION TO EMPLOY
SLF-3 — 6-27-13 [162]

Tentative Ruling: The motion will be granted.

The trustee requests approval to employ Bob Brazeal of PMZ Real Estate in Modesto, California as a real estate broker for the estate. Mr. Brazeal will assist the estate with the valuing, marketing and possibly listing for sale 11 properties in Clements, California. The proposed compensation for Mr. Brazeal is $110 an hour for his consulting services and commission of six percent (6%) for the sale of residential property and ten percent (10%) for the sale of raw land or commercial property.

Dorothy Brown, an agent with Oak Creek Realty, responds to the motion, asking the court to allow her to market the sale of two of the 11 properties for which Mr. Brazeal is being retained, namely, lots 4 and 11 in Clements Estates. This, she contends, would bring maximum coverage to the marketing of all eight parcels in Clements Estates. She claims to be holding the first mortgage on lots 4 and 11.

The court will not force the trustee to retain a particular professional for the estate. The court defers to the trustee's business judgment and discretion in selecting professionals to represent the estate. The court then will deny Ms. Brown's request to be employed to market and sell lots 4 and 11.

Moreover, even if the trustee were to ask the court to employ Ms. Brown to market those two lots, the court would probably deny that request because Ms. Brown is not a disinterested person within the meaning of 11 U.S.C. § 327. She claims to hold the first mortgage on lots 4 and 11 along with her husband.

Subject to court approval, 11 U.S.C. § 327(a) permits a trustee to employ a professional to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions."

The court concludes that the terms of employment and compensation are reasonable. Mr. Brazeal is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. His employment will be approved.

9. 13-26551-A-7 MICHAEL HOLT — MOTION TO SELL
SLF-3 — 7-1-13 [41]

Tentative Ruling: The motion will be granted in part and denied in part.

The chapter 7 trustee requests authority to sell at an auction the estate's unencumbered 50% interest in a 2006 Porsche vehicle. The other 50% in the vehicle is owned by Janet Holt. The value of the vehicle is approximately $38,000. The vehicle is subject to an exemption claim in the amount of $2,900. The trustee also asks for approval of the auctioneer's compensation and reimbursement of expenses.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate, given the relatively small exemption claim against the vehicle. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate.

However, the court will deny approval of the auctioneer's compensation and reimbursement of expenses. The court cannot assess the reasonableness and necessity of compensation until it knows what is the compensation. Because the sale has not taken place yet, the court cannot make a section 330(a) determination of the requested compensation for the auctioneer.

10. 12-38363-A-7 WILLIAM ST CLAIR — MOTION FOR RELIEF FROM AUTOMATIC STAY
PA-9 — 7-1-13 [129]
LEO SPECKERT VS.

Tentative Ruling: The motion will be granted in part and denied without prejudice in part.

The movant, Leo Speckert, as the trustee of California Capital Loans, Inc., a profit sharing plan, and California Capital Loans, Inc., seeks relief from the automatic stay as to a commercial real property in Chico, California. The property is known as the "improved property."

The debtor, who owns the property in an intervivos revocable trust, opposes the motion.

The motion will be denied without prejudice because the movant has not produced

admissible evidence of value for the property. The movant claims that there is no equity in the property. It asserts that the value of the property is $339,950 and the claims secured by the property total approximately $392,183, consisting of outstanding property taxes in the amount of $16,955, the movant's first mortgage in the amount of $279,518 and a second mortgage in favor of Trevor Joyner in the amount of $95,709.

In Schedule A, the property has a value of $725,000. The movant's valuation of the property in the amount of $339,950 is based on "the amount as set forth within the Listing Agreement entered into by the Trustee." The only evidence of value from the movant is an e-mail exchange and a broker listing agreement. On June 27, 2013, the movant's counsel sent e-mail to the trustee's counsel, asking him "Did you get a valuation [of the property] from the broker recommended by the title officer?" The trustee's counsel replied, "[v]aluation is on the listing agreement attached to the mt to employ," referring to Docket 127, the listing agreement submitted by the trustee in support of his motion to employ a realtor to sell the property. The listing agreement says that the listing price for the property "shall be" $339,950. Docket 127.

While the movant may use the listing price, adopted by the trustee as the value of the property, against the trustee under Fed. R. Evid. 801(d)(2)(B) (opposing party's statement), the movant may not use the listing price as the value of the property against the debtor. The debtor did not make the statement and did not "adopted or believed to be true." Fed. R. Evid. 801(d)(2)(B); see also Fed. R. Evid. 801(d)(2)(D) (opposing party's statement, made by the party's agent or employee on a matter within the scope of that relationship and while it existed). As to the debtor, the listing price in the motion to employ the trustee's realtor is inadmissible hearsay and is improper expert opinion as the realtor has not been qualified, nor has he executed a declaration describing how he arrived at the listing price conclusion.

Further, as to the debtor, the listing price from the trustee's realtor is not part of the record on this motion. It is part of this motion as to the trustee because he adopted it as the value of the property. Docket 133, Ex. 8.

The motion will be granted in part and denied in part. The motion will be denied as to the debtor because the movant has not produced admissible evidence of value for the property.

As to the estate, the value of the property is the adoption of the listing price as value by counsel for the trustee, Byron Lynch. Docket 133, Ex. 8.

Hence, as to the estate, the property has a value of $339,950 and it is encumbered by claims totaling approximately $392,183, including outstanding property taxes in the amount of $16,955, the movant's first mortgage in the amount of $279,518 and a second mortgage in favor of Trevor Joyner in the amount of $95,709.

The court concludes that, as to the estate, there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors.

Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for

purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

The loan documentation contains an attorney's fee provision and the movant is an over-secured creditor. The motion demands payment of fees and costs. The court concludes that a similarly situated creditor would have filed this motion. Under these circumstances, the movant is entitled to recover reasonable fees and costs incurred in connection with prosecuting this motion. See 11 U.S.C. § 506(b). See also Kord Enterprises II v. California Commerce Bank (In re Kord Enterprises II), 139 F.3d 684, 689 (9th Cir. 1998).

Therefore, the movant shall file and serve a separate motion seeking an award of fees and costs. The motion for fees and costs must be filed and served no later than 14 days after the conclusion of the hearing on the underlying motion. If not filed and served within this deadline, or if the movant does not intend to seek fees and costs, the court denies all fees and costs. The order granting the underlying motion shall provide that fees and costs are denied. If denied, the movant and its agents are barred in all events from recovering any fees and costs incurred in connection with the prosecution of the motion.

If a motion for fees and costs is filed, it shall be set for hearing pursuant to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). It shall be served on the debtor, the debtor's attorney, the trustee, and the United States Trustee. Any motion shall be supported by a declaration explaining the work performed in connection with the motion, the name of the person performing the services and a brief description of that person's relevant professional background, the amount of time billed for the work, the rate charged, and the costs incurred. If fees or costs are being shared, split, or otherwise paid to any person who is not a member, partner, or regular associate of counsel of record for the movant, the declaration shall identify those person(s) and disclose the terms of the arrangement with them.

Alternatively, if the debtor will stipulate to an award of fees and costs not to exceed $750, the court will award such amount. The stipulation of the debtor may be indicated by the debtor's signature, or the debtor's attorney's signature, on the order granting the motion and providing for an award of $750.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

The court makes no determinations about the propriety of the debtor's cash collateral use or of the security interests held by creditors in the property.

11.	13-23763-A-7 JAB-1 OCWEN LOAN SERVICING, LLC VS.	PAUL BEHMEN AND ANN OLLERMAN	MOTION FOR RELIEF FROM AUTOMATIC STAY 7-3-13 [22]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted in part and dismissed as moot in part.

The movant, Ocwen Loan Servicing, seeks relief from the automatic stay as to a real property in Sacramento, California.

Given the entry of the debtor's discharge on June 24, 2013, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The property has a value of $301,000 and it is encumbered by claims totaling approximately $446,524. The movant's deed is in first priority position and secures a claim of approximately $344,928.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on July 17, 2013.

Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

12. 13-24268-A-7 LOUISE FUSELIER — MOTION FOR RELIEF FROM AUTOMATIC STAY
CJO-1 — 7-9-13 [13]
NATIONSTAR MORTGAGE, L.L.C. VS.

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted in part and dismissed as moot in part.

The movant, Nationstar Mortgage, seeks relief from the automatic stay as to a real property in Pioneer, California.

Given the entry of the debtor's discharge on July 12, 2013, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The property has a value of $171,689 and it is encumbered by claims totaling approximately $347,592. The movant's deed is in first priority position and secures a claim of approximately $253,072.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on May 8, 2013.

Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

13. 13-27979-A-7 ROBERT/REINA LANNING — MOTION FOR RELIEF FROM AUTOMATIC STAY
MINGDE XU VS. — 7-3-13 [13]

Tentative Ruling: The motion will be granted.

The movant, Mingde Xu, seeks relief from the automatic stay as to a real

property in Tracy, California. The movant is the legal owner of the property and the debtor leased the property. The debtor defaulted under the lease agreement. On May 14, 2013, the movant instituted an unlawful detainer action against the debtor. The debtor filed the instant case on June 12, 2013.

The movant seeks relief from stay to exercise rights under state law to obtain possession of the property.

This is a liquidation proceeding and the debtor has no interest in the property as the movant is the legal owner of it. And, even though the debtor is a tenant at the property, he has defaulted under the lease agreement with the movant. This is cause for the granting of relief from stay. Accordingly, the motion will be granted for cause pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to return to state court in order to determine who is entitled to possession of the property. If the movant prevails, no monetary claim may be collected from the debtor. The movant is limited to recovering possession of the property if such is permitted by the state court.

No fees and costs are awarded because the movant is not an over-secured creditor. See 11 U.S.C. § 506.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

14. 12-36987-A-7 LAWRENCE/LINDA HANSEN — MOTION TO SUBSTITUTE ATTORNEY 7-12-13 [35]

Tentative Ruling: The motion will be denied without prejudice.

The debtors' counsel, D. Randall Ensminger, asks for authorization to withdraw as counsel for the debtors and to allow the debtors to represent themselves.

The motion will be denied for two reasons.

First, there is no narrative with the motion explaining why Mr. Ensinger should be allowed to withdraw. The motion is devoid of any briefing. The Judicial Council of California substitution of attorney forms submitted by the movant are not sufficient to present the motion as required by Fed. R. Bankr. P. 9013, which mandates that each motion "shall state with particularity the grounds therefor, and shall set forth the relief or order sought."

Second, the substitution of attorney forms submitted by the movant reflect only the signature of Lawrence Hansen as agreeing to the proposed substitution. Docket 35. The court sees no signature of Linda Hansen in the record, agreeing to the substitution.

Finally, the court cannot adjudicate the motion due to procedural deficiencies. The motion does not comply with Local Bankruptcy Rule 9014-1 because when it was filed it was not accompanied by a *separate* proof of service. See Local Bankruptcy Rule 9014-1(e)(3). Appending a proof of service to one of the supporting documents (assuming such was done) does not satisfy the local rule. The proof of service must be a separate document so that it will be docketed on the electronic record. This permits anyone examining the docket to determine if service has been accomplished without examining every document filed in support of the matter on calendar.

And, except for the notice of hearing, the motion papers do not contain a unique docket control number as required by Local Bankruptcy Rule 9014-1(c).

15. 12-36987-A-7 LAWRENCE/LINDA HANSEN MOTION TO SELL
JRR-1 6-18-13 [25]

Tentative Ruling: The motion will be denied without prejudice.

The chapter 7 trustee requests authority to sell for $275,000 in cash the estate's interest in real property in Rocklin, California to IH2 Property West, LP. The estate will benefit from the sale as it will receive a buyer's premium of $17,000, above and beyond the sales price.

The property is subject to a first mortgage held by JPMorgan Chase Bank scheduled in the amount of $366,840 and a second mortgage held by Newport Beach Holdings scheduled in the amount of $179,508.

The motion says that JPMorgan Chase Bank will receive $248,268.66 on account of its claim, while Newport Beach Holdings will receive $6,000 on account of its claim.

The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h).

The debtors oppose the motion, contending that the proposed sales price is approximately $100,000 less than the fair market value of the property.

JPMorgan Chase Bank also opposes the motion, contending that the trustee has not secured the secured creditors' consent to the sale and to their acceptance of less than the balances on their claims. JPMorgan Chase Bank does not agree to the proposed sale. JPMorgan Chase Bank is owed approximately $366,843.01. JPMorgan Chase Bank also argues that the buyer's premium should be factored into the fair and reasonable market value of the property.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. Under 11 U.S.C. § 363(f), the trustee may sell property of the estate free and clear of liens only if: 1) applicable nonbankruptcy law permits sale of such property free and clear of such liens; 2) the entity holding the lien consents; 3) the proposed purchase price exceeds the aggregate value of the liens encumbering the property; 4) the lien is in bona fide dispute; or 5) the entity could be compelled to accept a money satisfaction of the lien.

The motion will be denied without prejudice. Most importantly, the first mortgagee has not consented to accept less than the balance of its claim. The proposed sales price of $275,000 is well-below the balance of JPMorgan Chase Bank's claim of $366,843.01. The trustee has not established that the property can be sold under 11 U.S.C. § 363(f).

As to the complaint that the property is not being sold for fair and reasonable market value, the court is far less concerned about this because the trustee has shown that the property is in need of "many repairs" and that at least one prospective buyer reduced its offer by $70,000 after taking into account the needed repairs for the property. Docket 42 ¶ 8.

Moreover, the proposed sale is subject to overbids, allowing for the submission of a competitive offer reflecting the fair and reasonable market value of the property.

The motion will be denied without prejudice.

16. 13-28889-A-7 MARY-ANN HEISER ORDER TO SHOW CAUSE 7-3-13 [11]

Tentative Ruling: The petition will be dismissed.

The debtor did not pay the petition filing fee of $306, as required by Fed. R. Bankr. P. 1006(a), and did not apply to pay the fee in installments. This is cause for dismissal. See 11 U.S.C. § 707(a)(2).

17. 13-25292-A-7 JOHN/LORI FITZGERALD MOTION TO SELL
ASF-1 6-21-13 [12]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $6,600 to the debtors the estate's unencumbered interest in 29.2% interest in the debtors' 2013 tax refund, estimated at $2,657, and three vehicles, including a 2005 Nissan Titan Crew Cab with a scheduled value of $11,000 and subject to exemptions totaling $7,750, a 1987 Nissan Pathfinder with a scheduled value of $450 and subject to no exemptions, and a 1988 Plymouth Voyager with a scheduled value of $1,000 and subject to no exemptions.

The total equity in the property being sold is $7,357.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate.

18. 12-39693-A-7 ANGIE MCDANIEL-GUTHRIE OBJECTION TO EXEMPTIONS
ICE-1 6-26-13 [40]

Tentative Ruling: The objection will be sustained in part and overruled in part.

The trustee objects to the debtor's $9,233.70 exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in "Anticipated present and future commission checks earned pre-petition from former employer MarTech, including check for $2,356.90 presently in Chapter 7 Trustee's possession representing partial payment of commissions received post-petition but earned pre-petition." The asset is valued at $10,000.

Fed. R. Bankr. P. 4003(b)(1) provides that:

"[A] party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension."

The objection is timely as it was filed within 30 days of the June 5, 2013 filing of Amended Schedule C. The objection was filed on June 26.

"The facts giving rise to this dispute are as follows. In September 2011, the debtor filed a complaint with the California Labor Commissioner against her former employer, Mechanical Analysis/Repair, Inc. (MAR), for unpaid commission wages earned from December 8, 2010 through June 6, 2011. The Commissioner ruled against the debtor. She appealed to the superior court and lost once again. The superior court awarded $18,362.75 in attorney's fees and costs in favor of MAR against the debtor. The debtor appealed the superior court's decision as well. But, when MAR started collection proceedings to recover its attorney's fees and costs, the debtor filed the instant bankruptcy case on November 8, 2012.

In December 2012, after MAR was paid for work pursuant to "the Folsom contract and having calculated the profit realized from its performance under said contract, sent to Debtor its check in the amount of $2,356.90, said amount being the commission earned by Debtor (20% of the profit realized by Martech) from the Folsom Contract, calculated and paid in accordance with the provisions of the commission agreement between the parties." Docket 27, Brunn Decl. ¶ 21. At the request of the trustee, MAR stopped payment of the check it had issued to the debtor."

Docket 34.

The court is not persuaded that the debtor hid her entitlement to the commissions she was to receive from MAR. She had pending litigation against MAR for unpaid commissions, which she disclosed and exempted in the schedules. The pending litigation encompassed at least some of the commissions the debtor was to receive from MAR. For instance, the check the debtor received from MAR in December 2012, representing the $2,356.90 in commissions, references Com. E21324. Docket 22, Ex. 2 to Motion. Contract no. 5600002157, which encompassed Job E21324, is specifically referenced in the debtor's appeal to the superior court from the Commissioner's decision. Docket 22, Ex. 3 & 5 to Motion.

The debtor was expecting to receive commissions from the litigation, not based on her commission agreement with MAR. Thus, the court disagrees with the trustee that the debtor "intentionally failed to disclose[]" the anticipated present and future commissions from MAR.

Finally, the court will sustain the objection to the extent the debtor's exemptions exceed the statute cap under Cal. Civ. Proc. Code § 703.140(b)(5). The debtor exceeds the cap by $2,090. This case was filed on November 8, 2012 and the cap under Cal. Civ. Proc. Code § 703.140(b)(5) at that time was $23,250, including the full exemption of Cal. Civ. Proc. Code § 703.140(b)(1). Yet, the debtor has claimed exemptions totaling $25,340 under Cal. Civ. Proc. Code § 703.140(b)(5). She has not claimed any exemptions under Cal. Civ. Proc. Code § 703.140(b)(1). Accordingly, as requested by the trustee, the court will disallow $2,090 of the debtor's exemptions under Cal. Civ. Proc. Code § 703.140(b)(5), *i.e.*, the difference between the aggregate exemption amount and the cap amount.

19. 12-36595-A-7 ADRIAN/LISA ROGERS — MOTION TO SELL
DMB-3 — 5-29-13 [56]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $5,000 the estate's interest in two unencumbered vacant lots of land in Shasta Lake City,

California to Robert and Joy Lindskog. The lots have an aggregate scheduled value of $31,300 in Schedule A.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate.

20. 10-51097-A-7 MICHAEL DOAN AND KELLY LE-DOAN — MOTION TO REOPEN 6-27-13 [26]

Tentative Ruling: The motion will be granted in part and denied in part.

The debtors are asking the court to reopen their case so it can declare their debt owed to the Golden One Credit Union as discharged and "removed from the property" that secures that debt.

The court can reopen a case to "accord relief to the debtor." 11 U.S.C. § 350(b). Motions for the reopening of cases should be "routinely granted because the case is necessarily reopened to consider the underlying request for relief." In re Dodge, 138 B.R. 602, 605 (Bankr. E.D. Cal. 1992) (citing In re Corgiat, 123 B.R. 388, 392, 393 (Bankr. E.D. Cal. 1991)).

The case will be reopened for the limited purpose of the court considering the debtors' request to declare their debt to the Golden One as discharged and "removed from the property" that secures that debt.

To the extent the motion can be construed as asking a declaration of discharge as to the debtors' personal liability on the debt, the motion will be denied as the court does not award declaratory relief on a motion. Such relief requires an adversary proceeding. Fed. R. Bankr. P. 7001(9).

The debtors received their chapter 7 discharge on March 14, 2011 and there were no nondischargeability complaints filed by the Golden One. Although the debtors did not list Golden One's debt in Schedule D as required for secured debt, the debt was listed in Schedule F. Absent other facts unknown to the court, the debtors appear to have received a discharge from their personal liability on Golden One's debt.

To the extent the motion can be construed as asking that the debt be "removed from the property," the motion will be denied. A determination of the validity, priority or extent of a lien on property also requires an adversary proceeding. Fed. R. Bankr. P. 7001(2).

Finally, the court cannot strip off or strip down liens in chapter 7 cases. It is violation of the Supreme Court's ruling in Dewsnup v. Timm, 502 U.S. 410 (1992).

21. 13-24398-A-7 WILDER/SANDY PEREZ
JAB-1
U.S. BANK, N.A. VS. — MOTION FOR RELIEF FROM AUTOMATIC STAY 7-8-13 [16]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted in part and dismissed as moot in part.

The movant, U.S. Bank, seeks relief from the automatic stay as to a real property in Elk Grove, California.

Given the entry of the debtor's discharge on July 8, 2013, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The property has a value of $237,000 and it is encumbered by claims totaling approximately $463,392. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on June 9, 2013.

Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

FINAL RULINGS BEGIN HERE

22. 13-28204-A-7 MADELIN DRUSE — MOTION FOR RELIEF FROM AUTOMATIC STAY
MARJORIE CRAFT VS. — 7-10-13 [21]

Final Ruling: The motion will be dismissed without prejudice.

First, a motion placed on the calendar by the moving party for hearing must be given a unique docket control number as required by Local Bankruptcy Rule 9014-1(c). The purpose of the docket control number is to insure that all documents filed in support and in opposition to a motion are linked on the docket. This linkage insures that the court as well as any party reviewing the docket will be aware of everything filed in connection with the motion.

This motion was filed without a docket control number. Therefore, it is possible that documents have been filed in support or in opposition to the motion that have not been brought to the attention of the court. The court will not permit the movant to profit from possible confusion caused by this breach of the court's local rules.

Second, according to the certificate of service, the debtor was not served with the motion.

23. 97-35304-A-7 BAY AREA HOLDINGS, INC. — MOTION TO APPROVE COMPENSATION OF TRUSTEE (FEES $101,398.10, EXP. $2,860.70)
DNC-5 — 6-12-13 [292]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Former chapter 11 and current chapter 7 trustee, Anthony Dimond, has filed his first and final motion for approval of compensation for services rendered during the chapter 11 portion of the case. The requested compensation consists of $101,398.10 in fees (reduced from $108,884 in actual fees incurred, for compliance with the statutory cap of 11 U.S.C. § 326(a)) and $2,860.70 in expenses, for a total of $104,258.80.

This motion covers the period from December 22, 1997 through May 22, 2001. This case was filed as a chapter 11 proceeding on October 3, 1997 and was converted to chapter 7 on August 30, 2001. The court appointed the movant as chapter 11 trustee on December 29, 1997. The movant provided 544.42 hours of services to the estate and charged an hourly rate of $200.

The court is satisfied that the requested compensation does not exceed the cap of section 326(a).

The movant's chapter 11 compensation should not be aggregated with his compensation as a chapter 7 trustee. See Gill v. Wittenburg (In re Fin. Corp. of America), 114 B.R. 221, 224-25 (B.A.P. 9th Cir. 1990); see also Tiffany v. Gill (In re Fin. Corp. of America), 946 F.2d 689 (9th Cir. 1991) (affirming Fin. Corp., 114 B.R. 221).

Nonetheless, the movant's compensation is still subject to section 330(a), which permits only reasonable compensation for actual and necessary services rendered by the movant. See Fin. Corp., 114 B.R. at 224-25. The section 330(a) criteria includes an assessment of the nature of services, extent of services, value of services, time spent on services, and cost of comparable services. Fin. Corp., 946 F.2d at 689.

Further, pursuant to Fin. Corp., 946 F.2d at 689, funds turned over to the chapter 7 trustee are counted in calculating the section 326(a) maximum on the chapter 11 trustee's compensation. In that case, the chapter 11 trustee, who had turned over substantial funds to himself as a chapter 7 trustee, requested compensation based in part on the turned-over funds.

The instant case was filed as a chapter 11 proceeding on October 3, 1997. The movant was appointed as chapter 11 trustee on December 29, 1997. The court converted the case to a chapter 7 proceeding on August 30, 2001. The movant was appointed as chapter 7 trustee.

During the chapter 11 portion of the case, the movant disbursed $2,604,936.82 in connection with the continued business operations of the debtor, the sale of a hotel property and cash on hand. This means that the cap under section 326(a) and Financial Corp. on the movant's compensation as chapter 11 trustee is $101,398.10 ($1,250 (25%) + $4,500 (10%) + $47,500 (5%) + $48,148.10 (3%)). Hence, the requested compensation of $101,398.10 does not exceed the cap of section 326(a).

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) analyzing the debtor's assets, (2) operating the debtor's hotel businesses, (3) marketing the debtor's assets for sale, (4) obtaining a judgment against Ronald Lachman and collecting on the judgment, (5) responding to creditor and shareholder inquiries, (6) gathering information for and preparing petition documents, (7) analyzing proofs of claim for administration, (8) addressing cash collateral issues, (9) preparing for and attending the meeting of creditors, (10) conducting research of various issues, (11) negotiating settlements with creditors, (12) developing strategies and plans about the course of the case and the prosecution of claims against insiders or professionals of the debtor, and (13) preparing and prosecuting employment and compensation motions.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

24.	10-28006-A-7 SMD-2	BRIAN/STACEY BERTOLINI	MOTION TO APPROVE COMPENSATION OF ACCOUNTANT (FEES $5,708.45) 6-29-13 [159]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor,

the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gonzales & Sisto, accountant for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of $5,708.45 in fees and $0.00 in expenses. This motion covers the period from March 1, 2012 through June 17, 2013. The court approved the movant's employment as the estate's accountant on June 13, 2011. In performing its services, the movant charged hourly rates of $180 and $300.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included assisting the trustee with tax reporting issues and with the preparation of tax returns.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

25. 13-28306-A-7 INGA SUAREZ — MOTION FOR RELIEF FROM AUTOMATIC STAY
KH-1 — 7-1-13 [17]
WELLS FARGO BANK, N.A. VS.

Final Ruling: The motion will be dismissed as moot because the case was dismissed on July 10, 2013, dissolving the automatic stay. See 11 U.S.C. § 362(c)(1) & (c)(2). The motion is not seeking retroactive relief or relief under 11 U.S.C. § 362(d)(4).

26. 12-28413-A-7 F. RODGERS CORPORATION — MOTION FOR RELIEF FROM AUTOMATIC STAY
WFH-1 — 7-1-13 [501]
JOEL MATKOVICH, ET AL. VS.

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument

The motion will be granted.

The movants, Joel Matkovich, et al., seek relief from the automatic stay to proceed in state court with their construction defect claims against the debtor for breach of warranty and negligent construction. Recovery will be limited to

available insurance coverage, if any.

Given that the movants would not seek to enforce any judgments against the debtor or the estate and will proceed against the debtor only to the extent their claims can be satisfied from the debtor's insurance proceeds, the court concludes that cause exists for the granting of relief from the automatic stay. The motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to allow the movants to prosecute the claims against the debtor, but not to enforce any judgments against the debtor or the estate other than against available insurance coverage, if any.

No fees and costs are awarded because the movants are not over-secured creditors. See 11 U.S.C. § 506.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

27. 12-38515-A-7 CHARLES WEST — AMENDED MOTION TO SELL
DMW-1 — 6-27-13 [79]

Final Ruling: The motion will be dismissed without prejudice because it does not comply with Local Bankruptcy Rule 9014-1(e)(3). When it was filed, it was not accompanied by a separate proof of service for the amended notice of hearing, Docket 81.

Appending a proof of service to one of the supporting documents (assuming such was done) does not satisfy the local rule. The proof of service must be a separate document so that it will be docketed on the electronic record. This permits anyone examining the docket to determine if service has been accomplished without examining every document filed in support of the matter on calendar.

Further, the original notice of hearing for the motion (Docket 77) erroneously advised parties in interest that the last day to file written opposition to the motion was July 18, when the deadline was in fact July 15. While the movant filed a proof of service for the original notice of hearing, the court has been unable to locate a proof of service on the docket for the amended notice of hearing.

28. 13-25822-A-7 STEPHANIE MALDONADO — MOTION FOR RELIEF FROM AUTOMATIC STAY
E. KENT VS. — 6-4-13 [16]

Final Ruling: The motion will be dismissed without prejudice because, while the movant has given 55 days' notice of the hearing on the motion (Docket 20) under Local Bankruptcy Rule 9014-1(f)(1), the notice of hearing says that objections to the motion must be filed "on or before the hearing date." This violates Local Bankruptcy Rule 9014-1(f)(1) which requires written opposition to be served and filed with the court at least 14 calendar days prior to the hearing. Accordingly, the notice is deficient.

29. 10-31327-A-7 NATALI KOTOVSKAY — MOTION TO AVOID JUDICIAL LIEN
DS-1
VS. GULJAN ANSARI — 6-21-13 [26]

Final Ruling: This motion to avoid a judicial lien has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the trustee and the respondent creditor to file written opposition at least 14 days

prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the trustee and the respondent creditor are entered and the matter will be resolved without oral argument.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property has a value of $200,000 as of the date of the petition. The unavoidable liens total $188,360. The debtor has an available exemption of $11,640. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

30. 10-50027-A-7 JOHN MOE
BHS-4

MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY (FEES $3,477.50, EXP. $104.41)
6-19-13 [33]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Barry Spitzer, attorney for the trustee, has filed his first and final motion for approval of compensation. The requested compensation consists of $3,477.50 in fees and $104.41 in expenses, for a total of $3,581.91. This motion covers the period from August 31, 2012 through June 19, 2013. The court approved the movant's employment as the trustee's attorney on September 6, 2012. In performing its services, the movant charged an hourly rate of $325.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) assisting the estate with the sale of real property co-owned by a non-filing party, (2) negotiating with co-owner for sale of property without the filing of an adversary proceeding, (3) preparing and prosecuting motion to sell, and (4) preparing and filing employment and compensation motions.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will be approved.

To the extent applicable, the movant shall deduct from the allowed compensation any fees or costs that have been estimated but not incurred.

31. 13-27333-A-7 ROBERT ANDERSON — MOTION TO COMPEL ABANDONMENT 6-21-13 [11]
HAW-1

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The debtor requests an order compelling the trustee to abandon the estate's interest in his roofing business.

11 U.S.C. § 554(b) provides that on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

According to the motion, the business assets include a tools for the roofing business with a scheduled value of $2,000, four fictitious business names with a scheduled value of $1,000, and 2007 Toyota Tundra vehicle with a scheduled value of $16,500, subject to an encumbrance in the approximate amount of $16,500 and an exemption claim in the amount of $2,100. See Amended Schedule C. The tools and fictitious names have been claimed fully exempt in Amended Schedule C. Given the exemption claims and encumbrances on the business assets, the court concludes that the business, to the extent of the assets listed in the motion, is of inconsequential value to the estate. The motion will be granted.

32. 12-27739-A-7 DIANA PHAN — MOTION TO ESTABLISH BAR DATE 6-24-13 [188]
SLF-3

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee is asking the court to establish September 12, 2013 as a bar date

for the filing of chapter 11 administrative expense claim motions. This case was filed on April 23, 2012 as a chapter 11 proceeding and was converted to chapter 7 on November 27, 2012.

Fed. R. Bankr. P. 3003(c) provides that "[t]he court shall fix . . . the time within which proofs of claim or interest may be filed."

The motion will be granted. September 12, 2013 will be the deadline for filing all motions for chapter 11 administrative expense claims. The trustee shall serve notice of the bar date no later than 30 days prior to the deadline on:

- all creditors of the debtor and/or the estate,
- all potential chapter 11 administrative claimants known to the trustee,
- federal and state tax agencies, including employment tax agencies,
- all persons who acted as professionals for the debtor during the chapter 11 portion of the case,
- all parties who have requested special notice, and
- the United States trustee.

33. 12-23448-A-7 CHRISTOPHER/CAROL BOSCH — MOTION TO APPROVE COMPROMISE
SLF-3 — 6-28-13 [60]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests approval of a settlement agreement of two disputes, one between the estate and the debtors and the other between the estate and attorney Albert Ellis of Hakeem, Ellis & Marengo, PC. Both disputes are related to the disbursement of settlement proceeds from a wrongful termination lawsuit, where Mr. Ellis represented the debtors. The debtors received $20,000 from the settlement proceeds and Mr. Ellis received $50,000 in attorney's fees from the settlement proceeds. The instant settlement resolves the estate's interest in the proceeds disbursed to the debtors and Mr. Ellis.

Under the terms of the compromise, the debtors will keep the $20,000 they received from the wrongful termination settlement. In exchange, they will assign to the estate their 2011 tax refund, valued at $13,215.14. In addition, Mr. Ellis will pay $7,500 to the estate and he will waive his right to file a claim against the estate. This will resolve the estate's interest in the proceeds disbursed to the debtors and Mr. Ellis.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the

complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the inherent costs, risks, delay and inconvenience of further litigation, given the debtors' exemption claims in the funds they received, and given Mr. Ellis' contentions that he did not know of the instant bankruptcy case, the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

34. 13-24549-A-7 VICTOR/CHRISTINA ANDERSON — MOTION TO AVOID JUDICIAL LIEN
RK-1
VS. FORD MOTOR CREDIT COMPANY — 6-26-13 [23]

Final Ruling: This motion to avoid a judicial lien has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the trustee and the respondent creditor to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the trustee and the respondent creditor are entered and the matter will be resolved without oral argument.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property has a value of $251,811.66 as of the date of the petition. The unavoidable liens total $239,692. The debtor has an available exemption of $33,367.95. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

35. 13-26551-A-7 MICHAEL HOLT — MOTION TO EMPLOY
LF-2 — 7-1-13 [36]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The chapter 7 trustee requests authority to employ and compensate First Capitol Auction, Inc. as auctioneer of the estate. First Capitol will assist the estate with the sale of a 2006 Porsche vehicle with an approximate value of $38,000. The proposed compensation arrangement is a 5% commission along with reimbursement of expenses for preparing the vehicle for sale, including transportation and storage expenses, not to exceed $500.

Subject to court approval, 11 U.S.C. § 327(a) permits a trustee to employ a professional to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions."

The court concludes that the terms of employment and compensation are reasonable. First Capitol is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. Its employment will be approved.

36. 13-27569-A-7 JASON COOPER — MOTION FOR RELIEF FROM AUTOMATIC STAY
MRG-1 — 6-25-13 [11]
THE BANK OF NEW YORK MELLON VS.

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, The Bank of New York Mellon, seeks relief from the automatic stay as to a real property in Chico, California. The property has a value of $132,204 and it is encumbered by claims totaling approximately $240,969. The movant's deed is in first priority position and secures a claim of approximately $218,969.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on July 10, 2013. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the

extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

37. 13-26978-A-7 ESTER ROMO — MOTION FOR
RCO-1 — RELIEF FROM AUTOMATIC STAY
U.S. BANK, N.A. VS. — 6-28-13 [18]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, U.S. Bank, seeks relief from the automatic stay as to a real property in Stockton, California. The property has a value of $135,000 and it is encumbered by claims totaling approximately $283,306. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on June 19, 2013. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

38. 13-20082-A-7 JESSIE/RENA ROSEWALL — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
SANTANDER CONSUMER USA, INC. VS. — 6-26-13 [39]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Santander Consumer U.S.A., Inc., seeks relief from the automatic stay with respect to a 2006 Acura MDX. The movant has produced evidence that the vehicle has a value of $15,050 and its secured claim is approximately $22,690.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. And, the movant has possession of the vehicle. This is cause for the granting of relief from stay.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is ordered waived due to the fact that the movant has possession of the vehicle and it is depreciating in value.

39. 13-27690-A-7 CHARLES SIMPSON — MOTION FOR RELIEF FROM AUTOMATIC STAY
RCO-1
BOKF, N.A. VS. — 6-28-13 [10]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006).

Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, BOKF, N.A., seeks relief from the automatic stay as to a real property in Tulsa, Oklahoma. The property has a value of $15,000 and it is encumbered by claims totaling approximately $35,895. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on July 15, 2013. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

40. 08-34094-A-7 GENE/JUDY EWTON — MOTION TO EXTEND TIME 6-21-13 [45]
HSM-2

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee asks for a 61-day extension, from June 23, 2013 to August 23, 2013, of the deadline for objecting to the debtors' exemptions. The trustee needs additional time to investigate the debtors' disclosure and partial exemption of real property, after this case was reopened.

This case was filed on September 30, 2008 and it closed after the entry of discharge on January 23, 2009. The case was reopened on April 29, 2013 pursuant to the debtors' request. After the case was reopened, the debtors filed Amended Schedules A, B and C, disclosing and partially exempting real property for the first time.

Fed. R. Bankr. P. 4003(b)(1) provides that:

"[A] party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension."

Here, the debtors filed their amendments to the schedules on May 24, 2013 and this motion was filed on June 21, 2013, within the 30-day deadline after the amendments. Hence, the motion is timely.

Given the recent disclosure and exemption of the real property, as well as the trustee's need of additional time to investigate the property and determine whether an exemption objection is appropriate, there is cause for the requested extension. The deadline for objecting to the debtors' exemptions in the property will be extended to August 23, 2013.

41. 13-26794-A-7 THEODORE/WANDA STITT — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
NISSAN MOTOR ACCEPTANCE CORP. VS. — 6-26-13 [15]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Nissan Motor Acceptance Corporation, seeks relief from the automatic stay with respect to a 2012 Nissan Quest. The movant has produced evidence that the vehicle has a value of $20,535 and its secured claim is approximately $45,755.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on June 20, 2013. And, the movant has possession of the vehicle. This is cause for the granting of relief from stay.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is ordered waived due to the fact that the movant has possession of the vehicle and it is depreciating in value.

42. 13-28096-A-7 PAMELA ATKINS — ORDER TO SHOW CAUSE 7-3-13 [26]

Final Ruling: The order to show cause will be discharged and the petition will remain pending.

This order to show cause was issued because the debtor filed an Amended Master Address List on June 28, 2013, but did not pay the $30 filing fee. However, the debtor paid the fee on July 16, 2013. No prejudice has resulted from the delay.

43. 13-20898-A-7 CORNEL/TINA VANCEA — MOTION FOR RELIEF FROM AUTOMATIC STAY
KMR-1
FEDERAL NATIONAL MORTGAGE ASSN. VS. — 6-27-13 [50]

Final Ruling: The motion will be dismissed without prejudice.

According to certificate of service, the attorney for the trustee was not served with the motion.

44. 13-20898-A-7 CORNEL/TINA VANCEA — MOTION FOR RELIEF FROM AUTOMATIC STAY
PPR-1
U.S. BANK, N.A. VS. — 6-17-13 [43]

Final Ruling: The motion will be dismissed without prejudice.

According to certificate of service, the attorney for the trustee was not served with the motion.