

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

August 7, 2025 at 10:00 a.m.

1. [25-20906-E-7](#)

JENNIFER DIMMICK

**CONTINUED REAFFIRMATION
AGREEMENT WITH FARMERS
INSURANCE FEDERAL CREDIT UNION
6-5-25 [13]**

AUGUST 7, 2025 HEARING

At the July 9, 2025 hearing, counsel for the Debtor reported that the terms of the agreement is that the terms were forced, with Creditor stating that it would withdraw the franchise if the Debtor did not agree.

As a result of then further negotiations, there is an agreement that is to be signed, but has not yet been provided by Creditor. Counsel for Debtor addressed on the record several items that need to be addressed with the Creditor, including the Creditor threatening the non-debtor if the Debtor does capitulate and waive her discharge as to Creditor.

As of the court's August 4, 2025 review of the Docket, no amended Reaffirmation Agreement had been filed by the Parties.

At the hearing, **XXXXXXX**

REVIEW OF REAFFIRMATION AGREEMENT

An agreement to reaffirm a debt owed to Farmers Insurance Federal Credit Union, which is secured by an "Appointment Agreement Receivables," for which no asset of Debtor is identified as being encumbered, was filed by Jennifer Dimmick ("Debtor"). A hearing on this reaffirmation was conducted pursuant to order of the court.

No additional evidence was presented by Debtor in support of the reaffirmation. The interest rate of 7.74% or 10.00%, depending on the payment plan elected by Debtor, under the terms of the reaffirmation agreement has not been modified from the original contract rate. The amount of the debt to be reaffirmed is (\$14,396.80) which has not been reduced from the pre-petition claim.

Debtor having no income, stating that she is disabled, and her non-debtor husband has monthly net income from the operation of a business of \$3,411 and expenses of (\$5,783), as shown on Schedule J,

August 7, 2025 at 10:00 a.m.

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the presumption of undue burden pursuant to 11 U.S.C. § 524(m) does not arise because the creditor is a credit union in connection with this reaffirmation agreement.

The monthly payment on the reaffirmed debt is stated to be paid by the non-debtor Spouse's business. Reaffirmation Cover Sheet, ¶ 6; Dckt. 13 at 1.

The Debtor provides the monthly profit and loss statement for the non-debtor Spouse's business as an attachment to Schedule I. Dckt. 1 at 53. The expenses listed appear to be reasonable and necessary.

It is unclear why the disabled Debtor, who was financially driven into bankruptcy, is reaffirming this obligation. The Debtor's non-debtor Spouse, who has had no need to file bankruptcy and is running what appears to be a successful business appears to be the person who actually borrowed the money (accounts receivable financing) and the person who has the ability to pay it back.

At the hearing, counsel for the Debtor reported that the terms of the agreement is that the terms were forced, with Creditor stating that it would withdraw the franchise if the Debtor did not agree.

As a result of the negotiations, there is a further agreement that is to be signed, but has not yet been provided by Creditor. Counsel for Debtor addressed on the record several items that need to be addressed with the Creditor, including the Creditor threatening the non-debtor if the Debtor does capitulate and waive her discharge as to Creditor.

The hearing on the Reaffirmation Agreement is continued to 10:00 a.m. on August 7, 2025 (Specially Set Day and Time).

JASWINDER KAUR, PARKASH
PABLA, VS.

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

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

Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and all creditors and parties in interest on May 27, 2025. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

However, Movant filed the Motion on June 5, 2025. Docket 49. That would provide only 21 days' notice, which is seven days short of the 28 day requirement. At the June 26, 2025 hearing, the court continued the hearing to allow time for filing responsive pleadings.

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

The Motion for Relief from the Automatic Stay is XXXXXXX.

August 7, 2025 Hearing

The court continued the hearing as the Responsible Representative of the Debtor had appeared at the prior hearing and offered opposition. The court set a briefing schedule and Opposition Pleadings were to be filed and served on or before July 18, 2025, and Reply Pleadings, if any, were to be filed and served on or before July 25, 2025. Order, Docket 54.

On July 17, 2025, Debtor filed a Notice of Conversion, converting this case to one under Chapter 7. The newly appointed Chapter 7 Trustee, Geoffrey Richards, who now controls the claims that are the subject of the litigation, has not weighed in on the issue.

At the hearing, XXXXXXX

REVIEW OF MOTION

Parkash Pabla and Jaswinder Kaur (“Movant”) seek relief from the automatic stay to allow a pending action in Merced County Superior Court, Case No. 20CV03476 (the “State Court Litigation”) to be concluded. Movant has provided the Declarations of Harry Gill, Movant’s attorney, and Jaswinder Kaur to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Dual Arch International, a California corporation (“Debtor in Possession”). Decls., Dockets 41, 43.

Movant argues that there is cause to grant relief because the State Court Litigation deals with issues of wrongful foreclosure, which are state law issues. Declaration ¶ 4, Dckt. 43. Ms. Kaur further testifies that the State Court Litigation has been ongoing since December 8, 2020, with the Parties investing substantial time and energy in the state court proceedings. Ms. Kaur recently prevailed on appeal with further proceedings remanded to the state court, but Movant is not able to continue the litigation because of this bankruptcy case, which is resulting in prejudice and undue harm. *Id.* at ¶ 9.

Walter Dahl, the Chapter 11 Subchapter V Trustee (“Trustee”), does not oppose granting the Motion so the Parties may reach a final judgment in state court. Docket 51. Trustee would oppose enforcement of a final judgment without the bankruptcy court’s approval.

DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at *8–9 (B.A.P. 9th Cir. May 23, 2016). To determine “whether cause exists to allow litigation to proceed in another forum, ‘the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.’” *Id.* at *9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at *6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int’l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is ready for trial. *See Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In re Kemble)*, 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass’n v. Sanders (In re Santa Clara Cty. Fair Ass’n)*, 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

At the hearing the court addressed with counsel for the Debtor in Possession what Subchapter V Plan will be prosecuted in this Case. The only significant asset in the Bankruptcy Estate is an attorney’s fee award against Movant, which will be subject to reconsideration following the remand of the State Court Action to the Trial Court with respect to the claims on which the attorney’s fees are based, and a judgment against the family members alleged to have committed the acts.

Movant is asserting to have claims against the Debtor, which at the very least would be an offset to the claims asserted by Debtor against Movant. If the Parties cannot resolve their dispute, then the Movant’s claims will have to be adjudicated. That litigation has been long ongoing in the State Court, and

clearly the State Court had the expertise to continue with this litigation. In the State Court litigation orders granting Movant judgements have been entered, but no bifurcated judgments have been entered.

At the court notes above, there are no significant assets in this Case exempt for the \$143,350 judgement against the family members of Movant. Schedule A/B, ¶ 71; Dckt. 14. On Schedule D, the Debtor states having no creditors with secured claims. *Id.*; p. 8.

On Schedule E/F Debtor lists no priority claims, and lists an unsecured claim of (\$153,500) owed to Absher Global Investments, Inc. for a loan to Debtor for attorneys fees in the State Court litigation, and to David S. Absher, Trustee, in the amount of (\$220,000) for unpaid rent. *Id.* at 9-14. Movant is also listed as a creditor with a disputed claim.

David S. Absher is identified on the Petition as the President of the Debtor and has signed the Petition as the authorized representative of the Debtor. Petition, ¶ 17; Dckt. 1 at 5. On the Statement of Financial Affairs David S. Absher is identified as the “President, Secretary, Director, and shareholder,” who owns 100% of the interests in the Debtor. Stmt Fin Affairs, ¶ 28; Dckt. 15.

The Statement of Financial Affairs identifies Absher Global Investments, Inc., the only other creditor of the Debtor, as being a related entity, with the relationship being stated as “Same controlling shareholder.” *Id.*; ¶ 30.1.

The court continues the hearing to address the shorten notice given, allow Opposition and Reply Pleadings to be filed, and most importantly, to allow the respective counsel to meet and confer to determine what is the economic reality of this litigation, the Bankruptcy Case, and the interests of the parties.

The hearing on the Motion for Relief from the Automatic Stay is continued to 10:00 a.m. on August 7, 2025. Opposition Pleadings shall be filed and served on or before July 18, 2025, and Reply Pleadings, if any, filed and served on or before July 25, 2025.

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

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

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

IT IS ORDERED that the Motion for Relief from the Automatic Stay is
XXXXXXX.

QUALFAX, INC. VS.

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor on July 24, 2025. By the court’s calculation, 14 days’ notice was provided. 14 days’ notice is required.

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

The Motion for Relief from the Automatic Stay is granted.

Qualfax, Inc., its successors and/or assignees (“Movant”) seeks relief from the automatic stay with respect to parcels of real property in the jointly administered cases of Town and Country West, LLC (“West Debtor”) and Town & Country Event Center, LLC (“Event Debtor”). Movant seeks relief as to the following parcels of real property:

1. 2961 Fulton Avenue, Sacramento, CA 95821 (“Fulton Property”);
2. 2501 Marconi Avenue, Sacramento, CA 95821 (“Marconi Property”); and
3. 11354 White Rock Road, Rancho Cordova, CA 95742 (“White Rock Property”).

(collectively, “Properties”). Movant has provided the Declaration of Robert Abbasi to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Properties. Decl., Docket 204. Movant seeks relief pursuant to 11 U.S.C. §§ 362(d)(1) and (2). Movant provides the following reasons relief should be granted:

1. West Debtor has failed to pay the tax obligations that have come due on the Fulton Property. Pursuant to Sacramento County's Online Property Tax Bill, West Debtor is delinquent on taxes for the Fulton Property in the amount of \$500,934.83 through July 2025. Decl. ¶ 15, Docket 204.
2. Insurance on the Fulton Property is past due and the next payment due on July 12, 2025 in the amount of \$17,516.12 remains unpaid. *Id.* at ¶ 16.
3. West Debtor has failed to pay the tax obligations that have come due on the Marconi Property. Pursuant to Sacramento County's Online Property Tax Bill, West Debtor is delinquent on taxes for the Marconi Property in the amount of \$19,394.91 through July 2025. *Id.* at ¶ 18.
4. Event Debtor has failed to pay the tax obligations that have come due on White Rock Property. Pursuant to Sacramento County's Online Property Tax Bill, Event Debtor is delinquent on taxes for the White Rock Property in the amount of \$45,083.85 through July 2025. *Id.* at ¶ 21.

ABANDONMENT OF THE PROPERTIES

On July 16, 2025, the court entered its Order that abandons the 2961 Fulton Ave., Sacramento, California, and 2501 Marconi Avenue, Sacramento, California, properties to Debtor Town & Country West, LLC; and abandons the 11354 White Rock Road, Rancho Cordova, California property to Debtor Town & Country Event Center, LLC.

Abandonment raises the issue of whether an automatic stay is in effect at all as to the Properties. The automatic stay protects property of the Estate and property of the Debtor. 11 U.S.C. § 362(a) states:

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5)any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6)any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7)the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8)the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of a debtor that is a corporation for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title.

This Section mentions protections against both property of the Estate and Property of the Debtor. However, property of the Estate is described as:

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

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

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

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

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

(3)Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4)Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5)Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A)by bequest, devise, or inheritance;

(B)as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C)as a beneficiary of a life insurance policy or of a death benefit plan.

(6)Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7)Any interest in property that the estate acquires after the commencement of the case.

11 U.S.C. § 541.

Congress then provides in 11 U.S.C. § 362(c) for statutory terminations of the automatic stay occurring on specified events (emphasis added):

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

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;...

Therefore, with the abandonment of the Properties, the Properties are no longer property of the Bankruptcy Estate and the automatic stay is terminated by operation of law as to those Properties. However, 11 U.S.C. § 362(a)(5) provides that the automatic stay applies to the enforcement of any lien securing a pre-petition debt that is secured by property of the debtor. Here, the Properties have been abandoned back to the Debtor, so they are property of the Debtor. Additionally, it is possible that there could be some other personal property of the Bankruptcy Estate or the Debtor that could be subject to the automatic stay.

It is prudent for a creditor to seek an order granting relief from the automatic stay to avoid further confusion, litigation, and otherwise unnecessary expense caused by a assertion that there is other personal property for which the automatic stay was violated.

DEBTOR'S PRINCIPAL'S

OPPOSITION IN *PRO SE*

On August 5, 2025, Waqar A. Khan, the individual who signed the Debtor's Bankruptcy Petition (Dckt. 1) and is identified as the managing member of the Debtor on the Statement of Financial Affairs (¶ 28; Dckt. 22) filed a Declaration Motion in *pro se* titled "Declaration in Support of Motion for Valuation, Adequate Protection, and Extension of Stay. Dckt. 208. No such Motion has been filed and it appears that this Declaration is filed as an Opposition to this Motion for Relief from the Automatic Stay.

Mr. Khan states that his is "a personal guarantor and co-signer of the promissory note executed in favor of [Movant] *Id.*, ¶ 2. He further states that he has a bona fide buyer and anticipates that the underwriting documentation should be completed in the next 29 days. *Id.*; ¶ 5.

Mr. Khan fears that Movant will foreclose on the Properties at the Trustee's valuation (provided with the Motion to Abandon the Properties that the court granted) and then seek to "double recover" by pursuing Mr. Khan as the guarantor. *Id.*; ¶ 8.

Mr. Kahn requests this time to complete the process of valuing the Properties and obtaining a qualified buyer. Mr. Kahn also asserts that beginning in October 2025 Mr. Khan will fund adequate protection payment (at 50% of the prior required amount) and an additional \$50,000.00 a month toward the property tax obligation. Dckt. 208.

Mr. Khan then proceeds to request the court value the Property by appointing an independent appraiser or referee if Movant will not accept the current market value of the Properties as demonstrated on Exhibit A filed in support of the Opposition. Exhibit A, Dckt. 209, is titled "Comprehensive Property Valuation Report," which appears to have been conducted by Mr. Khan himself. Mr. Kahn values the Properties at \$30.7 million, more than \$16 million of the Chapter 7 Trustee's valuation of \$14,000,000.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$16,800,191.11 (Declaration ¶ 13, Docket 182), while the value of the Property is determined to be \$13,856,500, as stated by the Chapter 7 Trustee in the supporting evidence for his Motion to Abandon the Properties back to Debtor. *Id.* at ¶ 10.

Mr. Khan argues that the court should accept his valuation that the Properties are worth \$30.7 million. However, Debtor fails to appreciate that it is the Chapter 7 Trustee who makes the business judgment whether property of the Estate has value or is burdensome. If there were value even close to Debtor's projection, it is not in the interest of the Chapter 7 Trustee to abandon the Properties. The Chapter 7 Trustee engaged in diligent efforts to ensure that there was no value in the Properties, predicated his Motion to Abandon.

Additionally, what Mr. Khan does not address is that the automatic stay as to the Properties has already been terminated by operation of law pursuant to 11 U.S.C. § 362(c)(1).

Further, Mr. Khan is requesting personal relief, as the guarantor (or co-signer) of the Note. He wants the court to fix the value of the Properties and bind all parties. The Bankruptcy Code does not provide for such relief for Mr. Khan, a principal of the Debtor and a co-obligor. If he has such rights under other applicable law, he is free to exercise such rights.

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

As noted above, 11 U.S.C. § 362(c)(1) terminates the automatic stay as to property of the bankruptcy estate as of the time it is no longer property of the bankruptcy estate. Here, the property has been abandoned back to the Debtor by order of the court. Dckt. 194. Thus, the stay as to property of the bankruptcy estate has terminated. However, 11 U.S.C. § 362(a)(5) provides that the automatic stay applies to:

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

Thus, to avoid any confusion concerning “property of the debtor” in connection with the requested relief, requesting such relief is proper.

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

The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due, and West Debtor and Event Debtor failing to pay taxes and insurance on the Properties. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

11 U.S.C. § 362(d)(2)

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

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

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to

conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

Attorneys' Fees Requested
Request for Attorneys' Fees

Movant requests the court award attorney's fees in connection with this Motion pursuant to the Note (Section 6(E)) and Deed of Trust (Section 15(b)) securing Movant's claim and pursuant to 11 U.S.C. Section 506(b). Mot. 3:21-23. Movant has identified the relevant provisions permitting it an award of attorney's fees as the prevailing party. However, Movant has not identified an amount of attorney's fees being requested, and it is not otherwise clear in the declaration in support.

At the hearing, **XXXXXXX**

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

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, so that any foreclosure sale may be held promptly, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 2:13-15.

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

No other or additional relief is granted by the court.

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

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

The Motion for Relief from the Automatic Stay filed by Qualfax, Inc., its successors and/or assignees ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the to the following parcels of real property:

1. 2961 Fulton Avenue, Sacramento, CA 95821 ("Fulton Property");
2. 2501 Marconi Avenue, Sacramento, CA 95821 ("Marconi Property"); and

3. 11354 White Rock Road, Rancho Cordova, CA 95742 (“White Rock Property”);

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

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

IT IS FURTHER ORDERED that Movant is awarded attorneys’ fees in the amount of **XXXXXXX** for all matters relating to this Motion.

No other or additional relief is granted.

FINAL RULINGS

4. [25-21587-E-7](#)
[DWE-1](#)

ADAM/SHELLY GUSMAN
Pauldeep Bains

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-8-25 [\[36\]](#)

NAVY FEDERAL CREDIT UNION
VS.

Final Ruling: No appearance at the August 7, 2025 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor on July 8, 2025. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

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

The Motion for Relief from the Automatic Stay is granted.

Navy Federal Credit Union ("Movant") seeks relief from the automatic stay with respect to Adam Lee Gusman and Shelly Diane Gusman's ("Debtor") real property commonly known as 8769 Redwood Grove Way, Elk Grove, CA 95624 ("Property"). Movant has provided the Declaration of Kelle Douglas to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 40.

Movant argues Debtor has not made three post-petition payments, with a total of \$9,680.68 in post-petition payments past due. Declaration ¶ 7, Docket 40.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$532,423.11 (*Id.* at ¶ 6), while the value of the Property is determined to be \$518,504.00, as stated in Schedules A/B and D filed by Debtor. Am. Schedule A/B at 4, Docket 31.

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

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

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

11 U.S.C. § 362(d)(2)

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

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

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

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

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, as Debtor has no equity in the Property, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 2:20.

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

No other or additional relief is granted by the court.

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

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

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

IT IS ORDERED that the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 8769 Redwood Grove Way, Elk Grove, CA 95624 (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

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

No other or additional relief is granted.