

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Wednesday, August 24, 2022  
Place: Department A – Courtroom #11  
Fresno, California

*Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.*

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

1. [20-10010](#)-A-11     **IN RE: EDUARDO/AMALIA GARCIA**  
[LKW-39](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)  
7-29-2022     [\[1114\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING:             This matter will proceed as scheduled.

DISPOSITION:                     Granted.

ORDER:                             The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The Law Offices of Leonard K. Welsh ("Movant"), counsel for the debtors and debtors in possession Eduardo Zavala Garcia and Amalia Perez Garcia (collectively, "DIP"), requests allowance of interim compensation in the amount of \$8,610.00 and reimbursement for expenses in the amount of \$338.63 for services rendered from June 1, 2022 through June 30, 2022. Doc. #1114. This is Movant's fifteenth fee application in this case. The court has previously approved a total of \$182,640.26 in interim fees and expenses, of which \$162,442.20 have been paid to Movant. Doc. #1114.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a professional person. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #33. In determining the amount of reasonable compensation to be awarded to counsel, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) preparing, prosecuting and addressing opposition to DIP's motion to borrow \$4 million; (2) preparing a motion for authority to sell real property and obtaining employment of broker to sell same; (3) opposing and resolving motion for relief from stay brought by Stephanie Hudson; (4) negotiating with Ms. Hudson regarding the amount and allowance of her secured claim; (5) preparing and filing prior fee application; and (6) providing general case administration. Decl. of Leonard K. Welsh, Doc. #1118; Ex. B, Doc. #1116. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$8,610.00 and reimbursement of expenses in the amount of \$338.63. Movant is

allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

2. 20-10010-A-11      **IN RE: EDUARDO/AMALIA GARCIA**  
LKW-40

MOTION FOR ORDER REDUCING PRICE FOR PURCHASE OF REAL PROPERTY AND  
ADJUSTING DISTRIBUTION OF PROCEEDS RECEIVED FROM SALE  
7-29-2022    [1121]

AMALIA GARCIA/MV  
LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Conditionally granted.

ORDER:                        The minutes of the hearing will be the court's findings  
and conclusions. The Moving Party shall submit a proposed  
order after hearing.

This motion was filed and served on at least 14 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Among the assets of the estate is a single family residence located at 388 Tucker Street, Arvin, CA (the "Property"). Schedule A/B. Doc 1. Pursuant to a prior motion filed by Eduardo Zavala Garcia and Amalia Perez Garcia (together, "DIP"), the debtors and debtors in possession in this chapter 11 case, the court authorized the sale of the Property outside the ordinary course of business pursuant to 11 U.S.C. § 363(b)(1) to Isaac Martine Chavez Pena ("Buyer") for \$205,000.00 ("Sale Order"). Doc. #1092.

By this motion, DIP seek to reduce the purchase price for the Property from \$205,000.00 to \$175,000.00. Doc. #1121. DIP also seek to increase the distribution from sale proceeds to DIP's counsel from \$5,000.00 as set forth in the original motion to \$12,932.00. Id.

After the motion to sell the Property was granted and the Sale Order entered, DIP were informed that \$30,000.00 in repairs would need to be made to the Property before the sale could close. Decl. of Eduardo Zavala Garcia, Doc. #1123. DIP do not have \$30,000.00 to pay for the repairs needed to the Property, and Buyer has agreed to pay the costs of the repair if the purchase price for the Property is reduced by \$30,000.00. Id. DIP also seek to increase the distribution to DIP's counsel from \$5,000.00 as set forth in the original motion to \$12,932.00, to pay outstanding allowed fees and costs for the period from April 1, 2022 through May 31, 2022. Id.

The Property secures the claim of New Rez, LLC dba Shellpoint Mortgage ("Shellpoint"). DIP believe that the balance owed to Shellpoint based on Shellpoint's lien on the Property is \$82,000.00 as of June 15, 2022. Decl. of Eduardo Zavala Garcia, Doc. #1053. The Property also secures the claim of Helena Chemical Company ("Helena"). DIP believe that the balance owed to Helena is \$228,953.81 as of June 15, 2022. Garcia Decl., Doc. #1053. DIP propose to pay Helena \$60,168.00 from the sale of the Property. Decl. of Eduardo Zavala Garcia, Doc. #1123.

DIP believes that the \$175,000.00 proceeds received from the sale of the Property will be distributed to pay the Shellpoint lien of \$82,000.00 in full, real estate commission of \$8,750.00, costs of sale of \$6,150.00, attorney fees of \$12,932.00, and a seller credit of \$5,000.00. Garcia Decl., Doc. #1123. The Helena lien will be paid only \$60,168.00 from the Property proceeds and will not be paid in full. Id.

DIP contends the court has authority to reduce the proposed sale price for the Property and adjust the amounts to be distributed from those proceeds pursuant to 11 U.S.C. § 105(a), which provides: "The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

Buyer requires \$30,000.00 in repairs to the Property before Buyer will close on the authorized sale. DIP do not have \$30,000.00 to make the repairs, and Buyer is willing to pay the costs of the repairs that need to be made to the Property if the purchase price for the Property is reduced by \$30,000.00, or from \$205,000.00 to \$175,000.00. Permitting the reduction in the sale price will allow the sale to close and creditors to be paid.

The court finds that good cause exists pursuant to 11 U.S.C. § 105(a) to reduce the purchase price to be paid by Buyer for the Property to \$175,000.00, and to that extent the motion is GRANTED. With respect to the increased payment of attorneys' fees from the sale proceeds, the court will grant that part of the motion only upon the affirmative consent of Helena.

3. [20-10945](#)-A-12      **IN RE: AJITPAL SINGH AND JATINDERJEET SIHOTA**  
[LKW-3](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)  
8-2-2022    [\[225\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING:      This matter will proceed as scheduled.

DISPOSITION:      Granted.

ORDER:      The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is

proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The Law Offices of Leonard K. Welsh ("Movant"), successor counsel for Ajitpal Singh and Jatinderjeet Kaur Sihota (collectively, "Debtors"), the debtors in this chapter 12 case, requests allowance of interim compensation in the amount of \$7,142.50 and reimbursement for expenses in the amount of \$76.17 for services rendered from February 3, 2022 through June 30, 2022. Doc. #225. Movant requests that \$5,000.00 of the fees and expenses to be paid from money on deposit in the Attorney Trust Account and the remaining balance of the fees and expenses requested will be paid by Debtors from wages earned by Debtors and income generated from the operation of their business. Doc. #225; Decl. of Jatinderjeet Kaur Sihota, Doc. #227; Decl. of Leonard K. Welsh, Doc. #229.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 12 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 12 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) communicating with the chapter 12 trustee and creditors; (2) analyzing insurance issues relating to real property and reaching an agreement with secured creditor for that property; (3) advising Debtors about the lease to a family member of real property owned by Debtors; (4) obtaining employment as substitute counsel for Debtors; (5) advising Debtors regarding an adversary proceeding; and (6) general case administration. Exs. A & B, Doc. #228. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on a final basis.

This motion is GRANTED. The court allows interim compensation in the amount of \$7,142.50 and reimbursement for expenses in the amount of \$76.17 to be paid in a manner consistent with the terms of the confirmed plan. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any trust account held.

4. [20-10569](#)-A-12      **IN RE: BHAJAN SINGH AND BALVINDER KAUR**  
[LKW-3](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)  
8-3-2022    [\[462\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING:      This matter will proceed as scheduled.

DISPOSITION:              Granted.

ORDER:                      The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The Law Offices of Leonard K. Welsh ("Movant"), successor counsel for Bhajan Singh and Balvinder Kaur (collectively, "Debtors"), the debtors in this chapter 12 case, requests allowance of interim compensation in the amount of \$5,512.50 and reimbursement for expenses in the amount of \$78.38 for services rendered from February 3, 2022 through June 30, 2022. Doc. #462. Movant requests that \$5,000.00 of the fees and expenses to be paid from money on deposit in the Attorney Trust Account and the remaining balance of the fees and expenses requested will be paid by Debtors from income generated from the operation of their business. Doc. #462; Decl. of Leonard K. Welsh, Doc. #464; Decl. of Bhanjan Singh, Doc. #465.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 12 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 12 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) communicating with the chapter 12 trustee and creditors; (2) reviewing Debtors' chapter 12 plan and researching discharge available in the case; (3) advising Debtors regarding an adversary proceeding; (4) preparing and filing fee application; and (5) general case administration. Exs. A & B, Doc. #466. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows interim compensation in the amount of \$5,512.50 and reimbursement for expenses in the amount of \$78.38 to be paid in a manner consistent with the terms of the confirmed plan. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any trust account held.

5. [22-11080](#)-A-11 **IN RE: STANFORD CHOPPING, INC.**  
[CAE-1](#)

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
6-29-2022 [[1](#)]

DAVID JOHNSTON/ATTY. FOR DBT.  
DISMISSED 7/18/22

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Dropped from calendar

ORDER: The court will issue an order.

An order dismissing the bankruptcy case was entered on July 18, 2022. Doc. #16. Therefore, the status conference will be dropped from calendar.

6. [14-11595](#)-A-11 **IN RE: RAY FISHER PHARMACY, INC.**  
[PWC-10](#)

MOTION FOR FINAL DECREE AND ORDER CLOSING CASE  
7-27-2022 [[360](#)]

ALAN KINDRED/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the Notice of Hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice to include the names and addresses of persons who must be served with any opposition. Additionally, the motion does not comply with LBR 9004-2(c)(1), which requires declarations to be filed as separate documents. The four declarations filed in support of the Motion were filed together as an exhibit to the motion. Doc. #362. The court encourages counsel to review the local

rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Ray Fisher Pharmacy, Inc. ("Reorganized Debtor") moves the court for entry of the final decree pursuant to 11 U.S.C. § 350 and Federal Rule of Bankruptcy Procedure ("Rule") 3022. Doc. #360.

"After an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on a motion of a party in interest, shall enter a final decree closing the case." Fed. R. Bankr. P. 3022.

Neither the Bankruptcy Code nor the Federal Rules of Bankruptcy Procedure define "full administration" of a chapter 11 case, but the Advisory Committee Note to the 1991 amendments to Rule 3022 outline several factors the court should consider when making that determination. They include: (a) whether the confirmation order is final; (b) whether property proposed to be transferred under the plan has been transferred; (c) whether the debtor or successor to the debtor under the plan has assumed the business and management of the property dealt with under the plan; (d) whether the payments under the plan have commenced; and (e) whether all motions, contested matters, and adversary proceedings have been resolved.

The court finds that the order confirming the plan has become final, the new investors contributed \$115,000 to Reorganized Debtor upon confirmation of the plan, no property was to be sold under the plan, and the new investors, as the successors to Reorganized Debtor, assumed management and control of Reorganized Debtor's business operations in October 2021. Decl. of Scott Hiroshi Asai, Ex. D, Doc. #362. Reorganized Debtor has paid all allowed claims as required under the confirmed chapter 11 plan other than the re-negotiated balloon payment owed to Cardinal Health 110, LLC. Decl. of Roger Ferrante, Ex. C, Doc. #362. All motions, contested matters, and adversary proceedings have been finally resolved. Decl. of Scott Hiroshi Asai, Ex. D, Doc. #362.

Accordingly, this motion is GRANTED and a final decree shall be entered closing this case pursuant to the confirmed chapter 11 plan, Rule 3022, and 11 U.S.C. § 350.



1. [22-10898](#)-A-7     **IN RE: GEORGE/RENAY SORONDO**

REAFFIRMATION AGREEMENT WITH MARINER FINANCE LLC  
7-25-2022    [[24](#)]

TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Denied.

ORDER:             The court will issue an order.

The debtors' counsel will inform the debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship that has not been rebutted in the reaffirmation agreement. In this case, the debtors' attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

1. [22-10800](#)-A-7     **IN RE: HARSIMRANJIT BRAR**  
[JES-1](#)

MOTION TO SELL  
7-16-2022    [[16](#)]

JAMES SALVEN/MV  
PATRICIA CARRILLO/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled for higher and better offers.

DISPOSITION:                Granted.

ORDER:                        The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after the hearing.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled for higher and better offers. The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James E. Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Harsimranjit S. Brar ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 2003 BMW and a 2016 Dodge Ram (collectively, the "Vehicles") to Debtor for the total purchase price of \$21,000.00, subject to higher and better bids at the hearing. Doc. #16.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. #16; Decl. of James E. Salven, Doc. #18. Trustee's proposed sale to Debtor is made in consideration of the full and fair market value of the Vehicles less claimed exemption and outstanding encumbrance. Salven Decl., Doc. #18. Debtor offered to buy the Vehicles for the net purchase price of \$21,000.00, with \$3,000 to be paid immediately and \$3,000 to be paid per month for each of the next 6 months. Salven Decl., Doc. #18. The sale is subject to overbid at the hearing. Doc. #16. The court recognizes that no commission will need to be paid because the sale is to Debtor.

It appears that the sale of the estate's interest in the Vehicles to Debtor is in the best interests of the estate, the Vehicles will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Vehicles to Debtor on the terms set forth in the motion.

2. [21-12810](#)-A-7     **IN RE: RENEWABLE LEGACY LLC**  
[FW-7](#)

MOTION TO PAY  
7-26-2022    [\[84\]](#)

RENEWABLE LEGACY LLC/MV  
JUSTIN HARRIS/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Peter L. Fear ("Trustee"), the Chapter 7 trustee of the bankruptcy estate of Renewable Legacy LLC, moves the court for an order authorizing the payment of \$845.65 to the State of California Franchise Tax Board as an administrative tax expense and for authorization to pay any additional fees or penalties that may be assessed by the taxing authority. Doc. #84.

11 U.S.C. § 503(b)(1)(B) states that, after notice and a hearing, administrative expenses shall be allowed for "any tax [] incurred by the estate, whether secured or unsecured, including property taxes . . . except a tax of a kind specified in section 507(a)(8) of this title[.]" "Pursuant to this subsection of § 503, a claim is entitled to allowance as an administrative expense if two requirements are satisfied: the tax must be incurred by the estate and the tax must not be a tax of a kind specified in § 507[(a)(8)]." Towers for Pacific-Atlantic Trading Co. v. United States (In re Pacific-Atlantic Trading Co.), 64 F.3d 1292, 1298 (9th Cir. 1995). Here, Trustee has shown that the tax was incurred by the estate, and the tax is not a tax of the kind specified in § 507(a)(8).

Accordingly, this motion is GRANTED.

3. [22-10212](#)-A-7     **IN RE: DAVID/HADASSAH FLEISCHER**  
[JES-1](#)

MOTION TO SELL  
7-14-2022    [\[36\]](#)

JAMES SALVEN/MV  
GRISELDA TORRES/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled for higher and better offers.

DISPOSITION:                Granted.

ORDER:                        The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after the hearing.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled for higher and better offers. The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James E. Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of David Fleischer and Hadassah Fleischer (collectively, "Debtors"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 2005 Cadillac Escalade (the "Vehicle") to Debtors for the purchase price of \$2,250.00, subject to higher and better bids at the hearing. Doc. #36.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed

in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. #36; Decl. of James E. Salven, Doc. #38. Trustee's proposed sale to Debtors is made in consideration of the full and fair market value of the Vehicle less Debtors' claimed exemption. Salven Decl., Doc. #38. Debtors offered to buy the Vehicle for the net purchase price of \$2,250.00, subject to overbid at the hearing. Doc. #36. The funds have been received by Trustee. Salven Decl., Doc. #38. The court recognizes that no commission will need to be paid because the sale is to Debtors.

It appears that the sale of the estate's interest in the Vehicle to Debtors is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Vehicle to Debtors on the terms set forth in the motion.

4. [18-14920](#)-A-7      **IN RE: SOUTH LAKES DAIRY FARM, A CALIFORNIA  
[SJS-4](#)                      GENERAL PARTNERSHIP**

MOTION FOR COMPENSATION BY THE LAW OFFICE OF SLACK LAW GROUP APC  
FOR SHANON J. SLACK, TRUSTEES ATTORNEY(S)  
7-19-2022    [\[428\]](#)

JACOB EATON/ATTY. FOR DBT.

FINAL RULING:      There will be no hearing on this matter.

DISPOSITION:      Denied without prejudice.

ORDER:              The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

The Clerk's Matrix of Creditors used by the moving party to serve notice of the motion does not comply with Local Rule of Practice ("LBR") 7005-1(c), which requires that the Clerk's Matrix of Creditors used to serve a notice be downloaded not more than 7 days prior to the date notice is served. Here, the moving party served notice of the motion on July 19, 2022 using a Clerk's Matrix of Creditors that was generated on August 16, 2021. Doc. #434. Accordingly, service of notice of the motion does not comply LBR 7005-1(c).

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13  
7-15-2022    [\[21\]](#)

MICHAEL MOORE/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the Notice of Hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(iii), which requires the notice to advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling by viewing the court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules. The rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

Amy Lockwood ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 706(a) to convert this chapter 7 case to a case under chapter 13. Doc. #21.

Bankruptcy Code § 706(a) authorizes a debtor to convert a case under chapter 7 to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title. 11 U.S.C. § 706(a). Any waiver of the right to convert a case under this subsection is unenforceable. Id.

Debtor filed a voluntary petition under chapter 7 on March 31, 2022. Doc. #1. On May 9, 2022, the meeting of creditors was conducted and concluded shortly thereafter. The chapter 7 trustee subsequently filed a report of no distribution, stating there are no funds available from the estate for distribution to creditors. Doc. #11. Debtor initially filed a motion to convert her case to chapter 13 on June 22, 2022. Doc. #15. However, that motion was not

set for hearing on notice to creditors. On July 5, 2022, the United States Trustee filed a stipulation extending the deadline for the United States Trustee to seek dismissal of Debtor's bankruptcy case pursuant to § 707(b) (1) and (3) to August 19, 2022. Doc. #19; Order, Doc. #20.

On July 15, 2022, Debtor filed this motion to convert her case to chapter 13. Doc. #21. The United States Trustee, the chapter 7 trustee and all creditors were duly, timely, and properly served with the motion to convert. Doc. ##26, 28. On August 19, 2022, the United States Trustee filed a stipulation further extending the deadline for the United States Trustee to seek dismissal of Debtor's bankruptcy case pursuant to § 707(b) (1) and (3) to September 23, 2022. Doc. #29; Order, Doc. #30.

Debtor acknowledges that her income was understated due to confusion on what is considered income, and Debtor mistakenly failed to include income from her job that was received from bonuses and cashing out of stock options. Decl. of Amy Lockwood, Doc. #23. Debtor asserts she has a regular income and her income is sufficient to fund the proposed plan payments. Lockwood Decl., Doc. #23. Moreover, this case has not been previously converted under section 1112, 1208, or 1307.

Accordingly, this motion will be GRANTED.

6. [22-11177](#)-A-7     **IN RE: AURELIO RAMIREZ**  
[MET-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-25-2022    [\[12\]](#)

BANK OF THE WEST/MV  
T. O'TOOLE/ATTY. FOR DBT.  
MARY TANG/ATTY. FOR MV.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f) (1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f) (1) (B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Bank of the West ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2018 Hyundai Tucson ("Vehicle"). Doc. #12.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least thirty-three complete pre-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$17,175.84. Doc. #14, 15.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at \$18,750.00, and the debtor owes \$36,394.97. Doc. #15.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit 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. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #1.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least thirty-three pre-petition payments to Movant and the Vehicle is a depreciating asset.

7. [22-10971](#)-A-7     **IN RE: LAPLASHAY MAXIE**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
7-19-2022     [[10](#)]

TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Conditionally denied.

ORDER:     The court will issue the order.

The chapter 7 trustee's motion to dismiss is **CONDITIONALLY DENIED**.

The debtor shall attend the meeting of creditors rescheduled for August 22, 2022 at 3:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.



The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.