UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

September 9, 2013 at 10:00 a.m.

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

2, 3, 5, 6, 8

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 OCTOBER 7, 2013 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY SEPTEMBER 23, 2013, AND ANY REPLY MUST BE FILED AND SERVED BY SEPTEMBER 30, 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. 13-25413-A-7 ANTOINEESHA MENEESE — MOTION TO DISMISS CASE
SKS-1 — 8-7-13 [45]

Tentative Ruling: The motion will be conditionally denied.

The trustee moves for dismissal because the debtor did not attend the meeting of creditors held on August 7, 2013.

The debtor responds that she missed the meeting because of "exigent circumstances relating to [her] health." She says she "can go back to the doctor in order to demonstrate the validity of the circumstances that caused [her] absence and failure to appear."

Given that the debtor had health issues prohibiting her from appearing at the August 7 meeting, the motion will be denied and the case will not be dismissed. However, because the meeting of creditors was continued to September 13, 2013 at 3:30 p.m., the court will order that the deadlines for filing complaints under 11 U.S.C. §§ 523 and 727 and filing motions to dismiss under 11 U.S.C. § 707 be extended by 60 days. The deadlines will be extended from July 29, 2013 to September 27, 2013. Further, if the debtor fails to appear at the continued meeting, the case will be dismissed on the trustee's ex parte application.

2. 13-28318-A-7 WILLIS/VICKIE MARZOLF — OBJECTION TO EXEMPTIONS
SLF-2 — 7-25-13 [23]

Tentative Ruling: The objection will be sustained.

The trustee objects to the debtors' exemptions in Schedule C because they are using both the regular and special exemptions under California law (Cal. Civ. Proc. Code §§ 703.010-703.150 and §§ 704.010-704.850, respectively).

The debtors oppose the objection despite acknowledging that they cannot use both sets of exemptions. Their opposition is merely a request that they be permitted to amend Schedule C and their exemptions. Given this, the court will sustain the objection, without prejudice to the debtors amending their exemptions.

3. 13-29229-A-7 CARRIE WILSON — MOTION FOR RELIEF FROM AUTOMATIC STAY
SW-1 — 8-15-13 [10]
WELLS FARGO BANK, N.A. VS.

Tentative Ruling: The motion will be dismissed as moot.

The movant, Wells Fargo Bank, seeks relief from the automatic stay with respect to a 2012 Toyota Camry vehicle.

11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7 debtor to file a statement of intention with reference to property that secures a debt. The statement must be filed within 30 days of the filing of the petition (or within 30 days of a conversion order, when applicable) or by the date of the meeting of creditors, whichever is earlier. The debtor must disclose in the statement whether he or she intends to retain or surrender the property, whether the property is claimed as exempt, and whether the debtor intends to redeem such

property or reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A); Fed. R. Bankr. P. 1019(1)(B).

The petition here was filed on July 11, 2013 and a meeting of creditors was first convened on August 20, 2013. Therefore, a statement of intention that refers to the movant's property and debt was due no later than August 10. The debtor filed a statement of intention on the petition date, indicating an intent to retain the vehicle but without indicating whether the debt secured by the vehicle will be reaffirmed or the vehicle will be redeemed.

If the property securing the debt is personal property and an individual chapter 7 debtor fails to file a statement of intention, or fails to indicate in the statement that he or she either will redeem the property or enter into a reaffirmation agreement, or fails to timely surrender, redeem, or reaffirm, the automatic stay is automatically terminated and the property is no longer property of the bankruptcy estate. See 11 U.S.C. § 362(h).

Here, although the debtor indicated an intent to retain the vehicle, the debtor did not state whether the debt secured by the vehicle will be reaffirmed or the vehicle will be redeemed. And, no reaffirmation agreement or motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on August 10, 2013, 30 days after the petition date.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired. The court also notes that the trustee filed a "no-asset" report on August 21, 2013, indicating an intent not to administer the vehicle or any other assets.

Therefore, without this motion being filed, the automatic stay terminated on August 10, 2013.

Nothing in section 362(h)(1), however, permits the court to issue an order confirming the automatic stay's termination. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming that the automatic stay has terminated under 11 U.S.C. § 362(c). See also 11 U.S.C. § 362(c)(4)(A)(ii). But, this case does not implicate section 362(c). Section 362(h) is applicable and it does not provide for the issuance of an order confirming the termination of the automatic stay. Therefore, if the movant needs a declaration of rights under section 362(h), an adversary proceeding seeking such declaration is necessary. See Fed. R. Bankr. P. 7001.

4. 13-25844-A-7 LEVI/KIMBERLEE DELANEY — MOTION TO REDEEM
DBJ-2 — 7-30-13 [30]

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks to redeem a 2011 Dodge Caravan vehicle for $15,315. The vehicle is encumbered by a $24,672 claim in favor of Santander Consumer.

The motion will be denied for one single reason. The vehicle has not been claimed as exempt and has not been abandoned. 11 U.S.C. § 554(a) and (b) and Fed. R. Bankr. P. 6007(a) require a notice and a hearing.

5. 10-42450-A-7 ROBERT MATTHEWS — MOTION TO SELL AND APPROVE COMPROMISE
MJO-1 — 8-5-13 [108]

Tentative Ruling: The motion will be granted.

The trustee seeks approval of a sale and settlement agreement with Robert Williams. The agreement resolves two pending claims against Mr. Williams - for accounting and turnover of personal property items - and provides for the sale of the personal property (61 items) and the pending litigation claims to Mr. Williams. The tangible personal property assets are described in more detail in the motion.

The trustee's claims pending against Mr. Williams arose as follows. Mr. Williams agreed to purchase the personal property from the trustee subject to court approval. But, Mr. Williams did not appear at the hearing on the trustee's sale motion, and because an over-bidder came to the hearing, willing to pay more for the property, the court denied the motion to sell the property to Mr. Williams. Mr. Williams, however, refused to turn over the property back to the trustee. By the time the court denied the sale to Mr. Williams, he had already disposed of and made significant improvements on some of the property items. The trustee filed an adversary proceeding against Mr. Williams, seeking an accounting and turnover of the property.

After some settlement negotiations, the parties have agreed to enter into the subject agreement.

The sale is "as is," "where is" and "with all faults." The proposed purchase price is $40,000, translating into a net purchase price of $35,000 to Mr. Williams, after taking into account a $5,000 credit to him for improvements he made on some assets.

11 U.S.C. Section 363(b) allows trustee to sell property of the estate, other than in the ordinary course of business.

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 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 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.

As the proposed sale will generate some funds for distribution to creditors, will avoid the further costs of a public auction of the tangible assets, and

will cut short the expenses the estate is incurring in litigating the pending claims, sale of the assets is in the best interest of the creditors and the estate. Accordingly, the sale will be approved under 11 U.S.C. § 363(b).

In addition, the court will waive the 14-day period of Fed. R. Bankr. P. 6004(h) and will make a good faith finding under 11 U.S.C. § 363(m) with respect to Mr. Williams.

Assuming the assets sell to Mr. Williams, the court will approve the agreement also as a compromise.

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the small amount at stake, given that Mr. Williams has disposed of some personal property items already, and given the inherent costs, risks, delay and inconvenience of further litigation, the subject agreement 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.

6. 10-42450-A-7 ROBERT MATTHEWS — STATUS CONFERENCE
12-2642 — 11-7-12 [1]
FERLMANN V. WILLIAMS

Tentative Ruling: The dismissal or judgment required by the compromise shall be lodged within 14 days.

7. 13-26551-A-7 MICHAEL HOLT — MOTION TO SELL
SLF-8 — 8-1-13 [87]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $400,000 the estate's 50% interest in Silicon Valley Holding, L.L.C. to Wolfgang Remkes, who owns the other 50% interest in the L.L.C. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h).

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business.

The debtor scheduled the value of his interest in the L.L.C. at $440,000. But, the proposed purchase price takes into consideration the following:

- The value and encumbrances of real property the L.L.C. owns;

- An L.L.C. bank account with a balance of approximately $42,128;

- A corporation of which the debtor is a sole shareholder corporation, Asset Strategies & Management, Inc., is a lessor in the real property owned by the L.L.C., and ASM is $41,991.68 delinquent under the lease agreement; and

- The debtor has guaranteed the obligations of ASM under the lease agreement.

The sale will generate substantial 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. The court will waive the 14-day period of Rule 6004(h).

8. 13-29163-A-7 STEPHEN/ASHLEY POGODZINSKI — MOTION FOR RELIEF FROM AUTOMATIC STAY
SW-1 — 8-15-13 [10]
WELLS FARGO BANK, N.A. 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.

The movant, Wells Fargo Bank, seeks relief from the automatic stay with respect to a 2011 Kia Sorento. The movant has produced evidence that the vehicle has a value of $12,396 and its secured claim is approximately $15,188.

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 August 14, 2013. And, in the statement of intention, the debtor has indicated an intent to surrender 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 repossess its collateral, dispose of it 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's vehicle is being used by the debtor without compensation and is depreciating in value.

9. 13-26969-A-7 VASILICA MICSUNESCU — MOTION TO CONFIRM ABSENCE OF AUTOMATIC STAY
NATIONSTAR MORTGAGE, L.L.C. VS. — 7-31-13 [11]

Tentative Ruling: The motion will be granted in part.

The movant, Nationstar Mortgage, seeks confirmation under 11 U.S.C. § 362(j) that the automatic stay is no longer in effect as to real property in

Sacramento, California because the trustee abandoned the property, which serves as collateral for a loan held by or serviced by the movant. See 11 U.S.C. § 362(c)(1).

The court disagrees. Assuming 11 U.S.C. § 362(c)(1) applies, abandonment is effective to extinguish the automatic stay only as to the property of the estate. The automatic stay does not expire as to the debtor or the property of the debtor.

More important, there has been no order abandoning the subject property. While it is true that the trustee issued a report of no distribution on July 2, 2013 in this case, such report does not have the effect of abandoning any property of the estate. Only the court may order the abandonment of property prior to the case being closed. 11 U.S.C. § 554(a) and (b) and Fed. R. Bankr. P. 6007(a) require a notice and a hearing.

Nevertheless, the court will confirm the absence of the stay under 11 U.S.C. § 362(j) because of 11 U.S.C. § 362(c)(3)(A), which provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 (13 or 11) after dismissal under section 707(b), the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case. Section 362(c)(3)(B) allows any party in interest to file a motion requesting the continuation of the stay.

On January 14, 2011, the debtor filed a chapter 13 case (case no. 11-21092). But, the court dismissed that case on March 25, 2013 due to the debtor's failure to make plan payments. The debtor filed the instant case on May 22, 2013. The chapter 13 case was pending within one year of the filing of the instant case. The court has reviewed the docket of the instant case and no motions for continuation of the automatic stay under 11 U.S.C. § 362(c)(3)(B) have been timely filed.

Hence, the automatic stay in the instant case expired in its entirety as to the subject property on June 21, 2013, 30 days after the debtor filed the present case. See 11 U.S.C. § 362(c)(3)(A); see also Reswick v. Reswick (In re Reswick), 446 B.R. 362, 371-73 (B.A.P. 9th Cir. 2011) (holding that when a debtor commences a second bankruptcy case within a year of the earlier case's dismissal, the automatic stay terminates *in its entirety* on the 30th day after the second petition date).

The court will confirm that the automatic stay in the instant case expired with respect to the subject property on June 21, 2013, 30 days after the debtor filed the present case. See 11 U.S.C. §§ 362(c)(3)(A) and 362(j). The motion will be granted in part.

10. 10-39672-A-11 MATTERHORN GROUP, INC. STATUS CONFERENCE
7-26-10 [1]

Tentative Ruling: None.

11. 10-39672-A-11 MATTERHORN GROUP, INC. MOTION TO
LNB-12 USE CASH COLLATERAL
10-18-10 [297]

Tentative Ruling: None.

12. 10-39672-A-11 MATTERHORN GROUP, INC. — MOTION TO APPROVE COMPENSATION OF SPECIAL COUNSEL (FEES $24,475.30, EXP. $726.80) 8-12-13 [1546]
LNB-15

Tentative Ruling: The motion will be granted as provided in the ruling below.

Baker & Hostetler, special labor and employment law counsel for the debtors, has filed its first and final motion for approval of compensation.

The requested compensation consists of $24,475 in fees and $726.80 in expenses, for a total of $25,201.80. Without explanation though, the movant is seeking only $25,001.80 in fees and expenses. It is unclear from the motion whether the compensation request of $25,001.80 is a mathematical miscalculation or a reduction of the fees and costs by $200.

The compensation was incurred from September 14, 2010 through October 22, 2010. The court approved the movant's employment as the debtors' special counsel on November 30, 2010. Docket 523. In performing its services, the movant charged hourly rates of $290, $300, $485 and $500.

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 consisted of representing the estates in all labor and employment law matters, including, without limitation, negotiating with the debtors' unions about issues pertaining to the sale of the debtors' assets.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation of $25,001.80 will be approved.

13. 10-39672-A-11 MATTERHORN GROUP, INC. — MOTION TO DISMISS CASE AND FOR DISTRIBUTION OF REMAINING ESTATE FUNDS 6-14-13 [1501]
LNB-95

Tentative Ruling: The motion will be granted.

The debtors are asking the court to dismiss the debtors' respective cases and to authorize the debtors to distribute the remaining estate funds as follows. The debtors are holding $705,166.78 of cash on hand. All objections to administrative and pre-petition priority claims have been resolved. There is a total of $311,309.68 of allowed nonprofessional administrative claims, all of which will be paid in full upon dismissal of the cases. There is a total of $204,154.97 of allowed pre-petition priority claims, all of which will be paid in full upon dismissal of the cases.

After payment of all of these allowed administrative and priority claims, a balance of $189,702.13 of cash will remain. After payment of the fees and costs incurred by the debtors' counsel ($28,242.60 still unpaid - Docket 1533) and the official committee of unsecured creditors' counsel ($8,409.60 still unpaid - Docket 1525 at 6), the payment of the quarterly fees to the U.S. Trustee ($975) and the payment of the $5,000 flat fee to the debtors' senior

officer, the estates will have $147,074.93 remaining. From this sum, the debtors will have to pay the administrative claim of their labor law counsel, estimated in the amount of approximately $28,000 (actually approximately $25,202).

This will leave approximately $121,872.93 available for pro rata distribution to the $18,371,264.47 in general unsecured claims, including the bank's unsecured deficiency claim. As the $121,872.93 figure does not exceed $135,475.95, there will be no surplus beyond $135,475.95 from which the bank is to receive 85% under its agreement with the debtors. Under the agreement with the bank, post-dismissal recoveries will be distributed 85% to the bank and 15% to general unsecured creditors on prorata basis.

The court will authorize the debtors to distribute the remaining funds in the estate as proposed above.

As all of the debtors' known assets have been liquidated and all causes of action and proofs of claim have been resolved, the court will order dismissal of the cases under 11 U.S.C. § 1112(b)(1). The alternatives of prosecuting the confirmation of a liquidation chapter 11 plan or conversion to chapter 7 are costly and will deplete the little funds available for distribution to general unsecured creditors. The court also notes that the bank and committee are agreeable to dismissal of the cases. The cases will be dismissed and the motion will be granted. No other relief will be ordered.

THE FINAL RULINGS BEGIN HERE

14. 13-27100-A-7 FORTUNATO/SANDRA GARCIA — MOTION TO COMPEL ABANDONMENT 7-17-13 [27]
JM-1

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

The motion will be granted.

The court continued the hearing on this motion to allow the debtors to supplement the record. The debtors filed an amended declaration on August 30, 2013.

The debtors move for abandonment of a sole proprietorship janitor 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 janitorial carts, mop heads and poles, mop buckets, brooms, a vacuum machine, cleaning supplies, caster wheeled garbage can, and a 2003 Chevrolet Avalanche.

The assets have been claimed as exempt in their entirety in Schedule C. Given the exemption claims, the court concludes that the business, to the extent of the assets listed in the motion, is of inconsequential value to the estate. The court also notes that the trustee has filed a non-opposition to this motion. The motion will be granted.

15. 11-27005-A-7 MARIE MALLARE — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT (FEES $3,542) 8-8-13 [154]
SSA-7

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.

Maria Stokman of Atherton & Associates, accountant for the estate, has filed a first and final motion for approval of compensation. The requested compensation consists of $3,542 in fees and $0.00 in expenses. This motion covers the period from July 19, 2011 through June 14, 2013. The court approved the movant's employment as the estate's accountant on August 9, 2011. In

performing its services, the movant charged an hourly rate of $230.

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 communicating with the trustee, preparing tax projections and preparing estate 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.

16. 11-27005-A-7 MARIE MALLARE
SSA-8

MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY (FEES $44,512.50, EXP. $1,800.40)
8-8-13 [160]

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.

Steven Altman, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $44,512.50 in fees and $1,800.40 in expenses, for a total of $46,312.90. This motion covers the period from May 24, 2011 through August 8, 2013. The court approved the movant's employment as the trustee's attorney on June 8, 2011. In performing its services, the movant charged an hourly rate of $250.

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 assets for administration,

(2) communicating with a creditor, Peak Financial, about its claim and the disposition of property in San Francisco, California,

(3) requesting information from the debtor,

(4) analyzing the claim of the IRS,

(5) preparing and prosecuting motion to extend time for objecting to discharge,

(6) preparing and prosecuting a nondischargeability complaint against the debtor,

(7) preparing and prosecuting a complaint for the sale of the San Francisco property,

(8) objecting to the debtor's exemption in the property,

(9) analyzing tax issues with the assistance of the estate's accountant,

(10) communicating with the trustee about various administration issues,

(11) negotiating with the creditors secured by the San Francisco property, and

(12) 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.

17. 13-23107-A-7 DBJ-3 — JOHN/DEBORAH PARRY — MOTION TO REDEEM 7-30-13 [37]

Final Ruling: This motion has been voluntarily dismissed by the moving party. Docket 48.

18. 12-34508-A-7 DMB-5 — CHRISTOPHER/DANIELLE RENO — MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY (FEES $2,000, EXP. $1,739.58) 8-6-13 [46]

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.

Maire & Burgess, special counsel for the trustee, has filed its first and what appears to be final motion for approval of compensation. The requested compensation consists of $2,000 in fees and $1,739.58 in expenses, for a total of $3,739.58. This motion covers the period from October 16, 2012 through April 23, 2013. The court approved the movant's employment as the trustee's special counsel on October 17, 2012. The court entered an amended order approving the employment of the movant on July 31, 2013. Docket 45. The movant requests approval of the compensation based on a 40% contingency fee arrangement. The movant recovered $5,000 for 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." The movant's services included, without limitation, representing the estate in what appears to be state court tort litigation against several defendants.

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.

19. 13-22610-A-7 DANNY/MELINDA BURNS — MOTION FOR RELIEF FROM AUTOMATIC STAY
PD-1
WELLS FARGO BANK, N.A. VS. — 8-6-13 [20]

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 in part and dismissed as moot in part.

The movant, Wells Fargo Bank, seeks relief from the automatic stay as to real property in Magalia, California.

Given the entry of the debtor's discharge on July 1, 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 $160,000 and it is encumbered by claims totaling approximately $211,278. The movant's deed is the only deed against the property, securing a claim of approximately $210,418.

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.

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.

20. 12-28413-A-7 F. RODGERS CORPORATION — MOTION FOR RELIEF FROM AUTOMATIC STAY
JCT-3 — 8-5-13 [522]
MORRISON HOMES, INC. 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, Morrison Homes, Inc., seeks relief from the automatic stay to proceed against the debtor with construction defect cross claims in a pending state court litigation. Recovery will be limited to available insurance coverage, if any.

Given that the movant 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 movant 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 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 ordered waived.

21. 13-25413-A-7 ANTOINEESHA MENEESE — ORDER TO SHOW CAUSE
8-8-13 [47]

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 Schedule F on July 31, 2013, but did not pay the $30 filing fee. However, the debtor paid the fee on August 12, 2013. No prejudice has resulted from the delay.

22. 13-28318-A-7 WILLIS/VICKIE MARZOLF — MOTION FOR RELIEF FROM AUTOMATIC STAY
BER-1 — 8-9-13 [27]
FINANCIAL CENTER C.U. VS.

Final Ruling: The motion will be dismissed without prejudice because it has not been served on counsel for the trustee.

23. 13-28318-A-7 WILLIS/VICKIE MARZOLF — MOTION TO CONVERT CASE
PK-1 — 8-26-13 [44]

Final Ruling: The motion will be dismissed without prejudice because it violates Fed. R. Bankr. P. 2002(a)(4), which requires that the movant give at least 21 days' notice of the hearing on a motion to convert. Here, the debtor has given only 14 days' notice of the September 9 hearing on the motion. The motion papers were served on August 26, 2013. Docket 53.

The motion will be dismissed also because it violates Local Bankruptcy Rule 9014-1(e)(2), which requires: "A proof of service, in the form of a certificate of service, shall be filed with the Clerk concurrently with the pleadings or documents served, or not more than three (3) days after they are filed."

The motion also violates Local Bankruptcy Rule 9014-1(f)(2), which requires that all motion papers be filed with the court at least 14 days prior to the hearing.

The proof of service for this motion was filed on August 31, 2013, five days after the other motion papers were filed with the court, and only 9 days prior to the September 9 hearing. Docket 53.

24. 13-28318-A-7 WILLIS/VICKIE MARZOLF — MOTION TO EMPLOY
SLF-3 — 8-9-13 [34]

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 to employ Bob Brazeal of PMZ Real Estate as a real estate broker for the estate. Mr. Brazeal will assist the estate with the valuing, marketing and potentially listing the sale of two real properties in Lodi, California. The proposed compensation for Mr. Brazeal is $110 an hour for consulting services for properties the trustee decides not to sell, while for properties the trustee sells Mr. Brazeal will be compensated a six percent (6%) commission of the gross sales price.

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. The employment will be approved.

25. 13-30321-A-7 TAISA BRUTSKAYA — MOTION TO AVOID JUDICIAL LIEN
MS-1
VS. CAVALRY PORTFOLIO SERVICES, L.L.C. — 8-6-13 [6]

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 respondent creditor 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.

A judgment was entered against the debtor in favor of Calvary Portfolio Services, L.L.C. for the sum of $6,023.12 on June 3, 2011. The abstract of judgment was recorded with Sacramento County on March 13, 2012. That lien attached to the debtor's residential real property in Antelope, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). Pursuant to the debtor's Schedule A, the subject real property has an approximate value of $228,487 as of the date of the petition. The unavoidable liens total $268,051.29 on that same date, consisting of a sole mortgage in favor of OneWest Bank. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $1.00 in Schedule C.

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).

26. 13-27526-A-7 STEPHEN/WENDY BATES — MOTION FOR RELIEF FROM AUTOMATIC STAY
KMR-1
WELLS FARGO BANK, N.A. VS. — 8-2-13 [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, Wells Fargo Bank, seeks relief from the automatic stay as to real property in Stockton, California. The property has a value of $93,500 and it is encumbered by claims totaling approximately $177,400. The movant's deed is in first priority position and secures a claim of approximately $139,591.

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 3, 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.

27. 13-28526-A-7 CARL/MICOLE JOHNSON
TJS-1
JPMORGAN CHASE BANK, N.A. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
7-31-13 [9]

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, JPMorgan Chase Bank, seeks relief from the automatic stay with

respect to a 2003 Toyota Sequoia vehicle. The vehicle has a value of $18,000 in Schedule B and $14,726 according to the movant, and its secured claim is approximately $20,430.

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 August 5, 2013.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, dispose of it 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's vehicle is being used by the debtor without compensation and is depreciating in value.

28. 13-29629-A-7 ALBERTO MENDOZA — MOTION TO COMPEL ABANDONMENT 8-26-13 [9]
TOG-3

Final Ruling: The motion will be dismissed without prejudice because the court does not have evidence that it was served on all creditors as required by Fed. R. Bankr. P. 6007(a). The evidence of service is Docket 13, which reveals that only the U.S. Trustee and the chapter 7 trustee were served with the motion.

29. 13-26641-A-7 OLA JOSEPH — MOTION TO CONVERT CASE 8-9-13 [23]
JCK-4

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 conversion from chapter 7 to chapter 13.

Given the Supreme Court's decision in Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is

any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

Among the eligibility requirements for relief under chapter 13 are the requirements that the debtor must have regular income and owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $383,175 and noncontingent, liquidated, secured debts of less than $1,149,525. 11 U.S.C. § 109(e).

The court has reviewed the record and concludes that the debtors are not seeking the conversion for an improper purpose or in bad faith and there is no cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c).

The debtor has produced evidence that he will be amending Schedules I and J to reflect him no longer paying $1,100 in rent as he is living with his sister now, rent free apparently. This will provide the debtor with $640 of monthly disposable income. The income appears to be regular as it consists of the operation of a convenience store. And, the debtor has noncontingent, liquidated secured debt in amount less than $1,149,525 (actual amount is $0.00) and noncontingent, liquidated unsecured debt in amount less than $383,175 (actual amount is $46,074). Given the foregoing, the court concludes that the debtor is eligible for chapter 13 relief as prescribed by Marrama. The motion will be granted.

30. 13-28442-A-7 KIMBERLY/CHRIS FIELDS
NLG-1
NATIONSTAR MORTGAGE, L.L.C. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
7-30-13 [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, Nationstar Mortgage, seeks relief from the automatic stay as to real property in Ione, California. The property has a value of $123,100 and it is encumbered by claims totaling approximately $265,333. The movant's deed is in first priority position and secures a claim of approximately $208,395.

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 30, 2013.

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.

31. 12-37951-A-7 DANIEL/SHARON MCDONALD — MOTION FOR RELIEF FROM AUTOMATIC STAY
PD-1 — 8-7-13 [20]
DEUTSCHE BANK NATIONAL TRUST CO. 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 in part and dismissed as moot in part.

The movant, Deutsche Bank National Trust Company, seeks relief from the automatic stay as to real property in Kelsey, California.

Given the entry of the debtor's discharge on January 22, 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 $398,000 and it is encumbered by claims totaling approximately $376,282. The movant's deed is the only encumbrance against the property. Although the movant has added sale costs with the claims secured by the property, sale costs are not encumbrances against the property and are not part of the equity analysis conducted under 11 U.S.C. § 362(d)(2).

Nevertheless, the trustee filed a report of no distribution on July 24, 2013. 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.

32. 12-38363-A-7 WILLIAM ST CLAIR — MOTION TO EXTEND DEADLINE 8-5-13 [152]
PA-10

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 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.

Creditor Leo Speckert as trustee of California Capital Loans, Inc., Profit Sharing Plan, moves for a 91-day extension, from August 5 to November 4, 2013, of the deadlines for filing complaints objecting to discharge and determining the dischargeability of debts pursuant to 11 U.S.C. §§ 727 and 523.

Fed. R. Bankr. P. 4004(b) provides that the court may extend the deadline for filing section 727 complaints for cause. Fed. R. Bankr. P. 4007(c) provides that the court may extend the deadline for filing section 523 complaints for cause. The motions must be filed before the deadlines expire.

The deadline for filing 11 U.S.C. §§ 727 and 523 complaints is August 5, 2013. This motion is timely as it was filed on August 5.

The movant is asking for extension of the deadlines because he needs more time to determine whether filing of 11 U.S.C. §§ 727 and/or 523 complaints is warranted. Particularly, the movant is about to foreclose on property that is in a trust, as to which the debtor and his daughter have asserted rights that appear to be inconsistent with representations the debtor made in obtaining a loan with the movant pre-petition. The movant needs more time to determine the exact nature of the assertions of the debtor and his daughter as to the property.

Given the need of more time for the movant to investigate claims under 11 U.S.C. §§ 727 and/or 523, cause for extension of the deadlines exists. The motion will be granted and the deadlines will be extended to November 4, 2013.

33. 12-33467-A-7 RONALD DUNCAN — MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY (FEES $16,020, EXP. $33.20) 8-12-13 [120]
LR-7

Final Ruling: The motion will be dismissed without prejudice.

The notice of hearing is not accurate. It states that written opposition need not be filed by the respondent. Instead, the notice advises the respondent to oppose the motion by appearing at the hearing and raising any opposition orally at the hearing. This is appropriate only for a motion set for hearing on less than 28 days of notice. See Local Bankruptcy Rule 9014-1(f)(2). However, because 28 days or more of notice of the hearing was given in this instance, Local Bankruptcy Rule 9014-1(f)(1) is applicable. It specifies that written opposition must be filed and served at least 14 days prior to the hearing. Local Bankruptcy Rule 9014-1(f)(1)(ii). The respondent was told not to file and serve written opposition even though this was necessary. Therefore, notice was materially deficient.

In short, if the movant gives 28 days or more of notice of the hearing, it does not have the option of pretending the motion has been set for hearing on less than 28 days of notice and dispensing with the court's requirement that written

opposition be filed.

34. 10-39672-A-11 MATTERHORN GROUP, INC.
DB-3

AMENDED MOTION TO APPROVE COMPENSATION OF ATTORNEYS FOR OFFICIAL COMMITTEE OF UNSECURED CREDITORS (FEES $20,759.50, EXP. $8,409.60) 8-5-13 [1537]

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 debtors, 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.

Downey Brand, LLP, counsel for the official committee of unsecured creditors, has filed its first and final motion for compensation. The requested compensation consists of $20,759.50 in fees and $8,409.60 in expenses, for a total of $29,169.10.

This motion covers the period from May 1, 2012 through the present. The court approved the movant's employment as counsel for the committee on August 13, 2010 and the order was entered on September 22, 2012. In performing its services, the movant charged hourly rates ranging from $250 to $390.

Upon the first interim motion for compensation, the court awarded to the movant $160,372 in fees and $2,052.45 in expenses, for a total of $162,425.45.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" "employed under section . . . 1103" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation:

(1) monitoring hearings on various motions and claim objections,

(2) monitoring all other case activities,

(3) reviewing compensation motions by other professionals,

(4) monitoring other litigation pertaining to the cases, including reviewing and participating in negotiations of settlement agreements,

(5) reviewing claims and participating in claim objection matters,

(6) working with the bank and the debtors on the formulation of a plan and disclosure statement, and

(7) preparing and filing compensation motions.

The court concludes that the compensation is for actual and necessary services

rendered for the benefit of the estate's creditors. The requested compensation will be approved. The prior fee award will be approved on final basis.

35. 13-27376-A-7 ERIC YOUNG AND VICTORIA MOTION FOR
ASW-1 NEVINS YOUNG RELIEF FROM AUTOMATIC STAY
DEUTSCHE BANK NATIONAL TRUST CO. VS. 8-2-13 [23]

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, Deutsche Bank National Trust Company, seeks relief from the automatic stay as to real property in Nevada City, California. The property has a value of $200,000 and it is encumbered by claims totaling approximately $337,833. The movant's deed is in first priority position and secures a claim of approximately $272,660.

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. 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.

36. 13-29877-A-7 PHYLLIS WILKINS — ORDER TO SHOW CAUSE 8-12-13 [10]

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 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. However, the debtor paid the fee in full on August 20, 2013. No prejudice has resulted from the delay.

37. 13-29781-A-7 ANTONIO/ALYCIA ANAYA — MOTION TO DISMISS CASE 8-27-13 [13]
SDM-1

Final Ruling: The motion will be dismissed without prejudice because it does not comply with Local Bankruptcy Rule 9014-1(f)(2), which requires at least 14 days' notice of the hearing on a motion set for hearing in this court. The motion papers were served and filed on August 27, 2013. That is only 13 days prior to the September 9 hearing on the motion. And, the motion has not been served and filed pursuant to an order shortening time under Local Bankruptcy Rule 9014-1(f)(3).

In addition, the notice of hearing requires written opposition 14 days prior to the hearing on the motion. However, this is allowed only for motions served and filed under Local Bankruptcy Rule 9014-1(f)(1), *i.e.*, at least 28 days' prior to the hearing on the motion.

Finally, the motion violates Fed. R. Bankr. P. 2002(a)(4), which requires that the movant give at least 21 days' notice of the hearing on a motion to dismiss.

38. 10-52790-A-7 ACOSTA WELDING, INC. — MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY (FEES $28,130.25, EXP. $531.83) 8-12-13 [63]
HSM-7

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.

Hefner, Stark & Marois, attorney for the trustee, has filed its second and final motion for approval of compensation. The requested compensation consists of $14,033.75 in fees and $160.50 in expenses, for a total of $14,194.25. This motion covers the period from September 15, 2011 through the present. The court approved the movant's employment as the trustee's attorney on January 25,

2011. In performing its services, the movant charged hourly rates of $285, $295, $300, $350, $360 and $380.

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 disposition of the debtor's embezzlement claim against a former employee, (2) communicating with the Sheriff's department about the claim, (3) meeting and discussing the claim with the former employee, (4) requesting books and records from the debtor's CPA, (5) communicating with the IRS about the proposed disposition of the claim, (6) advising the trustee about a carve-out with the IRS, and (7) preparing and filing 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. The prior compensation award will be approved on final basis.

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

39. 10-52790-A-7 ACOSTA WELDING, INC. MOTION TO
HSM-8 APPROVE COMPENSATION OF ACCOUNTANT
(FEES $1,691.50, EXP. $5.30)
8-12-13 [69]

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 $1,691.50 in fees and $5.30 in expenses, for a total of $1,696.80. This motion covers the period from February 17, 2011 through the present. The court approved the movant's employment as the estate's accountant on March 15, 2011. In performing its services, the movant charged hourly rates of $180, $275 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, preparing tax vouchers, obtaining a return filing extension, and preparing and filing 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.

40. 13-27199-A-7 THOMAS LA GABED AND JENNIFER NORTON
VVF-1 HONDA LEASE TRUST VS.
MOTION FOR RELIEF FROM AUTOMATIC STAY
8-12-13 [13]

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, Honda Lease Trust, seeks relief from the automatic stay with respect to a leased 2011 Honda Pilot vehicle. The vehicle has a value of $26,836 in Schedule G and the outstanding debt under the lease agreement totals approximately $26,063. The debtor also has not made approximately two post-petition payments under the lease agreement. And, the trustee filed a report of no distribution on July 2, 2013.

The court concludes that the above is cause for the granting of relief from stay.

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

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) is ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and is depreciating in value.

41. 13-27499-A-7 CESAR/DOMINIQUE VAZQUEZ
MRG-1 THE BANK OF NEW YORK MELLON VS.
MOTION FOR RELIEF FROM AUTOMATIC STAY
7-31-13 [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, The Bank of New York Mellon, seeks relief from the automatic stay

as to real property in Suisun City, California. The property has a value of $324,000 and it is encumbered by claims totaling approximately $527,665. 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 August 7, 2013.

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.