

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

October 3, 2023 at 1:30 p.m.

1. [23-22727-E-13](#) **ISIAH LEWIS**
[MJR-2](#) **Pro Se**

**MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
9-19-23 [33]**

BUCKLEY REAL ESTATE INC. VS.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 13 Trustee, creditors, and Office of the United States Trustee on August 21, 2023. By the court's calculation, 43 days' notice was provided. 28 days' notice is required.

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

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| <p>The Motion for Relief from the Automatic Stay and/or for Adequate Protection is granted.</p> |
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Buckley Real Estate, Inc. ("Movant") seeks relief from the automatic stay with respect to Isiah Lewis' ("Debtor") real property commonly known as 802 Ohio Street, Vallejo, California 94590, California ("Property"). Movant has provided the Declaration of Sean Buckley to introduce evidence to authenticate

the documents upon which it bases the claim and the obligation secured by the Property. Schedule D, Dckt. 1.

Movant argues Debtor has not made 8 post-petition payments, with a total of \$3,600 in post-petition payments past due. Declaration, Dckt. 19. Movant also provides evidence that there is 1 pre-petition payment in default, with a pre-petition arrearage of \$450.00. *Id.*

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$56,921 (Declaration, Dckt. 19), while the value of the Property is determined to be \$150,000, as stated in Schedules A/B filed by Debtor. However, the court notes that this valuation is likely below what the Property is actually worth. Debtor himself values the Property in different places at different amount, including at \$750,000 in Schedule D.

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

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

No other or additional relief is granted by the court.

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

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

The Motion for Relief from the Automatic Stay filed by Buckley Real Estate, Inc. (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee

under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 802 Ohio Street, Vallejo, California 94590 (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

No other or additional relief is granted.

2. [21-23439-E-13](#) **JOLIE/MICHAEL BARKALOW** **CONTINUED MOTION FOR RELIEF**
[KMM-1](#) **Seth Hanson** **FROM AUTOMATIC STAY**
3-28-23 [\[75\]](#)

THE MONEY SOURCE INC. VS.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, and Office of the United States Trustee on March 28, 2023. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered.

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| The Motion for Relief from the Automatic Stay is XXXXXXXXXXXX |
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The Money Source Inc. (“Movant”) seeks relief from the automatic stay with respect to Jolie Ann Barkalow and Michael Allen Barkalow’s (“Debtor”) real property commonly known as 4421 Arbroath Way, Antelope, California (“Property”). Movant has provided the Declaration of Cindy Cowden to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

Movant argues Debtor has not made seventeen post-petition payments, with a total of \$30,562.00 in post-petition payments past due. Declaration, Dckt. 72. Movant also provides evidence that is a pre-petition default of \$27,666.13. *Id.*

CHAPTER 13 TRUSTEE'S RESPONSE

David Cusick ("the Chapter 13 Trustee") filed a Response to the first docketed Motion, Dckt. 70. Response, Dckt. 84. The court will address Trustee's Response in this Motion, Docket No. 75. requesting the Motion be denied, on May 1, 2023. Dckt. 84. Trustee asserts that the confirmed Plan provides the Plan will be funded through a one-time lump sum payment of all sale proceeds from the sale of the Property. The terms of the Plan state the sale shall take place "in the next 3 to 6 months, after approval of the court by separately filed motion to approve such sale." Plan, Dckt. 50. The Plan was filed June 6, 2022. Therefore, the Property should have been sold by December.

Trustee states they spoke with Debtor's attorney regarding the status of the case. Debtor's attorney stated there was delay in the probate court in getting permission to sell the house, however, they now are looking for a realtor and hope to have the house listed soon.

DISCUSSION

The court appreciates Movant's frustration with not receiving seventeen post-petition payments. It is not clear to the court why it has been almost a year since proposing the Plan and Debtor has still not filed any motions that indicate progress with selling the Property to fund the Plan. Although probate court may be delaying the sale of the property, Debtor has not provided the court with testimony indicating the delay.

This is a case with a very sad series of event that led to the deaths of the two debtors, leaving their children orphans. As a matter of federal law, this court has determined that the administration of this bankruptcy case, and the sale of the real property that is subject to the jurisdiction of this court shall be sold as provided in the Confirmed Bankruptcy Plan.

There is a confirmed Chapter 13 Plan which provides for the administration of the Property under federal law.

It is unclear what "problems" there are in probate court which impacts the ability of the Successor Representative of the deceased debtor from performing the Chapter 13 Plan. What property rights remain for the heirs of the debtors is what is remains after the Chapter 13 Plan is performed.

At the hearing, the problem was explained as the title company required a probate order. The Parties agreed to a further continuance in light of the Debtor's prosecution of the probate proceeding so as to be able to complete a sale in this case.

August 22, 2023 Hearing

At the hearing, counsel for the Debtor stated that they did not have a basis for opposing the Motion. However, a State Court probate hearing on September 13, 2023, is set to approve the sale of the Property, from which Creditor will be paid.

The parties agreed to continue the hearing to 1:30 p.m. on October 3, 2023.

October 3, 2023 Hearing

At the hearing, **xxxxxxxxxx**

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

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

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

IT IS ORDERED that the Motion for Relief from the Automatic Stay is **xxxxxxxxxx**

ERIC MELI VS.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor's Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on September 5, 2023. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

The court notes that the notice provided does not meet the standard of Local Bankruptcy Rules 9014-1(d)(3)(B)(ii) and (iii). Specifically, Eric Meli's ("Movant") counsel states it is the attorney for Debtor in its Notice of Hearing, which is not the case. Dckt. 64. Because the notice complies substantially with all requirements, the court will waive the defect. However, counsel is reminded failure to comply is cause to deny the motion. LOCAL BANKR. R. 1001-1(g), 9014-1(l).

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

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| <p>The Motion for Relief from the Automatic Stay is xxxxxxx.</p> |
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Eric Meli ("Movant" or "Creditor") seeks relief from the automatic stay with respect to Amanda Hill's ("Debtor") real property commonly known as 2591 Tom Polk Ave., Chico, California ("Property"). Movant has provided the Declaration of Eric Meli to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

Movant argues Debtor has not complied with a Superior Court judgment issued on December 9, 2021 by failing to timely refinance the Property, remove Creditor's name from the deed, and to pay \$65,183.00 to Movant for his equal share of equity in the Property. Declaration, Dckt. 65. Movant further states Debtor did not appeal the judgment within the required 90 days, nor did she comply within the

required time frame, instead opting to file this Chapter 13 bankruptcy on February 4, 2022. *Id.* As such, Movant argues Debtor has ignored the final judgment from the Superior Court and not given that judgment full faith and credit.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on September 12, 2023. Dckt. 69. Debtor asserts that:

- A. Movant presented no authority for his Motion for Relief from the Automatic Stay. The reasons provided in Creditor's Declaration are not adequate examples of "cause[s]" as defined by 11 U.S.C. § 362(d)(1) and (2).
- B. The motion did not state with particularity the factual and legal grounds as required by the Local Rules of Bankruptcy Procedure. LOCAL BANKR. R. 1001-1(g), 9014-1(l).

Dckt. 69.

CREDITOR'S RESPONSE TO DEBTOR'S OPPOSITION

Movant filed a Response to Debtor's Opposition on September 19, 2023. Dckt. 72. In Its Response, Movant states:

- A. The factual grounds for cause, pleaded with specificity, are that Debtor failed to comply with a lower court's judgment that required the equalization payment.
- B. Creditor's divorce attorney mailed a copy of the Judgment of Dissolution to Debtor. Dckt. 66.
- C. Debtor's contention that Debtor has no equity in the property is false. Creditor is fully vested and on title to the property where there is "substantial" equity.
- D. Specific legal and factual grounds regarding the provision of the Motion for Relief of the Automatic Stay include, "[i]t is fundamental that higher courts are supposed to give full faith and credit to the rulings and orders of lower courts unless the higher court finds some incredibly good reason no[sic] to..."
- E. The Supplemental Declaration was filed as evidentiary support to refute and declare as untrue allegations made by Debtor.

Dckt. 72.

CHAPTER 13 TRUSTEE'S OPPOSITION

David Cusick, the Chapter 13 Trustee (“Trustee”), filed an Opposition on September 19, 2023. Dckt. 76. Trustee asserts that

- A. The Plan was confirmed on July 17, 2022, and under U.S.C. § 1327, the Confirmed Plan binds Creditor and Debtor.
- B. Creditor is owed an equalization payment, which is dischargeable in a Chapter 13 case; however, while Creditor has standing to attempt to modify the Plan to reflect the owed amount, this Motion does not accomplish that.
- C. Debtor is current in plan payments.
- D. The Confirmed Plan provides general unsecured claims shall receive no less than 17.5%.
- E. Creditor’s motion does not cite any specific reason under 11 U.S.C. § 362(d) why relief should be granted other than “to give full faith and credit” to the state court judgment.

Dckt. 76.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$65,183.00 (Declaration, Dckt. 65), while the value of the Property is determined to be \$363,969.00, as stated in Schedules A/B and D filed by Debtor.

The State Court Dissolution Judgment is on the standard dissolution judgment form. Exhibit 1, Dckt. 66. The paragraph “4. m” box is checked, stating that a property division order is attached to the Dissolution Judgment. With respect to the Order, which is part of the State Court Dissolution Judgment, it states that Debtor “will receive,”

[t]he real property located at 2591 Tom Polk Ave., Chico, CA which will either be sold or refinanced by [Debtor] as set forth herein.

Exhibit 1, Property Order Attachment to Judgment, Dckt. 66 at 4. The “plain language” of the Order that is part of the Dissolution Judgment states that Debtor “will receive” the real property, but that the real property must be either sold or refinanced.

The Property Order states in Paragraph 6, as part of the State Court Dissolution Judgment, that:

Sale of property. The following property will be offered for sale and sold for the fair market value as soon as a willing buyer can be found, and the net proceeds from the sale will be [divided as follows]:

[Creditor] shall receive the first \$65,183.00 from the net proceeds. The balance shall be assigned to [Debtor]. If [Debtor] refuses to cooperate in the listing and/or sale of

the real property described herein, the Clerk of the Court shall be appointed Elisor to act in Respondent's place.

Id. at 5. The State Court Dissolution Judgment and Order further provides:

[Debtor] shall have 90 days from the date that Judgment in this matter is entered to refinance the current loan on the property located at 2591 Tom Polk Ave., Chico, CA to remove [Creditor's] name as a liable party and pay to him the total sum of \$65,183.00. If [Debtor] does not do so, it will be listed for sale. The Clerk of the Court shall be appointed Elisor to act in [Debtor] place, if [Debtor] fails to cooperate in the listing and/or sale of the property identified herein.

Id., Paragraph 7.

Based on the undisputed State Court Dissolution Judgment and Order, it appears that the rights and interest of the Debtor and Creditor are not simply that Debtor owns the property (Schedule A/B, ¶ 1; Dckt. 1) and there is an unsecured obligation owed to Creditor (Schedule E/F *Id.* at 29; and POC 5-1).

The State Court Judgment states that Debtor "is granted full title to" receive the Property subject to the refinance or sale conditions, and payment of the specified dollar amount for Creditor's interests in the Property.

Creditor seeks relief from the stay to enforce the rights in the Property, to have it sold and proceeds of the sale paid to Creditor, if Debtor fails to refinance the property, have Creditor removed from the property and pay Creditor for his interest in the Property.

The Chapter 13 Plan that has been confirmed in this case does not provide for the State Court Dissolution Judgment and Property Order, Debtor's right that she "will receive" the Property, subject to the refinance or sale condition, and the rights and interests of Creditor in the Property pursuant to the State Court Dissolution Judgment and Order.

Conversely, Creditor has filed Proof of Claim 5-1 stating that his claim is unsecured. As one knows, a proof of claim is *prima facie* evidence of a claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); *see also United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, and requires financial information and factual arguments. *In re Austin*, 583 B.R. 480, 483 (B.A.P. 8th Cir. 2018).

However, a copy of the State Court Dissolution Judgment and Property Order is attached to Proof of Claim 5-1.

The court is presented with an "interesting" situation. There is a State Court Dissolution Judgment and Property Order providing when and how Debtor "will receive" the Property and Creditor's rights to proceeds from the sale of the Property if Debtor has not refinance/removed Creditor from the loan and paid Creditor for his interest in the Property.

The Motion and Oppositions do not address the effect and enforceability of the final State Court Dissolution Judgment and Property Order, the extent to which a Chapter 13 plan may alter the property rights to be received and being divested.

The Motion presented to the court is one stating that Creditor is seeking “relief from the stay,” but does not state relief is sought for what purposes, proceedings, or exercise of rights. It does state at the end of paragraph 9:

Allowing the Superior Court to proceed with the sale of the property will allow Mr. Meli to be in a better position to try and purchase a home of his own sooner, free of this recorded mortgage debt. This will assure some respect for the judicial process, regardless of which Court the parties find themselves in, and basic equity.

Motion; Dckt. 63. While this could be considered the relief stated with particularity (Fed. R. Bankr. P. 9013), it is likely that the necessary relief (if it should properly be granted) would be more extensive.

Rather than the court undertaking the research of the effect of the State Court Dissolution Judgment and Property Order, the effect of it providing that Debtor “will receive” the Property, whether the conditions of refinance are conditions precedent or subsequent to Debtor receiving the Property, and whether Creditor has an interest in the Property, the court is confident that the respective bankruptcy and family law attorneys can provide the court with a well organized analysis of State law and how it applies to the present situation.

At the hearing, **XXXXXXX**

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

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

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

IT IS ORDERED that the Motion for Relief from Automatic Stay is
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FINAL RULINGS

4. [22-22175-E-13](#) MELANI VILLANUEVA MOTION FOR RELIEF FROM
[DWE-1](#) Candace Brooks AUTOMATIC STAY
9-1-23 [\[58\]](#)

U.S. BANK NATIONAL
ASSOCIATION VS.

Final Ruling: No appearance at the October 3, 2023 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, and Office of the United States Trustee on September 1, 2023. By the court’s calculation, 32 days’ notice was provided. 28 days’ notice is required.

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

The Motion for Relief from the Automatic Stay is granted.

U.S. Bank National Association (“Movant”) seeks relief from the automatic stay with respect to an asset identified as a 2020 Tesla Model 3, VIN ending in 7252 (“Vehicle”). The moving party has provided the Declaration of Linda Thomas Morgan to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Melani Villanueva (“Debtor”).

Movant argues Debtor has not made four (4) post-petition payments, with a total of \$3,952.00 in post-petition payments past due. Declaration, Dckt. 60.

J.D. Power Used CarGuide Valuation Report Provided

Movant has also provided a copy of the J.D. Power Used CarGuide Valuation Report for the Vehicle. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

CHAPTER 13 TRUSTEE NON-OPPOSITION

On September 15, 2023, the Chapter 13 Trustee filed a Nonopposition to the Motion for Relief. Dckt. 65. The Trustee states that the Debtor is substantially in default on the Plan payments. A Motion to Dismiss is set for hearing on October 18, 2023.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$36,219.78 (Declaration, Dckt. 60), while the value of the Vehicle is determined to be \$36,350.00, as stated on the J.D. Power Used CarGuide Valuation Report.

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

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

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

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant states in particular that there is a lack of adequate protection, and that the court grant relief from the Rule as adopted by the United States Supreme Court.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

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

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

The Motion for Relief from the Automatic Stay filed by U.S. Bank National Association (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2020 Tesla Model 3, VIN ending in 7252 (“Vehicle”), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

No other or additional relief is granted.