

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Fredrick E. Clement
Bankruptcy Judge

2500 Tulare Street, Fifth Floor
Department A, Courtroom 11
Fresno, California

Wednesday

October 15, 2014

PRE-HEARING DISPOSITIONS

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

MATTERS RESOLVED BEFORE HEARING

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. [12-18810](#)-A-7 JAMES MERCER
TMT-2
TRUDI MANFREDO/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH SUSAN E. MERCER,
JAMES E. MERCER, COZETTA MERCER
AND JAMES RONNIE MERCER
9-15-14 [[39](#)]

GARY HUSS/Atty. for dbt.
JAMES MILLER/Atty. for mv.

Final Ruling

Motion: Approve Compromise or Settlement of Controversy

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The motion states that the compromise involves the defendants' payment to the estate of \$8000.00, and dismissal of the adversary proceeding with prejudice. By implication, the real property will not be turned over to the estate as the settlement payment gives the estate the value of only the estate's interest in the real property that had been the debtor's interest in the property as of the petition date. The real property will be retained by defendants.

Based on the motion and supporting papers, the court finds that the compromise is fair and equitable considering the relevant *A & C Properties* factors. The compromise will be approved.

2. [14-10910](#)-A-7 CLAUDE/ERLINDA TEISINGER MOTION TO SELL
SAS-2 9-16-14 [[73](#)]
SHERYL STRAIN/MV
JERRY LOWE/Atty. for dbt.
HAGOP BEDOYAN/Atty. for mv.

Tentative Ruling

Motion: Sell Property

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property: 1969 Jaguar

Buyer: Beverly Hills Car Club, Inc.

Sale Price: \$11,000

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

3. [13-15413](#)-A-7 SASCHA WILLIAMS MOTION TO SELL
PFT-3 9-10-14 [[48](#)]
PETER FEAR/MV
JEFF REICH/Atty. for dbt.
PETER FEAR/Atty. for mv.

Tentative Ruling

Motion: Sell Property

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property: 3 vehicles specified below

Buyer: Debtor

Sale Price:

–2003 Hummer: \$15,335.00 (\$5221.10 cash plus \$7220.00 exemption credit and sale made subject to lien securing debt of \$2893.90)

–2001 Chevy Suburban: \$2000 cash

–2008 Keystone Springdale Series M-262: \$7278.90 cash

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

4. [13-18018](#)-A-7 STEVEN CALDWELL
GH-2
STEVEN CALDWELL/MV
WILLIAM COLLIER/Atty. for dbt.

MOTION TO AVOID LIEN OF T AND A
SUPPLY, INC.
9-3-14 [[29](#)]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of-(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

If a debtor who co-owns a fractional interest in property moves to avoid the judicial lien on the property under § 522(f), then the court applies a common sense approach that varies somewhat from a strict

mechanical application of the formula under § 522(f)(2)(A). "Under this approach, one nets out consensual liens against the entire fee in co-owned property before determining the value of a debtor's fractional interest and excludes those liens from the calculation of 'all other liens on the property' under § 522(f)(2)(A)(ii)." *All Points Capital Corp. v. Meyer (In re Meyer)*, 373 B.R. 84, 90 (B.A.P. 9th Cir. 2007).

In this case, the responding party holds a judicial lien on the moving party's real property for which an exemption has been claimed. The moving party co-owns the real property with a nondebtor party or nondebtor parties and holds a fractional 13% interest in the property. Thus, the court will net out consensual liens against the value of the entire fee interest before determining the value of the fractional co-ownership interest that the moving party would have in the absence of liens.

The jointly owned value of the entire fee interest in the property equals \$175,000. To calculate the value of the moving party's fractional interest in the property in the absence of liens, the court first deducts consensual lien debt of \$0.00 from the jointly owned value of the entire fee interest in the property, which yields a net co-owned equity of \$175,000. Multiplying this net co-owned equity by .13 shows that the value of the moving party's fractional interest is \$22,750.

Adding the judicial lien (\$26,584.70), all other liens (\$0.00) excluding the consensual liens already deducted from the property's value, plus the exemption amount (\$22,750) equals \$49,334.70. The value of the moving party's fractional interest in the property in the absence of liens equals \$22,750.

The responding party's judicial lien may be avoided in its entirety because the judicial lien, all other liens except consensual liens, and the exemption amount together exceed the value of the moving party's fractional interest in the property by an amount equal to the debt secured by the responding party's lien.

5. [10-61725](#)-A-7 PAMELA ENNIS
THA-9
SHERYL STRAIN/MV
RILEY WALTER/Atty. for dbt.
THOMAS ARMSTRONG/Atty. for mv.

MOTION TO EMPLOY PEARSON REALTY
AS REALTOR(S)
9-26-14 [[195](#)]

Tentative Ruling

Application: Approval of Employment

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment.

6. [14-13428](#)-A-7 ROBERT/LETICIA TAYLOR MOTION TO AVOID LIEN OF RAZOR
PBB-2 CAPITAL LLC
ROBERT TAYLOR/MV 9-3-14 [[13](#)]
PETER BUNTING/Atty. for dbt.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.

7. [14-13828](#)-A-7 JAMES/MARIA ANDERSON MOTION TO EMPLOY GOULD AUCTION
TMT-1 & APPRAISAL COMPANY AS
TRUDI MANFREDO/MV AUCTIONEER, AUTHORIZING SALE OF
PROPERTY AT PUBLIC AUCTION AND
AUTHORIZING PAYMENT OF
AUCTIONEER FEES AND EXPENSES
9-17-14 [[13](#)]

GEOFFREY ADALIAN/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

Final Ruling

Motion: Sell Property and Employ and Compensate Auctioneer

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property: 2005 GMC Sierra

Sale Type: Public auction

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The Chapter 7 trustee may employ an auctioneer that does not hold or represent an interest adverse to the estate and that is disinterested. 11 U.S.C. §§ 101(14), 327(a). The auctioneer satisfies the requirements of § 327(a), and the court will approve the auctioneer's employment.

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

8. [14-13329](#)-A-7 DAVID/STEPHANIE WORKMAN OBJECTION TO DEBTOR'S CLAIM OF
RHT-1 EXEMPTIONS
ROBERT HAWKINS/MV 9-4-14 [[16](#)]
NELLIE AGUILAR/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.
WITHDRAWN

Final Ruling

The objection withdrawn, the matter is dropped as moot.

9. [13-14530](#)-A-7 KATHERYN JONES OBJECTION TO DEBTOR'S CLAIM OF
JES-3 EXEMPTIONS
JAMES SALVEN/MV
8-7-14 [[228](#)]
DAVID JENKINS/Atty. for mv.

Final Ruling

Based on the recusal of Judge Clement, the case will be reassigned and this hearing rescheduled. A Notice of Continued Hearing will issue.

10. [11-13043](#)-A-7 MORRIS/SHARON GARCIA MOTION FOR COMPENSATION FOR
RH-10 ROBERT HAWKINS, TRUSTEE'S
ATTORNEY(S).
9-17-14 [[503](#)]
HAGOP BEDOYAN/Atty. for dbt.

Final Ruling

Application: First and Final Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Applicant: Robert Hawkins

Compensation approved: \$12,600.00

Costs approved: \$702.84

Aggregate fees and costs approved in this application: \$13,302.84

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

DISCUSSION

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all

relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis as to the amounts requested.

CIVIL MINUTE ORDER

The court shall issue a minute 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 First and Final Application for Compensation filed by Robert Hawkins, attorney for Chapter 7 trustee Sheryl Strain, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) defaults of the respondents are entered; (2) compensation of \$12,600.000 is approved on a first and final basis; and (3) costs of \$702.84 are approved on a first and final basis.

11. [14-14457](#)-A-7 JUAN RUIZ

JUAN RUIZ/MV

SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE
9-5-14 [[5](#)]

No tentative ruling.

12. [14-12262](#)-A-7 RAUL PATINO-NEGRETE

MAZ-1

RAUL PATINO-NEGRETE/MV

MARK ZIMMERMAN/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF PORTFOLIO RECOVERY
ASSOCIATES, LLC
7-22-14 [[18](#)]

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(2); written opposition required

Disposition: Granted

Order: Prepared by moving party

Previously, the court required notice of the continued hearing using the notice procedure of LBR 9014-1(f)(2). Even though the content of the notice in fact uses the notice procedure of LBR 9014-1(f)(1), the court will permit opposition at the hearing and treat this motion as having been noticed pursuant to LBR 9014-1(f)(2).

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record,

accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

If a debtor who co-owns a fractional interest in property moves to avoid the judicial lien on the property under § 522(f), then the court applies a common sense approach that varies somewhat from a strict mechanical application of the formula under § 522(f)(2)(A). "Under this approach, one nets out consensual liens against the entire fee in co-owned property before determining the value of a debtor's fractional interest and excludes those liens from the calculation of 'all other liens on the property' under § 522(f)(2)(A)(ii)." *All Points Capital Corp. v. Meyer (In re Meyer)*, 373 B.R. 84, 90 (B.A.P. 9th Cir. 2007).

As stated in the civil minutes dated September 24, 2014 and the final three paragraphs of the civil minutes from the August 27, 2014, hearing, the court will grant the motion and avoid the respondent's lien. After deducting consensual lien debt of \$95,285.60 from the value of the property, which is \$80,000.00, the value of the debtor's fractional one-half interest in the property is \$0.00.

Adding together the judicial lien (\$2858.10), plus all other liens excluding the consensual liens already deducted from the property's value (\$0.00), plus the exemption amount (\$10,000.00) equals a sum of \$12,858.10. Subtracting from this sum the value of the moving party's fractional interest in the property in the absence of liens equals \$12,858.10.

The responding party's judicial lien may be avoided in its entirety because the judicial lien, all other liens except consensual liens, and the exemption amount together exceed the value of the moving party's fractional interest in the property by an amount greater than or equal to the debt secured by the responding party's lien.

13. [12-16876](#)-A-7 WILLIAM VANDER POEL MOTION FOR SANCTIONS FOR
WW-11 VIOLATION OF THE DISCHARGE
WILLIAM VANDER POEL/MV INJUNCTION
8-19-14 [[231](#)]

RILEY WALTER/Atty. for dbt.
RESPONSIVE PLEADING

[This matter will be called on the 9:15 calendar.]

No tentative ruling.

14. [14-13576](#)-A-7 BOBBY PERKINS MOTION TO SELL
RHT-1 9-16-14 [[15](#)]
ROBERT HAWKINS/MV
DAVID JENKINS/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

Tentative Ruling

Motion: Sell Property

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied without prejudice

Order: Civil minute order

Property: Inventory, fixtures and equipment located at the premises of the debtor's former pizza shop

Buyer: Piccolo's Pizza, Inc.

Sale Price: \$5000.00

The notice does not state that the sale is subject to overbid at the hearing. The notice of a proposed private sale should contain all material terms and conditions of the sale. See Fed. R. Bankr. P. 2002(c)(1) (requiring the terms and conditions of any private sale be included in the notice of hearing); see also LBR 9014-1(d)(4). Conditioning a sale on the opportunity for higher and better bids is a material term of any private sale because it may substantially alter the price term and change the identity of the buyer. In the future, counsel should ensure that the notice of hearing contains all material terms and conditions of the sale.

15. [13-15581](#)-A-7 JULIO/ANGELA MILLAN MOTION TO SELL
PFT-2 9-10-14 [[40](#)]
PETER FEAR/MV
DAVID JENKINS/Atty. for dbt.
PETER FEAR/Atty. for mv.

Tentative Ruling

Motion: Sell Property

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property: 2 Vehicles described below

Buyer: Debtor

Sale Price:

-2007 Honda Accord: \$4194.00 (\$1294.00 cash plus \$2900.00 exemption credit)

-2000 Chevy S10: \$994.66 cash

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

16. [13-14682](#)-A-7 THERESA PIERRO
JES-2
JAMES SALVEN/MV
GARY HUSS/Atty. for dbt.

MOTION FOR COMPENSATION FOR
JAMES E. SALVEN, ACCOUNTANT(S).
6-19-14 [[60](#)]

Final Ruling

Application: Final Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Prepared by applicant

Applicant: James E. Salven

Compensation approved: \$1395.00

Costs approved: \$163.56

Aggregate fees and costs approved in this application: \$1558.56

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis as to the amounts requested.

17. [09-18191](#)-A-7 CON DEV SERVICES, INC. TRUSTEE'S FINAL REPORT,
JES-7 APPLICATIONS FOR COMPENSATION
(NFR) AND APPLICATIONS FOR
COMPENSATION OF PROFESSIONALS
8-13-14 [[471](#)]
- RENE LASTRETO/Atty. for mv.
RESPONSIVE PLEADING

Final Ruling

Resolved by Order entered October 7, 2014, ECF #491.

18. [14-14847](#)-A-7 RAYMOND/DIANA MORIN MOTION TO COMPEL ABANDONMENT
RCP-1 10-6-14 [[12](#)]
RAYMOND MORIN/MV
REYNALDO PULIDO/Atty. for dbt.
OST 10/7/14

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

Notice: LBR 9014-1(f)(3) and order shortening time; no written opposition required

Disposition: Granted only as to the business and such business assets described in the motion

Order: Prepared by moving party pursuant to the instructions below

Business Description: Raymond Morin's motorcycle towing and repair business, a sole proprietorship

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or

the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

9:15 a.m.

1. [13-18132](#)-A-7 TREENA PEREZ CONTINUED STATUS CONFERENCE RE:
[14-1059](#) COMPLAINT
 U.S. TRUSTEE V. PEREZ 5-30-14 [[1](#)]
 GREGORY POWELL/Atty. for pl.

Final Ruling

The motion for entry of judgment granted, the status conference is concluded.

2. [13-18132](#)-A-7 TREENA PEREZ MOTION FOR ENTRY OF DEFAULT
 [14-1059](#) UST-1 JUDGMENT
 U.S. TRUSTEE V. PEREZ 9-8-14 [[16](#)]
 GREGORY POWELL/Atty. for mv.

Final Ruling

Motion: Entry of Default Judgment

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

The clerk has entered default against the defendant in this proceeding. The default was entered because the defendant failed to appear, answer or otherwise defend against the action brought by the plaintiff. Fed. R. Civ. P. 55(b)(2), *incorporated by* Fed R. Bankr. P. 7055. The plaintiff has moved for default judgment.

Under Federal Rule of Civil Procedure 8(b)(6), the allegations of the complaint are admitted except for allegations relating to the amount of damages. Fed. R. Civ. P. 8(b)(6), *incorporated by* Fed. R. Bankr. P. 7008(a).

The turnover order, a copy of which is attached as Exhibit 1, ordered that "[t]o the extent that the below listed documents and property exist and are held in the debtor's possession or control, debtor shall turnover said documents at once and no later than 7 days from the date of service of this order." The order listed a number of documents.

The motion does not present evidence that these documents existed or are within the debtor's control. But one document ordered to be turned over was complete copies of the debtor's 2010 tax return. The complaint alleges that on February 10, 2014, the debtor-defendant had testified that her last-filed tax return was 2010. The declaration in support of the motion says the date of this testimony was February 7, 2010, but this difference in dates is not significant and an immaterial discrepancy. The debtor's admission tends to show that the debtor's 2010 tax return both existed and was within her control, bringing the document within the scope of the turnover order.

The U.S. Trustee's declaration states that the trustee "has received no response, and the United States Trustee's Complaint has not been answered." Powell Decl. ¶ 8. Accordingly, the court finds that the debtor failed to comply with the turnover order as to the 2010 tax return.

It is also likely that the debtor's had a most recent invoice within her control from the creditor showing the balance due on her Outlander. Her Schedule D admits the existence of a \$3000 claim secured by a "2009 Mitshubishi [sic] Outlander." If debtor did not have an invoice within her possession, she could have requested one from the creditor and notified the trustee of such request. Accordingly, this document is considered within the debtor's control. In the absence of an answer, the court finds that the debtor also failed to comply with the turnover order by providing a most recent invoice for her Outlander.

Having accepted the well-pleaded facts in the complaint as true, and for the reasons stated in the motion and supporting papers and in this ruling, the court finds that default judgment should be entered against the defendant. Fed. R. Civ. P. 55(b)(2), *incorporated by Fed. R. Bankr. P. 7055*.

3. [14-11040](#)-A-7 FRANCIS MACIEL
[14-1060](#)
MACIEL V. GADDO
6-9-14 [[1](#)]
JERRY LOWE/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT

No tentative ruling.

4. [12-16876](#)-A-7 WILLIAM VANDER POEL
[14-1033](#)
VANDER POEL, SR. V. MEDINA ET
AL
JOSEPH SUTTON/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR STAY PENDING APPEAL
9-17-14 [[91](#)]

No tentative ruling.

5. [12-16876](#)-A-7 WILLIAM VANDER POEL
[14-1033](#)
VANDER POEL, SR. V. MEDINA ET
AL
MICHAEL FLETCHER/Atty. for pl.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT
9-12-14 [[89](#)]

No tentative ruling.

10:00 a.m.

1. [10-63327](#)-A-7 JAMES/NANCY RODRIGUEZ
TB-1
WELLS FARGO BANK, NATIONAL
ASSOCIATION/MV
M. ENMARK/Atty. for dbt.
EDWARD FETZER/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-26-14 [[44](#)]

Tentative Ruling

Motion: Relief from Stay

Notice: LBR 9014-1(f)(2); no written opposition filed

Disposition: Granted in part, denied in part

Order: Prepared by moving party (see specific instructions below)

Subject: 3703 Lemon Avenue, Long Beach, CA 90807

The moving party requests relief from stay under § 362(d)(1), for cause, and under § 362(d)(4) on grounds that the subject real property securing its loan was transferred by a third party to the debtor in this case as part of a scheme to delay, hinder or defraud the moving party. If no opposition is raised at the hearing, the court will rule as follows.

SECTION 362(d)(4)

Subsection (d)(4) of § 362 allows a creditor having a claim secured by real property relief from stay "of an act against real property . . . if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors" See 11 U.S.C. § 362(d)(4). Such a scheme may involve either (i) unauthorized transfer of an interest in such real property without the secured creditor's consent or the court's approval or (ii) multiple bankruptcy filings affecting such real property. *Id.* § 362(d)(4)(A)-(B).

The motion specifically states that the debtor is not a party to the Note or the Deed of Trust. The declaration states confusingly and inconsistently that "[t]he Debtor executed and delivered or is otherwise obligated with respect to the promissory note (the "Note"), secured by a mortgage or deed of trust." Decl. ¶ 4. The note attached as Exhibit 1 is signed by Oscar Trejo, not the debtor. Likewise, the deed of trust attached as Exhibit 2 identifies Oscar Trejo as the borrower and is signed by him, not the debtor.

In any case, no factual grounds have been provided showing that the debtors took any action to obtain an interest in the real property.

The moving party has not shown that the debtor participated in the unauthorized transfer or had any knowledge of it. The property does not appear on the debtor's Schedules A and D (although the court notes that Schedule D does not properly describe the property subject to liens for each secured claim listed). The court has no basis to conclude that the debtor filed this case in bad faith or as part of a scheme to hinder, delay or defraud any creditor.

In addition, the moving party has not shown that the grantee named in the deed, Nancy Rodriguez as a co-trustee of a trust, a copy of which is attached as an exhibit, is in fact the same person as the debtor. The moving party has not excluded the possibility that a person other than the debtor with the same name as the debtor was intended as the grantee. Nor has the moving party shown any evidence that the person named in the deed is the same as the debtor other than that the names are the same. The property may not even be property of the estate.

SECTION 362(d)(1)

The moving party has not shown that post-petition payments have not been made on the loan referred to in the motion, or that the value of the property is less than the amount of the liens against the property. § 362(d)(1), (2). The motion does state that the loan has been in default, but a loan continuing in default may be consistent with the payments being made post-petition.

But because the property is not listed on Schedule A, and because the note and deed of trust appear to be signed by someone other than the debtor, the court will treat this property as not being property in which the debtors' had an interest as of the commencement of the case, and the court will grant the motion for cause under § 362(d)(1).

ORDER

The court will grant the motion in part and deny the motion in part. The order shall state as follows: "To the extent that the property may be property of the estate affected by the debtor's bankruptcy, relief from stay under § 362(d)(1) is granted. The request for relief under § 362(d)(4) is denied." No other relief will be awarded, and the order shall not state the debtor was part of a scheme to delay, hinder or defraud creditors.

2.	14-14027 -A-7	RAUL GIRON AND KENDRA	MOTION FOR RELIEF FROM
	APN-1	DANIELS	AUTOMATIC STAY
	SANTANDER CONSUMER USA INC./MV		9-11-14 [9]
	AUSTIN NAGEL/Atty. for mv.		

Tentative Ruling

Motion: Relief from Stay

Notice: LBR 9014-1(f)(1); written opposition filed

Disposition: Denied without prejudice

Order: Civil minute order

Subject: 2010 Dodge Caliber

Rule 9013 provides in pertinent part: "The motion shall state with particularity the grounds therefor, and shall set forth the relief or

order sought." Fed. R. Bankr. P. 9013. Under this rule, a motion lacking proper grounds for relief does not comply with this rule even though the declaration, exhibits or other papers in support together can be read as containing the required grounds.

The motion does not state with particularity the grounds for the relief requested. The motion does not address whether the debtor has equity under § 362(d)(2) (only the debt balance is stated, not the collateral, which is now insurance proceeds). The motion further does not indicate the factual basis for "cause" for stay relief, such as a failure to make payments pre-petition. The creditor merely states that the vehicle was in an accident, declared a total loss, and that the value of the property is "depreciating and continues to depreciate while the property is not being paid and/or protected." The court does not understand how proceeds, essentially money, can be depreciating.

3. [14-13578](#)-A-7 MARK/JACQUELINE SILVEIRA MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
NISSAN - INFINITI, LT/MV 9-8-14 [[17](#)]
GARY HUSS/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

Tentative Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied as moot but the order may confirm the absence of the stay

Order: Prepared by the moving party consistent with this ruling (the proposed order attached as an exhibit shall not be submitted)

Subject: Leased 2013 Nissan Sentra

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

In chapter 7 cases, an unexpired lease of personal property of the debtor must be assumed or rejected by the trustee within 60 days after the order for relief, which means 60 days after the petition date in a voluntary case, see § 301(a) and (b). 11 U.S.C. § 365(d)(1). The court may extend the time to assume or reject for cause only within such 60-day period following the petition date. *Id.* A chapter 7 debtor may assume a lease of personal property by following the notification procedures provided in § 365(p).

"If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated." *Id.* § 365(p)(1).

More than 60 days has passed since the petition date. No evidence has

been presented in the record of a timely assumption of the lease of personal property described above. Because this lease has not been timely assumed, the lease has been rejected, the stay has terminated as to such property, and such property is no longer property of the estate.

Consequently, no effective relief can be awarded. The movant's personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its leased property described above. The motion will be denied as moot but the order may confirm the absence of the stay, § 362(j).

10:30 a.m.

1. [14-13401](#)-A-7 DENISE ZUNIGA

THOMAS GILLIS/Atty. for dbt.

REAFFIRMATION AGREEMENT WITH
WELLS FARGO DEALER SERVICES
9-25-14 [[13](#)]

No tentative ruling.

2. [14-13841](#)-A-7 DAVID/CHERYL MENDEZ

THOMAS HOGAN/Atty. for dbt.

PRO SE REAFFIRMATION AGREEMENT
WITH VALLEY FIRST CREDIT UNION
9-23-14 [[11](#)]

No tentative ruling.

3. [14-13194](#)-A-7 CELINA/ARNULFO GONZALEZ

PRO SE REAFFIRMATION AGREEMENT
WITH WELLS FARGO DEALER
SERVICES
9-25-14 [[15](#)]

No tentative ruling.

11:00 a.m.

1. [13-12112](#)-A-7 GLEN/MELISSA MCCLARAN
[13-1073](#)
KARRAKER ET AL V. MCCLARAN
DAVID EMERZIAN/Atty. for pl.
RESPONSIVE PLEADING

STATUS CONFERENCE RE: COMPLAINT
6-28-13 [[1](#)]

No tentative ruling.

1:30 p.m.

1. [10-12709](#)-A-11 ENNIS COMMERCIAL CONTINUED MOTION FOR
LRP-12 PROPERTIES, LLC COMPENSATION BY THE LAW OFFICE
OF LANG, RICHERT AND PATCH FOR
MICHAEL J. GOMEZ, OTHER
PROFESSIONAL(S)
8-8-14 [[1289](#)]

PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

2. [10-62315](#)-A-11 BEN ENNIS MOTION TO EMPLOY EDWARDS, LIEN
LRP-34 & TOSO, INC. AS APPRAISER(S)
DAVID STAPLETON/MV 9-30-14 [[1758](#)]
RILEY WALTER/Atty. for dbt.
MICHAEL GOMEZ/Atty. for mv.

Tentative Ruling

Application: Approval of Employment

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The court may approve employment of professional persons in this case pursuant to the confirmed plan. From the factual information provided in the motion and supporting papers, the court will approve the employment.

3. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, RESCHEDULED STATUS CONFERENCE
LLC RE: CHAPTER 11 VOLUNTARY
PETITION
11-1-13 [[1](#)]

ELAINE NGUYEN/Atty. for dbt.

No tentative ruling.

4. [14-14241](#)-A-11 ARTHUR FONTAINE CONTINUED MOTION TO EMPLOY D.
DMG-1 MAX GARDNER AS ATTORNEY(S)
ARTHUR FONTAINE/MV 8-27-14 [[6](#)]
D. GARDNER/Atty. for dbt.

No tentative ruling.

5. [14-14241](#)-A-11 ARTHUR FONTAINE
DMG-2
ARTHUR FONTAINE/MV

MOTION TO EXTEND TIME TO FILE
REPORT REQUIRED BY BANKRUPTCY
RULE 2015.3(A)
9-24-14 [[28](#)]

D. GARDNER/Atty. for dbt.

Tentative Ruling

Motion: Extension to File Report Required by Fed. R. Bankr. P.
2015.3(a)

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ.
P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default
of the responding party is entered. The court considers the record,
accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v.*
Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, the court will grant the motion.
The time under Rule 2015.3(b) for filing the report required by Rule
2015.3(a) is extended to no later than October 15, 2014. The order
shall state only that the motion is granted and that the time is
extended to such date.

6. [13-17444](#)-A-7 A & A TRANSPORT, CO.,
CRD-2 INC.
WESTAMERICA BANK/MV

PRE-TRIAL CONFERENCE RE:
AMENDED MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-12-14 [[136](#)]

HILTON RYDER/Atty. for dbt.
CAROLINE DJANG/Atty. for mv.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [13-17744](#)-A-11 SREP V, LLC

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
12-6-13 [[1](#)]

No tentative ruling.

8. [13-17744](#)-A-11 SREP V, LLC
THA-10

CONTINUED MOTION FOR
COMPENSATION FOR THOMAS H.
ARMSTRONG, DEBTOR'S
ATTORNEY(S).
7-24-14 [[100](#)]

WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

9. [13-17744](#)-A-11 SREP V, LLC
THA-9

CHAPTER 11 SMALL BUSINESS PLAN
6-30-14 [[96](#)]

No tentative ruling.

10. [14-10851](#)-A-11 JOHN/BETTY VAN DYK
WW-12

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF WALTER & WILHELM
FOR RILEY C. WALTER, DEBTOR'S
ATTORNEY(S).
9-17-14 [[233](#)]

RILEY WALTER/Atty. for dbt.

Final Ruling

Application: Interim Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Prepared by applicant

Applicant: Walter & Wilhelm Law Group

Compensation approved: \$12,175.50

Costs approved: \$872.13

Aggregate fees and costs approved in this application: \$13,047.63

Retainer held: \$22,370.23

Amount to be paid as administrative expense: \$0.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Walter & Wilhelm Law Group has presented its application for compensation and reimbursement of expenses to the court. Having considered the well-pleaded facts of the application, and having entered the default of respondent for failure to appear, timely oppose or otherwise defend in the matter,

IT IS ORDERED that the application is approved on an interim basis. The court approves compensation in the amount of \$12,175.50 and reimbursement of expenses in the amount of \$872.13. The aggregate amount of \$13,047.63 may be paid from the retainer.

11. [14-10851](#)-A-11 JOHN/BETTY VAN DYK MOTION FOR COMPENSATION FOR M.
WW-13 GREEN AND COMPANY LLP,
ACCOUNTANT(S).
9-17-14 [[240](#)]

RILEY WALTER/Atty. for dbt.

Final Ruling

Application: Interim Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Prepared by applicant

Applicant: M. Green and Company LLP, Accountant for the Debtor in Possession

Compensation approved: \$5820.00

Costs approved: \$5.70

Aggregate fees and costs approved in this application: \$5825.70

Retainer held: \$0.00

Amount to be paid as administrative expense: \$5825.70

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

M. Green and Company LLP, accountant for the debtor in possession in this case, has presented its application for compensation and reimbursement of expenses to the court. Having considered the well-pleaded facts of the application, and having entered the default of respondent for failure to appear, timely oppose or otherwise defend in the matter,

IT IS ORDERED that the application is approved on an interim basis. The court approves compensation in the amount of \$5820.00 and reimbursement of expenses in the amount of \$5.70. The aggregate amount of \$5825.70 shall be allowed and paid as an administrative expense to the extent that the estate is administratively solvent.

12. [13-13284](#)-A-11 NICOLETTI OIL INC.

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
5-7-13 [[1](#)]

DAVID GOLUBCHIK/Atty. for dbt.

No tentative ruling.

13. [14-11991](#)-A-11 CENTRAL AIR CONTINUED MOTION FOR
KDG-14 CONDITIONING, INC. COMPENSATION FOR WARD R.
WARD STRINGHAM/MV STRINGHAM, SPECIAL COUNSEL(S).
8-25-14 [[180](#)]

HAGOP BEDOYAN/Atty. for dbt.
WARD STRINGHAM/Atty. for mv.

Final Ruling

Application: Interim Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Applicant: Ward R. Stringham, Special Counsel for the Debtor in Possession

Compensation approved: \$5527.50

Costs approved: \$236.25

Aggregate fees and costs approved in this application: \$5763.75

Retainer held: \$3434.00

Amount to be paid as administrative expense: \$2329.75

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

APPLICATION FOR COMPENSATION AND EXPENSES

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by special counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ward R. Stringham, Special Counsel for the Debtor in Possession, has presented his application for compensation and reimbursement of expenses to the court. Having considered the well-pleaded facts of the application, and having entered the default of respondent for failure to appear, timely oppose or otherwise defend in the matter,

IT IS ORDERED that the application is approved on an interim basis. The court approves compensation in the amount of \$5527.50 and reimbursement of expenses in the amount of \$236.25. The amount of \$3434.00 may be paid from the retainer, and the remainder shall be allowed and paid as an administrative expense to the extent that the estate is administratively solvent.

14. [14-11991](#)-A-11 CENTRAL AIR CONTINUED MOTION TO ENLARGE
KDG-15 CONDITIONING, INC. SCOPE OF COURT'S PREVIOUS ORDER
CENTRAL AIR CONDITIONING, FIXING, ALLOWING AND
INC./MV AUTHORIZING DEBTOR TO PAY
CLAIMS
9-2-14 [[194](#)]

HAGOP BEDOYAN/Atty. for dbt.

Tentative Ruling

Motion: Enlarge Scope of Court's Previous Order Fixing, Allowing and Authorizing Debtor to Pay Claims under 11 U.S.C. § 503(b)(9)

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, the court will grant the motion. The previous order fixing, allowing, and authorizing debtor to pay § 503(b)(9) creditors may be amended by the order on this motion to add new § 503(b)(9) creditors as identified in Exhibit B and to amend the amount of the claims of some § 503(b)(9) creditors already named in the previous order as shown on Exhibit B.

15. [14-11595](#)-A-11 RAY FISHER PHARMACY, CONTINUED STATUS CONFERENCE RE:
INC. VOLUNTARY PETITION
3-31-14 [[1](#)]
ALAN KINDRED/Atty. for dbt.

No tentative ruling.

1:45 p.m.

1. [10-12709](#)-A-11 ENNIS COMMERCIAL CONTINUED STATUS CONFERENCE RE:
[14-1062](#) PROPERTIES, LLC COMPLAINT
ENNIS COMMERCIAL PROPERTIES, 6-16-14 [[1](#)]
LLC ET AL V. ENNIS DEVELOPMENT
MICHAEL GOMEZ/Atty. for pl.

Final Ruling

This matter is continued to December 9, 2014, at 1:45 p.m. to allow the plaintiff to prove up a default judgment.