

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
2500 Tulare Street, 5<sup>th</sup> Floor  
Courtroom 11, Department A  
Fresno, California

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY  
**DATE:** NOVEMBER 29, 2017  
**CALENDAR:** 9:00 A.M. CHAPTER 7 CASES

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

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

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

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 pm at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling because of the court's error under FRCP 60 (a) (FRBP 9024) ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 pm one business day before the hearing.

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

1. [16-14101](#)-A-7 SILVANO CERVANTES  
[TMT](#)-1  
TRUDI MANFREDO/MV  
DAVID JENKINS/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

MOTION TO EMPLOY MELSON REALTY,  
INC. AS BROKER(S)  
10-30-17 [[18](#)]

### **Final Ruling**

**Application:** Approval of Employment

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

**Disposition:** Approved

**Order:** Prepared by applicant pursuant to the instructions below

Unopposed applications 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).

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.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between [professional's name] and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed or the petition date, whichever is earlier.

2. [16-14101](#)-A-7 SILVANO CERVANTES  
[TMT](#)-2  
TRUDI MANFREDO/MV

MOTION TO APPROVE STIPULATION  
BETWEEN TRUSTEE, DEBTOR AND  
MARGARITA CERVANTES CONCERNING  
DEBTOR'S RESIDENCE  
10-30-17 [[24](#)]

DAVID JENKINS/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

### **Final Ruling**

**Motion:** Approve Stipulation Concerning Sale of Debtor's Residence

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

**Disposition:** Granted

**Order:** Prepared by the movant 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). 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).

Trustee, Debtor and Margarita Cervantes have entered into the stipulation filed as an exhibit with the motion. The stipulation provides for the sale of the debtor's co-owned residence located at 35600 Road 124, Lot F, Visalia, CA. The court will approve the stipulation. The stipulation shall be attached as an exhibit to the proposed order.

3. [05-60006](#)-A-7 JAMES OWENS AND JEANNETTE MOTION FOR COMPENSATION FOR  
[JES](#)-2 ROBLES-OWENS JAMES E. SALVEN, ACCOUNTANT(S)  
JAMES SALVEN/MV 10-26-17 [[96](#)]  
ROBERT HAWKINS/Atty. for dbt.

### **Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

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 application was required not less than 14 days before the hearing on the application. 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**

In this Chapter 7 case, James E. Salven, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1525.00 and reimbursement of expenses in the amount of \$368.00.

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.

### **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.

James E. Salven's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$1525.00 and reimbursement of expenses in the amount of \$368.00.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

4.     [05-60006](#)-A-7     JAMES OWENS AND JEANNETTE     MOTION FOR COMPENSATION FOR  
          [TGM](#)-5             ROBLES-OWENS             TRUDI G. MANFREDO, TRUSTEES  
  ATTORNEY(S)  
  10-12-17 [[88](#)]

ROBERT HAWKINS/Att. for dbt.

### **Tentative Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved in part

**Order:** Civil minute order

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 application was required not less than 14 days before the hearing on the application. 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).

### **DISCREPANCY BETWEEN NOTICE OF HEARING AND MOTION**

The notice of hearing shows that the amount of requested attorney's fees equals \$5418. The motion indicates that the amount of such fees equals \$7829.00. The problem with this discrepancy is that all creditors and parties in interest in the case have only received notice of the lower amount.

The hearing on an application for approval of compensation or reimbursement of expenses, when the application requests approval of an amount exceeding \$1000, must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

In this case, the notice of hearing, which contains the lower amount of the fee request, was sent to all creditors and parties in interest.

But the certificate of service for the motion was not transmitted to all creditors and parties in interest and only transmitted to the so-called "short list" including the U.S. Trustee, chapter 7 trustee, Debtors, Debtors' attorney, and special notice parties.

Because of Federal Rule of Bankruptcy Procedure 2002(a), the court cannot allow compensation in an amount exceeding \$1000 when the request for compensation has not been noticed to all parties in interest in the case. The court will allow compensation in the amount of \$5418 at this hearing, unless the trustee requests time to supplement the notice of her application.

#### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Trudi G. Manfredo, general counsel for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$5418.00 and reimbursement of expenses in the amount of \$300.26.

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.

#### **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.

Trudi G. Manfredo's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$5418.00 and reimbursement of expenses in the amount of \$300.26.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

5. [17-13617](#)-A-7 ROBERT/STEPHANIE MOTION FOR RELIEF FROM  
[APN](#)-1 FITZGERALD AUTOMATIC STAY  
SANTANDER CONSUMER USA, 10-24-17 [[15](#)]  
INC./MV  
PETER BUNTING/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2015 Chrysler 200

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).

### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **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.

Santander Consumer USA INC.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2015 Chrysler 200, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

6. [17-13821](#)-A-7 TAMI HATCHER MOTION FOR RELIEF FROM  
[DWE](#)-1 AUTOMATIC STAY  
NATIONSTAR MORTGAGE LLC/MV 10-25-17 [[22](#)]  
DANE EXNOWSKI/Atty. for mv.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 5301 Caracas Avenue, Bakersfield, CA

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).

### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **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.

Nationstar Mortgage LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly

known as 5301 Caracas Avenue, Bakersfield, CA, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

7. [17-11824](#)-A-7      HORISONS UNLIMITED      MOTION TO DISMISS CASE  
[DMS-2](#)      10-31-17 [[325](#)]  
HAAR PROPERTIES/MV  
CECILY DUMAS/Atty. for dbt.  
DAVID SPIEKER/Atty. for mv.  
ORDER #380 CONTINUING TO  
1/24/18

### **Final Ruling**

By order, this motion was continued to January 24, 2018, at 9:00 a.m. Order, November 14, 2017, ECF # 380. All dates and deadlines contained in that order remain in full force and effect. If the motion is not ready for resolution, not later than 14 days prior to January 24, 2018, the parties shall file a joint status report.

8. [17-11824](#)-A-7      HORISONS UNLIMITED      MOTION FOR COMPENSATION BY THE  
[FW-5](#)      LAW OFFICE OF FEAR WADDELL, PC  
FOR PETER L. FEAR, SPECIAL  
COUNSEL(S)  
11-8-17 [[351](#)]

CECILY DUMAS/Atty. for dbt.

### **Tentative Ruling**

**Application:** Allowance of Interim Compensation and Expense  
Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

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).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Fear Waddell P.C., special counsel for the trustee, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$31,494.00 and reimbursement of expenses in the amount of \$1,139.36.



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 an interim basis as to the amounts requested. 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.

#### **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.

Fear Waddell's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved. The court allows interim compensation in the amount of \$31,494.00 and reimbursement of expenses in the amount of \$1,139.36. The fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

9. [17-11824](#)-A-7     HORISONS UNLIMITED  
[WFH](#)-7  
HAAR PROPERTIES/MV  
CECILY DUMAS/Atty. for dbt.  
DAVID SPIEKER/Atty. for mv.

MOTION TO RECONSIDER  
11-9-17 [[359](#)]

**No Ruling**

10. [15-10027](#)-A-7 ANDREY KARPIN  
[JTW](#)-2  
JANZEN, TAMBERI & WONG/MV

MOTION FOR COMPENSATION FOR  
JANZEN, TAMBERI & WONG,  
ACCOUNTANT(S)  
10-27-17 [[36](#)]

TRUDI MANFREDO/Atty. for dbt.

### **Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

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 application was required not less than 14 days before the hearing on the application. 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**

In this Chapter 7 case, Janzen, Tamberi & Wong, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1540.00 and reimbursement of expenses in the amount of \$11.04.

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.

### **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.

Janzen, Tamberi & Wong's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$1540.00 and reimbursement of expenses in the amount of \$11.04.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

11. [16-12127](#)-A-7 STUEVE'S MILK TRANSPORT, MOTION TO COMPROMISE  
RH-2 INC. A CALIFORNIA CONTROVERSY/APPROVE SETTLEMENT  
JAMES SALVEN/MV AGREEMENT WITH PRIN GRAM LLC  
10-27-17 [[64](#)]
- HAGOP BEDOYAN/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

### **Final Ruling**

**Motion:** Approve Compromise of Controversy

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

**Disposition:** Granted

**Order:** Civil minute order

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).

### **APPROVAL OF COMPROMISE**

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 parties request approval of a compromise that settles James E. Salven, Chapter 7 trustee, and Prim Gram, LLC, John Prince, and William Ingram ("transferees") for transfers (potentially) subject to attack under 11 U.S.C. § 547, 548. A settlement agreement reflecting the parties' compromise has not been attached to the motion as an exhibit. The terms and conditions of the compromise payment by the transferees to the estate \$65,200.00. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant A

& C Properties factors. The compromise or settlement will be approved.

### **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.

James E. Salven's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court approves the parties' compromise, which settles a dispute about regarding potentially avoidable transfers, 11 U.S.C. § 547, 548. The terms and conditions of the compromise are that Prim Gram, LLC, John Prince, and William Ingram, collectively, will pay the estate \$65,200.00 in resolution of all claims against them, or any of them.

12. [17-13732](#)-A-7      RIGOBERTO CEJA-GUZMAN AND      MOTION TO COMPEL ABANDONMENT  
[EPE](#)-2      ALEJANDRA CEJA-FLORES      10-19-17 [[19](#)]  
RIGOBERTO CEJA-GUZMAN/MV  
ERIC ESCAMILLA/Atty. for dbt.

### **Final Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(1); 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:** a hair and nail salon 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). 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).

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 only the business and its assets that are described in the motion.

13. [17-12738](#)-A-7 YONG YI MOTION FOR RELIEF FROM  
[RAS](#)-1 AUTOMATIC STAY  
HSBC BANK USA, N.A./MV 10-25-17 [[14](#)]  
NEIL SCHWARTZ/Atty. for dbt.  
SEAN FERRY/Atty. for mv.  
DISCHARGED

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted in part, denied in part as moot

**Order:** Civil minute order

**Subject:** 6700 Pauline Court, Bakersfield, CA

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).

### **AS TO DEBTOR**

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied in part as moot as to the debtor.

### **AS TO ESTATE**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **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.

HSBC Bank USA, N.A.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 6700 Pauline Court, Bakersfield, CA. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

14. [13-17341](#)-A-7     HOWARD SAGASER     MOTION FOR COMPENSATION FOR  
[JES-3](#)     JAMES E. SALVEN, CHAPTER 7  
JAMES SALVEN/MV     TRUSTEE(S)  
10-26-17 [[736](#)]  
HAGOP BEDOYAN/Atty. for dbt.

**Final Ruling**

By order, this matter was continued to December 13, 2017, at 9:00 a.m. Order, November 14, 2017, ECF # 742.

15. [17-13444](#)-A-7     TONG/BOON LEE     MOTION FOR RELIEF FROM  
[MDE-1](#)     AUTOMATIC STAY  
TOYOTA LEASE TRUST/MV     10-25-17 [[31](#)]  
PETER MACALUSO/Atty. for dbt.  
MARK ESTLE/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2015 Toyota Sienna

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).

### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **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.

Toyota Lease Trust's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2015 Toyota Sienna, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

16. [17-12046](#)-A-7 MEDICAL ARTS AMBULATORY MOTION TO ABANDON  
[TGM](#)-3 SURGERY CENTER, INC. 10-24-17 [[45](#)]  
PETER FEAR/MV  
LEONARD WELSH/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

### **Final Ruling**

**Motion:** Authorize Abandonment of Property of the Estate

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

**Disposition:** Granted

**Order:** Prepared by trustee pursuant to instructions below

**Property Description:** Medical Records

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).

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 medical records described are either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such property back to the debtor is warranted. The proposed order shall attach a copy of the Medical Records Disposition Agreement as an exhibit and incorporate that agreement into the order by reference.

17. [17-11447](#)-A-7      MAVRA PATROPULOS      CONTINUED MOTION TO AVOID LIEN  
[HAR-2](#)      OF CHASE BANK USA, N.A.  
MAVRA PATROPULOS/MV      8-8-17 [[22](#)]  
HILTON RYDER/Atty. for dbt.  
ORDER, ECF NO. 88

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

The default of the responding party was entered at the hearing on September 19, 2017. 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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

18. [17-11447](#)-A-7      MAVRA PATROPULOS      CONTINUED MOTION TO AVOID LIEN  
[HAR](#)-3      OF CAPITAL ONE BANK  
MAVRA PATROPULOS/MV      8-8-17 [[26](#)]  
HILTON RYDER/Atty. for dbt.  
ORDER, ECF NO. 90

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

The default of the responding party was entered at the hearing on September 19, 2017. 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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

19. [17-11447](#)-A-7 MAVRA PATROPULOS  
[HAR](#)-4  
MAVRA PATROPULOS/MV  
HILTON RYDER/Atty. for dbt.  
ORDER, ECF NO. 92

CONTINUED MOTION TO AVOID LIEN  
OF DISCOVER BANK  
8-8-17 [[30](#)]

**Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

The default of the responding party was entered at the hearing on September 19, 2017. 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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

20. [17-11447](#)-A-7 MAVRA PATROPULOS  
[HAR](#)-5  
MAVRA PATROPULOS/MV  
HILTON RYDER/Atty. for dbt.  
ORDER, ECF NO. 94

CONTINUED MOTION TO AVOID LIEN  
OF DISCOVER BANK  
8-8-17 [[34](#)]

**Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

The default of the responding party was entered at the hearing on September 19, 2017. 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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

21. [17-11447](#)-A-7 MAVRA PATROPULOS  
[HAR](#)-6  
MAVRA PATROPULOS/MV

CONTINUED MOTION TO AVOID LIEN  
OF NATIONAL CREDIT ADJUSTERS,  
LLC  
8-8-17 [[38](#)]

HILTON RYDER/Atty. for dbt.  
ORDER, ECF NO. 96

### **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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

22. [17-11447](#)-A-7 MAVRA PATROPULOS  
[HAR](#)-7  
MAVRA PATROPULOS/MV  
HILTON RYDER/Atty. for dbt.  
ORDER, ECF NO. 98

CONTINUED MOTION TO AVOID LIEN  
OF ASSET ACCEPTANCE, LLC  
8-8-17 [[42](#)]

### **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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

23. [17-11447](#)-A-7 MAVRA PATROPULOS  
[HAR-8](#)  
MAVRA PATROPULOS/MV  
HILTON RYDER/Atty. for dbt.  
ORDER, ECF NO. 100

CONTINUED MOTION TO AVOID LIEN  
OF CAVALRY SPV I, LLC  
8-8-17 [[46](#)]

### **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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

24. [16-13152](#)-A-7 MARIA CAZARES DE ANTUNA MOTION TO COMPROMISE  
[NEA](#)-3 AND FLORENCIO ANTUNA CONTROVERSY/APPROVE SETTLEMENT  
PETER FEAR/MV AGREEMENT WITH MARIA LUISA  
CAZARES DE ANTUNA AND FLORENCIO  
ANTUNA  
10-19-17 [[41](#)]

OSCAR SWINTON/Atty. for dbt.  
NICHOLAS ANIOTZBEHERE/Atty. for mv.

### **Final Ruling**

**Motion:** Approve Compromise of Controversy

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

**Disposition:** Granted

**Order:** Civil minute order

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).

### **APPROVAL OF COMPROMISE**

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 movant requests approval of a compromise that settles Peter Fear, Chapter 7 trustee and the debtors regarding debtors' claim of a homestead exemption. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Summarized, the settlement \$75,000.00 to resolve the exemption claim dispute. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

## 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.

Peter Fear's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion an exhibit and filed at docket no. 44.

25.	<a href="#">16-13152</a> -A-7     MARIA CAZARES DE ANTUNA <a href="#">PFT</a> -3             AND FLORENCIO ANTUNA PETER FEAR/MV	MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH ROBERT A. HAWKINS 11-1-17 [ <a href="#">47</a> ]
-----	---	---

OSCAR SWINTON/Atty. for dbt.  
NICHOLAS ANIOTZBEHERE/Atty. for mv.

### Final Ruling

**Motion:** Approve Compromise of Controversy

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

**Disposition:** Granted

**Order:** Civil minute order

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).

### APPROVAL OF COMPROMISE

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 movant requests approval of a compromise that settles between Peter Fear, Chapter 7 trustee of this estate, and Robert Hawkins, Chapter 7 trustee in a related case, *In re Antuna*, No. 16-13860 (Bankr. E.D. Cal. 2016) with respect to the debtors transfer of property, 558 N. 3rd Street, Porterville, California, to their daughter Jannet Antuna. Summarized, the settlement will divide the \$75,000 paid by the Maria Cazares de Antuna and Florencio Antuna equally between *In re Antuna*, No. 16-13152 (Bankr. E.D. Cal. 2016), and *In re Antuna*, No. 16-13860 (Bankr. E.D. Cal. 2016). The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

#### **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.

Peter Fear's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion an exhibit and filed at docket no. 68.

26. [16-13860](#)-A-7 JANNET ANTUNA  
[PFT](#)-3  
PETER FEAR/MV

MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH ROBERT A.  
HAWKINS  
11-1-17 [[65](#)]

OSCAR SWINTON/Atty. for dbt.  
PETER FEAR/Atty. for mv.

#### **Final Ruling**

**Motion:** Approve Compromise of Controversy

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

**Disposition:** Granted

**Order:** Civil minute order

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).



## **APPROVAL OF COMPROMISE**

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 movant requests approval of a compromise that settles between Peter Fear, Chapter 7 trustee of this estate, and Robert Hawkins, Chapter 7 trustee in a related case, *In re Antuna*, No. 16-13860 (Bankr. E.D. Cal. 2016) with respect to the debtors transfer of property, 558 N. 3rd Street, Porterville, California, to their daughter Jannet Antuna. Summarized, the settlement will divide the \$75,000 paid by the Maria Cazares de Antuna and Florencio Antuna equally between *In re Antuna*, No. 16-13152 (Bankr. E.D. Cal. 2016), and *In re Antuna*, No. 16-13860 (Bankr. E.D. Cal. 2016). The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

## **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.

Peter Fear's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion an exhibit and filed at docket no. 68.

27. [17-13662](#)-A-7 PATRICIA MELLAS  
[NLL](#)-1  
U.S. BANK NATIONAL  
ASSOCIATION/MV  
DERIK LEWIS/Atty. for dbt.  
NANCY LEE/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
10-19-17 [[11](#)]

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 13407 Boticelli Court, Bakersfield, CA

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).

### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **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.

U.S. Bank National Association through its servicing agent Nationstar Mortgage LLC has brought a motion for relief from the automatic stay that is before the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 13407 Boticelli Court, Bakersfield, CA, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing

may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

28. [16-12063](#)-A-7 TIMOTHY CLARK  
[TGM](#)-2  
RANDELL PARKER/MV  
ROBERT WILLIAMS/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.  
RESPONSIVE PLEADING

CONTINUED OBJECTION TO DEBTOR'S  
CLAIM OF EXEMPTIONS  
9-13-17 [[69](#)]

### **Tentative Ruling**

**Matter:** Trustee's Objection to Amended Claim of Exemptions

**Disposition:** Continued for an evidentiary hearing

**Order:** Civil minute order or scheduling order

The court will hold a scheduling conference for the purpose of setting an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d). An evidentiary hearing is required because disputed, material factual issues must be resolved before the court can rule on the relief requested.

### **BACKGROUND**

On amended Schedule C filed at docket no. 59, the debtor has claimed exemptions in household goods, including tools, equipment, furnishings, electronics, sports equipment, bicycles, and apparel (collectively, "household goods"). These household goods were claimed exempt under § 704.020. The description of the household goods on amended Schedule C includes "items that were stolen." The trustee has brought an objection to the debtor's exemption claim in his household goods.

Specifically, the objection is directed at the exemptions on debtor's amended Schedule C that are listed in the trustee's support statement, ECF No. 84.

### **EXEMPTION CLAIMED UP TO STATUTORY LIMIT**

In 2010, the Supreme Court issued a decision that was the basis for an amendment to the instructions on the current version of Schedule C. See *Schwab v. Reilly*, 560 U.S. 770 (2010) (property claimed exempt on Schedule C to which the trustee may object is property that § 522(b) and (d) permit to be exempted in kind or exempted as interests in categories of property up to a specified dollar amount). Consistent with *Schwab v. Reilly*, Schedule C was amended in 2015 to permit debtors to claim exemptions in property by specifying an exempt dollar-limited amount or 100% of fair market value up to any applicable statutory limit. See Official Form 106C (Schedule C) advisory committee's note (2015). The advisory committee's note also indicates that selecting 100% of fair market value up to any applicable statutory limit "would impose no dollar limit where the exemption is unlimited in dollar amount, such as some exemptions for

health aids, certain governmental benefits, and tax-exempt retirement funds." *Id.*

Here, the household goods are claimed exempt by the debtor under Cal. Civ. Proc. Code 704.020, and the debtor has checked the box indicating that the exemption is claimed in 100% of fair market value, up to any applicable statutory limit. Section 704.020 does not impose a specific dollar limit on the exemption, so the exemption is an "in kind" exemption, even though the statute does contain non-dollar limitations, i.e., conditions to applicability. Cal. Civ. Proc. Code § 704.020(b).

Consistent with the advisory committee's notes, the debtor's checking of the box "100% of [FMV], up to any applicable statutory limit" means that the debtor's claim of exemption has no dollar limit because § 704.020 is unlimited in dollar amount. This does not mean that the debtor is free—in the face of an objection—to exempt items that are outside the terms and conditions of § 704.020. And the disputed issues above should adequately address whether the debtor's exemptions are proper.

### **DISPUTED, MATERIAL ISSUES**

Preliminarily, the court identifies the following disputed, material issues:

- (1) whether debtor's stolen household goods that are claimed exempt (which have been replaced by insurance proceeds) were personally used *or procured for use* by the judgment debtor and members of the judgment debtor's family *at the judgment debtor's place of residence on the petition date*, see Cal. Civ. Proc. Code § 704.020(a)(1);
- (2) whether the insurance proceeds the stolen household goods (rather than the goods themselves) may be claimed exempt under Cal. Civ. Proc. Code § 704.020(a) and (c);
- (3) whether a portion of the insurance proceeds may be claimed exempt for any item for which "a replacement is reasonably necessary," see *id.* § 704.020(c).

29. [15-10966](#)-A-7     RODNEY HARON  
[FW-12](#)

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF FEAR WADDELL,  
P.C. TRUSTEES ATTORNEY(S)  
11-1-17 [[283](#)]

TIMOTHY SPRINGER/Atty. for dbt.

### **Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Approved  
**Order:** Civil minute order

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 application was required not less than 14 days before the hearing on the application. 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**

In this Chapter 7 case, Fear Waddell, P.C., attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$28,128.50 and reimbursement of expenses in the amount of \$1,334.39.

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.

The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

## **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.

Fear Waddell, P.C.'s application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$28,128.50 and reimbursement of expenses in the amount of \$1,334.39. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

30. [15-10966](#)-A-7 RODNEY HARON  
[MKK](#)-2  
M. KLEIN/MV  
TIMOTHY SPRINGER/Atty. for dbt.

MOTION FOR COMPENSATION FOR M.  
KATHLEEN KLEIN, ACCOUNTANT(S)  
10-30-17 [[274](#)]

### **Tentative Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved in part, denied in part

**Order:** Civil minute order

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 application was required not less than 14 days before the hearing on the application. 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**

In this Chapter 7 case, M. Kathleen Klein, accountant for the debtor-in-possession while this case was pending under chapter 11, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$5220.00 and reimbursement of expenses in the amount of \$81.50.

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).

#### Services Rendered Post-Conversion

This case has been converted twice. First, the case was converted from chapter 13 to chapter 11 on June 26, 2015. Second, on motion of the U.S. Trustee, the case was converted from chapter 11 to chapter 7 on October 21, 2015.

The application requests approval of compensation for services rendered after this case was converted to chapter 7. The applicant, however, was employed by the debtor-in-possession and not the chapter 7 trustee. The applicant cannot be compensated for services rendered after the case was converted to chapter 7 on October 21, 2015.

The amount charged for services rendered post-conversion totals \$637.50. As the applicant was not employed in this chapter 7 case by the trustee, the applicant's services are not compensable. And the debtor-in-possession no longer existed after the conversion date. As a result, the court cannot allow compensation for these post-conversion services.

Services Rendered before Employment Order's Effective Date for  
Compensable Services

One time entry precedes the employment order's effective date for compensable services. The employment order states that the order is effective "for services on or after July 1, 2015." One time entry of .20 hour precedes July 1, 2015 by one day. In this particular instance, the court will waive the noncompliance because the services were rendered only 1 day before the effective date of the employment order and because the compensation sought for such services is de minimus.

Remaining Services

As to the remaining services within the chapter 11 case, the court finds that the compensation and expenses sought are reasonable, and the court will approve the application in part on a final basis.

**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 Kathleen Klein's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved in part on a final basis. The court allows final compensation in the amount of \$4582.50 and reimbursement of expenses in the amount of \$81.50. The application is disapproved in part in the amount of \$637.50.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

31. [16-11467](#)-A-7 JERRY/PAMELA STEVENS MOTION TO SELL  
[RHT](#)-3 10-19-17 [[66](#)]  
ROBERT HAWKINS/MV  
MARK ZIMMERMAN/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

**Final Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 1957 GMC truck, 1970 Chevrolet El Camino, and 2009 Harley Davidson Fat Boy

**Sale Type:** Public auction

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.

32. [17-11467](#)-A-7 MIGUEL BALDERAS MOTION FOR COMPENSATION FOR  
[TGM](#)-3 TRUDI G. MANFREDO, TRUSTEES  
ATTORNEY(S)  
11-1-17 [[50](#)]

MARK ZIMMERMAN/Atty. for dbt.

**Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

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 application was required not less than 14 days before the hearing on the application. 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

In this Chapter 7 case, Trudi G. Manfredo, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1799.00 and reimbursement of expenses in the amount of \$99.26.

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.

## 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.

Trudi G. Manfredo's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$1799.00 and reimbursement of expenses in the amount of \$99.26.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

33. [17-12181](#)-A-7 MARGARITA HERNANDEZ  
[DRJ](#)-2  
MARGARITA HERNANDEZ/MV

MOTION TO AVOID LIEN OF  
PORTFOLIO RECOVERY ASSOCIATES,  
LLC  
10-19-17 [[50](#)]

DAVID JENKINS/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).

### **JUDICIAL LIEN AMOUNT**

Although the court can determine whether statutory impairment exists based solely on the fair market value of the property, consensual liens, and the exemption amount, the court prefers that the content of the motion include the amount of the judicial lien that the order will be avoiding. In future lien avoidance motions, the amount of the judicial lien to be avoided along with the other essential facts should be identified.

### **LIEN AVOIDANCE**

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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

34. [17-12181](#)-A-7 MARGARITA HERNANDEZ MOTION TO AVOID LIEN OF  
[DRJ](#)-3 PORTFOLIO RECOVERY ASSOCIATES,  
MARGARITA HERNANDEZ/MV LLC  
10-30-17 [\[55\]](#)  
DAVID JENKINS/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).

#### **JUDICIAL LIEN AMOUNT**

Although the court can determine whether statutory impairment exists based solely on the fair market value of the property, consensual liens, and the exemption amount, the court prefers that the content of the motion include the amount of the judicial lien that the order will be avoiding. In future lien avoidance motions, the amount of the judicial lien to be avoided along with the other essential facts should be identified.

#### **LIEN AVOIDANCE**

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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

35.	<a href="#">17-12181</a> -A-7     MARGARITA HERNANDEZ <a href="#">DRJ</a> -4 MARGARITA HERNANDEZ/MV DAVID JENKINS/Atty. for dbt.	MOTION TO AVOID LIEN OF DISCOVER BANK 10-30-17 [ <a href="#">60</a> ]
-----	---	---

#### **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).

### **JUDICIAL LIEN AMOUNT**

Although the court can determine whether statutory impairment exists based solely on the fair market value of the property, consensual liens, and the exemption amount, the court prefers that the content of the motion include the amount of the judicial lien that the order will be avoiding. In future lien avoidance motions, the amount of the judicial lien to be avoided along with the other essential facts should be identified.

### **LIEN AVOIDANCE**

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 judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

36. [17-12181](#)-A-7 MARGARITA HERNANDEZ  
[TGM](#)-3  
PETER FEAR/MV  
DAVID JENKINS/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.  
NON-OPPOSITION

MOTION TO SELL FREE AND CLEAR  
OF LIENS  
11-1-17 [[69](#)]

### **Tentative Ruling**

**Motion:** Sell Real Property and Compensate Real Estate Broker

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

**Disposition:** Granted in part as to relief under § 363(b); denied in part as to relief under § 363(f)

**Order:** Prepared by moving party

**Property:** 2050 Pepperdine Drive, Los Banos, CA

**Buyer:** Socorro O. Huichapan

**Sale Price:** \$325,000.00

**Sale Type:** Private sale subject to overbid opportunity

**Compensation:** 6% commission to be divided equally between buyer and seller's brokers (unless the confirmed buyer is unrepresented by a broker)

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) SALE**

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.

### **COMPENSATION**

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.

## **SALE FREE AND CLEAR UNDER § 363(f)**

The trustee requests that the court authorize the sale free and clear of the following three judgment liens on the real property:

1. Discover Bank's judgment lien in the approximate amount of \$6005.80 plus any post-judgment interest
2. Portfolio Recovery Associates, LLC's judgment lien in the approximate amount of \$5448.98 plus any post-judgment interest
3. Portfolio Recovery Associates, LLC's judgment lien in the approximate amount of \$2008.43 plus any post-judgment interest

But these three judgment liens have been determined (as of this calendar) to be avoidable under 11 U.S.C. § 522(f). The court cannot grant free and clear relief as to a lien that the court has ruled will be avoided (as soon as a proposed order is submitted). The court finds the free-and-clear relief sought to be unnecessary in this instance given that the court has ruled that it will avoid these three judgment liens.

## **CONDITIONAL NON-OPPOSITION**

The Bank of New York Mellon (BNYM) submitted a conditional non-opposition out of an abundance of caution. BNYM opposes a sale free and clear of its lien in the absence of being paid its secured claim in full. Because the trustee has not sought free and clear relief as to BNYM's lien, the court need not address its refusal to consent to such relief.

37. [17-13494](#)-A-7    ROCIO STINER  
[TMT](#)-1  
TRUDI MANFREDO/MV  
TRUDI MANFREDO/Atty. for mv.

MOTION TO RECONSIDER  
10-23-17 [[23](#)]

## **Final Ruling**

**Motion:** Reconsider Order Granting Application for Waiver of Chapter 7 Filing Fee

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

**Disposition:** Granted

**Order:** Civil minute order

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).

## **DISCUSSION**

The chapter 7 trustee moves to reconsider the order granting the debtor's application for waiver of the chapter 7 filing fee. In that application, the debtor represented the following: (1) a family size of 3; (2) income of \$1,939 per month; and (3) an inability to pay the filing fee in installments. On the petition date, the Office of

Management and Budget defined 150% of the poverty line for this family size to be \$2,552.50 per month.

Based on such representations, the court granted the fee waiver.

Rule 60(b) allows the court to relieve a party from an order for the following reasons (1) "mistake, inadvertence, surprise, or excusable neglect," (2) "newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)," or (3) fraud. Fed. R. Civ. P. 60(b)(1)-(3), *incorporated by* Fed. R. Bankr. P. 9024; see also Rule 9023 (requiring motions for a new trial to be filed not later than 14 days after judgment). Such a Rule 60(b) motion must be brought no later than one year after the order from which relief is sought. Fed. R. Civ. P. 60(c)(1), *incorporated by* Fed. R. Bankr. P. 9024.

In forma pauperis fee waivers are governed by 28 U.S.C. § 1930(f). That subsection authorizes the court to waive the filing fee for Chapter 7 debtors: (1) whose income is "less than 150 percent of the income official poverty line . . . applicable to a family of the size involved"; and (2) who is otherwise "unable to pay that fee in installments." The debtor bears the burden of proving by a preponderance of the evidence that both prongs of § 1930(f)(1) have been satisfied. *In re Ross*, 508 B.R. 777 (Bankr. N.D. Ga. 2014).

Here, the trustee has made a prima facie showing of entitlement to relief. This reconsideration motion has been brought within 1 year of the order granting the fee waiver. Further, at the meeting of creditors, the trustee discovered new evidence relevant to the ruling on the fee-waiver application. This new evidence demonstrates that income that exceeds 150% of the poverty line. The household income is \$5,716.67. Manfredo decl. ¶¶ 6-7, October 23, 2017, ECF # 25. This new evidence could not have been discovered in time for a motion for a new hearing on the matter because the application for waiver of the filing fee, the petition, schedules, and statements did not include the evidence. Further, the trustee's first opportunity to examine the debtor was at the meeting of creditors, which was more than 14 days after the order on the fee waiver. The motion will be granted.

#### **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.

Trudi G. Manfredo's motion to reconsider the order granting debtor's application for waiver of the chapter 7 filing fee has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that: (1) the motion is granted; and (2) the order on the Application for Waiver of the Chapter 7 Filing Fee, September 23, 2017, ECF 17 is vacated.

IT IS FURTHER ORDERED that the Clerk of the Court shall issue an order allowing payment of the filing fee in installments and establishing a payment schedule for such installments. If the filing fee is not paid,

the Clerk may close the case without issuing a discharge, Fed. R. Bankr. P. 4004(c) (1) (G).

38. [17-11796](#)-A-7      DIANE MCDONOUGH      MOTION TO SELL  
[JES](#)-1      10-31-17 [[17](#)]  
JAMES SALVEN/MV  
HAGOP BEDOYAN/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Vehicles described below

**Buyer:** Debtor

**Sale Price:**

-2010 Pontiac G6: \$500 cash

-2011 Lexus ES: \$7950 (\$4900 cash plus \$3050 exemption credit)

**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.