

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Ernest Robles, Presiding
Courtroom 1568 Calendar**

Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:13-27702 Morad Javedanfar

Chapter 7

Adv#: 2:15-01363 Yoo v. Neman et al

#1.00 Status Hearing

RE: [1] Adversary case 2:15-ap-01363. Complaint by Timothy J. Yoo against Morad Neman, MBN Real Estate Investments, LLC. (Charge To Estate). - Complaint to: (1) Avoid and Recover Fraudulent Transfers; (2) Avoid and Recover Preferential Transfers; and (3) Preserve Recovered Transfers for Benefit of Debtor's Estate [11 U.S.C. § 544 and California Civil Code 3439 et. seq. and 11 U.S.C. §§ 547, 548 and 550] - Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Friedman, Anthony)

Docket No: 1

***** VACATED *** REASON: STATUS CONFERENCE ON FIRST AMENDED COMPLAINT 2-14-17.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Morad Javedanfar

Represented By
Andre A Khansari

Defendant(s):

MBN Real Estate Investments, LLC

Pro Se

Morad Neman

Pro Se

Joint Debtor(s):

Yaffa Javedanfar

Represented By
Andre A Khansari

Plaintiff(s):

Timothy J. Yoo

Represented By
Anthony A Friedman

**United States Bankruptcy Court
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CONT... Morad Javedanfar

Chapter 7

Trustee(s):

Timothy Yoo (TR)

Represented By
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:13-32130 Ramin Emami

Chapter 7

Adv#: 2:13-02149 Great American Insurance Company v. Emami et al

■

#2.00 Hearing re [138] Order To Appear For Examination And Produce Documents Re:
Enforcement Of Judgment Judgment Debtor Vicki Emami

FR. 12-20-16

Docket No: 0

Tentative Ruling:

12/12/2016

Hearing required.

Party Information

Debtor(s):

Ramin Emami

Represented By
Baruch C Cohen

Defendant(s):

Vicki Ann Emami

Represented By
Baruch C Cohen

Ramin Emami

Represented By
Baruch C Cohen

Plaintiff(s):

Great American Insurance Company

Represented By
Robert J Berens

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:14-15062 Perry Rubenstein Gallery, LLC

Chapter 7

Adv#: 2:16-01134 Krasnoff Ch 7 Trustee v. Fitzmaurice

#3.00 Status Hearing

RE: [1] Adversary case 2:16-ap-01134. Complaint by Brad D Krasnoff Ch 7 Trustee against Sara Fitzmaurice. (Charge To Estate). Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Kim, Doah)

fr. 6-14-16; 6-7-16; 7-19-16; 8-9-16; 8-23-16; 9-13-16; 11-8-16

Docket No: 1

***** VACATED *** REASON: DISMISSED 12-7-16**

Tentative Ruling:

9/12/2016

The parties have reached a settlement, subject to Court approval. The status conference is CONTINUED to November 8, 2016, at 10:00 a.m., to enable the parties to submit a Rule 9019 motion. If that motion is granted, the continued status conference will go off calendar. The pretrial and trial dates are VACATED. Plaintiff shall submit a scheduling order. No appearances are required.

Party Information

Debtor(s):

Perry Rubenstein Gallery, LLC

Represented By
Victor A Sahn

Defendant(s):

Sara Fitzmaurice

Pro Se

Plaintiff(s):

Brad D Krasnoff Ch 7 Trustee

Represented By
Doah Kim

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10:00 AM

CONT... Perry Rubenstein Gallery, LLC

Chapter 7

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

Brad D Krasnoff (TR)

Represented By
Doah Kim

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:14-25235 Thomas Edwin Thorpe

Chapter 7

Adv#: 2:14-01738 Thorpe et al v. WELLS FARGO BANK, N.A. et al

■

#4.00 Hearing re status conference re [34] *First Amended Complaint To Determine Student Loan Debts To Be Dischargeable (11 U.S.C. §523(a)(8))*

fr: 4-19-16; 6-21-16; 9-13-16; 11-8-16

Docket No: 0

***** VACATED *** REASON: CONTINUED 1-10-17 AT 10:00 A.M.**

Tentative Ruling:

11/7/2016

Plaintiffs have filed, on a negative-notice basis, motions for default judgment against the only two Defendants remaining in this proceeding, Wells Fargo Bank and MRU Loans. The status conference is CONTINUED to December 13, 2016, at 10:00 a.m., to enable the Court to rule upon the motions for default judgment. If those motions are granted, the continued status conference will go off calendar. Plaintiffs shall submit an order. **No appearances are required.**

Party Information

Debtor(s):

Thomas Edwin Thorpe

Represented By
Mark T Young

Defendant(s):

National Collegiate Student Loan Trust

Represented By
Raymond F Moats III

YUNOMICS PRIVATE STUDENT I

Represented By
Mark T Young
Rachael A Kierych

National Collegiate Student Loan Trust

Represented By
Raymond F Moats III

National Collegiate Student Loan Trust

Represented By

**United States Bankruptcy Court
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CONT... Thomas Edwin Thorpe

Chapter 7

Raymond F Moats III

Bank of America, N.A.

Represented By
Eddie R Jimenez
Mark T Young

WELLS FARGO BANK, N.A.

Represented By
Mark T Young

National Collegiate Student Loan Trust

Represented By
Mark T Young

MRU Loans

Represented By
Mark T Young

Joint Debtor(s):

Linda Jeanne Thorpe

Represented By
Mark T Young

Plaintiff(s):

Linda Jeanne Thorpe

Represented By
Mark T Young

Thomas E Thorpe

Represented By
Mark T Young

Trustee(s):

Heide Kurtz (TR)

Pro Se

Heide Kurtz (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:15-16111 Jung Hee Choi

Chapter 7

Adv#: 2:15-01381 DOOIN INDUSTRIAL CORPORATION, a foreign corporatio v. Choi

#5.00 Status Conference

RE: [1] Adversary case 2:15-ap-01381. Complaint by DOOIN INDUSTRIAL CORPORATION, a foreign corporation against Jung Hee Choi. false pretenses, false representation, actual fraud),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Tabibi, Nico)

fr. 3-8-16; 7-12-16; 10-18-16

Docket No: 1

***** VACATED *** REASON: JUDGMENT ENTERED 10-31-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jung Hee Choi

Represented By
Kelly K Chang

Defendant(s):

Jung Hee Choi

Pro Se

Plaintiff(s):

DOOIN INDUSTRIAL CORPORATIC

Represented By
Nico N Tabibi

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

Brad D Krasnoff (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:15-22478 Toby John Grear

Chapter 7

Adv#: 2:15-01586 Jones v. Grear

#6.00

A status conference re [10] amended complaint regarding the finalization of the settlement agreement

fr. 10-18-16

Docket No: 0

***** VACATED *** REASON: ORDER OF DISMISSAL ENTERED 11-22
-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Toby John Grear

Represented By
Sylvia Lew

Defendant(s):

Toby John Grear

Represented By
Kevin S Lacey

Plaintiff(s):

Jessica Jones

Represented By
Paul E Heidenreich

Trustee(s):

Richard K Diamond (TR)

Pro Se

Richard K Diamond (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:16-11563 Elma Fernandez

Chapter 7

Adv#: 2:16-01217 Garcia et al v. Fernandez

#7.00 Status Hearing

RE: [17] Amended Complaint by Adrian M Baca on behalf of Maria Francisco , Zeferino Garcia against Elma Fernandez . (RE: related document(s)1 Adversary case 2:16-ap-01217. Complaint by Zeferino Garcia , Maria Francisco against Elma Fernandez - willful and malicious injury)) filed by Plaintiff Zeferino Garcia, Plaintiff Maria Francisco).

fr: 10-18-16

Docket No: 17

***** VACATED *** REASON: CONTINUED 2-14-17 AT 10:00 A.M.**

Tentative Ruling:

10/17/2016: No appearances required.

Previously ordered dates are confirmed as follows

Discovery cut-off (i.e., last date to complete discovery, including hearings on discovery motions; except as to experts): February 28, 2017

Pretrial: March 14, 2017 at 11:00 a.m.

Trial: During the Week of March 27, 2017. The Court's courtroom deputy will contact counsel 2-3 weeks prior and advise counsel which day of the week the matter will be tried.

Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The trial day begins at 9:00 a.m.

Plaintiff shall lodge a scheduling order.

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CONT... Elma Fernandez

Chapter 7

No appearance is required if submitting on the court's tentative ruling. If submitting on the tentative, please contact Daniel Koontz or Nathan Reinhardt at 213-894-1522 no later than 1 hour prior to the hearing.

Party Information

Debtor(s):

Elma Fernandez

Represented By
Juan Castillo-Onofre

Defendant(s):

Elma Fernandez

Represented By
Alla Tenina

Plaintiff(s):

Maria Francisco

Represented By
Adrian M Baca

Zeferino Garcia

Represented By
Adrian M Baca

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:16-17170 Tamara Nicole Gardner

Chapter 7

Adv#: 2:16-01401 Yoo v. Gardner

■

#8.00 Status HearingRE: [1] Adversary case 2:16-ap-01401. Complaint by Timothy J Yoo against Tamara Nicole Gardner. (Charge To Estate). Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Yoo (TR), Timothy)

Docket No: 1

Tentative Ruling:

12/12/2016

Previously ordered dates are confirmed as follows:

Discovery cut-off (i.e., last date to complete discovery, including hearings on discovery motions; except as to experts): April 28, 2017

Pretrial: May 16, 2017 at 11:00 a.m.

Trial: During the Week of May 30, 2017. The Court's courtroom deputy will contact counsel 2-3 weeks prior and advise counsel which day of the week the matter will be tried.

Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The trial day begins at 9:00 a.m.

Plaintiff shall lodge a scheduling order.

No appearance is required if submitting on the court's tentative ruling.If submitting on the tentative, please contact Daniel Koontz or Nathan Reinhardt at 213-894-1522 no later than 1 hour prior to the hearing.

Party Information

**United States Bankruptcy Court
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Los Angeles
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10:00 AM

CONT... Tamara Nicole Gardner

Chapter 7

Debtor(s):

Tamara Nicole Gardner

Represented By
Brian J Soo-Hoo

Defendant(s):

Tamara Nicole Gardner

Pro Se

Plaintiff(s):

Timothy J Yoo

Pro Se

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:16-17965 Guillermo Alvarado

Chapter 7

Adv#: 2:16-01425 C.h. Robinson Worldwide, Inc. v. Alvarado

■

#9.00 Status Hearing RE: [1] Adversary case 2:16-ap-01425. Complaint by C.h. Robinson Worldwide, Inc. against Guillermo Alvarado. (14 (Recovery of money/property - other)) (Burns, Edward)

Docket No: 1

Tentative Ruling:

12/12/2016

Previously ordered dates are confirmed as follows

Discovery cut-off (i.e., last date to complete discovery, including hearings on discovery motions; except as to experts): April 28, 2017

Pretrial: May 16, 2017 at 11:00 a.m.

Trial: During the Week of May 30, 2017. The Court's courtroom deputy will contact counsel 2-3 weeks prior and advise counsel which day of the week the matter will be tried.

Consult the Court's website for the Judge's requirements regarding exhibit binders and trial briefs.

The trial day begins at 9:00 a.m.

Plaintiff shall lodge a scheduling order.

The matter shall be referred to the Mediation Panel. The parties shall meet and confer and select a Mediator from this District's Mediation Panel. Plaintiff will lodge a completed "Request for Assignment to Mediation Program; [Proposed] Order Thereon" (See Amended General Order 95-01 available on the Court's website) within 15 days from the date of this hearing, and deliver a hard copy directly to chambers c/o the judge's law clerk Daniel Koontz.

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10:00 AM

CONT... **Guillermo Alvarado**

Chapter 7

No appearance is required if submitting on the court's tentative ruling. If submitting on the tentative, please contact Daniel Koontz or Nathan Reinhardt at 213-894-1522 no later than 1 hour prior to the hearing.

Party Information

Debtor(s):

Guillermo Alvarado

Represented By
Giovanni Orantes

Defendant(s):

Guillermo Alvarado

Pro Se

Plaintiff(s):

C.h. Robinson Worldwide, Inc.

Represented By
Edward W Burns

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:16-18274 Ok Jin Jeon

Chapter 7

Adv#: 2:16-01428 Diamond, as Chapter 7 Trustee v. Jeon dba Salon Spa & Beauty Center dba Redo

#10.00 Status Hearing

RE: [1] Adversary case 2:16-ap-01428. Complaint by Richard K. Diamond, as Chapter 7 Trustee against Ok Jin Jeon dba Salon Spa & Beauty Center dba Redondo Beauty Supply, Inc.. (Charge To Estate). Chapter 7 Trustee's Complaint for: (1) Denial of Discharge Under 11 U.S.C. § 727; (2) Turnover and Accounting; (3) Avoidance and Recovery of Postpetition Transfer; and (4) Damages for Conversion Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))), (11 (Recovery of money/property - 542 turnover of property)), (14 (Recovery of money/property - other)), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Shechtman, Zev)

Docket No: 1

***** VACATED *** REASON: CONTINUED TO 1-10-17 AT 10:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ok Jin Jeon

Represented By
Kelly K Chang

Defendant(s):

Ok Jin Jeon dba Salon Spa & Beauty C

Pro Se

Plaintiff(s):

Richard K. Diamond, as Chapter 7 Trus

Represented By
Zev Shechtman

Trustee(s):

Richard K Diamond (TR)

Represented By
Zev Shechtman

**United States Bankruptcy Court
Central District of California
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:12-13768 Armida Moreno

Chapter 11

#11.00 Post Status Hearing
RE: [198] Confirmation of the debtor's first amended chapter 11 plan
fr: 3-4-15; 2-24-16; 7-20-16

Docket No: 175

Tentative Ruling:

12/12/2016

The Court continues the status conference to June 6, 2017 at 10:00 a.m.. A further post-confirmation status report is due 14 days prior to the hearing. The continued status conference will be vacated if a final decree is entered before the date of the continued status conference.

The court notes that for this status conference and the previous one, the debtor filed her U.S. trustee report of fees believing that this was the status report referred to in the court's order to comply. However, this is not correct. The contents for the status report for the court is located at LBR 3020-1(b).

Party Information

Debtor(s):

Armida Moreno

Represented By
Julie Lim

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:16-10799 BBeautiful, LLC, a California limited liability co

Chapter 11

Adv#: 2:16-01403 BBeautiful, LLC v. Trueerp, INC

▪
#12.00 Status Hearing
RE: [1] Adversary case 2:16-ap-01403. Complaint by BBeautiful, LLC against Trueerp, INC . (Fee Not Required). Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Cowan, Sarah)

Docket No: 1

***** VACATED *** REASON: CONTINUED 12-19-16 AT 10:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

BBeautiful, LLC, a California limited l	Represented By Steven Werth Michael Jay Berger
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Defendant(s):

Trueerp, INC	Pro Se
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Plaintiff(s):

BBeautiful, LLC	Represented By Maxwell M Blecher Maxwell M Blecher
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**United States Bankruptcy Court
Central District of California
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Judge Ernest Robles, Presiding
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Tuesday, December 13, 2016

Hearing Room 1568

10:00 AM

2:16-21026 Syed Aurangzeb Pirzada

Chapter 11

Adv#: 2:16-01410 Pirzada v. Socotra Capital, LLC, a California Limited Liabili

■

#13.00 Status HearingRE: [1] Adversary case 2:16-ap-01410. Complaint by Syed Aurangzeb Pirzada against Socotra Capital, LLC, a California Limited Liability Company . (Fee Not Required). Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Arias, Jose)

Docket No: 1

Tentative Ruling:

12/12/2016

No appearances required.

On September 6, 2016, Syed Aurangzeb Pirzada ("Pirzada") filed a *pro se* complaint against Socotra Capital, Inc. ("Socotra") (the "First Complaint") (Case No. 2:16-ap-01410). The First Complaint alleges that Socotra committed fraud, violated usury laws, and breached its fiduciary duties in connection with a loan that Socotra extended to Pirzada to fund the construction of property located at 68359 Jolon Road, Bradley, CA (the "Property"). Socotra answered the First Complaint on October 7, 2016. (This status conference pertains to the First Complaint.)

On November 17, 2016, Pirzada filed a second *pro se* complaint against Socotra (the "Second Complaint") (Case No. 2:16-ap-01508). The Second Complaint alleges that after foreclosing upon the Property, Socotra sold the Property at a foreclosure sale without undertaking adequate marketing efforts. The Second Complaint seeks recovery of the Property. In a Status Report filed in connection with the First Complaint, Pirzada refers to the Second Complaint as a "motion to set aside the sale."

On December 9, 2016, Pirzada filed a document captioned "Seconded [sic] Amended complaint for FRAUDULANT [sic] CONVEYANCE" (not yet docketed). Although unclear, this document appears to be an attempt to file an Proposed Amended Second Complaint (the Court will refer to the document as the "Proposed Amended Second Complaint"). According to Pirzada: "The complaint had to be amended due to the fact that the attorney refused to accept the complaint as he stated that he only represents Socotra Fund LLC and not Socotra Capital LLC which was named on the complaint. Both of these companies have tried to mislead the debtor and

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CONT... **Syed Aurangzeb Pirzada**

Chapter 11

confuse the issues to their own determinant [sic]."

The First Complaint, the Second Complaint, and the Proposed Amended Second Complaint all assert claims arising in connection with the loan extended by Socotra that is secured by the Property. Adjudication of these issues through different proceedings is inefficient. The Court ORDERS Pirzada to file a single complaint setting forth all claims that he wishes to assert against Socotra or any entities affiliated with Socotra in connection with the construction loan secured by the Property (the "Third Amended Complaint"). The Third amended Complaint must be filed and served by no later than December 30, 2016. Upon the filing of the Third Amended Complaint, the Court will dismiss the First Complaint, the Second Complaint, and the Proposed Amended Second Complaint.

Upon filing the Third Amended Complaint, the court will issue a new summons which will set forth new dates for status conference, pretrial and trial.

Party Information

Debtor(s):

Syed Aurangzeb Pirzada	Pro Se
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Defendant(s):

Socotra Capital, LLC, a California Lim	Pro Se
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Plaintiff(s):

Syed Aurangzeb Pirzada	Pro Se
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**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:15-16771 David Mollahassani

Chapter 7

Adv#: 2:16-01191 Avery v. Nextgear Capital, Inc., a Delaware Corporation,

#100.00 Pre-Trial Conference
RE: [1] Adversary case 2:16-ap-01191. Complaint by Wesley H Avery against Nextgear Capital, Inc., a Delaware Corporation,. (Charge To Estate). Violation of 11 U.S.C. Section 362(a) and damages pursuant to 11 U.S.C. 362(k) Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Havkin, Stella)

Docket No: 1

***** VACATED *** REASON: DISMISSED 6-15-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Mollahassani

Represented By

Art Hoomiratana - SUSPENDED -
Dennis A Rasmussen
Phillip Myer

Defendant(s):

Nextgear Capital, Inc., a Delaware Cor]

Pro Se

Joint Debtor(s):

Grace Fernandez

Represented By

Art Hoomiratana - SUSPENDED -
Dennis A Rasmussen
Phillip Myer

Plaintiff(s):

Wesley H Avery

Represented By

Stella A Havkin

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11:00 AM

CONT... David Mollahassani

Chapter 7

Trustee(s):

Wesley H Avery (TR)

Represented By
Stella A Havkin

Wesley H Avery (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:15-27357 JOSEPHINE TAN LAO

Chapter 7

Adv#: 2:16-01187 LAO v. Avery

#101.00 Pre-Trial Conference
RE: [1] Adversary case 2:16-ap-01187. Complaint by JOSEPHINE TAN LAO against Wesley H Avery. (Fee Not Required). (Attachments: # 1 Exhibit # 2 Exhibit) Nature of Suit: (72 (Injunctive relief - other)) (Marin, Victor)

Docket No: 1

***** VACATED *** REASON: DISMISSED 7-6-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

JOSEPHINE TAN LAO

Represented By
Mariano A Alvarez
Victor A Marin

Defendant(s):

Wesley H Avery

Pro Se

Plaintiff(s):

JOSEPHINE TAN LAO

Represented By
Victor A Marin

Trustee(s):

Wesley H Avery (TR)

Pro Se

Wesley H Avery (TR)

Represented By
Charles Shamash
Joseph Caceres

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:16-16043 Alexandra Apeles

Chapter 7

Adv#: 2:16-01322 Diamond, as Chapter 7 Trustee v. Romero, as Trustee of Aladan Family Trust D:

#102.00 Status Hearing

RE: [1] Adversary case 2:16-ap-01322. Complaint by Richard K. Diamond, as Chapter 7 Trustee against Alexander ("Alex") Romero, as Trustee of Aladan Family Trust Dated December 8, 2014. (Charge To Estate). Trustee's Complaint: (1) To Avoid and Recover Fraudulent Transfers; and, (2) For Turnover Nature of Suit: (14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Shechtman, Zev)

FR. 10-18-16

Docket No: 1

***** VACATED *** REASON: DISMISSED 10-26-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexandra Apeles

Represented By
Michael Jay Berger

Defendant(s):

Alexander ("Alex") Romero, as Trustee

Pro Se

Plaintiff(s):

Richard K. Diamond, as Chapter 7 Trustee

Represented By
Zev Shechtman

Trustee(s):

Richard K Diamond (TR)

Represented By
Zev Shechtman
Howard Kollitz

**United States Bankruptcy Court
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Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:11-26884 Vicente Ortiz and Irma Ortiz

Chapter 11

#103.00 Hearing
RE: [88] U.S. Trustee Motion to dismiss or convert under 11 U.S.C. Section 1112(b) of the Bankruptcy Code; Declaration of Bankruptcy Analyst in Support thereof; Proof of Service . (Law, Dare)

Docket No: 88

***** VACATED *** REASON: WITHDRAWAL FILED 12-7-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vicente Ortiz

Represented By
Robert M Yaspan

Joint Debtor(s):

Irma Ortiz

Represented By
Robert M Yaspan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Ernest Robles, Presiding
Courtroom 1568 Calendar**

Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:12-43165 International Film Fund, LLC

Chapter 11

#104.00 Hearing
RE: [321] U.S. Trustee Motion to dismiss or convert under 11 U.S.C. Section 1112(b): Declaration of Bankruptcy Analyst in Support Thereof; Proof of Service . (Law, Dare)

Docket No: 321

***** VACATED *** REASON: WITHDRAWAL FILED 12-7-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

International Film Fund, LLC

Represented By
Rosendo Gonzalez

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Ernest Robles, Presiding
Courtroom 1568 Calendar**

Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:12-43165 International Film Fund, LLC

Chapter 11

#105.00 HearingRE: [327] Motion For Final Decree and Order Closing Case.

Docket No: 327

Tentative Ruling:

12/12/2016: For the reasons set forth below, GRANT Motion.

Pleadings Filed and Reviewed

1. Motion of Debtor for Order Authorizing Entry of Final Decree ("Motion")
[Doc. No. 327]
2. No opposition has been filed as of the date of this tentative ruling

Facts and Summary of Pleadings

For the reasons set forth below, the Court GRANTS the Debtor's motion authorizing entry of a final decree and order closing case.

On October 1, 2012, International Film Fund, LLC ("Debtor"), commenced this voluntary chapter 11 case. Doc. No. 1. On February 26, 2016, the Court entered an order confirming the Debtor's second amended chapter 11 plan of reorganization ("Plan"). Doc. No. 303. The Plan's effective date was May 1, 2016 ("Effective Date"). Doc. No. 297. Under the Plan, the Debtor established eight classes of claims and interests. There are no secured creditors under the Plan. Since the Effective Date, the Debtor is current on all plan payments; however, it will take about five (5) years for all plan payments to be made. Motion, Decl. of Miriam Elchanan ("Elchanan Decl.") at ¶ 3.

The Debtor requests that the Court enter a final decree and close this bankruptcy case pursuant to 11 U.S.C. §§ 350(a), 1101(2), and the Federal Rule of Bankruptcy Procedure 3022. Motion at 3. In support, the Debtor states that: (1) the order confirming the Plan is final; (2) all deposits required by the Plan have been distributed; (3) all property proposed by the Plan to be transferred has been

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CONT... **International Film Fund, LLC**

Chapter 11

transferred; (4) Debtor or successor to the Debtor has assumed the business or management of the property dealt with by the Plan; (5) all payments or other distributions under the Plan have commenced; and (6) all motions, contested matters, and adversary proceedings have been finally resolved. *Id.*

The Court has not received a timely opposition to the Motion. Pursuant to the Local Bankruptcy Rule 9013-1(h), failure to file a timely opposition may be deemed consent to the granting of the Motion.

Findings of Fact and Conclusions of Law

Entry of Final Decree and Closing of Case

Under 11 U.S.C. § 350(a) and Federal Rule of Bankruptcy Procedure 3022, the Court shall enter a final decree closing a chapter 11 case after the estate is fully administered. In determining whether an estate is fully administered, a court should consider:

- (1) whether the order confirming the plan has become final;
- (2) whether deposits required by the plan have been distributed;
- (3) whether the property proposed by the plan to be transferred has been transferred;
- (4) whether the debtor or the successor of the debtor under the plan has assumed the business of the management of the property dealt with by the plan;
- (5) whether payments under the plan have commenced; and
- (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

In re Ground Systems, Inc., 213 B.R. 1016, 1019 (B.A.P. 9th Cir. 1997) (*quoting* Fed. R. Bankr. P. 3022 advisory committee's notes (1991)).

The Court finds that an entry of a final decree is warranted in this case at this time. On February 26, 2016, the Court entered an order confirming the Plan and that order has since become final. *See* Doc. No. 303. The Debtor or successor to the Debtor has assumed the business and management of the properties dealt by the Plan. Elchanan Decl at ¶ 2. The Debtor has commenced and is current on all required

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CONT... International Film Fund, LLC

Chapter 11

payments under the Plan. *Id.* The Court finds that there are no pending adversary proceedings or contested matters in this case. *See generally* Docket for *In re International Film Fund, LLC*, Case No. 2:12-bk-43165-ER. In sum, the Court's involvement in this case is no longer required and the Court finds that the case is "fully administered" within the meaning of 11 U.S.C. § 350(a).

Based on the foregoing, the Court HEREBY GRANTS the Motion.

Debtor shall lodge a conforming order within 7 days of the hearing.

Party Information

Debtor(s):

International Film Fund, LLC

Represented By
Rosendo Gonzalez

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11:00 AM

2:15-27769 Crystal Waterfalls LLC

Chapter 11

Adv#: 2:15-01671 Crystal Waterfalls LLC v. HCL 2011, LLC, a California limited liability comp

#106.00 Pre-Trial Conference

RE: [13] Amended Complaint by Ian Landsberg on behalf of Crystal Waterfalls LLC against HCL 2011, LLC, a California limited liability company, and DOES 1 through 10, inclusive. (RE: related document(s)1 Adversary case 2:15-ap-01671. Complaint by Crystal Waterfalls LLC against HCL 2011, LLC, a California limited liability company, and DOES 1 through 10, inclusive. (Charge To Estate). Complaint for: 1. Cancellation of Written Instrumen 2. Quiet Title 3. Declaratory Relief Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Landsberg, Ian)

fr. 9-13-16

Docket No: 13

***** VACATED *** REASON: CONTINUED 4-11-17 AT 11:00 A.M**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Crystal Waterfalls LLC

Represented By
Ian Landsberg

Defendant(s):

HCL 2011, LLC, a California limited li

Pro Se

Interested Party(s):

Interested Party

Represented By
Lei Lei Wang Ekvall
Kyra E Andrassy
Raymond H Aver

Plaintiff(s):

Crystal Waterfalls LLC

Represented By

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Tuesday, December 13, 2016

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11:00 AM

CONT... Crystal Waterfalls LLC

Chapter 11

Ian Landsberg

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:16-14368 Jacqueline W Hyland

Chapter 11

#107.00 Hearing
RE: [96] U.S. Trustee Motion to dismiss or convert under 11 U.S.C. Section 1112(b) of the Bankruptcy Code; Declaration of Bankruptcy Analyst; Proof of Service . (Law, Dare)

Docket No: 96

***** VACATED *** REASON: CASE DISMISSED 12-8-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacqueline W Hyland

Represented By
Michael A Cisneros

**United States Bankruptcy Court
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Los Angeles
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Tuesday, December 13, 2016

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11:00 AM

2:16-22483 Sandra Jones

Chapter 11

#108.00 Hearing
RE: [17] U.S. Trustee Motion to dismiss or convert under 11 U.S.C. Section 1112(b) of the Bankruptcy Code; Declaration of Bankruptcy Analyst in Support Thereof; Proof of Service . (Law, Dare)

Docket No: 17

***** VACATED *** REASON: PER ORDER ENTERED 12-7-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra Jones

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1568 Calendar**

Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

2:16-22483 Sandra Jones

Chapter 11

#109.00 Hearing
RE: [20] Motion In Individual Chapter 11 Case For Order Authorizing Use Of
Cash Collateral

fr. 11-9-16

Docket No: 20

Tentative Ruling:

12/12/2016; For the reasons set forth below, Motion DENIED. The Court will set an order to show cause re dismissal or conversion.

Pleadings Filed and Reviewed

- Application for Order Setting Hearing on Shortened Notice ("Shortened Notice Application") [Doc. No. 21]
- Notice of Motion and Motion in Individual Chapter 11 Case for Order Authorizing Use of Cash Collateral ("Motion") [Doc. No. 20]
- Monthly Operating Report for the Month Ending September 30, 2016 ("September MOR") [Doc. No. 12]
- Monthly Operating Report for the Month Ending October 31, 2016 ("October MOR") [Doc. No. 30]
- Monthly Operating Report for the Month Ending November 30, 2016 ("November MOR") [Doc. No. 41]

Facts and Summary of Pleadings

On September 20, 2016, Sandra Jones ("Debtor") filed a chapter 11 voluntary petition ("Petition"). Doc. No. 1. In the Petition, the Debtor listed real property located at 1138 and 1140 E. 84th Street, Los Angeles, CA 90001 ("Property"). *Id.* The Debtor stated that the Property had a fair market value of \$330,000 and contained two family homes. *Id.* The Debtor rents out one of the homes and resides at the other. *Id.* On October 7, 2016, the Debtor filed an amended Schedule A/B: Property and changed

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CONT...

Sandra Jones

Chapter 11

the fair market value of the Property to \$450,000. Doc. No. 11. The Property is encumbered by a lien in the amount of \$339,223.56, held by Pacific Reverse Mortgage, Inc., d.b.a. Financial Heritage ("Secured Creditor"). Doc. No. 1 at 9. The Debtor filed the September MOR on October 14, 2016. Doc. No. 12. The MOR indicates that the Debtor closed her Bank of America checking and savings accounts, which total approximately \$36,088. *Id.*, see also Doc. No. 1 at 19.

On November 1, 2016, the United States Trustee ("UST") filed a motion to dismiss or convert the Debtor's case ("UST's Motion"). Doc. No. 17. The UST's Motion has resolved as the Court entered a continuing compliance order on December 7, 2016. Doc. No. 40 (order based on a continuing compliance stipulation between the Debtor and the UST).

On November 2, 2016, the Debtor filed the Shortened Notice Application, requesting the Court to set the instant Motion on shortened notice in order to effectively avoid accruing extra administrative expenses. Doc. No. 21. The Court entered an order granting the Shortened Notice Application and set the Motion for November 9, 2016. Doc. No. 24. The Motion requests the use of cash collateral through the date of confirmation of a chapter 11 plan or dismissal of the Debtor's case. Motion at 1. The Motion values the Property at \$330,000[FN 1] and states that the Property generates \$800 per month in rent. *Id.* at 4. The Debtor's expenses include a monthly mortgage payment of \$1,619.50 ("Mortgage") to the Secured Creditor. *Id.* The September MOR affirms that the Debtor made one post-petition payment to the Secured Creditor in the amount of \$1,619.62. Doc. No. 12. The Debtor receives a total income of \$1,900, which includes a Debtor's contribution of \$1,100. The total monthly expenses, which include the Mortgage, property taxes in the amount of \$110.32, property insurance in the amount of \$37.06, and maintenance in the amount of \$100.00, amounts to \$1,866.88. *Id.* at 5. The net monthly income resulting is \$33.12. Furthermore, the Debtor requests that the cash collateral be used to pay the United States Trustee fees and to use any unused amount of monies, which are not required every month, i.e. property insurance, for payment of the same allotted expense in subsequent months for the duration of the Debtor's allowed use of cash collateral.

At the November 9, 2016 hearing, the Court continued the use of cash collateral to December 13, 2016, with line items varying no more than 3%. *See* Doc.

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CONT...

Sandra Jones

Chapter 11

No. 31. Furthermore, the Court expressed concern as to how the Debtor plans to fund a plan of reorganization as each month the Debtor receives very little excess income. The Court's concern is that the UST's fees alone would impact the Debtor's ability to fund a plan, not including the expenses for property insurance and taxes.

The Debtor filed the October MOR on November 9, 2016. Doc. No. 30. The October MOR indicates that the Debtor opened a general account ("General Account"), which received \$22,621.80 from the closing of the Debtor's previous accounts, and a rental account ("Rental Account"), which received \$800 in rent. *Id.* Besides disbursements for insurance, food, utilities, and personal expenses, the significant decrease in what the General Account received stems from a \$12,000 cash withdrawal for "Travel Expenses." *Id.* at 2. The Debtor filed the November MOR on December 9, 2016. Doc. No. 41. The November MOR indicates that the Debtor disbursed \$2,443.86 from the General Account and \$6.00 from the Rental Account. *Id.*

Findings of Fact and Conclusions of Law

Section 363(c)(2) requires court authorization for the use of cash collateral unless "each entity that has an interest in such cash collateral consents." Absent affirmative express consent, the Debtor "may not use" cash collateral without the Court's determination that the use is "in accordance with the provisions of 11 U.S.C. § 363—that is, that the secured creditor's interest in the cash collateral is adequately protected. 11 U.S.C. §§ 363(c)(2)(B), 363(e).

It is unclear from the October MOR and the November MOR whether the Secured Creditor is adequately protected under 11 U.S.C. § 363. The October and November MORs indicate that there is at least one post-petition payment not made to the Secured Creditor in the amount of \$1,619.62. *See* October MOR at 13. In fact, neither the Debtor's General Account nor the Rental Account list any disbursements to the Secured Creditor. *Id.* Further, the fact that the November MOR contains the same single post-petition not made to the Secured Creditor as the October MOR reflects a lack of payments being made to ensure adequate protection. Absent a representation by the Debtor's counsel that states otherwise, the Court finds that the Secured Creditor is not adequately protected.

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CONT...

Sandra Jones

Chapter 11

Moreover, although not directly related, the Court is concerned with the October MOR. There is no explanation regarding the \$12,000 withdrawal for travel expenses. October MOR at 2. Additionally, the expenses listed in the October MOR are not typical for an MOR as disbursements vanish after October 11, 2016, and pick back up again on October 24, 2016, i.e. approximately two weeks. *Id.* at 8. Bankruptcy Code Section 1106(a)(1) incorporates section 704(a)(8), which requires the debtor-in-possession to submit periodic reports and summaries of the debtor's business operation that include a statement of receipts and disbursements. 11 U.S.C. § 1106(a)(1). The fact that the Debtor did not make disbursements from either the General or Rental Account for two weeks indicates an inaccurate MOR.

Based on the foregoing, the Court HEREBY DENIES the Debtor's use of cash collateral.

The Debtor shall lodge a conforming order within 7 days of the hearing.

The Court will set the matter for an order to show cause re dismissal or conversion.

Note 1: It is unclear what the fair market value of the Property is because the Debtor originally listed the fair market value of the property at \$330,000 in the Petition. Doc. No. 1. Subsequently, the Debtor filed an amended Schedule A/B, which listed the Property at \$450,000. Doc. No. 11. The instant Motion, filed after the Debtor's amended Schedule A/B, reverted back to listing the Property's fair market value at \$330,000. Motion at 4.

Party Information

Debtor(s):

Sandra Jones

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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2:16-24226 Ivan Rene Moore

Chapter 11

#110.00 HearingRE: [18] U.S. Trustee Motion to dismiss or convert under 11 U.S.C. Section 1112(b) of the Bankruptcy Code; Declaration of Legal Assistant in Support thereof; Proof of Service . (Law, Dare)

Docket No: 18

Tentative Ruling:

12/12/2016: For the reasons set forth below, GRANT Motion. The case is converted. Appearances required.

Pleadings Filed and Reviewed:

- 1) Notice of Motion and Motion under 11 U.S.C. § 1112(b) to Convert, Dismiss or Appoint a Chapter 11 Trustee with an Order Directing Payment of Quarterly Fees and for Judgment Thereon ("Dismissal Motion") [Doc. No. 18]
- 2) Debtor in Possession Opposition to Dismiss Chapter 11 Action ("Opposition") [Doc. No. 24]
- 3) United States Trustee's Reply to Opposition to U.S. Trustee's Motion to Convert or Dismiss ("Reply") [Doc. No. 25]
- 4) Joinder of Secured Creditor Wells Fargo Bank, N.A. to the Motion of the United States Trustee under 11 U.S.C. § 1112(b) to Convert, Dismiss or Appoint a Chapter 11 Trustee [Doc. No. 30]
 - a) Request for Judicial Notice in Support of Joinder [Doc. No. 31]
- 5) Order Denying Debtor's Motion to Continue Hearings [Doc. No. 21]

I. Facts and Summary of Pleadings

Ivan Rene Moore ("Debtor") filed a voluntary Chapter 11 petition on October 27, 2016. The United States Trustee ("UST") moves for dismissal or conversion, at the Court's discretion, based on the Debtor's failure to comply with various UST reporting requirements (the "Dismissal Motion").

On November 30, 2016, the Court denied the Debtor's request to continue the Dismissal Motion. Debtor requested the continuance because he would be traveling to attend a hearing on a case the Debtor has filed in Wisconsin. The Court refused to

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Ivan Rene Moore

Chapter 11

continue the hearing, explaining that the "UST's Dismissal Motion was necessary only because the Debtor failed to comply with the requirements of the UST's Chapter 11 Notices and Guides. The Debtor's remedy is to fully comply with all UST requirements, in which case the Dismissal Motion will not be granted. The requested continuance would only provide the Debtor a further opportunity to delay complying with the UST's requirements." *See* Order Denying Debtor's Motion to Continue Hearings [Doc. No. 21] at 1.

In Opposition, Debtor contends that he is now current with all UST reporting requirements. Debtor attaches declarations in opposition to the Dismissal Motion from creditors Ronald Hills, A.C. Cotton of NKE Global, and Vann Johnson. According to Debtor's schedules, Hills holds a claim of approximately \$12.9 million based upon a judgment; NKE Global holds a claim of approximately \$159,000; and Vann Johnson holds a claim of approximately \$48,600. Hills, NKE Global, and Johnson oppose dismissal or conversion, stating that they believe that a Chapter 11 plan is in their best interests.

In Reply, the UST states that the Debtor is still not in compliance with all reporting requirements. The UST requests that the case be converted so that a Chapter 7 Trustee can be appointed to evaluate the Debtor's assets. The UST emphasizes that the Debtor is a repeat filer, having filed a Chapter 7 case in 2002 and a Chapter 13 case in 2003, and having caused Radio Multi Media Incorporated, an entity in which the Debtor claimed an interest, to file a Chapter 11 petition in 2011.

Wells Fargo's Joinder to the Dismissal Motion

Wells Fargo Bank, NA ("Wells Fargo") joins the Dismissal Motion. Wells Fargo argues that the case should be dismissed for the following reasons:

The Debtor, Wells Fargo, and other defendants engaged in litigation in the United States District Court for the Eastern District of Wisconsin (the "Wisconsin Action"). On May 11, 2015, the District Court entered judgment in favor of Wells Fargo and against the Debtor (the "Judgment") in the amount of \$7,106,037.28. The Judgment has been registered in California. The Judgment further provides that Wells Fargo is entitled (1) to foreclose upon two properties in Milwaukee, Wisconsin from which the Debtor operated a radio station, and (2) to replevin the intangible property, personal property, royalties, profits, and other collateral pledged to Wells Fargo by the Debtor and corporations controlled by the Debtor.

Debtor has also engaged in extensive litigation in the California state courts with his former domestic partner, Kimberly Martin-Bragg (now known as Kimberly

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CONT... **Ivan Rene Moore**

Chapter 11

Barbour). Debtor filed an action in federal court against eight of the state court judges who ruled against him and in favor of Barbour. Debtor has been declared to be a vexatious litigant by the Los Angeles Superior Court. Despite the Debtor's lengthy history of litigation against Barbour, she is not listed on Debtor's schedules as a creditor or interested party.

As shown by Debtor's failure to file the documents required by the UST, the Debtor is incapable of performing his fiduciary duties as a Debtor-in-Possession. In view of that fact, as well as the Debtor's history of filing frivolous litigation, the case should be dismissed.

II. Findings of Fact and Conclusions of Law

Section 1112(b) provides that the Court, upon request of a party in interest, "shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate." Section 1112(b)(4) contains a nonexclusive list of factors that constitute cause for dismissal or conversion. "[F]ailure timely to provide information or attend meetings reasonably requested by the United States trustee" constitutes cause for dismissal or conversion. § 1112(b)(4)(H). The factors set forth in §1112(b)(4) "are not exhaustive, and 'the court will be able to consider other factors as they arise, and to use its equitable powers to reach an appropriate result in individual cases.'" *Pioneer Liquidating Corp. v. United States Trustee (In re Consol. Pioneer Mortg. Entities)*, 248 B.R. 368, 375 (B.A.P. 9th Cir. 2000), *aff'd*, 264 F.3d 803 (9th Cir. 2001).

Although the Debtor has cured some of the deficiencies that prompted the filing of the Dismissal Motion, other deficiencies remain uncured. As of December 7, 2016, the Debtor has still failed to provide the following documents (where the Debtor provided an explanation for the deficiency, that explanation is set forth below the document description):

- 1) Form USTLA-3 Declaration (requires the Debtor to make certain certifications, including that (a) pre-petition bank accounts have been closed and that the balances have been transferred to debtor-in-possession bank accounts and (b) that the debtor maintains appropriate insurance coverage for all estate property; requires the Debtor to submit financial statements, tax returns, and other documents, as well as a certification that the submitted documents are accurate).

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Ivan Rene Moore

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- 2) Employee Benefit Questionnaire.
 - a) Debtor states that he has no employees.
- 3) Final bank account statements for any pre-petition accounts.
 - a) Debtor states that he has no pre-petition bank accounts.
- 4) Proof of certificates and licenses for the Debtor's businesses.
- 5) List of insiders.
- 6) Financial statements.
- 7) Proof of recordation of the bankruptcy petition in the appropriate jurisdictions.
 - a) Debtor states that he mailed conformed copies of his petition to the Milwaukee county recorder's office in late November but has not yet received proof of recordation.

Debtor was required to submit the deficient documents listed above to the UST within seven days of the filing of the petition. *See* Guidelines and Requirements for Chapter 11 Debtors in Possession at 3–6. Here, that meant the Debtor was required to submit the documents by no later than November 3, 2016. More than a month after the deadline, important documents have not been submitted. Debtor's failure to timely submit the Form USTLA-3 Declaration is especially troubling, since the Declaration requires the Debtor to certify the accuracy of the Debtor's other submissions. The Debtor's failure to submit Form USTLA-3 makes it impossible for the UST to verify the Debtor's claim that certain reporting requirements are inapplicable.

Debtor's Opposition cavalierly takes the tack that timely compliance is not a priority. *See, e.g.*, Opposition at 3 ("This movant has prematurely filed this motion to dismiss. This bankruptcy has been pending for less than a month."); Declaration of Vann Johnson in Support of Opposition at ¶8 ("I do not feel a month is a reasonable amount of time to bring all these issues current given the travel time involved and the issues involved.").

Contrary to the Debtor's view, timely compliance with UST reporting requirements is critical in a Chapter 11 case. The UST's office cannot effectively carry out its oversight responsibilities under 28 U.S.C. §586 if Debtors do not *timely* submit required information. In an operating Chapter 11 case, timeliness is especially important so that the UST can insure, from the outset, that the debtor-in-possession is fulfilling his responsibilities as a fiduciary for creditors.

Debtor's unexcused failure to submit the USTLA-3 Declaration, list of insiders, and financial statements is, by itself, cause for dismissal or conversion. However, the Court has other serious concerns regarding this case, and based upon those concerns,

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finds that there is no reasonable likelihood that the Debtor will be able to confirm a plan. Debtor's contemplated reorganization is predicated in significant part upon the Debtor prevailing in an action that the Debtor has filed *in pro se* against Wells Fargo and multiple other defendants (the "Complaint"). Through the Complaint, Debtor hopes to regain control over properties upon which he formerly operated a radio station which were lost to foreclosure. However, Complaint contains a series of narrative ramblings and conclusory allegations, but is notably devoid of the type of concrete "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Instead, the Complaint is filled with outlandish allegations of conspiracy that are simply not plausible. The fact that Debtor has been declared to be a vexatious litigant pursuant to California Code of Civil Procedure §391 further undermines the Court's confidence in Debtor's ability to successfully litigate the Complaint. Finally, the Complaint improperly reargues matters that were determined adversely to the Debtor in the Wisconsin Action, in a desperate attempt to circumvent Wells Fargo's \$7.1 million Judgment. The Court finds that the Complaint is frivolous and has no possibility of success.

The Court further notes that the Debtor attached certain compliance items to his Opposition to the Dismissal Motion, but did not properly submit those items to the UST's compliance e-mail box. The Debtor's inability to follow simple instructions regarding the submission of documents to the UST further corroborates the Court's finding that the Debtor lacks the ability to comply with the complex requirements necessary to successfully confirm a plan. In addition, the Debtor's schedules are not accurate or complete. For example, in an attachment to the schedules, Debtor provides a brief narrative history of his disputes with Barbour, and asserts that he holds a substantial judgment against Barbour. Yet Barbour is not listed as a creditor on Schedules D, E, or F.

In sum, based upon the Debtor's failure to timely comply with the UST's reporting requirements, failure to accurately complete his schedules, past history of filing vexatious litigation, and the Debtor's filing of the frivolous action against Wells Fargo and other defendants in this court, the Court finds ample cause for the dismissal or conversion of the instant case.

Where, as here, cause for conversion or dismissal has been established, conversion or dismissal can be defeated only by a showing of "unusual circumstances" establishing that conversion or dismissal is not in the best interests of creditors and the estate, combined with a showing that there is a reasonable likelihood that a plan will

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be confirmed within a reasonable time. §1112(b)(2). The supporting declarations submitted with Debtor's Opposition by three scheduled creditors do not establish that such "unusual circumstances" exist. The declarations consist merely of conclusory statements asserting that the creditors believe the Debtor can successfully confirm a plan. The declarations fail to set forth any facts or evidence justifying the creditors' belief that plan confirmation can be successful. For the reasons explained above, the Court finds that there is no reasonable likelihood of plan confirmation. Accordingly, conversion or dismissal is mandatory.

Here, the Court finds that conversion is in the best interests of creditors. The Debtor holds a judgment of \$3.15 million against Kimberly Barbour. Although that judgment may be uncollectible a Chapter 7 Trustee should be appointed to determine whether collecting on the judgment is possible and economical to the estate.

The Court will enter an appropriate order.

Party Information

Debtor(s):

Ivan Rene Moore

Pro Se

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Hearing Room 1568

11:00 AM

2:16-24890 32 Cold, LLC

Chapter 11

#111.00 Emergency Hearing
RE: [25] Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115 (Non-Individual Debtor) - Motion In Chapter 11 Case For Order Approving A Budget For Use Of Debtors Postpetition Income, Including Continued Use Of A Staffing Company

Docket No: 25

Tentative Ruling:

12/12/2016: For the reasons set forth below, the Motion is GRANTED IN PART and DENIED IN PART.

Pleadings Filed and Reviewed:

- 1) Notice of Motion and Motion in Chapter 11 Case for Order Approving a Budget for Use of Debtor's Postpetition Income, Including Continued Use of a Staffing Company ("Motion") [Doc. No. 25]
 - a) Application for Order Setting Hearing on Shortened Notice [Doc. No. 26]
 - b) Order Setting Hearing on Shortened Notice [Doc. No. 27]
 - c) Notice of Hearing on Debtor's Motion in Chapter 11 Case for Order Approving a Budget for Use of Debtor's Postpetition Income, Including Continued Use of a Staffing Company [Doc. No. 31]
 - d) Declarations of Sheila Esmaili and Sanaz Bereliani Regarding Service and Notice of Hearing on Debtor's Motion in Chapter 11 Case for Order Approving a Budget for Use of Debtor's Postpetition Income, Including Continued Use of a Staffing Company [Doc. No. 41]
- 2) Opposition to Debtor's Motion in Chapter 11 Case for Order Approving a Budget for Use of Debtor's Postpetition Income, Including Continued Use of a Staffing Company ("Opposition") [Doc. No. 34]
- 3) Reply to Rexford's Opposition to Debtor's Motion in Chapter 11 Case for Order Approving a Budget for Use of Debtor's Postpetition Income, Including Continued Use of a Staffing Company ("Reply") [Doc. No. 40]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Ernest Robles, Presiding
Courtroom 1568 Calendar**

Tuesday, December 13, 2016

Hearing Room 1568

11:00 AM

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Chapter 11

I. Facts and Summary of Pleadings

Debtor 32 Cold, LLC commenced this voluntary Chapter 11 petition on November 9, 2016. On November 14, 2016, the Court conducted an emergency hearing on the Debtor's motion to pay pre-petition expenses, including expenses owing to a staffing company that provides labor for the Debtor. The Court authorized the Debtor to pay the staffing company, Associate Direct Services ("ADS"), \$5,961.00 on account of its pre-petition contract. To insure that estate funds were not being improperly paid to insiders, the Court ordered that any further payments to ADS must be via motion.

Pursuant to the Court's order, the Debtor seeks approval to use estate property to pay post-petition ordinary-course business expenses to ADS, as well as to pay other post-petition expenses. Key expenses the Debtor proposes to pay are as follows (payments are on a monthly basis):

- 1) Staffing company ADS—\$67,000
- 2) Payroll, Insiders: Richard Smith, VP—\$7,300.00
- 3) Payroll, Insiders: Joseph Smith, COO—\$7,300.00
- 4) Payroll, Insiders: Ashlee Smith, CFO—\$6,833.00
- 5) Payroll, Insiders: Mark Smith, GM—\$7,300.00
- 6) Payroll, Insiders: Kathryn Escobedo, OM—\$3,890.00
- 7) Payroll, other employees—\$11,917.00
- 8) Rent, 6700 Alameda Street, Huntington Park, CA (the "Alameda Property")—\$113,732.04 (the original rental figure was \$108,732.04; in the Reply, the Debtor amended the amount to \$113,732.04)
- 9) Rent, 6020 Sheila Street, Commerce, CA ("Sheila Property")—\$98,801.80 (the original rental figure was \$93,801.80; in the Reply, the Debtor amended the amount to \$98,801.80)
- 10) Repairs and Maintenance—\$5,100.00

On December 7, 2016, Rexford Industrial Realty (the "Landlord") filed a motion seeking to compel the Debtor to assume or reject the leases for the Alameda and Sheila Properties (the "Assumption Motion"). Landlord sought a hearing on shortened time on the Assumption Motion. Landlord asserted that the Debtor was failing to fulfill its obligations under the leases to properly maintain the refrigeration systems at the Properties. In support, Landlord pointed to an October 24, 2016 e-mail from the refrigeration maintenance servicer stating that maintenance was not being performed because the Debtor had not paid the servicer. In the Assumption Motion, Landlord sought an order permitting it access to the Properties to inspect the refrigeration

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systems so that it could insure they were being properly maintained. The Court denied the application for a hearing on shortened time on the Assumption Motion. The Assumption Motion is set for hearing on January 4, 2017.

Landlord's Opposition and the Debtor's Reply

Rexford Industrial Realty, LP (the "Landlord") oppose the Motion. According to the Landlord, the monthly rental payment for the Alameda Property is \$141,084.084 (the Debtor budgets \$113,732.04) and the monthly rental payment for the Sheila Property is \$113,801.80 (the Debtor budgets \$98,801.80). Rexford also alleges that the Debtor is failing to adequately maintain the properties' refrigeration systems, which Rexford contends are integral to the properties' value. Landlord opposes approval of the budget, unless an order is entered compelling the Debtor to pay monthly rent, retroactive to the petition date, and to provide assurances that the Properties' refrigeration systems are being properly maintained.

In Reply, Debtor asserts that the Landlord's Opposition to the Motion is not the proper forum to seek denial of the Debtor's request to pay the budget.

II. Findings and Conclusions

Section 363(c) permits the Debtor to use estate property to pay ordinary course business expenses without Court approval. The Landlord has not asserted a security interest in the proceeds of the Debtor's business. Accordingly, with the exception of the proposed payments to insiders, the Debtor is authorized to pay the expenses set forth in the Motion without Court approval.

Local Bankruptcy Rule ("LBR") 2014-1 governs payments to insiders. LBR 2014-1 provides:

(1) Notice of Setting/Increasing Insider Compensation. No compensation or other remuneration may be paid from the assets of the estate to a debtor's owners, partners, officers, directors, shareholders, or relatives of insiders as defined by 11 U.S.C. § 101(31), from the time of the filing of the petition until the confirmation of a plan nor may approved compensation be increased unless the debtor serves a Notice of Setting/Increasing Insider Compensation ("Notice") in accordance with procedures adopted by the United States trustee pursuant to this rule.

(2) Service of Notice. The debtor must: (A) serve the Notice on the United

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States trustee, the creditors' committee or the 20 largest creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, and any secured creditor that claims an interest in cash collateral, and (B) provide proof of service to the United States trustee. As a non-filed document, the Notice does not result in the generation and delivery of an NEF, and therefore consent to electronic service via NEF on the United States trustee and other CM/ECF Users is not applicable to the Notice.

(3) Payment of Insider Compensation. An insider may receive compensation or other remuneration from the estate if no objection is received within 14 days after service of the Notice. An insider may receive an increase in the amount of insider compensation or other remuneration previously approved if no objection is received within 30 days after service of the Notice.

(4) Objection and Notice of Hearing. If an objection is timely received, the debtor must set the matter for hearing. The debtor must file a true and correct copy of the Notice, objection, and the original notice of hearing. The debtor must serve not less than 21 days notice of the date and time of the hearing on the objecting party and the United States trustee.

The record does not reflect whether Debtor has served the Notice of Insider Compensation in accordance with the requirements of LBR 2014-1 (the Notice of Insider Compensation is not filed on the docket). The Court will not determine, in the context of this Motion, whether Debtor can pay the insiders. Instead, Debtor should comply with the procedure set forth in LBR 2014-1 regarding payments to insiders.

Section 365(d)(1)(3) requires the Debtor to perform all obligations under an unexpired lease of non-residential real property until the Debtor assumes or rejects the lease. The Court will adjudicate issues concerning the amount of the Debtor's rental payments in connection with the January 4 hearing on the Landlord's Assumption Motion.

The Court will enter an appropriate order.

Party Information

Debtor(s):

32 Cold, LLC

Represented By

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CONT... 32 Cold, LLC

Chapter 11

Sheila Esmaili
Sanaz S Bereliani