

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, December 2, 2025

Hearing Room 201

9:00 AM

9: -

Chapter 0

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Docket 0

Tentative Ruling:

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- NONE LISTED -

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9:25-11345 Jill Ann Bell

Chapter 7

#1.00 Hearing re: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4601 Campus Street, Ventura, CA 93003

Docket 8

Tentative Ruling:

December 2, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) for the reasons stated *infra*. The request to waive Fed. R. Bankr. P. 4001(a)(3) is denied. Movant is to lodge a conforming order within 7 days.

Background

On April 2, 2018, Jdub Pharma Inc. ("Jdub"), the retail pharmacy business of Jill Ann Bell (the "Debtor"), signed a promissory note (the "Note") in the amount of \$2,865,000.00 payable to Live Oak Banking Company (the "Movant"). *See* Docket No. 8, *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 – Real Property* (the "Motion"), p. 6; *see also Exhibit B*. In connection with the Note, the Debtor executed an Unconditional Guarantee (the "Guarantee"), where the Debtor "unconditionally guarantee[d] payment to [Movant] of all amounts owing under the Note." *See id.*; *see also Exhibit D*. To secure the Debtor's indebtedness to Movant, the Debtor executed a Deed of Trust (the "Deed of Trust") on her residence located at 4601 Campus Street, Ventura, California 93003 (the "Property"). *See id.*; *see also Exhibit C*. On or about January 2020, the Debtor, in her individual capacity, conveyed the Property by way of Quitclaim Deed to the Jill A. Bell Family Trust (the "Family Trust"). *See id.*, *Supplemental Declaration of Chris Lee in Support of Live Oak Banking Company's Memorandum of Points and Authorities Supporting Live Oak Banking Company's Motion for Relief from the Automatic Stay Under § 362*, p. 2; *see also Exhibit G*.

Motion

Movant seeks a lifting of the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and

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(d)(2) in relation to the Property on the grounds that (1) Movant's interest in the Property is not protected by an adequate equity cushion, and (2) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtor has no equity in the Property; and, pursuant to 11 U.S.C. § 362(d)(2)(B), the Property is not necessary to an effective reorganization. *See id.*, pp. 3-4.

In addition to lifting the stay, Movant requests relief (1) to proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property; (2) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3); (3) that the order be binding and effective in any bankruptcy case commenced by or against any debtor who claims any interest in the Property for a period of 180 days from the hearing of this Motion, without further notice; (4) that the order be binding and effective in any future bankruptcy case, no matter who the debtor may be, without further notice; and (5) if relief from stay is not granted, adequate protection be ordered. *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail, first class, postage prepaid on October 17, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

11 U.S.C. § 362(d)(2)

Pursuant to 11 U.S.C. § 362(d)(2), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] with respect to a stay of an act against property under subsection (a) of this section, if [] the debtor does not have an equity in such property; and [] such property is not necessary to an effective reorganization." "Since reorganization is not relevant in Chapter 7, the only issue is whether there is equity in the property." *In re Preuss*, 15

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B.R. 896, 897 (9th Cir. BAP 1981).

Subtracting the total liens on the Property (including the senior lien of Nationstar Mortgage, LLC in the amount of \$292,855.00 and Movant's lien), the Debtor's equity in the Property is negative 1,050,874.88. *See* Docket No. 8, p. 8. [FN 1] Moreover, the Debtor filed a Statement of Intention that indicates her intent to surrender the Property. *See id.*, *Memorandum of Points and Authorities Supporting Live Oak Banking Company's Motion for Relief from the Automatic Stay Under § 362*, p. 8; *see also Exhibit F*, p. 2.

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(2) due to the lack of equity in the Property and because the Property is not necessary for reorganization in a Chapter 7 case.

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." While the term "adequate protection" is not defined in the Code, 11 U.S.C. § 361 sets forth three non-exclusive examples of what may constitute adequate protection: 1) periodic cash payments equivalent to decrease in value, 2) an additional or replacement lien on other property, or 3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). "Equity cushion" is defined as the value in the property, above the amount owed to the creditor with a secured claim, that will shield that interest from loss due to any decrease in the value of the property during the time the automatic stay remains in effect. *Id.* at 1397. "Equity," as opposed to "equity cushion," is the value, above all secured claims against the property that can be realized from the sale of the property for the benefit of the unsecured creditors. *Id.*

"Although the existence of an equity cushion as a method of adequate protection is not specifically mentioned in § 361, it is the classic form of protection for a secured debt justifying the restraint of lien enforcement by a bankruptcy court." *Id.* (internal citations omitted). "In fact, it has been held that the existence of an equity cushion alone, can provide adequate protection." *Id.* (internal citations omitted). "A sufficient

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equity cushion has been found to exist although not a single mortgage payment had been made." *Id.* (internal citations omitted). "A 20% cushion has been held to be an adequate protection for a secured creditor." *Id.* at 1401. (internal citations omitted).

Here, Movant first contends that its interest in the Property is not adequately protected. Movant asserts that the loan became all due and payable because it matured on November 1, 2024. *See* Docket No. 8, p. 7. Movant asserts a secured claim against the Property in the amount of \$1,698,019.88. *See id.*

As of the petition date of October 6, 2025, Movant asserts that the fair market value of the Property is \$940,000.00 per the Debtor's *Schedule D: Creditors Who Have Claims Secured by Property*. *See id.*, p. 8; *see also Exhibit E*. Movant asserts that the equity cushion in the Property exceeding Movant's debt and any liens senior to Movant's debt is \$0.00 or 0% of the fair market value of the Property. *See id.*, p. 8. Subtracting the total liens on the Property (including the senior lien of Nationstar Mortgage, LLC in the amount of \$292,855.00 and Movant's lien), the Court calculates equity in the amount of negative \$1,050,874.88 or negative 111.8%, which is below the 20% cushion held to be sufficient under *In re Mellor*.

Cause has been shown to lift the stay pursuant to 11 U.S.C. § 362(d)(2).

Fed. R. Bankr. P. 4001(a)(3)

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

[FN 1]

Movant calculates the equity in the Property to be negative \$1,011,421.75. *See* Docket No. 8, p. 8. However, the Court calculates the equity to be negative \$1,050,874.88, after subtracting the senior lien of Nationstar Mortgage, LLC in the amount of

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\$292,855.00 and Movant's lien of \$1,698,019.88 from the Property's fair market value of \$940,000.00. *See id.*

Party Information

Debtor(s):

Jill Ann Bell

Represented By
Daniel A Higson

Movant(s):

Live Oak Banking Company

Represented By
Bernard J Kornberg

Trustee(s):

Sandra McBeth (TR)

Pro Se

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9:25-11345 Jill Ann Bell

Chapter 7

#2.00 Hearing re: [19] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4601 Campus Street, Ventura, CA 93003

Docket 19

Tentative Ruling:

December 2, 2025

Appearances required.

Nationstar Mortgage LLC ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in relation to the residential real property located at 4601 Campus Street, Ventura, CA 93003 (the "Property") of Jill Ann Bell (the "Debtor") on the grounds that (1) the Debtor filed a statement of intention that indicates the Debtor intends to surrender the Property, and (2) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtor has no equity in the Property and pursuant to 11 U.S.C. § 362(d)(2)(B) the Property is not necessary for an effective reorganization. *See* Docket No. 19, *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 – Real Property* (the "Motion").

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, and (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3). *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on November 10, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.* at *Proof of Service of Document*, p. 45. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the

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granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Legal Standard

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." 11 U.S.C. § 362(d)(1). While the term "adequate protection" is not defined in the Code, 11 U.S.C. § 361 sets forth three non-exclusive examples of what may constitute adequate protection: 1) periodic cash payments equivalent to decrease in value, 2) an additional or replacement lien on other property, or 3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). "Equity cushion" is defined as the value in the property, above the amount owed to the creditor with a secured claim, that will shield that interest from loss due to any decrease in the value of the property during the time the automatic stay remains in effect. *Id.* at 1397. "Equity," as opposed to "equity cushion," is the value, above all secured claims against the property that can be realized from the sale of the property for the benefit of the unsecured creditors. *Id.*

"Although the existence of an equity cushion as a method of adequate protection is not specifically mentioned in § 361, it is the classic form of protection for a secured debt justifying the restraint of lien enforcement by a bankruptcy court." *Id.* (internal citations omitted). "In fact, it has been held that the existence of an equity cushion alone, can provide adequate protection." *Id.* (internal citations omitted). "A sufficient equity cushion has been found to exist although not a single mortgage payment had been made." *Id.* (internal citations omitted). "A 20% cushion has been held to be an adequate protection for a secured creditor." *Id.* at 1401. (internal citations omitted).

Pursuant to 11 U.S.C. § 362(d)(2), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay with respect to a stay of an act against property under subsection (a) of this section, if (A) the debtor does not have an equity in such property and (B) such property is not

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necessary to an effective reorganization." "Since reorganization is not relevant in Chapter 7, the only issues is whether there is equity in the property." *In re Preuss*, 15 B.R. 896, 897 (9th Cir. BAP 1981).

Analysis

As a threshold query, the Court notes that Movant is Nationstar Mortgage, LLC. *See* Docket No. 19, p. 1. The Note and Deed of Trust indicate that the lender is RPM Mortgage, Inc., a California Corporation. *See id.*, at *Exhibits 1-2*. The Debtor scheduled as the creditor, Nationstar Mortgage dba Rushmore Mortgage. *See id.* at *Exhibit 3*. No assignment of deed of trust has been provided assigning RPM Mortgage, Inc. a California Corporation's interest to Movant. It is unclear to the Court whether Movant is in-fact a party-in-interest. This issue must be resolved if the Court is to grant the Motion.

Movant first contends that arrearages total \$30,105.86, which represents nine (9) unpaid payments of \$3,326.26 each (as of the date of the Motion) with a payment of \$3,326.26 becoming due November 1, 2025. *See* Docket No. 19, p. 9. The Debtor additionally filed that *Statement of Intention for Individuals Filing Under Chapter 7* indicating she intends to surrender the Property. *See id.*, at *Exhibit 3*.

Movant further alleges that the Debtor has no equity in the Property. Movant asserts a secured claim against the Property in the amount of \$303,792.61. *See id.*, p. 8. As of the petition date of October 6, 2025, Movant asserts that the fair market value of the Property is \$940,000 per that *Schedule A/B: Property*. *See id.* at *Exhibit 4*. Subtracting the total liens on the Property (including Movant's lien and the junior lien of the Live Oak Banking Company in the amount of \$1,658,566), the Debtor's equity in the Property is negative \$1,022,358.61. *See id.*, p. 9.

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) as Movant's interest would not be adequately protected and the Debtor's intention to surrender the Property. Cause has additionally been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(2) due to the lack of equity in the Property and because the Property is not necessary for reorganization in a Chapter 7.

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As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Jill Ann Bell

Represented By
Daniel A Higson

Movant(s):

Nationstar Mortgage LLC

Represented By
Joseph C Delmotte

Trustee(s):

Sandra McBeth (TR)

Pro Se

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9:24-10402 Todd Warren Schirmer

Chapter 13

#3.00 CONT'D Hearing re: [43] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 305 3rd St., Solvang, CA 93463

fr. 8-5-25, 9-30-25, 11-4-25,

Docket 43

***** VACATED *** REASON: Case dismissed 12/1/25**

Tentative Ruling:

December 2, 2025

Appearances waived.

Counsel for Movant and the Debtor appeared at the November 4, 2025, hearing and requested a continuance to allow the parties to discuss an adequate protection agreement. No adequate protection agreement has been filed to date. The Motion has been pending now for nearly four (4) months. The Motion is granted for the reasons set forth in the August 5, 2025, tentative ruling.

November 4, 2025

Appearances waived.

Counsel for Movant and the Debtor appeared at the September 30, 2025, hearing and requested a continuance to allow the parties to discuss an adequate protection agreement. No adequate protection agreement has been filed to date. The Motion is granted for the reasons set forth in the August 5, 2025, tentative ruling.

September 30, 2025

Appearances waived.

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Todd Warren Schirmer

Chapter 13

Counsel for Movant and the Debtor appeared at the August 5, 2025, hearing and requested a continuance to allow the parties to discuss an adequate protection agreement. No adequate protection agreement has been filed to date. The Motion is granted for the reasons set forth in the August 5, 2025, tentative ruling.

August 5, 2025

Appearances are waived. The Court will grant the Motion pursuant to 11 U.S.C. § 362(d)(1) for the reasons set forth *infra*, but will deny the Motion as to its requests that the Court terminate the co-debtor stay and waive Fed. R. Bankr. P. 4001(a)(3). Movant to upload a conforming order within 7 days.

Deutsche Bank National Trust Company, as Trustee, in trust for registered holders of Long Beach Mortgage Loan Trust 2005-WL3, asset-backed certificates, Series 2005-WL3 ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362 (d) (1) in relation to the real property located at 305 Third Street, Solvang, CA 93463 (the "Property") of Todd Warren Schirmer (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under *Third Amended Chapter 13 Plan* (the "Plan"). See Docket No. 43, *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief: (1) to proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation agreement by contacting the Debtor, (3) terminate the co-debtor stay of 11 U.S.C. § 1301(a), (4) waiver of the 14-day stay prescribed by FRBP 4001(a)(3), (5) upon entry of the order, for purposes of Cal. Civ. Code § 2923.5, the Debtor be deemed a borrower as defined in Cal. Civ. Code § 2920.5(c)(2)(C), and (6) if relief from stay is not granted, adequate protection be ordered. See *id.*, p. 5.

Notice

Under LBR 4001-1(c)(1)(C)(iii), the motion, notice of hearing, and all supporting documents must be served by the moving party in the time and manner prescribed in LBR 9013-1(d) on any applicable co-debtor where relief is sought from the co-debtor

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Todd Warren Schirmer

Chapter 13

stay under 11 U.S.C. §§ 1201 or 1301. Pursuant to this Court's LBR 9013-3(d)(2)(B), service by U.S. Mail must list the exact street address of each person or entity served. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be."

The Motion and notice thereof were served upon the Debtor via U.S. Mail, first class, postage prepaid on June 27, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See* Docket No. 43, *Proof of Service of Document*, p. 12. The Debtor did not identify a co-debtor or list an address for a co-debtor on his schedules. *See* Docket No. 1., *Schedule H*, p. 1. Although the Note and the Deed of Trust do not list Elizabeth S. Long as "Borrower," the Loan Modification Agreement does. *See* Docket No. 43 at *Exhibit A*. The Loan Modification Agreement is dated September 1, 2008. *See id.* However, Elizabeth S. Long is not listed as a recipient via NEF or U.S. Mail, first class, postage prepaid. *See id.*, *Proof of Service of Document*, p. 12. Therefore, the Court is unable to confirm that the non-filing co-debtor was served with the Motion.

On July 11, 2025, the Debtor filed that *Response to Motion for Order to Terminate, Annul, Modify or Condition the Automatic Stay* (the "Response"). *See* Docket No. 47. In the Response, the Debtor asserts that (1) the Debtor has equity in the Property in the amount of \$692,059.00, (2) Movant is adequately protected by an equity cushion of \$571,731.00, (3) the Property is necessary for effective reorganization because it is the Debtor's residence where he resides with his partner, and (4) the Debtor requests that an adequate protection order be granted so the Debtor can catch up with the mortgage payments. *See id.*, p. 3. The Debtor explains that he was temporarily unable to make the required postpetition mortgage payments due to loss of employment and that he was also not paid approximately \$9,000 owed by his prior employer. *See id.* The Debtor asserts that he is now employed and makes sufficient income to catch up on the missed mortgage payments. *See id.* The Debtor further asserts that he can make a "good faith" lump sum payment to lower the alleged mortgage arrears in support of his request for an APO. *See id.*

Analysis

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Todd Warren Schirmer

Chapter 13

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." Failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705 *11 (B.A.P. 9th Cir. Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985)).

"The issues of adequate protection and equity in the property are irrelevant in the face of post-confirmation payment defaults because creditors are entitled to rely upon the debtors' responsibilities to make their post-confirmation payments. The debtors are not required to remain in Chapter 13 if they cannot satisfy the obligations which they proposed as feasible and which they voluntarily assumed.'" *See In re Williams*, 68 B.R. 442, 443 (Bankr. M.D. Ga. 1987) (citing *In re Davis*, 64 B.R. 358, 359-60 (Bankr. S.D.N.Y. 1986)). "Strictly speaking [], adequate protection is only intended to protect a creditor during the period between the filing of the petition and plan confirmation." *See In re Dumbuya*, 428 B.R. 410, 416 (Bankr. N.D. Ohio 2009) (citing *In re Walters*, 203 B.R. 122, 123-24 (Bankr. S.D. Ill. 1996)). "Once [] a plan is confirmed by the court a creditor seeking relief from the stay, based upon a debtor's default in payment under a plan, must establish that the debtor's breach of the plan, itself, provides 'cause' to lift the stay. The issue of 'adequate protection' becomes moot." *See id.* (citing *In re Schultz*, 325 B.R. 197, 201 (Bankr. N.D. Ohio 2005)).

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 28, p. 6, Class 2. Movant asserts that the Debtor defaulted on four (4) unpaid postconfirmation payments of \$4,691.87. *See* Docket No. 43, p. 9. Less a suspense account of \$3,799.07, Movant asserts a total postconfirmation delinquency of \$14,968.41 (as of the date of the Motion) with a payment of \$4,691.87 becoming due on May 1, 2025. *See id.* According to the Motion, the last monthly payment of \$4,691.87 was received by Movant on March 31, 2025. *See id.*

The Debtor does not dispute being delinquent on his mortgage payments. However, the Debtor contends that Movant's interest in the Property is adequately protected by

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CONT... Todd Warren Schirmer

Chapter 13

\$571,731.00 equity cushion. *See* Docket No. 47, p. 3. However, the Debtor does not address the issue of applicability of adequate protection considering a plan default. The Debtor also does not illustrate that he can cure the default in any reasonable period, but appears to seek an adequate protection order between himself and Movant for an indefinite period of time. The Court finds that even if there is sufficient equity in the Property, adequate protection is irrelevant post-confirmation. The Debtor is in material default of the Plan having missed no less than four (4) payments to Movant, and the Debtor is unable to cure that default in any reasonable period of time. The Court, therefore, finds that Movant has shown cause to lift the stay pursuant to 11 U.S.C. § 362(d)(1).

As to the request to terminate the co-debtor stay pursuant to 11 U.S.C. § 1301(a), there is no evidence that the non-filing co-debtor was served with the Motion. Therefore, the request to terminate the co-debtor stay is denied.

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *See In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *See id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Todd Warren Schirmer

Represented By
Tyson Takeuchi

Movant(s):

Deutsche Bank National Trust

Represented By
Sean C Ferry
David Coats
Sarah Arlene Dooley-Lewis

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:25-10363 Alejandro Martinez Martinez

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#4.00 Hearing re: [47] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 348 Kendale Road, Buellton, CA 93427

Docket 47

Tentative Ruling:

December 2, 2025

Appearances are waived. The Court will grant the Motion pursuant to 11 U.S.C. § 362(d)(1) for the reasons set forth *infra*, but will deny the Motion as to its request that the Court waive Fed. R. Bankr. P. 4001(a)(3). Movant to upload a conforming order within 7 days.

Wells Fargo Bank, N. A. as Trustee for the Carrington Mortgage Loan Trust, Series 2007-FRE1, Asset-Backed Pass-Through Certificates ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 348 Kendale Road, Buellton, CA 93427 (the "Property") of Alejandro Martinez Martinez. (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *2nd Amended Chapter 13 Plan* (the "Plan"). See Docket No. 47, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (4) if relief from stay is not granted, adequate protection be ordered. See *id.*, p. 5.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on November 5, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served

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no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 55. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." Failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985)).

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 31, pp. 5-6, Class 2. Movant asserts that the Debtor defaulted on Plan payments consisting of two (2) unpaid postpetition, preconfirmation payments of \$3,517.86 and three (3) unpaid postconfirmation payments of \$3,517.86. *See* Docket No. 47, p. 9. Less a suspense account of \$184.14, Movant asserts that there is a total postconfirmation delinquency of \$17,405.16 (as of the date of the Motion) with a payment of \$3,517.86 becoming due October 1, 2025. *See id.* According to the Motion, the last monthly payment of \$3,701.63 was received by Movant on June 6, 2025. *See id.*

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) due to the Debtor's failure to make no less than five (5) postpetition mortgage payments pursuant to the terms of the Plan.

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis.

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2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Alejandro Martinez Martinez

Represented By
Eric Bensamochan

Movant(s):

Wells Fargo Bank, N. A. as Trustee

Represented By
Joseph C Delmotte

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:25-10641 Eileen Sara Strumpf

Chapter 13

#5.00 Hearing re: [35] Amended motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2702 Simi Hills Lane, Simi Valley, CA 93063

Docket 35

Tentative Ruling:

December 2, 2025

Appearances required.

On May 14, 2025, Eileen Sara Strumpf (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 13 of Title 11 of the United States Code (this "Case") and the first *Chapter 13 Plan*. See Docket No. 1; Docket No. 2. Subsequently, the Debtor filed an amended plan on July 14, 2025, and, most recently, on October 16, 2025. See Docket No. 13, *1st Amended Chapter 13 Plan*; Docket No. 30, *2nd Amended Chapter 13 Plan* (the "Proposed Plan"). The confirmation hearing for the Proposed Plan was scheduled for November 13, 2025, and continued to January 22, 2026. See Docket No. 32; Docket No. 39.

Here, Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2007-7 ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 2702 Simi Hills Lane, Simi Valley, California 93063 (the "Property") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the Proposed Plan. See Docket No. 42, *Amended Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3–4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (4) if relief

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from stay is not granted, adequate protection be ordered. *See id.*, p. 5.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on October 30, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 70.

On November 11, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay* (the "Response"). *See* Docket No. 38. In the Response, the Debtor asserts that (1) the Debtor tendered four (4) postpetition payments to Movant, and (2) the value of the Property is \$712,410.00, and so there is \$298,242.28 in equity in the Property. *See id.*

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest."

"[T]he debtor shall commence making payments not later than 30 days after the date of the *filing* of the plan or the order for relief, whichever is earlier[.]" 11 U.S.C. § 1326(a)(1) (emphasis added). "[F]ailure to make postpetition mortgage payments as they become due in a chapter 13 case constitutes 'cause' for relief from the automatic stay under § 362(d)(1)." *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985)).

Under the terms of the Proposed Plan, the Debtor is required to make regular payments to Movant pursuant to the prepetition lending agreement. *See* Docket No. 30, p. 6, Class 2. Movant asserts that the Debtor defaulted on Plan payments consisting of three (3) unpaid postpetition payments of \$1,079.20. *See* Docket No. 42, p. 9. Less a suspense account of \$19.08, Movant asserts that there is a total

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postpetition delinquency of \$3,218.52 (as of the date of the Motion) with a payment of \$1,079.20 becoming due November 1, 2025. *See id.* According to the Motion, the last monthly payments of \$1,079.20 and \$1,098.28 were received by Movant on October 21, 2025, and July 1, 2025, respectively. *See id.*

In the Opposition, the Debtor asserts that they tendered the following four (4) postpetition payments to Movant: (A) Check no. 4667 in the sum of \$1,098.28 on 6/23/2025; (B) Check no. 4668 in the sum of \$1,079.20 on 8/15/2025; (C) Check no. 4669 in the sum of \$1,079.20 on 10/12/2025; and (D) Check no. 4670 in the sum of \$1,079.20 on 11/02/2025. *See* Docket No. 38, *Declaration of Eileen S. Strumpf*, ¶ 9. The Debtor further asserts that "I shall cure all post-petition pre-confirmation payments to Movant on or by the hearing date herein." *See id.*, ¶ 12. What is the status of the postpetition delinquency? Has the Debtor now become current? If not, the Court will grant the Motion, as cause has been shown.

Party Information

Debtor(s):

Eileen Sara Strumpf

Represented By
Donald Iwuchukwu

Movant(s):

Deutsche Bank National Trust

Represented By
Joseph C Delmotte

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:25-11076 Henry Grissom, II

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#6.00 CONT'D Hearing re: [28] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1948 Rory Lane #5, Simi Valley, CA 93063

fr. 10-21-25,

Docket 28

***** VACATED *** REASON: Case dismissed on 11/19/25**

Tentative Ruling:

October 21, 2025

Appearances required.

Roger Anderson Trustee of the RWA Trust Dated 3/14/2014 ("Movant") seeks relief as to the residential property located at 1948 Rory Lane #5, Simi Valley, CA 93063 (the "Property") through an order pursuant to 11 U.S.C. § 362(d)(1) on the grounds that 'cause' exists as to the debtor Henry Grissom, II (the "Debtor") on the grounds that (1) Movant's interest in the Property is not protected by an adequate equity cushion, (2) the case was filed in bad faith, (3) Debtor has failed to make postpetition mortgage payments and the loan matured on February 1, 2025. *See* Docket No. 28, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), (4) if relief from stay is not granted, adequate protection be ordered, and (5) the order be binding in any and all chapters following any subsequent conversion of this case under a different chapter of Title 11 of the United States Code, unless a specific exception has been provided. *See id.*, p. 5; *Memorandum of Points and Authorities*, p. 9.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class,

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postage prepaid on September 19, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest."

While the term "adequate protection" is not defined in the Code, 11 U.S.C. § 361 sets forth three non-exclusive examples of what may constitute adequate protection: 1) periodic cash payments equivalent to decrease in value, 2) an additional or replacement lien on other property, or 3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). "Equity cushion" is defined as the value in the property, above the amount owed to the creditor with a secured claim, that will shield that interest from loss due to any decrease in the value of the property during the time the automatic stay remains in effect. *Id.* at 1397. "Equity," as opposed to "equity cushion," is the value, above all secured claims against the property that can be realized from the sale of the property for the benefit of the unsecured creditors. *Id.*

"Although the existence of an equity cushion as a method of adequate protection is not specifically mentioned in § 361, it is the classic form of protection for a secured debt justifying the restraint of lien enforcement by a bankruptcy court." *Id.* (internal citations omitted). "In fact, it has been held that the existence of an equity cushion alone, can provide adequate protection." *Id.* (internal citations omitted). "A sufficient equity cushion has been found to exist although not a single mortgage payment had

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been made." *Id.* (internal citations omitted). "A 20% cushion has been held to be an adequate protection for a secured creditor." *Id.* at 1401. (internal citations omitted).

Failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985).

"As a general rule, chapter 13 debtors may not modify the rights of holders of claims secured solely by a security interest in real property that is the debtor's principal residence. Section 1322(b)(2). However, § 1322(c)(2) carves out an exception to the anti-modification rule against home mortgages, allowing modification if the last payment on the original payment schedule for the mortgage is due prior to the date on which the final plan payment is due. Several courts have held that § 1322(c)(2) applies to balloon mortgage payments that mature prepetition, and that § 1322(c)(2) allows chapter 13 debtors to cure such defaults by providing for full payment to the mortgagee over the life of the plan." *In re Palacios*, 2013 WL 1615790, at *4 (9th Cir. BAP Apr. 15, 2013). "[11 U.S.C.] § 1322(c)(1), which provides that, notwithstanding § 1322(b)(2) and applicable nonbankruptcy law, a default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under § 1322(b)(3) or (5), until the residence is sold at a foreclosure sale." *Id. citing* 8 Collier on Bankruptcy ¶ 1322.07[2] (Alan N. Resnick & Henry J. Sommer, eds., 16th ed. 2012).

Here, Movant first contends that its interest in the Property is not adequately protected. Movant asserts that the loan became all due and payable because it matured on February 1, 2025. *See* Docket No. 28, *Declaration of Roger Anderson, Trustee of the RWA Trust Dated 3/14/2014* (the "Anderson Declaration"), ¶ 5. Movant recorded a notice of default on April 14, 2025, and recorded notice of sale on July 17, 2025. *See id.*, ¶¶6, 8. In total, Movant asserts a secured claim against the Property in the amount of \$358,335.41. *See id.*, ¶ 10. As of August 12, 2025, Movant asserts that the fair market value of the Property is \$430,000.00 per a "signed purchase agreement from Debtor's broker". *See id.*, ¶ 9. Movant asserts that it maintains an equity cushion in the Property. *See* Docket No. 20, p. 8. The equity cushion in the Property exceeding Movant's lien is asserted to be "\$25,474.30 (6.0% Equity Cushion) Minus Estimated Costs of Sale \$34,400.00 (8% FMV) Equity in the

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Property (\$8,925.70)". *See id.*, *Memorandum of Points and Authorities*, p. 5. The Court calculates the equity cushion in the Property exceeding Movant's lien to be \$71,664.59 or 16.67%. Subtracting the total liens on the Property (including Movant's lien, the junior lien of the Wescom Central Credit Union in the amount of \$29,307.93, the junior lien of Indian Oaks Homeowners Association in the amount of \$16,882.36 in the amount of \$16,882.36, and projected costs of sale 8% or \$34,400.00), the Debtor's equity in the Property is negative \$9,925.70. *See id.*, the Anderson Declaration, ¶ 7; *Exhibit 5*.

Movant second contends that the Debtor proposed that *Original Chapter 13 Plan* (the "Plan"), which does not provide for any payments to Movant "unless and until the Property is sold by the end of March 2026, and the Plan does not even require Debtor to take any specific actions if the Property is not sold by month 7". *See id.*, *Memorandum of Points and Authorities*, p. 8. Pursuant to the terms of the Plan, the Debtor proposes to pay Movant's claim through the Plan in the amount of \$321,225.27 in month seven. *See* Docket No. 25, pp. 2, 5-6, Class 3C. The Plan does not provide any information for the source of the payment of Movant's claim in month seven. *See id.*

Movant attaches an executed Notice of Default Purchase Agreement (the "Purchase Agreement") to the Motion. *See id.*, at *Exhibit 6*. The Purchase Agreement was prepared and signed on August 7, 2025, for a purchase price of \$430,000.00, all cash, close of escrow 30 days after acceptance. *See id.* What is the status of the sale? According to the Purchase Agreement, the sale should have closed escrow by or before September 6, 2025.

According to the Debtor's schedules, the Debtor has \$68.24 in net monthly income. *See* Docket No. 24, *Schedule I: Your Income; Schedule J: Your Expenses*. If the sale does not close, the Debtor has no ability to pay Movant's claim during the life of the Plan and there would be cause sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Bad Faith

"The debtor's lack of good faith in filing a bankruptcy petition has often been used as cause for removing the automatic stay." *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986). "The existence of good faith depends on an amalgam of factors and not upon a

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specific fact." *See id.* "The bankruptcy court should examine the debtor's financial status, motives, and the local economic environment." *See id.* The Ninth Circuit cited the Ninth Circuit Bankruptcy Appellate Panel regarding bad faith as follows:

If it is obvious that a debtor is attempting unreasonably to deter and harass creditors in their bona fide efforts to realize upon their securities, good faith does not exist. But if it is apparent that the purpose is not to delay or defeat creditors but rather to put an end to long delays, administration expenses ... to mortgage foreclosures, and to invoke the operation of the [bankruptcy law] in the spirit indicated by Congress in the legislation ... good faith cannot be denied. *See id.*

"Good faith is lacking only when the debtor's actions are a clear abuse of the bankruptcy process." *See id.* (citing *In re Thirtieth Place, Inc.*, 30 B.R. 503, 505 (9th Cir. BAP 1983) (quotation omitted).

According to Movant, the bankruptcy case was filed in bad faith because (1) "despite Movant's loan maturing over 6 months ago, Debtor filed this bankruptcy on the eve of the foreclosure and has filed proposed [sic] a plan that does not properly treat Movant's fully secured and matured claim, and allows for much unreasonable delay", and (2) the Debtor contracted to sell the Property for \$430,000.00 last month when his schedules, filed under the penalty of perjury, list the fair market value of the Property as \$505,000.00. *See id.*, *Memorandum of Points and Authorities*, pp. 8-9.

The Debtor's primary motivation in filing bankruptcy may be to stop the litigation regarding the Property. However, the Debtor lists \$7,332.00 in priority claims and \$39,990.00 in non-priority claims on his Schedule E/F, which he seeks to repay through the Plan. *See* Docket No. 1, *Schedule E/F*. Therefore, Movant has not established cause to grant relief under 11 U.S.C. § 362(d)(1) for bad faith.

4001(a)(3) Waiver

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the

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application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Henry Grissom II

Represented By
Bryan Diaz

Movant(s):

Roger Anderson Trustee of the RWA

Represented By
Arnold L Graff

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:25-10127 ReEnvision Aesthetics and Medspa, PC

Chapter 11

#7.00 Hearing re: [86] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Discovery Exchanged Under Confidential Agreement

Docket 86

Tentative Ruling:

December 2, 2025

Appearances required.

ReEnvision Aesthetics and Medspa, PC (the "Debtor") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in the nonbankruptcy action *North Mills v. Lesley Prince Corp, ReEnvision Aesthetics, etc.* (2023 CUBC 0100 55) filed on June 9, 2023 (the "Nonbankruptcy Action"), pending before the Superior Court for the State of California, Ventura County, for the limited relief "to exchange discovery under a confidentiality [sic] agreement". See Docket No. 86, p. 4, *Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum)* (the "Motion").

The Motion and notice thereof were served upon the Debtor's creditors via U.S. Mail First class, postage prepaid on November 4, 2025, notifying the creditors that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. See *id.*, *Proof of Service of Document*, p. 9.

On November 11, 2025, MMP Capital, LLC filed *MMP Capital, LLC's Partial Opposition to Motion for Relief from Stay filed by Debtor* (the "Opposition"). See Docket No. 90. In the Opposition MMP Capital, LLC ("MMP Capital") asserts that the relief requested in the Motion and facts set forth in the Motion are incorrect. See *id.*, p. 1. More specifically, MMP Capital takes issue with the Motion's representation that there is an agreed stipulated protection order in the Nonbankruptcy Action. See *id.*

Analysis

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Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). "Courts in the Ninth Circuit have granted stay relief to permit the conclusion of pending litigation in a nonbankruptcy forum when the litigation involves multiple parties or is ready for trial." *In re Wang*, 2010 WL 6259970 *5 (9th Cir. BAP 2010)(citing *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1169 (9th Cir. 1990). "Courts have also considered whether permitting the conclusion of pending litigation is in the interest of judicial economy or within the expertise of a state court." *Id.* (citing *In re MacDonald*, 755 F.2d 715 at 717).

"Courts evaluate several non-exclusive factors to determine if cause exists to permit pending litigation to continue in another forum [including:]

- (1) Whether the relief will result in a partial or complete resolution of the issues;
- (2) The lack of any connection with or interference with the bankruptcy case;
- (3) Whether the foreign proceeding involves the debtor as a fiduciary;
- (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
- (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
- (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
- (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties;
- (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination;
- (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
- (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
- (11) Whether the foreign proceedings have progressed to the point where the

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parties are prepared for trial; and
(12) The impact of the stay and the ‘balance of the hurt.’”

Id. (citing *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Ut. 1984); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559 (Bankr. C.D. Cal. 2004); *In re Sonnax Indus., Inc.*, 907 F.2d 1280, 1286 (2d Cir. 1990); *In re Smith*, 389 B.R. 902, 918-919 (Bankr. D. Nev. 2008).

Curtis Factors

Whether the relief will result in a partial or complete resolution of the issues

Plaintiff North Mill Equipment Finance, LLC, as servicing agent for North Mill Credit Trust ("Plaintiff") filed a complaint on June 9, 2023, commencing the Nonbankruptcy Action, against Lesley C. Prince Corp., the Debtor, Lesley C. Prince, and Does 1 through 100 (collectively, "Defendants") asserting claims for relief for (1) breach of written agreement, (2) breach of personal guaranty, (3) breach of corporate guaranty, (4) breach of written agreement, (5) breach of personal guaranty, (6) claim and delivery, (7) conversion, (8) account stated, (9) account stated, (10) unjust enrichment, and (11) unjust enrichment. *See* Docket No. 87, *Supplemental Declaration of Mark Sullivan*, at *Exhibit A*. Defendants Lesley C. Prince Corp. and Lesley C. Prince were sued in their capacity as equipment purchase finance guarantors ("Guarantor Defendants"). *See id.*, ¶ 3. The Nonbankruptcy Action is currently stayed against the Debtor but has continued as to Guarantor Defendants. *See id.*, ¶ 4. Defendants cross-complained against MMP Capital, the original party to the underlying finance agreements. *See id.*, ¶ 5. The cross-complaint has been stayed by the state court. *See id.* Discovery in the Nonbankruptcy Action is ongoing between Plaintiff and Guarantor Defendants, and MMP Capital and Plaintiff have filed motions for protective orders regarding trade secrets and financial privacy issues relating to the relationship between the parties. *See id.*, ¶ 6. The discovery dispute has been tentatively resolved by the state court with a proposed stipulated protective order (the "Order") between Plaintiff, Defendants, and MMP Capital. *See id.*, ¶ 7; *Exhibit C*. Through the Motion, the Debtor seeks limited stay relief from this Court to allow the entry of the Order and the exchange of discovery pursuant to the terms of the Order.

Were the Court to grant the Motion, the parties could enter into the Order and resolve

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the current discovery dispute in the Nonbankruptcy Action. Granting the Motion will only partially resolve discovery issues. However, it will assist in the furtherance of the litigation and is asserted to be "necessary to the resolution of the claims by North Mill against the Guarantor Defendants as guarantors. Resolving these claims is important to the Debtor as well since [sic] Debtor was the beneficiary of the obligation guaranteed by the Guarantor Defendants." *See id.*, ¶¶ 8-9.

The Court understands that the Debtor and MMP Capital dispute some of the underlying facts as they relate to the Nonbankruptcy Action. At its core, MMP Capital's primary contention appears to be that it does not agree with the Motion's representation that the Order is an agreed upon stipulated protection order. *See* Docket No. 90, *Declaration of Andrew K. Alper*, ¶ 7. Is there a stipulated protective order or not? It is unclear to the Court if MMP Capital actually opposes the Court granting limited stay relief for the purpose of entering the Order or some other agreed upon protective order. At this point, the Debtor appears to be a party to the Order. The Court views the Debtor's request for relief through the Motion as a request for a comfort order.

The lack of any connection with or interference with the bankruptcy case

Resolution of the discovery dispute and entry of the Order will assist in the progression of the Nonbankruptcy Action and eventually to the determination the obligation guaranteed by Guarantor Defendants. The Debtor is a party to the Order, however, the litigation is currently stayed against the Debtor and should have little to no interference with the bankruptcy case.

Whether the foreign proceeding involves the debtor as a fiduciary

It does not appear that the Nonbankruptcy Action asserts the Debtor to have maintained a fiduciary capacity.

Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases

The Nonbankruptcy Action involves causes of action for breach of written agreement, breach of personal guaranty, breach of corporate guaranty, breach of written agreement, breach of personal guaranty, claim and delivery, conversion, account stated, and unjust enrichment. The State Court is not a specialized tribunal, and there

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is not a specialized expertise required of the State Court to hear the Nonbankruptcy Action. *See In re Curtis*, 40 B.R. 795 at 800 (specialized tribunals such as a board of contract appeals, state compensation panel, and state courts related to issues such as "unsettled questions of state property law...").

Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation

It does not appear that an insurance carrier has assumed financial responsibility for defending the litigation.

Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question

The Nonbankruptcy Action is between Plaintiff, the Debtor, Guarantor Defendants, and MMP Capital and is not based on goods on which the Debtor functions as a bailee or conduit for.

Whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties

There is no evidence that litigation of the Nonbankruptcy Action would prejudice other creditors or interested parties.

Whether the judgment claim arising from the foreign action is subject to equitable subordination

This factor is not applicable to the Debtor.

Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f)

This factor is not applicable to the Debtor.

The interests of judicial economy and the expeditious and economical determination of litigation for the parties

The State Court has presided over the Nonbankruptcy Action since its filing in 2023. *See Docket No. 87, Supplemental Declaration of Mark Sullivan, at Exhibit A.* Entry of the Order in the Nonbankruptcy Action will assist the furtherance of litigation in

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the state court.

Whether the foreign proceedings have progressed to the point where the parties are prepared for trial

The parties have not progressed to the point where they are prepared for trial.

The impact of the stay and the 'balance of the hurt'

The Nonbankruptcy Action has been pending in the state court for two years. The parties have consensually resolved a discovery dispute with the assistance of the state court and request only limited stay relief for entry of the Order and discovery pursuant to the terms of the Order.

Conclusion

In analyzing the *Curtis* factors, and at the request of the Debtor, the Court is inclined to grant the Motion.

Party Information

Debtor(s):

ReEnvision Aesthetics and Medspa,

Represented By
Steven R Fox

Movant(s):

ReEnvision Aesthetics and Medspa,

Represented By
Steven R Fox

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9:14-10379 Robert Lee Rains and Betty Sue Rains

Chapter 7

#8.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee Jeremy Faith. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report

Docket 781

Tentative Ruling:

December 2, 2025

Appearances required.

Before the Court is the *Trustee's Final Report (TFR)* (the "Report") filed by the duly appointed Chapter 7 Trustee, Jeremy W. Faith (the "Trustee"), for the bankruptcy estate of Robert Lee Rains and Betty Sue Rains (jointly, the "Debtors") on November 3, 2025. *See* Docket No. 781.

On April 29, 2025, Margulies Faith, LLP ("MF"), in its capacity as counsel to the Trustee, filed that *Application for Payment of: Final Fees and/or Expenses* (the "MF Application"), covering the period from August 1, 2022 through April 9, 2025, through which MF requested allowance, on a final basis, of fees in the amount of \$694,729.50 and reimbursement of expense in the amount of \$28,462.84. *See* Docket No. 776, p. 8. On January 24, 2023, the Court issued that *Order on Application for Payment of: Interim Fees and/or Expenses* awarding MF fees in the amount of \$628,372.00 and expenses in the amount of \$26,273.01 and allowing payment to MF in the amount of \$290,034.40 and the reimbursement of expenses in the amount of \$26,273.01. *See* Docket No. 723, p. 2.

On April 22, 2025, Grobstein Teeple, LLP ("GT"), in its capacity as accountants to the Trustee, filed that *Second and Final Application for Compensation and Reimbursement of Expenses of Grobstein Teeple, LLP as Accountants for the Chapter 7 Trustee* (the "GT Application"), covering the period from August 1, 2022, through April 21, 2025 through which GT requested allowance, on a final basis, of fees in the amount of \$21,892.00 and reimbursement of expenses in the amount of \$332.33. *See*

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Docket No. 771, p. 1.

On April 22, 2025, De Hoyos Y Aviles ("DHYA"), in its capacity as special litigation counsel to the Trustee, filed that *Application for Payment of Final Fees and/or Expenses* (the "DHYA Application"), covering the period from July 15, 2015, through April 21, 2025 through which DHYA requested allowance, on a final basis, of fees in the amount of \$21,892.00 and reimbursement of expenses in the amount of \$332.33. *See* Docket No. 771, p. 1. On January 24, 2023, the Court issued that *Order on Application for Payment of: Interim Fees and/or Expenses* awarding DHYA fees, on an interim basis, in the amount of \$76,451.40 and expenses in the amount of \$3,728.00 and allowing payment to DHYA in the amount of \$35,287.28 and the reimbursement of expenses in the amount of \$3,728.00. *See* Docket No. 722, p. 2.

On September 2, 2025, the Court issued that *Order Approving Stipulation Between Chapter 7 Trustee and Chapter 7 Estate Professionals Regarding Final Applications for Payment of Fees and Reimbursement of Expenses* in which the Court approved a stipulation between the Trustee and the Chapter 7 estate professionals to provide a carveout to pay the chapter 11 administrative expense holders. *See* Docket No. 779.

On November 3, 2025, the Trustee filed that *Notice of Trustee's Final Report and Application for Compensation and Deadline to Object (NFR)* (the "Notice") and served the Notice on Notice of Electronic Filing [NEF] parties. *See* Docket No. 782. On November 6, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 783. Pursuant to this Court's Local Rule 9013-(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Report. The Court therefore takes the default of all non-responding parties.

As of the date of filing the Report, the Trustee had approximately \$153,626.52 in cash on hand. *See* Docket No. 781, p. 1.

Through the Report, the Trustee, *inter alia*, seeks:

(1) the allowance on a final basis of the Trustee's statutory fee of \$38,932.50 pursuant to 11 U.S.C. § 326(a) and reimbursement of expenses incurred in the amount of \$1,121.59, and payment of \$22,060.14 in fees and \$1,121.59 in expenses;

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(2) the allowance on a final basis of \$694,729.50 in fees and reimbursement of \$28,462.84 in expenses related to the MF Application, and payment of \$28,616.87 in fees and \$2,187.83 in expenses;

(3) the allowance on a final basis of \$53,222.50 and reimbursement of \$404.73 in expenses related to the GT Application, and payment of \$15,623.75 in fees and \$332.33 in expenses; and

(4) the allowance on a final basis of \$76,451.40 and reimbursement of \$3,728.00 in expenses related to the DHYA Application, and payment of \$8,032.01 in fees and \$0 in expenses.

See id. at *Exhibit D*.

After the proposed payment to the Trustee, MF, GT, and DHYA the balance of cash on hand for chapter 11 administrative claims is \$75,000, and the balance of cash on hand for unsecured creditors is \$0.00. *See id.* This amount is sufficient to pay allowed unsecured claims a *pro-rata* distribution of approximately 0.0%. *See id.*

Pursuant to 11 U.S.C. § 330, the Court allows MF, on a final basis, fees in the amount of \$694,729.50 and expenses in the amount of \$28,462.84 and approves payment of the allowed fees in the amount of \$28,616.87 and expenses in the amount of \$2,189.83; allows GT, on a final basis, fees in the amount of \$53,222.50 and expenses in the amount of \$404.73 and approves payment of the allowed fees in the amount of \$15,623.75 and expenses in the amount of \$332.33; and allows DHYA, on a final basis, fees in the amount of \$76,451.40 and expenses in the amount of \$3,728.00 and approves payment of the allowed fees in the amount of \$8,032.01 and expenses in the amount of \$0.00.

The Court (1) approves the Report in conformance with 11 U.S.C. § 704(9), and (2) the Trustee is awarded their statutory fee in the amount of \$38,932.50 and reimbursement of the Trustee's expenses in the amount of \$1,121.59 and approves payment of the allowed fees in the amount of \$22,060.14 and expenses in the amount of \$1,121.59.

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The Court will hear from the United States Trustee as to the estates administrative insolvency.

Party Information

Debtor(s):

Robert Lee Rains

Represented By
Jonathan Gura
Reed H Olmstead

Joint Debtor(s):

Betty Sue Rains

Represented By
Jonathan Gura
Reed H Olmstead

Trustee(s):

Jeremy W. Faith (TR)

Represented By
Noreen A Madoyan
Meghann A Triplett
Craig G Margulies
Samuel Mushegh Boyamian
Anna Landa

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9:25-10012 Joseph Robert Alvino and Christine Renee Alvino

Chapter 7

#9.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee David Gottlieb. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report

Docket 42

Tentative Ruling:

December 2, 2025

Appearances waived.

Before the Court is the *Trustee's Final Report (TFR)* (the "Report") filed by the duly appointed chapter 7 Trustee, David Gottlieb (the "Trustee"), for the bankruptcy estate of Joseph Robert Alvino and Christine Renee Alvino on October 28, 2025. *See* Docket No. 42.

On October 28, 2025, the Trustee filed that *Notice of Trustee's Final Report and Application for Compensation and Deadline to Object (NFR)* (the "Notice") and served the Notice on Notice of Electronic Filing [NEF] parties. *See* Docket No. 43. October 30, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 44. Pursuant to this Court's Local Rule 9013-(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Report. The Court therefore takes the default of all non-responding parties.

As of the date of filing the Report, the Trustee had approximately \$12,409.28 in cash on hand. *See* Docket No. 42, p. 1.

Through the Report, the Trustee, *inter alia*, seeks the payment of the Trustee's statutory fee of \$1,991.99 and reimbursement of expenses incurred in the amount of \$95.00. *See id.*, *Exhibit D*.

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After payment of the Trustee's statutory fee and expenses, the balance of cash on hand for unsecured creditors is \$10,322.29. *See id.* This amount is sufficient to pay allowed unsecured claims a *pro-rata* distribution of approximately 28.660%. *See id.*

The Court approves the Report in conformance with 11 U.S.C. § 704(9), including payment of the Trustee's statutory fee in the amount of \$1,991.99, and reimbursement of the Trustee's expenses in the amount of \$95.00.

The Trustee is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Joseph Robert Alvino

Represented By
Adele M Schneiderei

Joint Debtor(s):

Christine Renee Alvino

Represented By
Adele M Schneiderei

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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9:25-10209 Jerrold Alan Brenner and Michele Cohen

Chapter 7

#10.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee David Gottlieb. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report

Docket 22

Tentative Ruling:

December 2, 2025

Appearances waived.

Before the Court is the *Trustee's Final Report (TFR)* (the "Report") filed by the duly appointed Chapter 7 Trustee, David Gottlieb (the "Trustee"), for the bankruptcy estate of Jerrold Alan Brenner and Michele Cohen on October 27, 2025. *See* Docket No. 22.

On October 27, 2025, the Trustee filed that *Notice of Trustee's Final Report and Application for Compensation and Deadline to Object (NFR)* (the "Notice") and served the Notice on Notice of Electronic Filing [NEF] parties. *See* Docket No. 23. On October 30, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 24. Pursuant to this Court's Local Rule 9013-(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Report. The Court therefore takes the default of all non-responding parties.

As of the date of filing the Report, the Trustee had approximately \$3,229.75 in cash on hand. *See* Docket No. 22, p. 1.

Through the Report, the Trustee, *inter alia*, seeks the payment of the Trustee's statutory fee of \$820.08 pursuant to 11 U.S.C. § 326(a) and reimbursement of expenses incurred of \$20.00. *See id.*, *Exhibit D*.

After payment of the Trustee's statutory fee and expenses, the balance of cash on hand for unsecured creditors is \$2,389.67. *See id.* This amount is sufficient to pay allowed

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unsecured claims a *pro-rata* distribution of approximately 3.376%. *See id.*

The Court approves the Report in conformance with 11 U.S.C. § 704(9), including payment of the Trustee's statutory fee in the amount of \$820.08, and reimbursement of the Trustee's expenses in the amount of \$20.00.

The Trustee is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Jerrold Alan Brenner

Represented By
Lauren Ross

Joint Debtor(s):

Michele Cohen

Represented By
Lauren Ross

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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9:25-11478 Miguel Angel Galindo Lopez

Chapter 7

#11.00 Order to Show Cause re: Dismissal - Debtor obtained credit counseling on April 14, 2025, more than 180 days prior to the filing of the petition on November 4, 2025

Docket 6

***** VACATED *** REASON: Updated Certificate of Credit Counseling
filed on 11/20/25. Requirement has been satisfied.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Angel Galindo Lopez

Represented By
Lauren M Foley

Trustee(s):

Nancy J Zamora (TR)

Pro Se

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9:22-11001 Alan Rashkin and Rochelle Rashkin

Chapter 7

#12.00 Hearing re: [115] Stipulation to modify settlement agreement
due to death of co-obligor

Docket 115

Tentative Ruling:

December 2, 2025

Appearances required.

On December 19, 2022, Alan Rashkin ("Mr. Rashkin") and Rochelle Rashkin ("Ms. Rashkin" and jointly with Mr. Rashkin, the "Debtors") filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1. Jerry Namba is the duly appointed Chapter 7 trustee (the "Trustee").

On July 15, 2024, the Court issued that *Order Granting Motion to Approve Compromise of Controversary Pursuant to Bankruptcy Rule 9019* (the "Order") approving a settlement (the "Agreement") between the Debtors and the Trustee. *See* Docket No. 91. The Agreement provided, among other things, that (1) the Debtors were to pay the Trustee on the part of the Debtors' bankruptcy estate \$54,000 by making monthly payments of \$750 for 72 months, (2) the Debtors assigned the Trustee various litigation rights, and (3) the Debtors stipulated to the denial of their discharge. *See* Docket No. 85, *Settlement Agreement*, pp. 14-20. On November 7, 2025, Ms. Rashkin filed that *Notice of Motion and Motion to Modify Settlement Agreement Due to Death of Co-Obligor* (the "Motion") in which Ms. Rashkin requests that the Court modify the Order by reducing the monthly payment of \$750 to \$200 a month due to the death of Mr. Rashkin on May 10, 2025, and the loss of his social security income. *See* Docket No. 110. Through the Motion, Ms. Rashkin asserts that she now has a negative monthly income and cannot afford to make the required monthly payment. *See id.* at p. 14 ¶¶ 29-33.

On November 24, 2025, the Trustee filed that *Stipulation to Modify Settlement Agreement Due to Death of Co-Obligor* (the "Stipulation"). *See* Docket No. 115. Though the Stipulation, the Trustee and Ms. Rashkin stipulate to modify the Order by,

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inter alia, lowering the monthly payment amount to \$200, and extending the payment period from 72 months to 270 months. *See id.* at p. 2, lines 22-26.

A trustee's motion for court approval of a compromise or settlement requires notice, which "must be given to [] all creditors; the United States trustee; the debtor; all indenture trustees as provided in Rule 2002; and any other entity the court designates." *See* Fed. R. Bankr. P. 9019(a). Here, were the Court to grant the Motion or approve the Stipulation, the Order would be materially modified. Creditors would receive payments over 20 years instead of 6 years. Yet, neither notice of the Motion or the Stipulation were served on all parties affected by the Court's approval of the Motion or the Stipulation. Must the Stipulation not be served on the parties listed in Fed. R. Bankr. P. 9019 for the Court to modify the terms of the Order?

Party Information

Debtor(s):

Alan Rashkin	Pro Se
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Joint Debtor(s):

Rochelle Rashkin	Pro Se
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Movant(s):

Jerry Namba (TR)	Represented By Carissa N Horowitz William C Beall
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Trustee(s):

Jerry Namba (TR)	Represented By Carissa N Horowitz William C Beall
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9:22-11001 Alan Rashkin and Rochelle Rashkin

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**#13.00 Hearing re: [110] Motion to modify settlement agreement
 due to death of co-obligor**

Docket 110

Tentative Ruling:

December 2, 2025

Appearances required.

On December 19, 2022, Alan Rashkin ("Mr. Rashkin") and Rochelle Rashkin ("Ms. Rashkin" and jointly with Mr. Rashkin, the "Debtors") filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1. Jerry Namba is the duly appointed Chapter 7 trustee (the "Trustee").

On July 15, 2024, the Court issued that *Order Granting Motion to Approve Compromise of Controversy Pursuant to Bankruptcy Rule 9019* (the "Order") approving a settlement (the "Agreement") between the Debtors and the Trustee. *See* Docket No. 91. The Agreement provided, among other things, that (1) the Debtors were to pay the Trustee on the part of the Debtors' bankruptcy estate \$54,000 by making monthly payments of \$750 for 72 months, (2) the Debtors assigned the Trustee various litigation rights, and (3) the Debtors stipulated to the denial of their discharge. *See* Docket No. 85, *Settlement Agreement*, pp. 14-20.

Before the Court is that *Notice of Motion and Motion to Modify Settlement Agreement Due to Death of Co-Obligor* (the "Motion") in which Ms. Rashkin requests that the Court modify the Order by reducing the monthly payment of \$750 to \$200 a month due the death of Mr. Rashkin on May 10, 2025, and the loss of his social security income. *See* Docket No. 110. Through the Motion, Ms. Rashkin asserts that she now has a negative monthly income and cannot afford to make the required monthly payment. *See id.* at p. 14 ¶¶ 29-33.

Pursuant to Fed. R. Civ. P. 60, made applicable by Fed. R. Bankr. P. 9024, "[o]n motion and just terms, the court may relieve a party [] from a final judgment, order, or

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proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect []. However "[a] motion under Rule 60(b) must be made within a reasonable time – and for (1), (2), and (3) no more than a year after the judgment or order or the date of the proceeding." Fed. R. Civ. P. 60(c)(1).

Here, the Motion appears to seek to modify the Order under Fed. R. Civ. P. 60 due to the death of Mr. Rashkin being a surprise, but the Motion is made over a year after the entry of the Order. Moreover, although the Court is sympathetic to Ms. Rashkin's loss and current financial condition, and may be willing to entertain a modification of the Order, the Court is unwilling to provide such relief until all parties that were provided notice with the underling motion for the Order are provided notice of the instant Motion. The Motion only provided notice to the Notice of Electronic Filing parties and were not served on all the parties that received notice of the hearing on the motion that the Order granted.

The Court is inclined to deny the Motion.

Party Information

Debtor(s):

Alan Rashkin	Pro Se
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Joint Debtor(s):

Rochelle Rashkin	Pro Se
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Movant(s):

Rochelle Rashkin	Pro Se
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Trustee(s):

Jerry Namba (TR)	Represented By Carissa N Horowitz William C Beall
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Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

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9:25-11033 Hospice Partners, Inc.

Chapter 7

#14.00 Hearing re: [29] Trustee's motion for the entry of an order: (A) approving sale of purchased assets free and clear of all interests; (B) approving overbid procedures; (C) granting 11 U.S.C. § 363(m) protection to buyer; (D) rejecting unexpired lease pursuant to 11 U.S.C. § 365(a) as of the petition date; and (E) approving the stipulation between the U.S. Small Business Administration and the trustee concerning the lien on purchased assets

Docket 29

Tentative Ruling:

December 2, 2025

Appearances required.

Background

On August 1, 2025 (the "Petition Date"), Hospice Partners, Inc. (the "Debtor") filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1. Nancy J. Zamora is the duly appointed Chapter 7 trustee (the "Trustee") of the Debtor's bankruptcy estate (the "Estate"). *See* Docket No. 2.

As part of its operations prior to the Petition Date, the Debtor ran a thrift store located at 445 Higuera Street, San Luis Obispo, CA 93401 (the "Store Location"), under the name Hope Chest, which as a thrift store sold various low-cost merchandise for men, women, and children; furniture; home decorations; and small appliances. *See* Docket No. 29, *Declaration of Nancy Zamora* ("Zamora Declaration"), p. 22 at ¶ 6. The Debtor scheduled as an asset the contents of Hope Chest, "including all store equipment/supplies and second-hand inventory" (the "Purchased Assets"), valued at approximately \$73,935.82. *See* Docket No. 1, *Schedule A/B: Assets – Real and Personal Property*, p. 2.

As of the Petition Date, the Debtor had an unexpired lease with Lamson-Elliott Investments, LLC (the "Buyer") for the Store Location, pursuant to that *Commercial Lease Agreement* dated January 2009 and subsequent amendments thereto (the "Lease"). *See* Zamora Declaration, p. 23 at ¶ 7; *see also Exhibit 3*. Under the *Fifth*

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Lease Amendment, the Lease term expires on June 30, 2027, with a monthly rent of \$10,300 through June 2026. *See* Docket No. 29, *Declaration of Lauren Somma* ("Somma Declaration"), p. 28 at ¶ 5; *see also Exhibit 3*, p. 53. On October 27, 2025, the Buyer filed a nonpriority unsecured claim in the amount of \$129,553.21. *See* Somma Declaration, p. 29 at ¶ 16; *see also* Proof of Claim 7-1. "With the filing of the Debtor's bankruptcy case, Hope Chest is closed and no longer selling to the public. As of the Petition Date, certain inventory and store equipment remain in [Hope Chest]." *See* Docket No. 29, *Memorandum of Points and Authorities* (the "Memo"), p. 8, lines 22-24. The Buyer "desires to re-let the premises and as such, has offered to purchase" the Purchased Assets. *See id.*, lines 24-25.

The Purchased Assets are encumbered by a secured lien held by the U.S. Small Business Administration ("SBA"). *See* Docket No. 29, *Declaration of Lovee D. Sarenas* ("Sarenas Declaration"), p. 26 at ¶ 5; *see also Exhibit 4*. On September 17, 2025, SBA filed a secured claim in the amount of \$147,310.43 over substantially all of the Debtor's assets. *See* Proof of Claim 5-1. The Trustee is not aware of any other valid lien against the Purchased Assets. *See* Memo, p. 9, lines 15-16.

Before the Court is *Trustee's Motion for the Entry of An Order: (A) Approving Sale of Purchased Assets Free and Clear of All Interests; (B) Approving Overbid Procedures; (C) Granting 11 U.S.C. § 363(m) Protection to Buyer; (D) Rejecting Unexpired Lease Pursuant to 11 U.S.C. § 365(a) as of the Petition Date; and (E) Approving the Stipulation Between the U.S. Small Business Administration and the Trustee Concerning the Lien on Purchased Assets* (the "Motion") filed by the Trustee on October 31, 2025. *See* Docket No. 29.

Through the Motion, the Trustee seeks to sell the Purchased Assets, free and clear of all liens and encumbrances, to the Buyer for \$20,000 (the "Purchase Price"), with no contingencies, subject to Bankruptcy Court approval and overbid at public auction, on an "as is, where is" basis, without any warranties or representations whatsoever. *See* Memo, pp. 9-10; *see also Exhibit 1*. As additional consideration for the sale, the Buyer is waiving "any administrative claim, as defined by the Bankruptcy Code, related to the Lease" (the "Administrative Rent") and releasing "any claim held by Buyer against the Estate including any claim under Bankruptcy Code § 502(b)(6)" (the "Rejection Damages Claim"). *See* Docket No. 29, *Exhibit 1*, p. 2, § 1.03; *see also*

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Memo, p. 10, lines 4-7; Somma Declaration, p. 29 at ¶ 16.

"The sale is also conditioned upon the SBA consenting to the sale and agreeing, *inter alia*, to accept as payment [the Purchase Price] ... in satisfaction of its lien against the Purchased Assets." See Memo, p. 3, lines 21-23. On October 31, 2025, the Trustee filed that *Stipulation Between the Trustee and the U.S. Small Business Administration Regarding Claim Number 5* (the "Stipulation"). See Docket No. 30; see also *Exhibit 2*. Pursuant to the Stipulation, "SBA consents and accepts the Purchase Price in full satisfaction of its lien against the Purchased Assets." See Sarenas Declaration, p. 26 at ¶ 9.

"There is no cost in the form of brokers or sales agents associated with this sale transaction. Trustee also does not anticipate any adverse tax consequence resulting from the sale." See Memo, p. 3 at ¶ 9.

As to overbids, the Trustee seeks approval of certain bidding procedures that require any potential overbidder to serve the Trustee and her counsel with the initial bid (the "Initial Bid") so that it is actually received no later than 5:00 p.m. on November 25, 2025 (the "Bid Deadline"). See Memo, p. 11; see also Docket No. 30, *Notice of Sale of Estate Property*, pp. 3-4. Each Initial Bid must include (1) a cashier's check or money order made payable to the Trustee in the amount not less than \$63,700, comprised of the full Purchase Price plus \$2,000, and at least \$41,200 of Administrative Rent (which is being waived by the Buyer and equals the rent incurred from the Petition Date through the closing of the sale), and (2) cashier's checks payable to the Trustee in the maximum amount for any potential bid for such assets. See *id.* Each subsequent overbid after the Initial Bid must be in minimum increments of at least \$2,000. See *id.*

Additionally, the Motion seeks entry of an order: (1) authorizing the Trustee to enter into and perform the obligations under the *Asset Purchase Agreement* ("APA"), and sign and deliver all relevant and related sale documents reasonably necessary to effectuate and close the sale and related transactions, including without limitation appropriate Bill of Sale; (2) rejecting the unexpired Lease pursuant to 11 U.S.C. § 365(a) as of the Petition Date; and (3) approving the Stipulation between the Trustee and SBA concerning SBA's lien on the Purchased Assets. See Docket No. 29, p. 3.

Lastly, the Trustee seeks a good faith finding under 11 U.S.C. § 363(m) for the Buyer

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or successful overbidder, and a waiver of Fed. R. Bankr. P. 6004(h). *See id.*, p. 2.

Notice

Pursuant to Fed. R. Bankr. P. 2002(a)(2), "the clerk or the court's designee must give the debtor, the trustee, all creditors, and all indenture trustees at least 21 days' notice by mail of: [] a proposal to use, sell, or lease property of the estate other than in the ordinary course of business..." Pursuant to this Court's Local Rule 6004-1(c)(1), "an order authorizing the sale of estate property other than in the ordinary course of business may be obtained upon motion of the trustee [] after notice and a hearing pursuant to LBR 9013-1(d)..." Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Pursuant to this Court's Local Rule 6004-1(f), "[w]henver the trustee [] is required to give notice [] of a motion to sell property of the estate pursuant to FRBP 6004 [], an additional copy of the notice and court-approved form F 6004-2.NOTICE.SALE, Notice of Sale of Estate Property must be submitted to the clerk at the time of filing for purposes of publication by the clerk on the court's website."

On October 31, 2025, the Trustee filed that *Notice of Motion for Entry of An Order Approving the Sale of Purchased Assets Free and Clear of All Interests; Approving Bid Procedures; Granting Sec. 363(m) Protection to Buyer; Rejecting Unexpired Lease and Approving Stipulation Between U.S. SBA and Trustee* (the "Notice"). *See* Docket No. 33. On October 31, 2025, the Notice was served on the Debtor, the Trustee, the United States Trustee, and all creditors via the mailing matrix. *See id.*, *Proof of Service of Document*, pp. 6-8. No party served with the Notice filed an opposition to the Motion. The Court therefore takes the default of all parties served with the Notice.

On October 31, 2025, the Trustee also filed that *Notice of Sale of Estate Property* (the "Notice of Sale"). *See* Docket Nos. 31 and 32. On October 31, 2025, the Notice of Sale was posted on the Court's website.

Analysis

Overbid Procedures

"Although there is a strong argument in support of prior court approval of bid

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procedures, and in most circumstances such approval is appropriate, there is no section under the Bankruptcy Code that requires the Court to establish bid procedures under Section 363." *In re President Casinos, Inc.*, 314 B.R. 784, 786 (Bankr. E.D. Mo. 2004). "Structured bid procedures should provide a vehicle to enhance the bid process and should not be a mechanism to chill prospective bidders' interests." *Id.* The aim of the auction process is to obtain the "highest and best" offer for the assets, which in turn maximizes the proceeds to the estate. *In re Abbots Dairies*, 788 F.2d 143, 149 (3d Cir. 1986).

Here, the proposed bidding procedures are reasonable, and unlikely to chill bidding. Pursuant to the APA, the Buyer is required to pay only the Purchase Price, but has also agreed to waive the Administrative Rent—at least \$41,200—and to release any Rejection Damages Claim. "[T]he waiver of the Administrative Rent [] should be included in the Initial Bid in order for the bid to be a similar or better offer than the Buyer's. In doing so, the Estate avoids being saddled with the Administrative Rent and gains the benefit of its bargain with the Buyer." *See Zamora Declaration*, p. 24 at ¶ 24. By requiring potential overbidders to submit an Initial Bid of at least \$63,700, the procedures seek to place such overbidders on the same footing as the Buyer, except that they must exceed the Buyer's offer by approximately 3.3% of the combined Purchase Price and Administrative Rent of at least \$41,200. The proposed bidding increments, approximately 3% of the Purchase Price and any Initial Bid, are likewise reasonable.

The Court approves the proposed bidding procedures.

The Sale

Pursuant to 11 U.S.C. § 363(b)(1), "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate..." "For a § 363(b)(1) sale to be approved, the trustee must establish: (1) a sound business purpose exists for the sale; (2) the sale is in the best interest of the estate, i.e., the sale price is fair and reasonable; (3) creditors received proper notice; and (4) the sale was properly negotiated and proposed in good faith." *In re Hernandez*, 2023 WL 8453137 at *4 (9th Cir. BAP, Dec. 6, 2023) (internal citations omitted). The trustee has the burden to prove these elements. *Id.* "Bankruptcy courts typically review a transaction proposed under section 363(b)(1) using a 'business judgment' standard. This is a

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‘deferential’ standard...” *In re Claar Cellars LLC*, 2020 WL 1238924 at *4 (Bankr. E.D. Wash. Mar. 13, 2020). “Ordinarily, the position of the trustee is afforded deference, particularly where business judgment is entailed in the analysis or where there is no objection.” *In re Lahijani*, 325 B.R. 282, 289 (9th Cir. BAP 2005). “The court’s obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances.” *Id.* at 288.

Pursuant to 11 U.S.C. § 704(a)(1), “[t]he trustee shall— collect and reduce to money the property of the estate for which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest.”

Here, the sale of the Purchased Assets is in furtherance of the Trustee’s duty to liquidate the assets of the Estate under 11 U.S.C. § 704 and to address certain claims against the Estate. In doing so, the Trustee has evaluated the Purchased Assets. *See* Memo, p. 13, line 24. Two potential buyers approached the Trustee, and the Buyer made the best and highest offer for the Purchased Assets, given the type of merchandise to be sold. *See* Zamora Declaration, p. 23 at ¶¶ 11-12. In addition to the Purchase Price, the Estate is receiving valuable consideration for the sale through the waiver of the Administrative Rent—equal to at least four (4) months’ rent—and the release of any Rejection Damages Claim that may arise from the rejection of the Lease—equal to one year’s rent remaining under the Lease. *See* Memo, p. 14, lines 1-4. In addition, the Buyer will bear the cost of removing the Purchased Assets from the Store Location. *See* APA § 5.12.

The sale not only addresses any claim the Buyer has against the Estate, including Proof of Claim 7-1, but also resolves SBA’s secured claim against the Estate. *See* Proof of Claim 5-1. Under the Stipulation, SBA shall be allowed a secured claim of \$146,000. *See* Stipulation, p. 3 at ¶ 3. However, SBA agrees to limit its secured claim to the Purchase Price—in full satisfaction of its lien against the Purchased Assets—and 50% of any net recovery from the Estate’s accounts receivable, with the balance of its claim to be treated as unsecured. *See* Zamora Declaration, p. 26 at ¶ 9; *see also* Stipulation, pp. 3-4.

Thus, there is sound business purpose for approving the Motion, and the sale is in the best interest of the Estate. The Notice was served on all creditors of the Estate. Both the Trustee and the Buyer were represented by their own counsel, and appear to have

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negotiated at arm's length.

Chapter 7

Free and Clear of Liens and Interests

Section 363(f) of the Bankruptcy Code permits a sale of property of the bankruptcy estate "free and clear of any interest in such property of an entity other than the estate" if any one of the following five conditions is met:

- (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

Here, SBA has a lien on the Purchased Assets as of the Petition Date. Under the Stipulation, SBA consents to and accepts the Purchase Price in full satisfaction of its lien against the Purchased Assets. *See* Sarenas Declaration, p. 26 at ¶ 9. SBA further agrees to accept 50% of any recovery on the Estate's accounts receivable in satisfaction of its secured claim, with the balance of its claim to be treated as unsecured. *See* Stipulation, pp. 3-4. Accordingly, the Purchased Assets can be sold free and clear of SBA's interest under 11 U.S.C. §§ 363(f)(2) and (5).

Authorizing the Trustee to Enter Into and Perform the Obligations under APA

The Court authorizes the Trustee to enter into and perform the obligations under the APA, and sign and deliver all relevant and related sale documents reasonably necessary to effectuate and close the sale and related transactions, including without limitation appropriate Bill of Sale.

Rejecting the Unexpired Lease Pursuant to 11 U.S.C. § 365(a)

Pursuant to 11 U.S.C. § 365(a), "the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." Pursuant to

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11 U.S.C. § 365(d)(4), "an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected [] if the trustee does not assume or reject the unexpired lease by [] the date that is 120 days after the date of the order for relief." Pursuant to 11 U.S.C. § 365(d)(3), "[t]he trustee shall timely perform all the obligations of the debtor [] arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected."

"A bankruptcy court's hearing on a motion to reject is a summary proceeding that involves only a cursory review of a trustee's decision to reject the contract. Specifically, a bankruptcy court applies the business judgment rule to evaluate a trustee's rejection decision ..." *In re G.I. Indus.*, 204 F.3d 1276, 1282 (9th Cir. 2000); *see also In re Pomona Valley Med. Grp., Inc.*, 476 F.3d 665, 670 (9th Cir. 2007).

"[I]n most cases a lease will be considered rejected as of the date of entry of the order approving the rejection, and only in exceptional circumstances ... will the court adopt a retroactive date." *In re At Home Corp.*, 392 F.3d 1064, 1072 (9th Cir. 2004). At least one court has identified four nonexclusive factors to consider in determining whether exceptional circumstances justify retroactive rejection of unexpired executory contracts and leases: (1) the debtor's immediate filing of a motion to reject the lease; (2) the debtor's prompt action in setting that motion for hearing; (3) the fact that the debtor never occupied the premises; and (4) the landlord's motivation in opposing rejection of the leases *nunc pro tunc* to the motion filing date. *See id.* The Ninth Circuit "agree[s] with the First Circuit's holding [] that a bankruptcy court has discretion to grant a motion to reject a nonresidential lease retroactively. The retroactive date of rejection need not be on or after the date on which the landlord regains possession." *See id.* at 1075.

Here, the Estate has no need to retain the Lease after the sale of the Purchased Assets. The Debtor has ceased all operations as of the Petition Date. *See Zamora Declaration*, p. 23 at ¶ 8. Retaining the Lease would result in significant administrative rent, which will continue to accrue at \$10,300 per month, and would unduly burden the Estate. *See id.* at ¶ 17. Rejection is being sought as part of a sale within the first four (4) months of the case, prior to the expiration of the deadline under § 11 U.S.C. § 365(d). Moreover, the Buyer, who is the also the landlord of the Store Location, has agreed to the proposed rejection of the Lease, including the waiver of Administrative Rent and

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any Rejection Damages Claim against the Estate. *See* APA, §§ 1.03, 2.02; *see also* Somma Declaration, p. 29 at ¶ 16. Rejecting the Lease as of the Petition Date and entering into the APA with the Buyer to waive Administrative Rent and release any Rejection Damages Claim are in the best interest of the Estate.

The Court is inclined to permit the Trustee to reject the Lease as of the Petition Date.

Approving the Stipulation Between SBA and the Trustee

Pursuant to the Stipulation, SBA shall be allowed a secured claim of \$146,000 (the "Allowed Secured Claim"), after deducting the post-petition payments made by the Debtor on August 1, 2025; August 14, 2025; and September 15, 2025. *See* Stipulation, p. 3 at ¶ 3. The Allowed Secured Claim shall be further reduced, dollar for dollar, by the following (collectively, the "Estate Credits"): (1) any additional post-petition payments made to SBA from the Debtor's bank account; (2) payment of the Purchase Price; and (3) any payment made by the Estate to SBA from the accounts receivable that were outstanding as of the Petition Date (the "Accounts Receivable") and recovered by the Estate. *See id.* at ¶ 4. The Estate and SBA shall share equally (50/50) any net proceeds from the recovery of the Accounts Receivable, after payment of the Trustee's attorneys' fees and costs incurred in such recovery. *See id.* at ¶ 6. SBA shall have an allowed unsecured claim for the balance of the Allowed Secured Claim after deducting the Estate Credits. *See id.* at ¶ 7. For the avoidance of doubt, SBA releases its lien on (1) the Estate's 50% share of such proceeds; (2) any attorneys' fees and costs paid from the Accounts Receivable proceeds; and (3) any other cash of the Estate. *See id.*, p. 4 at ¶ 8.

The Court approves the Stipulation between SBA and the Trustee.

11 U.S.C. § 363(m)

"Under 11 U.S.C. § 363(m), with certain exceptions [], when an appellant fails to obtain a stay of an order that permits the sale of a debtor's assets to a good faith purchaser, the appeal is rendered moot." *In re Southwest Products, Inc.*, 144 B.R. 100, 102 (9th Cir. BAP 1992). "Although the Bankruptcy Code and rules do not define good faith, courts have indicated that a lack of good faith is shown by 'fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.'" *Id.* at 103 (citing *In re Ewell*, 958 F.2d

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276, 281 (9th Cir. 1992)).

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Here, there does not appear to be any collusion or fraud related to the Buyer's negotiation and purchase of the Property. The Trustee asserts that she does not have any relationship with the Buyer other than this transaction. *See* Zamora Declaration, p. 24 at ¶ 25. She further asserts that the APA "was negotiated at arm's length" and that "[e]ach party was represented by counsel." *See id.* at ¶ 26. "[N]o party has made any undisclosed side deals." *See id.* at ¶ 27. The Buyer echoes the comments of the Trustee in this regard. *See* Somma Declaration, p. 29 at ¶¶ 14-15, 17.

The Court is inclined to make a finding of good faith under 11 U.S.C. § 363(m).

Waiver of 6004(h)

Pursuant to Fed. R. Bankr. P. 6004(h), "[u]nless the court orders otherwise, an order authorizing the use, sale, or lease of property [] is stayed for 14 days after the order is entered." "The rule was intended to provide time for an objecting party to appeal a sale order before such order could be implemented." *In re Weiss Multi-Strategy Advisers LLC*, 665 B.R. 578, 594 (Bankr. S.D.N.Y. 2024). "Collier suggests that because the purpose of the rule is to 'protect the rights of an objecting party,' a court should eliminate the 14-day stay period and allow the sale to close immediately in all cases where there has been no objection to the procedure." *Id.* (citing 10 *Collier on Bankruptcy* § 6004.10 (16th 2019)). Here, there is no opposition to the Motion.

The Court is inclined to waive Fed. R. Bankr. P. 6004(h).

Conclusion

The Court is inclined to grant the Motion, subject to any overbids.

Party Information

Debtor(s):

Hospice Partners, Inc.

Represented By
Paul F Ready
Grace Susan Ready

Movant(s):

Nancy J Zamora (TR)

Represented By

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Lovee D Sarenas

Trustee(s):

Nancy J Zamora (TR)

Represented By
Lovee D Sarenas

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Chapter 11

#15.00 Hearing re: [125] Debtor and debtor-in-possession's motion for order approving cash collateral stipulation between debtor and the Employment Development Department and authorizing payment to the Employment Development Department

Docket 125

Tentative Ruling:

December 2, 2025

Appearances required.

Background

On March 12, 2025, Santa Paula Hay & Grain and Ranches (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Non-Individuals Filing for Bankruptcy*. On November 4, 2025, the Debtor filed *Debtor and Debtor-in-Possession's Motion for Order Approving Cash Collateral Stipulation Between Debtor and the Employment Development Department and Authorizing Payment to the Employment Development Department* (the "Motion"). *See* Docket No. 125. Fully, through the Motion, the Debtor "seeks to use cash collateral to pay the secured claim of the Employment Development Department..." *See id.* at p. 1, lines 25-28. The Debtor asserts that the Employment Development Department (the "EDD") asserts "liens against the products of Debtor's orchards," and claims that the EDD is fully secured against the products of the Debtor's orchards in the amount of \$95,114.21. *See id.* at pp. 2-3. The Debtor states that it "holds cash collateral consisting of the proceeds from the sale of fruit produced by its orchards since the filing of the bankruptcy case in a sum in excess of the amount of the EDD secured claim []." *See id.* at pp. 4-5. The Debtor provides that the sum of this cash exceeded \$1 million as of September 30, 2025. *See id.* at p. 5, line 1.

On November 18, 2025, AgWest Farm Credit ("AgWest") filed that *Limited Objection of Secured Creditor AgWest Farm Credit to Debtor's Motion for Order*

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Approving Cash Collateral Stipulation Between Debtor and the Employment Development Department and Authorizing Payment to the Employment Development Department (the "Opposition"). See Docket No. 140. Through the Opposition, AgWest argues that it in-fact has first position liens in certain of the Debtor's cash, and it does not consent to the use of that cash absent adequate protection. See *id.*

On November 25, 2025, the Debtor filed *Debtor and Debtor-in-Possession's Reply to Limited Objection of Secured Creditor AgWest Farm Credit to Debtor's Motion for Order Approving Cash Collateral Stipulation Between Debtor and the Employment Development Department and Authorizing Payment to the Employment Development Department* (the "Reply"). See Docket No. 145. Through the Reply, in responding to the Opposition, the Debtor challenges AgWest's assertion that it maintains a secured lien against any of the Debtor's cash accounts, and that the Debtor proposes to pay the EDD from accounts that would not be subject to the liens of AgWest, even if AgWest is correct about its liens. See *id.*

Analysis

The Court's analysis begins with a universal principal of Chapter 11 cases. "The general rule is that a distribution on pre-petition debt in a Chapter 11 case should not take place except pursuant to a confirmed plan of reorganization, absent extraordinary circumstances." *In re Air Beds, Inc.*, 92 B.R. 419, 422 (9th Cir. BAP 1988)(citing *In re Conroe Forge & Mfg. Corp.*, 82 B.R. 781, 784 (Bankr. W.D. Pa. 1988); 11 U.S.C. § 1123(a)(5); and Fed. R. Bankr. P. 3021).

The EDD's claim filed in the Debtor's bankruptcy case, as best the Court may surmise, is a pre-petition claim. See Claim No. 15. The Debtor has not confirmed a plan of reorganization, and the Motion does not seek to pay EDD's pre-petition claim through a plan of reorganization.

How then does the Debtor seek to pay a pre-petition claim, post-petition, and outside of a plan of reorganization? The Debtor attempts to utilize 11 U.S.C. §§ 363(a) and (c). Pursuant to 11 U.S.C. § 363(c)(1), "[i]f the business of the debtor is authorized to be operated under section [] 1108 [] of this title and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business..." Pursuant to 11 U.S.C. § 363(c)(2), "[t]he trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection

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unless (A) each entity that has an interest in such collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section." "[T]he key consideration in deciding whether to allow the use of cash collateral is whether the secured creditor's interest is adequately protected." *In re Proalert, LLC*, 314 B.R. 436, 444 (9th Cir. BAP 2004)(internal citations omitted). "Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process." *In re Weinstein*, 227 B.R. 284, 296 (9th Cir. BAP 1998)(citing *In re Deico Elecs., Inc.*, 139 B.R. 945, 947 (9th Cir. BAP 1992)).

Turning to the case at bar, the Court finds some difficulty in appreciating the Debtor's path. The Debtor seems to suggest that the EDD is oversecured. By the Debtor's measure, there was more than one-million dollars in cash collateral as of September 2025 to pay a claim of \$95,114,21. The Court does not find a discussion in the Motion regarding the erosion of the EDD's collateral base on a go-forward basis. Is the EDD not adequately protected by a wide equity cushion? If so, does the Motion not fail, at least on the legal grounds utilized by the Debtor to support the relief?

It seems to the Court that the Debtor seeks not to use cash collateral in the 11 U.S.C. § 363 sense. The Debtor seeks to make a payment in full to a pre-petition claimant, post-petition, and prior to a plan of reorganization being confirmed. It is that analysis that the Debtor must provide in order for the Court to grant the Motion. Beginning with the Court's opening salvo, such relief would not be appropriate absent "extraordinary circumstances." On the record before the Court, the Motion is denied.

Party Information

Debtor(s):

Santa Paula Hay & Grain and

Represented By
Vanessa M Haberbush
Lane K Bogard
David R Haberbush

Movant(s):

Santa Paula Hay & Grain and

Represented By
Vanessa M Haberbush
Lane K Bogard
David R Haberbush

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9:25-10314 Santa Paula Hay & Grain and Ranches

Chapter 11

#16.00 Hearing re: [123] Motion for substantive consolidation to include debtor's partners as chapter 11 debtors

Docket 123

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Santa Paula Hay & Grain and

Represented By
Vanessa M Haberbush
Lane K Bogard
David R Haberbush

Movant(s):

Santa Paula Hay & Grain and

Represented By
Vanessa M Haberbush
Lane K Bogard
David R Haberbush

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9:24-10954 Ronald E. Sweeney

Chapter 11

#17.00 Hearing re: [120] Debtor's motion for order authorizing: (1) sale of certain artwork free and clear of liens, claims, and interests pursuant to 11 U.S.C. §§ 363(b) and (f); and (2) employment of, and payment upon closing of sale(s) to, ACA Galleries, as consignor

Docket 120

Tentative Ruling:

December 2, 2025

Appearances required.

Background

On August 21, 2024, Ronald E. Sweeney (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*. The Debtor scheduled as assets, 24 paintings and a statue valued at \$2.5 million, collectively. *See id.* at p. 18, *Schedule A/B: Property*. On April 15, 2025, the Court entered that *Order re Motion in Individual Chapter 11 Case to Authorize Debtor-in-Possession to Employ Professional other than General Counsel* whereunder the Court approved the Debtor's employment of Peg Alston ("Alston") and Peg Alston Fine Arts to market and sale ten (10) of the Debtor's paintings, and the statue. *See* Docket No. 74.

On November 18, 2025, the Debtor filed *Debtor's Notice of Motion and Motion for Order Authorizing (1) Sale of Certain Artwork Free and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. §§ 363(b) and (f); and (2) Employment of, and Payment Upon Closing of Sale(s) to, ACA Galleries, as Consignor* (the "Motion"). *See* Docket No. 120. Through the Motion, the Debtor seeks to sell three (3) paintings, including two (2) previously consigned with Alston, through a consignment with ACA Galleries ("ACA"). *See id.* at p. 2, lines 16-26. ACA is to receive a 20% commission on any sale. *See id.* at p. 3, line 5. The Debtor asserts that the paintings to be sold by ACA are unencumbered. *See id.* at lines 7-8. All three (3) paintings are

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expected to collectively "net" the Debtor's bankruptcy estate \$1.6 million. *See id.* at p. 8, lines 13-19. In terms of the proposed sale process, the Debtor seeks to obtain purchase agreements for the paintings, and then notice the proposed sales on negative notice with a "holding date" as a sale hearing. Absent any objection, the Debtor proposes that he lodge an order approving the sale(s). *See id.* at p. 12, lines 6-24.

Notice

On November 18, 2025, the Debtor filed that *Application for Order Setting Hearing on Shortened Notice* (the "Application"). *See* Docket No. 121. Through the Application, the Debtor sought to have the Motion heard on shortened notice. On November 24, 2025, the Court entered that *Order: Granting Application and Setting Hearing on Shortened Notice* (the "Order"). *See* Docket No. 125. On November 26, 2025, the Debtor filed that *Declaration of Notice and Service Regarding Motion for Order Authorizing (1) Sale of Certain Artwork Free and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. §§ 363(b) and (f); and (2) Employment of, and Payment Upon Closing of Sale(s) to, ACA Galleries, as Consignor*. *See* Docket No. 129. It appears that notice of the hearing on the Motion and the Motion complied with the Order.

Analysis

Pursuant to 11 U.S.C. § 363(b)(1), "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate..." "For a § 363(b)(1) sale to be approved, the trustee must establish: (1) a sound business purpose exists for the sale; (2) the sale is in the best interest of the estate, i.e., the sale price is fair and reasonable; (3) creditors received proper notice; and (4) the sale was properly negotiated and proposed in good faith." *In re Hernandez*, 2023 WL 8453137 at *4 (9th Cir. BAP, Dec. 6, 2023) (internal citations omitted). The trustee has the burden to prove these elements. *Id.* "Bankruptcy courts typically review a transaction proposed under section 363(b)(1) using a 'business judgment' standard. This is a 'deferential' standard..." *In re Claar Cellars LLC*, 2020 WL 1238924 at *4 (Bankr. E.D. Wash. Mar. 13, 2020). "Ordinarily, the position of the trustee is afforded deference, particularly where business judgment is entailed in the analysis or where there is no objection." *In re Lahijani*, 325 B.R. 282, 289 (9th Cir. BAP 2005). "The

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court's obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances." *Id.* at 288.

It does not appear that the Court is at this juncture approving any sale. Rather, it appears that the Court is approving a structure for any sale, whereby the artwork will be marketed by ACA, and, should an offer of purchase for any piece of artwork be made, the terms of that proposed sale will be disclosed through a further pleading prior to a "holding date" for a sale hearing.

The Court does not perceive any issues with the proposed structure other than the fact that at least two (2) of the artworks that are the subject of the Motion are also subjects of Alston's employment order. It is not entirely clear whether both Alston and ACA would be claiming a commission on any artwork sold, regardless of who sells the artwork. The Debtor is employing both brokers, and it is unclear how the cross-pollination of effort is to be compensated. This affects the Court's employment of ACA.

Lastly, in terms of procedure, it is not entirely clear when the sale hearing date, the so-termed "holding date," would be. The Court has no understanding of why that date must be on shortened notice.

Party Information

Debtor(s):

Ronald E. Sweeney

Represented By
David B Zolkin
James R Selth

Movant(s):

Ronald E. Sweeney

Represented By
David B Zolkin
David B Zolkin
David B Zolkin
James R Selth
James R Selth
James R Selth

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9:25-10762 Applied Powdercoat, LLC

Chapter 11

#18.00 Hearing re: Motion of First Bank of the Lake to convert or dismiss case,
or, in the alternative, remove debtor from possession

Docket 63

***** VACATED *** REASON: Hearing advanced to 11/19/2025 at 1:00 p.m.
per hearing held 11/04/2025**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Applied Powdercoat, LLC

Represented By
Derrick Talerico
Paige T Rolfe

Movant(s):

First Bank of the Lake

Represented By
Bernard J Kornberg

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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9:23-10157 Baron Brothers Nursery, Inc.

Chapter 7

Adv#: 9:25-01011 Sandra K. McBeth, Chapter 7 Trustee v. OceanAir Federal Credit Union

#19.00 Trial re: [1] Adversary case 9:25-ap-01011. Complaint by Sandra K. McBeth, Chapter 7 Trustee against OceanAir Federal Credit Union f/k/a CBC Federal Credit Union. (\$350.00 Fee Charge To Estate). Complaint for: (1) Avoidance, Recovery and Preservation of Actual Fraudulent Transfers [11 U.S.C. §§ 544(b), 550, and 551, Cal. Civ. Code §§ 3439.04(a)(1), 3439.07 and 3439.09]; and (2) Avoidance, Recovery and Preservation of Constructive Fraudulent Transfers [11 U.S.C. §§ 544(b), 550, and 551, Cal. Civ. Code §§ 3439.04(a)(2) or 3439.05 and 3439.07] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (14 (Recovery of money/property - other))

Docket 1

***** VACATED *** REASON: Trial continued to 6/11/2026 at 12:00 p.m.
per hearing held 11/05/2025**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Baron Brothers Nursery, Inc.

Represented By
William E. Winfield

Defendant(s):

OceanAir Federal Credit Union f/k/a

Represented By
Seana Azad

Plaintiff(s):

Sandra K. McBeth, Chapter 7

Represented By
Samuel Mushegh Boyamian

Trustee(s):

Sandra McBeth (TR)

Represented By
Samuel Mushegh Boyamian
Jeremy Faith