

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, March 12, 2025

Hearing Room 301

1:00 PM

1: -

Chapter

**#0.00 All hearings on this calendar will be conducted in Courtroom 301 at 21041 Burbank Boulevard, Woodland Hills, California, 91367. All parties in interest, members of the public and the press may attend the hearings on this calendar in person.**

**Additionally, (except with respect to evidentiary hearings, or as otherwise ordered by the Court) parties in interest (and their counsel) may connect by ZoomGov audio and video free of charge, using the connection information provided below. Members of the public and the press may only connect to the zoom audio feed, and only by telephone. Access to the video feed by these individuals is prohibited.**

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Password: 798300

For more information on appearing before Judge Kaufman by ZoomGov, please see the information entitled "Tips for a Successful ZoomGov Court Experience" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-victoria-s-kaufman> under the tab "Telephonic Instructions."

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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**1:25-10069 Megna Hospitality Investments,Inc.**

**Chapter 11**

**#1.00 U.S. Trustee Motion to dismiss or convert case under 11 U.S.C. § 1112(b)**

Docket 19

**\*\*\* VACATED \*\*\* REASON: Case transferred to Judge Barash on  
2/3/2025**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Megna Hospitality Investments,Inc.

Represented By  
Michael D Kwasigroch

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**1:25-10123 Magic Car Rental Inc.**

**Chapter 11**

**#2.00** U.S. Trustee's Motion under 11 U.S.C. § 1112(b) To Dismiss Or,  
In The Alternative, To Convert Case To Chapter 7

Docket 16

**Tentative Ruling:**

What is the status of the debtor's compliance with the requirements of the United States trustee?

Has the debtor submitted to the United States trustee the documents noted in the United States trustee's motion to dismiss or convert the case [doc. 16]?

<b>Party Information</b>
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**Debtor(s):**

Magic Car Rental Inc.

Represented By  
Onyinye N Anyama

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**1:25-10123 Magic Car Rental Inc.**

**Chapter 11**

**#2.01 Order to Show Cause Re Dismissal With a 180-Day Bar**

fr. 2/5/25; 3/5/25

Docket 6

**Tentative Ruling:**

In light of the filing of the *Disclosure of Compensation of Attorney for Debtor(s)* [doc. 13] and the *Application of Debtor and Debtor in Possession for Authority to Employ Anyama Law Firm and A.O.E. & Associates as General Insolvency Counsel* [doc. 39], the Court will discharge the *Order to Show Cause re Dismissal With a 180-Day Bar* [doc. 6].

Appearances on March 12, 2025 are excused.

<b>Party Information</b>
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**Debtor(s):**

Magic Car Rental Inc.

Pro Se

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**1:25-10123 Magic Car Rental Inc.**

**Chapter 11**

**#2.02** Status conference re chapter 11 case

fr. 3/5/25

Docket 1

**Tentative Ruling:**

If the Court does not dismiss or convert this case as a result of the United States Trustee's pending motion [doc. 16]:

Deadline to file proof of claim ("Bar Date"): **April 30, 2025.**

Deadline to mail notice of Bar Date: **March 20, 2025.**

The debtor must use the mandatory court-approved form Notice of Bar Date for Filing Proofs of Claim in a Chapter 11 Case, F 3003-1.NOTICE.BARDATE.

Deadline for debtor and/or debtor in possession to file proposed plan and related disclosure statement: **July 14, 2025.**

Continued chapter 11 case status conference to be held at **1:00 p.m. on August 13, 2025.**

The debtor in possession or any appointed chapter 11 trustee must file a status report, addressing the debtor's progress to confirming a chapter 11 plan, to be served in accordance with the entered order limiting notice, no later than **14 days** before the continued status conference. The status report **must be supported by evidence in the form of declarations and supporting documents.**

The Court will prepare the order continuing the status conference and setting the deadline for the debtor to file a chapter 11 plan and related proposed disclosure statement.

The debtor must lodge the Order Setting Bar Date for Filing Proofs of Claim, using mandatory court-approved form F 3003-1.ORDER.BARDATE, within seven (7) days.

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**CONT... Magic Car Rental Inc.**

**Chapter 11**

**Party Information**

**Debtor(s):**

Magic Car Rental Inc.

Represented By  
Onyinye N Anyama

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**1:25-10177 Shooshig Susan Avakian**

**Chapter 11**

**#3.00** Status conference re: chapter 11 voluntary petition

Docket 1

**Tentative Ruling:**

The debtor filed a chapter 11 petition on January 31, 2025. The debtor has not filed her January 2025 monthly operating report ("MOR"). Local Bankr. R. 2015-2(a) provides that chapter 11 debtors must file reports in compliance with any requirements established by the United States Trustee. The United States Trustee's Chapter 11 MOR Instructions state, in relevant part:

**What information is included on the first MOR?** The MOR must be completed for the partial period from the petition date to the last day of the calendar month in the reporting period, even if that partial period is for one day. For example, if the case was filed on April 25, then the MOR must be filed for the partial period of April 25 to April 30. Do not combine activity for a partial calendar month with the MOR for the following calendar month.

The debtor's January 2025 MOR was due by February 21, 2025. *See* Local Bankr. R. 2015-2(a)(3).

On February 26, 2025, the debtor filed *Debtor's Initial Status Report* [doc. 20]. In response to the Court's order to provide a budget of the debtor's projected income, expenses and cash flow for the first six months of the case on a month-by-month basis, the debtor states, "See budget attached hereto as Exhibit "A." *See* ¶ 8, at p. 4. This exhibit is not attached to the status report.

Has the debtor filed her income tax returns for 2024 and all years prior to that?

Deadline to file proof of claim ("Bar Date"): **May 30, 2025**

Deadline to mail notice of Bar Date: **March 28, 2025**

The debtor(s) must use the mandatory court-approved form Notice of Bar Date for



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**CONT... Shooshig Susan Avakian**

**Chapter 11**

Filing Proofs of Claim in a Chapter 11 Case, F 3003-1.NOTICE.BARDATE.

Deadline for debtor(s) and/or debtor(s) in possession to file proposed plan and related disclosure statement: **June 16, 2025**

Continued chapter 11 case status conference to be held at **1:00 p.m. on July 2, 2025.**

The debtor(s) in possession or any appointed chapter 11 trustee must file a status report, addressing the debtor's progress to confirming a chapter 11 plan, to be served on the debtor's(s') 20 largest unsecured creditors, all secured creditors and the United States Trustee, no later than **14 days** before the continued status conference. The status report must be supported by evidence in the form of declarations and supporting documents.

The Court will prepare the order continuing the status conference, providing for the filing of an updated chapter 11 case status report and setting the deadline for the debtor to file a chapter 11 plan and proposed related disclosure statement.

The debtor(s) must lodge the Order Setting Bar Date for Filing Proofs of Claim, using mandatory court-approved form F 3003-1.ORDER.BARDATE, within seven (7) days.

<b>Party Information</b>
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**Debtor(s):**

Shooshig Susan Avakian

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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1:24-11496 Jose Adonai Gonzalez Rivas and Elsy R Benitez

Chapter 7

#4.00 Trustee's Motion to Approve Equity Buy Back Agreement

Docket 26

**Tentative Ruling:**

Grant.

The trustee must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by the trustee is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and the trustee will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Jose Adonai Gonzalez Rivas

Represented By  
David S Hagen

**Joint Debtor(s):**

Elsy R Benitez

Represented By  
David S Hagen

**Movant(s):**

David Keith Gottlieb (TR)

Represented By  
Laila Masud

**Trustee(s):**

David Keith Gottlieb (TR)

Represented By  
Laila Masud

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1:24-12141 Sarkis Arpajian

Chapter 7

#5.00 Trustee's Motion for Objection to Debtor's Claimed Homestead Exemption

Docket 26

**Tentative Ruling:**

The Court will sustain the chapter 7 trustee's objection to the debtor's claimed homestead exemption.

**I. BACKGROUND**

*A. The Property*

On or around December 19, 2019, Sarkis Arpajian ("Debtor") and his wife, Grecia Almada Barcenas, purchased a single-family home located at 6626 Orion Ave, Van Nuys, CA 91406 (the "Property") as joint tenants. *Declaration of Debtor*, ¶ 2 [doc. 45]; *Amended Schedule A/B*, ¶ 1.1 [doc. 17]. Debtor represents that he has continuously resided there since. *Declaration of Debtor*, ¶¶ 2-3 [doc. 45].

Debtor is a real estate broker operating under the dba "Homes in LA." *Amended Schedule I*, ¶ 1 [doc. 17]; *Declaration of Debtor*, ¶ 4 [doc. 45]. He states that in the past, his income declined and he fell behind on his mortgage payments. *Declaration of Debtor*, ¶ 4 [doc. 45]. He further represents that he was able to cure those arrearages and avoid a foreclosure sale. *Id.* He fell into arrearages again and was facing another foreclosure sale. *Id.*, ¶ 5. Debtor subsequently listed the Property for sale on the multiple listing service (the "MLS") prior to commencing this bankruptcy case. *Declaration of Nancy Hoffmeier Zamora*, ¶ 6 [doc. 26]; *Declaration of Debtor*, ¶ 5 [doc. 45]. Debtor contends that his purpose in listing the Property was to ascertain its fair market value and determine his options to cure the arrearages in light of the pending foreclosure sale. *Declaration of Debtor*, ¶ 5 [doc. 45].

On December 26, 2024, Debtor filed a chapter 7 petition. Debtor's alleged purpose in commencing this bankruptcy case was to "eliminate [his] unsecured debts so [he] could more easily qualify with [his] wife for another loan, possibly a HELOC." *Id.*, ¶ 6. Nancy Zamora was appointed as chapter 7 trustee (the "Trustee").

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On January 7, 2025, Debtor, in pro per, communicated with the Trustee by email and telephone to inform the Trustee that he had received a verbal offer for purchase of the Property and was waiting for the written offer. *Declaration of Nancy Hoffmeier Zamora*, ¶ 7 [doc. 26]. The Trustee requested that Debtor remove the listing of the Property from the MLS, and Debtor promptly did so. *Declaration of Debtor*, ¶ 7 [doc. 45].

***B. Debtor's Schedules of Assets and Liabilities***

In his schedule A/B, Debtor, in pro per, listed his interest in the Property with a value of \$1,600,000 [doc. 1]. Debtor subsequently employed counsel and filed amended schedules on January 13, 2025 [doc. 17]. In his amended schedule A/B, Debtor listed his interest in the Property with a value of \$1,300,000. *Amended Schedule A/B*, ¶ 1.1 [doc. 17].

In his schedule C, Debtor claimed an exemption in the Property for "100% of fair market value, up to any applicable statutory limit." He did not cite a specific statute for such exemption [doc. 1]. In his amended schedule C, Debtor claimed a homestead exemption in the Property in the amount of \$699,421 under Cal. Code Civ. Proc. § 704.730 [doc. 17].

In his amended schedule D, Debtor disclosed that the Property is encumbered by a first deed of trust in favor of Shellpoint Mortgage Servicing ("Shellpoint"), securing a debt in the amount of \$889,725.25. *Amended Schedule D*, ¶ 2.4 [doc. 17]. Debtor's amended schedule D also disclosed that the Property is encumbered by a second deed of trust in favor of Huntington National Bank ("Huntington"), securing a debt in the amount of \$489,710.02. *Id.*, ¶ 2.2. Debtor's amended schedule D further disclosed that the Property is encumbered by tax liens in favor of the Franchise Tax Board (the "FTB") and the Internal Revenue Service (the "IRS"). *Id.*, ¶ 2.1.

On January 23, 2025, the FTB filed proof of claim no. 1-1, asserting a secured claim against the Property in the amount of \$1,692.02. On February 3, 2025, the IRS filed proof of claim no. 2-1 (the "IRS Claim"). The IRS Claim asserts a secured claim in the amount of \$134,445.73, of which the IRS asserts \$118,484.87 is secured and \$6,051.39 is entitled to priority under 11 U.S.C. § 507(a)(8).

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In his amended schedule I, Debtor represents that his combined monthly income is \$1,800.00. *Amended Schedule I*, ¶ 12 [doc. 17]. In his statement of financial affairs, Debtor disclosed gross income in the amount of \$800 for 2024 to the petition date, and \$0 for 2022 and 2023. *SOPA*, ¶ 5 [doc. 17]. In his amended schedule J, Debtor represents that his monthly expenses are in the aggregate amount of \$1,790.36. *Amended Schedule J*, ¶ 22 [doc. 17]. **This amount does not provide for Debtor's payment of any real property or home ownership expenses, including the payment of mortgages, real estate taxes or property insurance.**

**C. *Huntington's Motion for Relief from the Automatic Stay***

On February 6, 2025, Huntington filed a motion for relief from the automatic stay together with a real property declaration [doc. 23]. In the real property declaration, Huntington represents that it holds a claim in the amount of \$512,304.52, as of January 15, 2025. *Id.*, ¶ 8.g. Huntington further represents that Debtor has not made thirteen payments which have come due under its loan, in the aggregate amount of \$46,367.97. *Id.*, ¶ 11.b.

**D. *The Broker and the Offer***

On January 24, 2025, the Trustee filed an application to employ The ONE Luxury Properties as real estate broker to market and sell the Property [doc. 18]. On February 20, 2025, the Court entered an order approving the Trustee's employment of the broker [doc. 40]. The broker has received an offer from a good faith purchaser (the "Buyer") to purchase the Property for \$1,449,000 (the "Opening Sale Price"). *Declaration of Nancy Hoffmeier Zamora*, ¶ 12 [doc. 26].

The Trustee accepted the offer, subject to overbid and Court approval and opened a sale escrow. *Id.* The Buyer removed all contingencies. *Id.* On February 19, 2025, the Trustee filed a *Motion for Turnover of Real Property* [doc. 29]. On that same date, the Trustee also filed a *Motion for Order Authorizing Trustee to Sell Real Property Free and Clear of Liens and Interests, Subject to Overbid* (the "Motion to Sell") [doc. 36]. In the Motion to Sell, the Trustee proposes to sell the Property for the Opening Sale Price, subject to overbids.

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The proceeds from the proposed sale will pay in full the first deed of trust in favor of Shellpoint. The proposed sale also will pay a substantial portion of the secured claim of the IRS and the secured claim of Huntington, in a reduced amount to which Huntington has agreed. Remaining proceeds of the sale will be used to pay unsecured priority tax claims in full and to pay a pro rata amount of unsecured nonpriority claims. If overbidding occurs, additional proceeds not required to satisfy closing costs will be paid to Huntington in satisfaction of its secured claim. If it were not for agreements which the Trustee made with the IRS and Huntington, a sale of the Property would not generate proceeds for the payment of priority and nonpriority unsecured claims.

***E. The Objection to Debtor's Homestead Exemption and Debtor's Response***

On February 19, 2025, the Trustee filed a *Motion for Objection to Debtor's Claimed Homestead Exemption* (the "Objection"), together with a declaration of the Trustee in support of the Objection [doc. 26]. On February 26, 2025, Debtor filed a response to the Objection, together with a declaration of Debtor in support of the Response [doc. 45].

**II. LEGAL STANDARDS**

***A. Property of the Estate***

11 U.S.C. § 541(a) provides that property of the estate includes, in relevant part:

- (1) ...all legal or equitable interests of the debtor in property as of the commencement of the case.
- (2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—
  - (A) under the sole, equal, or joint management and control of the debtor....

Community property becomes part of the bankruptcy estate in its entirety. *In re Brace*,

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**Sarkis Arpajian**

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979 F.3d 1228, 1231 (9th Cir. 2020) (citing 11 U.S.C. § 541(a)(2)). Here, it is not disputed that the Property is property of the estate.

***B. Debtor's Claim of Exemption***

"Exemption rights are determined as of the date of the bankruptcy petition." *In re Combs*, 166 B.R. 417, 418 (Bankr. N.D. Cal. 1994) (citing *Myers v. Matley*, 318 U.S. 622, 626–28, 63 S.Ct. 780, 87 L.Ed. 1043 (1943)).

Under Cal. Civ. Proc. Code § 704.710(c), a "homestead" is "the principal dwelling (1) in which the judgment debtor or the judgment debtor's spouse resided on the date the judgment creditor's lien attached to the dwelling, and (2) in which the judgment debtor or the judgment debtor's spouse resided continuously thereafter until the date of the court determination that the dwelling is a homestead." The judgment debtor must "reside in the property as his or her principal dwelling at the time the judgment creditor's lien attaches and continuously thereafter until the court determines the dwelling is a homestead." *In re Elliott*, 523 B.R. 188, 196 (BAP 9th Cir. 2014) (quoting *Tarlesson*, 184 Cal. App. 4th at 937, 109 Cal.Rptr.3d 319).

California's homestead exemption protects "a portion of the *equity* in the debtor's home against creditors who seek satisfaction by forced sale of the home." *In re Hyman*, 123 B.R. 342 (B.A.P. 9th Cir. 1991), *aff'd*, 967 F.2d 1316 (9th Cir. 1992) (emphasis in original). If the debtor's property is overencumbered, the debtor has no equity in the property to protect via the homestead exemption.

Pursuant to Cal. Code Civ. P. § 703.580(b), "[a]t a hearing under this section, the exemption claimant has the burden of proof." "[W]here a state law exemption statute specifically allocates the burden of proof to the debtor, [Fed. R. Bankr. P.] 4003(c) does not change that allocation." *In re Diaz*, 547 B.R. 329, 337 (9th Cir. BAP 2016); *see also Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15, 120 S.Ct. 1951, 147 L.Ed.2d 13 (2000) (holding that burden of proof is substantive element of state law applicable when federal courts apply state law).

**III. ANALYSIS**

Based upon Debtor's admissions in his amended schedule D and proofs of claim filed

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in this case, the Property is subject to the following liens securing claims in the amounts set forth below:

<b>Holder</b>	<b>Debt</b>	<b>Amount</b>	<b>Source</b>
Shellpoint	First deed of trust	\$889,725.25	<i>Amended Schedule D, ¶ 2.4</i> [doc. 17]
Huntington	Second deed of trust	\$489,710.02	<i>Amended Schedule D, ¶ 2.2</i> [doc. 17]
IRS	Tax lien	\$118,484.87	Proof of Claim no. 2-1
FTB	State tax lien	\$1,692.02	Proof of Claim no. 1-1
<b>TOTAL:</b>		<b>\$1,499,612.16</b>	

Based on the value of the Property as set forth in the Debtor's amended schedule A/B (\$1,300,000) or in accordance with the Opening Sale Price (\$1,499,000), as of the petition date, the Property was overencumbered. As such, as of the petition date, Debtor had no equity in the Property for which he could assert a homestead exemption.

Taking into account Debtor's reported lack of income, his nonpayment of the Huntington deed of trust for more than one year before filing his chapter 7 petition and his exclusion of mortgage, home insurance and property tax payments from his amended Schedule I, it appears that Debtor's intention in listing the Property for sale was to generate income from the sale of the Property and not to determine its value for purposes of refinancing. Consequently, Debtor has not met his burden of proving that, as of the petition date, he intended to reside at the Property.

**IV. CONCLUSION**

Accordingly, the Court will sustain the Objection.

The Trustee must submit the order within seven (7) days.

<b>Party Information</b>
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**Debtor(s):**

Sarkis Arpajian

Represented By  
Sevan Gorginian



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**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

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1:24-12141 Sarkis Arpajian

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#6.00 Trustee's Motion for Turnover of Real Property

Docket 29

**Tentative Ruling:**

The Court will grant the chapter 7 trustee's motion for turnover.

**I. BACKGROUND**

**A. The Property**

On or around December 19, 2019, Sarkis Arpajian ("Debtor") and his wife, Grecia Almada Barcenas, purchased a single-family home located at 6626 Orion Ave, Van Nuys, CA 91406 (the "Property") as joint tenants. *Declaration of Debtor*, ¶ 2 [doc. 45]; *Amended Schedule A/B*, ¶ 1.1 [doc. 17].

On December 26, 2024 (the "Petition Date"), Debtor filed a voluntary chapter 7 petition. Nancy Zamora was appointed as chapter 7 trustee (the "Trustee").

**B. The Schedules**

In his schedule A/B, Debtor, in pro per, listed his interest in the Property with a value of \$1,600,000 [doc. 1]. Debtor subsequently employed counsel and filed amended schedules on January 13, 2025 [doc. 17]. In his amended schedule A/B, Debtor listed his interest in the Property with a value of \$1,300,000. *Amended Schedule A/B*, ¶ 1.1 [doc. 17].

In his schedule C, Debtor claimed an exemption in the Property for "100% of fair market value, up to any applicable statutory limit." He did not cite a specific statute for such exemption [doc. 1]. In his amended schedule C, Debtor claimed a homestead exemption in the Property in the amount of \$699,421 under Cal. Code Civ. Proc. § 704.730 [doc. 17].

In his amended schedule D, Debtor disclosed that the Property is encumbered by a

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first deed of trust in favor of Shellpoint Mortgage Servicing ("Shellpoint"), securing a debt in the amount of \$889,725.25. *Amended Schedule D*, ¶ 2.4 [doc. 17]. Debtor disclosed that the Property also is encumbered by a second deed of trust in favor of Huntington National Bank ("Huntington"), securing a debt in the amount of \$489,710.02. *Id.*, ¶ 2.2. Debtor's amended schedule D further disclosed that the Property is encumbered by tax liens in favor of the Franchise Tax Board (the "FTB") and the Internal Revenue Service (the "IRS"). *Id.*, ¶ 2.1.

On January 23, 2025, the FTB filed proof of claim no. 1-1, asserting a secured claim against the Property in the amount of \$1,692.02. On February 3, 2025, the IRS filed proof of claim no. 2-1 (the "IRS Claim"). The IRS Claim asserts a secured claim in the amount of \$134,445.73, of which the IRS asserts \$118,484.87 is secured and \$6,051.39 is entitled to priority under 11 U.S.C. § 507(a)(8).

**C. The Broker and the Offer**

On January 24, 2025, the Trustee filed an application to employ a real estate broker to market and sell the Property [doc. 18]. On February 20, 2025, the Court entered an order approving the Trustee's employment of the broker [doc. 40]. The broker received an offer from a good faith purchaser (the "Buyer") to purchase the Property for \$1,449,000. *Declaration of Nancy Hoffmeier Zamora*, ¶ 12 [doc. 26]. The Trustee accepted the offer, subject to overbid and Court approval, and opened a sale escrow. *Id.* The Buyer removed all contingencies. *Id.*

**D. The IRS Stipulation**

On March 6, 2025, the Trustee filed a stipulation between the Trustee and the IRS (the "IRS Stipulation") [doc. 51]. In the IRS Stipulation, the IRS consents to the Trustee's sale of the Property free and clear of its lien pursuant to 11 U.S.C. § 363(f)(2). The IRS Stipulation provides that the IRS will receive \$50,000 at the closing of the sale escrow for all of the tax and a portion of the interest on the tax that is secured by the Property. The IRS further consents to: (a) the Trustee's avoidance and recovery for the estate of the penalty portion of the IRS Claim in the amount of \$38,700.72 and (b) the Trustee's subordination of \$29,784.15 of the interest portion of the IRS Claim, in accordance with 11 U.S.C. § 724(b)(2).

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**Sarkis Arpajian**  
*E. The Motion to Sell*

Chapter 7

On February 19, 2025, the Trustee filed a *Motion for Objection to Debtor's Claimed Homestead Exemption* [doc. 26]. On that same date, the Trustee also filed a *Motion for Order Authorizing Trustee to Sell Real Property Free and Clear of Liens and Interests, Subject to Overbid* (the "Motion to Sell") [doc. 36].

In the Motion to Sell, the Trustee proposes to sell the Property for \$1,499,000, subject to overbids. The proceeds from the proposed sale will pay in full the first deed of trust in favor of Shellpoint and a portion of Huntington's secured claim, which portion the Trustee has negotiated with Huntington. The proposed sale also will pay the secured claim of the IRS, pursuant to the IRS Stipulation. If overbidding occurs, additional sale proceeds will be paid to Huntington, based on Huntington's deed of trust against the Property and the amount of its secured claim.

***F. The Motion and the Opposition and Supplement Thereto***

On February 19, 2025, the Trustee filed a *Motion for Turnover of Real Property* (the "Motion") [doc. 29]. Debtor filed an opposition to the Motion (the "Opposition"), together with a declaration of Debtor in support of the Opposition [doc. 47]. In March 2025, the Trustee filed a reply to the Opposition [doc. 53] and a supplement to the Motion [doc. 56].

**II. ANALYSIS**

***A. Property of the Estate***

11 U.S.C. § 541(a) provides that property of the estate includes, in relevant part:

- (1) ...all legal or equitable interests of the debtor in property as of the commencement of the case.
- (2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—
  - (A) under the sole, equal, or joint management and control of the

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debtor....

Chapter 7

Community property becomes part of the bankruptcy estate in its entirety. *In re Brace*, 979 F.3d 1228, 1231 (9th Cir. 2020) (citing 11 U.S.C. § 541(a)(2)). Here, it is not disputed that the Property is property of the estate.

***B. Turnover***

11 U.S.C. § 542(a) provides, in relevant part:

[A]n entity . . . in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

In light of the Motion to Sell and the facts set forth in this Motion, the Property is not of inconsequential value or benefit to the estate. Proceeds from the sale of the Property will be used to satisfy consensual liens against the Property, arising from deeds of trust, and nonconsensual tax liens against the Property. Additional proceeds will be used to pay unsecured priority tax claims in full and a pro rata amount of unsecured nonpriority claims. Because the aggregate consensual liens and tax liens secured by the Property exceed its value, if it were not for agreements which the Trustee made with the IRS and Huntington, a sale of the Property would not generate proceeds for the payment of these unsecured claims.

Debtor must turn over the Property to the Trustee no later than three (3) business days after entry of the order.

The Trustee must submit the order within seven (7) days.

**Party Information**

**Debtor(s):**

Sarkis Arpajian

Represented By

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**CONT... Sarkis Arpajian**

Sevan Gorginian

**Chapter 7**

**Movant(s):**

Nancy J Zamora (TR)

Pro Se

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

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**1:24-12141 Sarkis Arpajian**

**Chapter 7**

**#7.00** Motion for Order Authorizing Trustee to Sell Real Property  
Free and Clear of Liens and Interests, Subject to Overbid

Docket 36

**Tentative Ruling:**

Grant.

The chapter 7 trustee must submit the order within seven (7) days.

**Party Information**

**Debtor(s):**

Sarkis Arpajian

Represented By  
Sevan Gorginian

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

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1:25-10109 Sabino Jesus Montejo

Chapter 7

#8.00 Debtor's Motion to set aside/vacate dismissal due to mistake

Docket 21

**Tentative Ruling:**

The Court will deny the motion.

**I. BACKGROUND**

On January 22, 2025, Sabino Jesus Montejo ("Debtor") filed, as one docket entry, the following documents, initiating the above-captioned chapter 7 case (the "Case"): (1) schedule J; (2) declaration about an individual debtor's schedules; (3) statement of financial affairs; (4) disclosure of compensation of attorney for debtor; (5) statement of current monthly income; (6) statement of exemption from abuse under 11 U.S.C. § 707(b)(2); (7) chapter 7 means test calculation; and (8) verification of master mailing list of creditors. *See* doc. 1. Later that day, Debtor filed his statement about his social security number [doc. 3] and certificate of credit counseling [doc. 4].

At the time the case was initiated, Debtor apparently was represented by attorney Grace White. The initial section 341(a) meeting of creditors (the "Meeting of Creditors") was scheduled for February 19, 2025.

The same day, the Court entered: (1) a *Notice of Dismissal of Case if Required Documents are Not Filed or Signed* (the "Dismissal Notice") [doc. 8]; (2) a *Case Commencement Deficiency Notice* (the "Deficiency Notice") [doc. 10]; and (3) an *Order to Comply with Bankruptcy Rule 1007 and Notice of Intent to Dismiss Case* (the "Order to Comply") [doc. 11]. On January 22, 2025, Ms. White was served, via NEF, with copies of the Dismissal Notice, the Deficiency Notice and the Order to Comply. On January 24, 2025, Debtor was served, by U.S. mail, with copies of the Dismissal Notice, the Deficiency Notice and the Order to Comply. *See* docs. 13-15.

The Dismissal Notice stated that the voluntary petition was not included in doc. 1 and advised Debtor to file the voluntary petition, with Ms. White's signature and Debtor's holographic signature within 72 hours, otherwise the Case would be dismissed. The Deficiency Notice provided that: (1) the statement of related cases (the "Statement of



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**Sabino Jesus Montejo**

**Chapter 7**

Related Cases") must be filed by February 5, 2025; (2) the statement of intention for individuals filing under chapter 7 (the "Statement of Intention") must be filed by February 21, 2025; and (3) the Case may be dismissed if Debtor did not file the Statement of Related Cases and the Statement of Intention by their respective deadlines. The Order to Comply provided that the summary of assets and liabilities and schedules A/B through I, or a motion for an order extending the time to file the summary of assets and liabilities and schedules A/B through I, must be filed by February 5, 2025, or the Court would dismiss the Case without further notice.

Debtor did not file his voluntary petition; on January 27, 2025, the Court entered its *Order and Notice of Dismissal for Failure to File Initial Petition Documents* (the "Dismissal Order") [doc. 17].

On February 12, 2025, Debtor filed the *Notice of Motion and Motion to Set Aside/Vacate Dismissal Due to Mistake* (the "Motion") [doc. 21], requesting that the Court vacate the Dismissal Order. To the Motion, Debtor attached the Declaration of Grace White ("White Decl."). In her declaration, Ms. White states, in relevant part:

On January 22, 2024 [sic], I filed this bankruptcy for the debtor.

...

I thought that I attached to the filing package the petition, the statement of related cases, the statement of income, scheduled [sic] A-I Declaration [sic] whereby debtor has received income. They are attached now to this motion.

White Decl., ¶¶ 2 and 4.

To her declaration, Ms. White attached the following documents: (1) voluntary petition; (2) certificate of credit counseling; (3) statement of related cases; (4) statement of intention; (5) schedules A/B and D through I; and (6) declaration as to whether income was received from an employer within 60 days of the petition date. Ms. White did **not** attach Debtor's summary of assets and liabilities or schedule C.

On February 20, 2025, the Court entered an order setting a hearing on the Motion (the "Order") [doc. 24]. The Order provided, in relevant part, that "if Debtor files a supplemental declaration, with Debtor's **summary of assets and liabilities and schedule C** attached as exhibits thereto, **by no later than March 5, 2025**, the Court

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**Sabino Jesus Montejo**

**Chapter 7**

may grant the Motion and vacate the hearing." Order, p. 3 (emphasis in original). As of March 6, 2025, Debtor has not filed a supplemental declaration with Debtor's summary of assets and liabilities and schedule C attached as exhibits thereto.

**II. RELEVANT AUTHORITY**

Pursuant to LBR 1017-2(c)(1):

Any motion requesting that the dismissal of a case for failure to timely file a required document...be vacated **must include as exhibits to the motion all of the documents that were not timely filed and must be supported by a declaration under penalty of perjury establishing a sufficient explanation why the documents were not timely filed.** The motion may be ruled on without further notice or hearing pursuant to LBR 9013-1(q).

LBR 1017-2(c)(1) (emphasis added).

Fed. R. Civ. P. ("Rule") 60(b) provides that "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect...."

Because Congress has provided no other guideposts for determining what sorts of neglect will be considered "excusable," we conclude that the determination is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission. These include . . . [1] the danger of prejudice to the [opposing party], [2] the length of the delay and its potential impact on judicial proceedings, [3] the reason for the delay, including whether it was within the reasonable control of the movant, and [4] whether the movant acted in good faith.

*Pioneer Inv. Servs. Co.*, 507 U.S. 380, 395, 113 S.Ct. 1489, 123 L.Ed.2d 74 (1993) (citations omitted).

In *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 382-83 (9th Cir. 1997), the Ninth Circuit Court of Appeals held that the *Pioneer* test applies to determination of

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**Sabino Jesus Montejo**

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excusable neglect under Rule 60(b). Although the trial court is granted discretion, it is an abuse of that discretion to deny a Rule 60(b)(1) motion without considering (at a minimum) all four of the *Pioneer* factors. See *Lemoge v. United States*, 587 F.3d 1188, 1192 (9th Cir. 2009) (overturning denial of Rule 60(b)(1) motion because the trial court did not consider one of the four factors); *Bateman v. U.S. Postal Service*, 231 F.3d 1220, 1224 (9th Cir. 2000) (reversing trial court's denial of Rule 60(b)(1) motion for failure to mention and consider the test in *Pioneer* and *Briones*).

**III. ANALYSIS**

As LBR 1017-2(c)(1) requires, the Motion is supported by Ms. White's declaration under penalty of perjury establishing a sufficient explanation why the voluntary petition was not timely filed. In addition, considering the *Pioneer* factors, it appears that the mistake of Debtor's counsel constitutes excusable neglect. However, with respect to the missing documents, Debtor did not attach all of the missing documents to the Motion; his summary of assets and liabilities and schedule C have not been submitted.

Given that a supplemental declaration has not been filed with Debtor's summary of assets and liabilities and schedule C attached as exhibits thereto, Debtor is not in compliance with LBR 1017-2(c)(1). Consequently, the Court will deny the Motion.

**IV. CONCLUSION**

The Court will deny the Motion.

The Court will prepare the order.

**Party Information**

**Debtor(s):**

Sabino Jesus Montejo

Represented By  
Grace White

**Trustee(s):**

Amy L Goldman (TR)

Pro Se

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1:24-11323 Irwin Naturals and Irwin Naturals Inc

Chapter 11

#8.01 Application to Employ STS Capital Partners M&A Advisers Inc as Investment Banker Debtor's Application to Retain and Employ STS Capital Partners M&A Advisers Inc as Investment Banker with respect to potential Equity Transaction Effective as of January 31, 2025

Docket 336

\*\*\* VACATED \*\*\* REASON: Hearing continued to 3/21/25 at 10:00 AM.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Irwin Naturals

Represented By

Joseph Axelrod

Susan K Seflin

Jessica Wellington

Ashley M Teesdale

Jonathan Seligmann Shenson

Jessica L Bagdanov

**Joint Debtor(s):**

Irwin Naturals Inc

Represented By

Susan K Seflin

Jessica Wellington

DAI US HOLDCO INC

Represented By

Susan K Seflin

Jessica Wellington

5310 Holdings, LLC

Represented By

Susan K Seflin

Jessica Wellington

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1:21-11450 Roberto C. Hernandez

Chapter 11

#9.00 Post confirmation status conference re chapter 11 subchapter V case

fr. 10/21/21; 12/9/21; 1/27/22; 3/24/22; 5/26/22; 6/9/22; 6/23/22;  
7/22/22; 9/15/22; 12/22/22; 2/10/23; 2/23/23; 3/16/23; 7/27/23; 1/25/24;  
7/18/24; 8/8/24; 3/6/25; 3/5/25

Docket 1

**Tentative Ruling:**

The Court will continue the post-confirmation status conference to **2:00 p.m. on April 23, 2025.**

On August 9, 2024, the Court entered its *Order Continuing Post Confirmation Status Conference* (the "Order") [doc. 242]. Pursuant to the Order, the reorganized debtor was to file an updated status report that complied with the provisions of Local Bankruptcy Rule ("LBR") 3020-1(b) by no later than February 26, 2025.

On February 26, 2025, the reorganized debtor filed the *Second Updated Post Confirmation Status Report: (Amended Plan of Reorganization (Subchapter V), as Modified*" (the "Status Report") [doc. 246].

Contrary to the Order and LBR 3020-1(b)(2), the Status Report does not set forth: (1) the amount required to be paid for each debt and class of claims **as of the date of the report**; and (2) the deficiency, if any, in required payments.

**By no later than April 9, 2025**, the reorganized debtor must file and serve upon the United States trustee, **all secured creditors and the 20 largest unsecured creditors** an amended postconfirmation status report, which completely and clearly sets forth the required information pursuant to LBR 3020-1(b). In addition, the status report must be supported by evidence.

Appearances on March 12, 2025 are excused.

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**CONT... Roberto C. Hernandez**

**Chapter 11**

**Party Information**

**Debtor(s):**

Roberto C. Hernandez

Represented By  
Raymond H. Aver

**Trustee(s):**

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:00 PM

1:24-11956 Olivia J Studios LLC

Chapter 11

#10.00 Motion to Employ Thomas B. Ure as General Bankruptcy Counsel Pursuant to Local Bankruptcy Rule 2014-1 and 11 U.S.C. 327(a) and 330

fr. 1/29/25; 3/5/25

Docket 17

**Tentative Ruling:**

The Court will continue the hearing to **2:00 p.m. on April 23, 2025**, to be held concurrently with the continued chapter 11, subchapter V case status conference and the hearing on confirmation of the debtor's pending chapter 11, subchapter V plan.

Appearances on March 12, 2025 are excused.

**Party Information**

**Debtor(s):**

Olivia J Studios LLC

Represented By  
Thomas B Ure

**Trustee(s):**

John-Patrick McGinnis Fritz (TR)

Pro Se

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1:24-11956 Olivia J Studios LLC

Chapter 11

#11.00 Status conference re: Chapter 11 Subchapter V Voluntary Petition  
fr. 1/15/25; 1/29/25; 3/5/25

Docket 1

\*\*\* VACATED \*\*\* REASON: Status conference continued to 2:00 p.m. on  
4/23/25 [doc. 64].

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Olivia J Studios LLC

Represented By  
Thomas B Ure

**Trustee(s):**

John-Patrick McGinnis Fritz (TR)

Pro Se