

**FOR USE IN CHAPTER 7 AND 13 CASES IN CONNECTION WITH
A DEFAULT ORDER GRANTING RELIEF FROM THE STAY TO ENFORCE
REMEDIES AGAINST PERSONAL PROPERTY COLLATERAL
AND FOR ABANDONMENT**

**IF AN ORDER IS NOT SUBMITTED IN SUBSTANTIALLY THIS FORM, COUNSEL
ORDINARILY WILL BE ASKED TO JUSTIFY THE CHANGES**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

(*Name*)

Debtor.

**DEFAULT ORDER GRANTING _____ RELIEF FROM STAY AND
ABANDONMENT OF PERSONAL PROPERTY¹**

This matter came before the Court on the Motion for Relief from Stay and to Abandon Property, filed on (*date*), docket no. ____ (the “Motion”) by (*name of movant*) (“Movant”). The

¹ If abandonment is not sought, this order should be modified to delete references to abandonment.

Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On (*date*), Movant served the Motion and a notice of the Motion (the “Notice”) on [*if applicable*: counsel of record for the Debtor and] the case trustee (the “Trustee”) by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor(s) [*if applicable*, and codebtor(s)] by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the following personal property:

[*insert description or attach an exhibit*]

(the “Collateral”).

(c) The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which three days was added under Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on (*date*);

(f) As of (*date*), neither the Debtor nor the Trustee, nor any other party in interest, filed an objection to the Motion;

(g) The Motion is well taken and should be granted as provided herein; and

(h) [*Either*] By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies [*or by an affidavit filed by Movant on (date), Movant has certified*] under penalty of perjury that, on (*date*) (*insert name of person or law firm conducting the search*) searched the data banks of the Department of Defense Manpower Data Center (“DMDC”), and

found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. The automatic stay pursuant to 11 U.S.C. Section 362 is hereby modified to allow Movant to enforce all of its contract, state law, and/or other rights against the Collateral.

2. The automatic stay is modified to permit the Movant, to the extent permitted by applicable nonbankruptcy law, to repossess the Collateral and otherwise enforce all its rights with regard to the Collateral, including any rights to sell the Collateral by judicial or nonjudicial means and apply the proceeds therefrom to the obligation owed to Movant by the Debtor, and doing whatever else may be necessary to preserve and conserve the Collateral. The automatic stay is further modified to the same extent in favor of all other persons claiming a lien against the Collateral.

3. *[If applicable]* The Trustee is deemed to have abandoned the Collateral from the estate pursuant to 11 U.S.C. §554, and the Collateral no longer is property of the estate. Therefore, Movant need not name the Trustee as a defendant in any state court action it may pursue to with respect to the Collateral and need not notify the Trustee of any sale of the Collateral.

4. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, although the Debtor can be named as a defendant in litigation to obtain an *in rem* judgment or to repossess the Collateral in accordance with applicable non-bankruptcy law.

5. This Order does not waive Movant's claim against the bankruptcy estate for any deficiency owed by the Debtor after disposition of the Collateral. Movant may file an amended

proof of claim this bankruptcy case within 30 days after a foreclosure sale of the Property, should it claim that Debtor owes any amount after the sale of the Collateral.

6. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

7. *[If applicable]* This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

XXX END OF ORDER XXX

Submitted by:

Attorney for Movant
(signature block)

Copies to:

Debtor (name and address)

Attorney for Debtor (name and address)

Trustee (name and address)