Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number ☐ *Individual appearing without counsel* ☐ *Attorney for:*	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: Debtor(s).	CHAPTER: CASE NO.: DATE: TIME: CTRM: FLOOR:

NOTICE OF MOTION AND MOTION FOR (A) RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 (Real Property), and (B) RELIEF FROM TURNOVER UNDER 11 U.S.C. § 543 BY PREPETITION RECEIVER OR OTHER CUSTODIAN (with supporting declarations) (MOVANT/LENDER: _____ (the "Movant"))

1. NOTICE IS HEREBY GIVEN to the Debtor(s) and Trustee (if any) ("Responding Parties"), their attorneys (if any), and other interested parties that on the above date and time and in the indicated courtroom, Movant in the above-captioned matter will move this Court for an Order granting relief from the automatic stay and relief from turnover as to the Debtor(s) and Debtor's(s') bankruptcy estate on the grounds set forth in the attached Motion.

2. **Hearing Location:** ☐ **255 East Temple Street, Los Angeles** ☐ **411 West Fourth Street, Santa Ana**
   ☐ **21041 Burbank Boulevard, Woodland Hills** ☐ **1415 State Street, Santa Barbara**
   ☐ **3420 Twelfth Street, Riverside**

3. a. ☐ This Motion is being heard on REGULAR NOTICE pursuant to Local Bankruptcy Rule 9013-1. If you wish to oppose this Motion, you must file a written response to this Motion with the Bankruptcy Court and serve a copy of it upon the Movant's attorney (or upon Movant, if the Motion was filed by an unrepresented individual) at the address set forth above no less than 14 days before the above hearing and appear at the hearing on the Motion.

   b. ☐ This Motion is being heard on SHORTENED NOTICE. If you wish to oppose this Motion, you must appear at the hearing. Any written response or evidence may be filed and served:

   ☐ at the hearing ☐ at least _____ court days before the hearing.

   (1) ☐ A Motion for Order Shortening Time was not required (according to the calendaring procedures of the assigned judge).

   (2) ☐ A Motion for Order Shortening Time was filed per Local Bankruptcy Rule 9075-1(b) and was granted by the Court.

   (3) ☐ A Motion for Order Shortening Time has been filed and remains pending. Once the Court has ruled on that Motion, you will be served with another notice or an order that will specify the date, time and place of the hearing on the attached Motion and the deadline for filing and serving a written opposition to the Motion.

4. You may contact the Bankruptcy Clerk's Office to obtain a copy of an approved court form for use in preparing your response *(Optional Court Form F 4001-1M.RES)*, or you may prepare your response using the format required by Local Bankruptcy Rule 1002-1.

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5. If you fail to file a written response to the Motion or fail to appear at the hearing, the Court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.

Dated:

_____
Print Law Firm Name (if applicable)

_____
Print Name of Individual Movant or Attorney for Movant

_____
Signature of Individual Movant or Attorney for Movant

In re (SHORT TITLE) Debtor(s).	CHAPTER: CASE NO.:

MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND RELIEF FROM TURNOVER (MOVANT/LENDER: _____(the "Movant"))

1. **The Property at Issue:** Movant moves for relief from the automatic stay with respect to the following real property (the "Property"):

   Street Address:
   Apartment/Suite No.:
   City, State, Zip Code:

   Legal description or document recording number (including county of recording):

   ☐ See attached continuation page.

1A. **The Custodianship Action:** This Motion relates to Property as to which a Custodian is in possession as follows:

   Custodian Name *(specify)*:
   Appointing Court *(specify)*:
   Appointing Court Case Name *(specify)*:
   Appointing Court Case Number *(specify)*:
   Date of appointment of custodian:
   Date custodian took possession of the Property:

2. **Case History:**
   a. ☐ A voluntary ☐ An involuntary petition under Chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13 was filed on *(specify date)*:
   b. ☐ An Order of Conversion to Chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13 was entered on *(specify date)*:
   c. ☐ Plan was confirmed on *(specify date)*:
   d. ☐ Other bankruptcy cases affecting this Property have been pending within the past two years. See attached Declaration.

3. **Grounds for Relief from Stay:**
   a. ☐ Pursuant to 11 U.S.C. § 362(d)(1), cause exists to grant Movant the requested relief from stay as follows:
      (1) ☐ Movant's interest in the Property is not adequately protected.
         (a) ☐ Movant's interest in the collateral is not protected by an adequate equity cushion.
         (b) ☐ The fair market value of the property is declining and payments are not being made to Movant sufficient to protect Movant's interest against that decline.
         (c) ☐ No proof of insurance re Movant's collateral has been provided to Movant, despite borrower(s)'s obligation to insure the collateral under the terms of Movant's contract with Debtor(s).
      (2) ☐ For other cause for relief from stay, see attached continuation page.
   b. ☐ Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor(s) has/have no equity in the Property; and pursuant to § 362(d)(2)(B), the property is not necessary for an effective reorganization.
   c. ☐ Pursuant to 11 U.S.C. § 362(d)(3), Debtor(s) has/have not satisfied the requirements of this section because of a failure to:
      (1) ☐ Commence payments; or
      (2) ☐ File a reasonable Plan of Reorganization within 90 days of the petition date.

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4. ☐ Movant also seeks annulment of the stay so that the filing of the bankruptcy petition does not affect postpetition acts, as specified in the attached Declaration(s).

4A. **Grounds for relief from turnover under 11 U.S.C. § 543(d)(1):** For the reasons set forth in the attached Declaration(s):

a. ☐ Debtor(s) has/have mismanaged the Property. The Custodian can more effectively manage the Property during the bankruptcy proceedings.

b. ☐ Debtor(s) is/are not an appropriate fiduciary to collect and disburse proceeds of the Property for the benefit of the estate.

c. ☐ Other *(specify)*:

5. **Evidence in Support of Motion:** ***(Important Note: Declaration(s) in support of the Motion MUST be attached hereto.)***

a. ☐ Movant submits the attached Declaration(s) on the Court's approved forms (if applicable) to provide evidence in support of this Motion pursuant to the Local Bankruptcy Rules.

b. ☐ Movant submits the attached supplemental Declaration(s) under penalty of perjury, to provide additional evidence in support of this Motion.

c. ☐ Movant requests that the Court consider as admissions the statements made by Debtor(s) under penalty of perjury concerning Movant's claims and the Property set forth in Debtor's(s') Schedules. Authenticated copies of the relevant portions of the Schedules are attached as Exhibit _____.

d. ☐ Other evidence *(specify)*:

6. ☐ **An optional Memorandum of Points and Authorities is attached to this Motion.**

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following *(specify forms of relief requested)*:

1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. Relief from turnover pursuant to 11 U.S.C. § 543(b)(2) and (c)(2), and annulment of the stay so that the filing of the bankruptcy petition does not affect postpetition acts and to allow all issues regarding the Custodianship to be determined by the Custodian's Appointing Court as if this bankruptcy case had not been commenced.

3. Alternatively, entering an order modifying the stay to:

a. ☐ Allow the Custodian to file with the Appointing Court a final report and account and request for order approving compensation and reimbursement of costs and expenses in accordance with non-bankruptcy law requirements.

b. ☐ Allow the Appointing Court to proceed to hear and determine all issues related to the appropriateness of the accounting and amounts of compensation requested, including any postpetition period prior to the entry of this order, and to authorize payment out of any funds in the possession of the Custodian that have not been required to be turned over to the Debtor(s) or bankruptcy trustee.

c. ☐ Allow the Appointing Court to terminate the Custodianship and to exonerate any bond or undertaking as may be appropriate.

d. ☐ Allow the Custodian to file an appropriate motion in the bankruptcy court pursuant to 11 U.S.C. § 543(c)(2) to seek an order from this Court approving payment of compensation and reimbursement approved by the Appointing Court from funds that have been turned over to the Debtor(s) or bankruptcy trustee.

4. Other relief from stay provisions requested:

a. ☐ That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

b. ☐ That the 10-day stay prescribed by Bankruptcy Rule 4001(a)(3) be waived.

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c. ☐ That Extraordinary Relief be granted as set forth in the Attachment *(attach Optional Court Form F 4001-1M.ER)*.

d. ☐ For other relief requested, see attached continuation page.

5. If relief from stay is not granted, Movant respectfully requests the Court to order adequate protection.

Dated:

Respectfully submitted,

_____
Movant Name

_____
Firm Name of Attorney for Movant (if applicable)

By: _____
Signature

Name: _____
Typed Name of Individual Movant or Attorney for Movant

In re (SHORT TITLE) Debtor(s).	CHAPTER: CASE NO.:

DECLARATION RE CUSTODIANSHIP OF REAL PROPERTY (MOVANT/LENDER: _____ (the "Movant"))

I, _____, declare as follows:
(Print Name of Declarant)

1. I have personal knowledge of the matters set forth in this declaration and, if called upon to testify, I could and would competently testify thereto. I am over 18 years of age. I have knowledge regarding Movant's interest in the real property that is the subject of this Motion ("Property") because *(specify)*:

   ☐ I am the Movant and owner of the Property.

   ☐ I manage the Property as the authorized agent for the Movant.

   ☐ I am employed by Movant as *(state title and capacity)*:

   ☐ Other *(specify)*:

2. I am one of the custodians of the books, records and files of Movant as to those books, records and files that pertain to loans and extensions of credit given to Debtor(s) concerning the Property. I have personally worked on books, records and files, and as to the following facts, I know them to be true of my own knowledge or I have gained knowledge of them from the business records of Movant on behalf of Movant, which were made at or about the time of the events recorded, and which are maintained in the ordinary course of Movant's business at or near the time of the acts, conditions or events to which they relate. Any such document was prepared in the ordinary course of business of Movant by a person who had personal knowledge of the event being recorded and had or has a business duty to record accurately such event. The business records are available for inspection and copies can be submitted to the Court if required.

3. a. The address of the Property that is the subject of this Motion is:

   Street Address:
   Apartment/Suite No.:
   City, State, Zip Code:

   b. The legal description or document recording number (including county of recording) set forth in Movant's Deed of Trust is attached as Exhibit _____.

   ☐ See attached continuation page.

4. Type of property *(check all applicable boxes)*:

   a. ☐ Commercial

   b. ☐ Multi-unit residential

   c. ☐ Industrial

   d. ☐ Other *(specify)*:

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4A. **The Custodianship Action:** A custodianship proceeding affecting the Property was pending in another forum when the petition was filed in this case. A true and correct copy of the order appointing the custodian is attached as Exhibit _____. The procedural history of that proceeding is as follows:

Custodian Name:
Appointing Court:
Appointing Court Case Name:
Appointing Court Case Number:
Date of appointment of custodian:
Date custodian took possession of the Property:

5. Nature of Debtor's(s') interest in the Property:
   a. ☐ Sole owner
   b. ☐ Co-owner(s) *(specify)*:
   c. ☐ Lien holder *(specify)*:
   d. ☐ Other *(specify)*:
   e. ☐ Debtor(s) ☐ did ☐ did not list the Property in the Schedules filed in this case.
   f. ☐ Debtor(s) acquired the interest in the Property by ☐ grant deed ☐ quitclaim deed ☐ trust deed

      The deed was recorded on:

6. Amount of Movant's claim with respect to the Property:
   a. Principal: $
   b. Accrued Interest: $
   c. Costs (Attorney's Fees, Late Charges, Foreclosure Costs): $
   d. Advances (Property Taxes, Insurance): $
   e. TOTAL CLAIM as of _____: $
   f. ☐ Loan is all due and payable because it matured on *(specify date)*:

7. Movant holds a ☐ deed of trust ☐ other *(specify)* that encumbers the Property.

   a. A true and correct copy of the document as recorded is attached as Exhibit _____.

   b. A true and correct copy of the promissory note or other document that evidences the Movant's claim is attached as Exhibit _____.

   c. ☐ A true and correct copy of the assignment(s) transferring the beneficial interest under the note and deed of trust to Movant is attached as Exhibit _____.

8. Status of Movant's claim relating to the Property *(fill in all applicable information requested below)*:

   a. Current interest rate:
   b. Contractual maturity date:
   c. Amount of current monthly payment: $
   d. Number of PREPETITION payments that have come due and were not made:
   e. Number of POSTPETITION payments that have come due and were not made:
   f. Last payment received on the following date:
   g. Notice of default recorded on the following date:
   h. Notice of sale recorded on the following date:
   i. Foreclosure sale originally scheduled for the following date:
   j. Foreclosure sale currently scheduled for the following date:
   k. Foreclosure sale already held on the following date:

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l. Trustee's deed on sale already recorded on the following date:
m. Future payments due by time of anticipated hearing date *(if applicable)*:
An additional payment of $_____ will come due on _____, and on the _____ day of each month thereafter. If the payment is not received by the _____ day of the month, a late charge of $_____ will be charged to the loan.

9. Attached hereto as Exhibit _____ is a true and correct copy of a POSTPETITION payment history that accurately reflects the dates and amounts of all payments made by the Debtor(s) since the petition date.

10. The fair market value of the entire Property is $_____, established by:
a. ☐ Appraiser's declaration with appraisal attached as Exhibit _____.
b. ☐ A real estate broker or other expert's declaration regarding value attached as Exhibit _____.
c. ☐ A true and correct copy of relevant portion(s) of Debtor's(s') Schedules attached as Exhibit _____.
d. ☐ Other *(specify)*:

11. ☐ The fair market value of the Property is declining based on/due to: _____
_____

12. **Calculation of equity in the Property:**
a. Based upon ☐ a preliminary title report ☐ Debtor's(s') admissions in the schedules filed in this case, the Property is subject to the following deed(s) of trust or lien(s) in the amounts specified securing the debt against the Property:

	Name of Holder	**Amount as Scheduled by Debtor(s) (if any)**	**Amount Known to Declarant and Source**
1st Deed of Trust:			
2nd Deed of Trust:			
3rd Deed of Trust:			
Judgment Liens:			
Taxes:			
Other:			
TOTAL DEBT: $			

b. Evidence establishing the existence of the above deed(s) of trust and lien(s) is attached as Exhibit _____, and consists of:
☐ Preliminary title report
☐ Relevant portions of Debtor(s)'s Schedules as filed in this case
☐ Other *(specify)*:

c. Subtracting the deed(s) of trust and other lien(s) set forth above from the value of the Property as set forth in Paragraph 9 above, the Debtor's(s') equity in the Property is $_____ (§ 362(d)(2)(A)).

d. The value of the "equity cushion" in the Property exceeding Movant's debt and any lien(s) senior to Movant is $_____ (§ 362(d)(1)).

e. Estimated costs of sale: $_____ (Estimate based upon _____% of estimated gross sales price)

13. ☐ *(Chapter 12 and 13 cases only)* Chapter 12 or 13 case status information:

a. 341(a) Meeting currently scheduled for (or concluded on) the following date:
Confirmation hearing currently scheduled for (or concluded on) the following date:
Plan confirmed on the following date *(if applicable)*:

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b. Postpetition/preconfirmation payments due BUT REMAINING UNPAID since the filing of the case:

(Number of) _____ payment(s) due at $_____ each = $_____
(Number of) _____ payment(s) due at $_____ each = $_____
(Number of) _____ late charge(s) at $_____ each = $_____
(Number of) _____ late charge(s) at $_____ each = $_____

c. Postpetition/preconfirmation advances or other charges due but unpaid: $_____
(See attachment for details of type and amount.)

TOTAL POSTPETITION/PRECONFIRMATION DELINQUENCY: $_____

d. Postconfirmation payments due BUT REMAINING UNPAID since plan confirmation *(if applicable)*:

(Number of) _____ payment(s) due at $_____ each = $_____
(Number of) _____ payment(s) due at $_____ each = $_____
(Number of) _____ late charge(s) at $_____ each = $_____
(Number of) _____ late charge(s) at $_____ each = $_____

e. Postconfirmation advances or other charges due but unpaid: $_____
(See attachment for details of type and amount.)

TOTAL POSTCONFIRMATION DELINQUENCY: **$**_____

f. ☐ The claim is provided for in the Chapter 12 or 13 Plan. Plan payment history is attached as Exhibit _____.

g. ☐ See attached Declaration(s) of Chapter 12 or 13 Trustee regarding receipt of payments under the plan *(attach Court Form F 4001-1M.13)*.

14. ☐ Movant has not been provided with evidence that the Property is currently insured, as required under the terms of the loan.

15. ☐ The Property qualifies as single asset real estate and

a. ☐ More than 90 days have passed since the filing of the petition and Debtor(s) has/have not filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

b. ☐ Debtor(s) has/have not commenced the monthly payments to Movant as required by 11 U.S.C. § 362(d)(3)(B).

16. ☐ Other bankruptcy cases that have prevented Movant from recovering possession of this Property include the following:

a. Case Name:
Case No.: Chapter:
Date Filed: Date Dismissed:
Relief from stay re this property ☐ was ☐ was not granted.

b. Case Name:
Case No.: Chapter:
Date Filed: Date Dismissed:
Relief from stay re this property ☐ was ☐ was not granted.

c. ☐ See attached continuation page for more information about other cases.

17. ☐ Movant seeks annulment of the automatic stay so that the filing of the bankruptcy petition does not affect any and all of the enforcement actions set forth in paragraph 8 above that were taken after the filing of the bankruptcy petition in this case.

a. ☐ These actions were taken by Movant without knowledge of the bankruptcy filing, and Movant would have been entitled to relief from stay to proceed with these actions.

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b. ☐ Although Movant knew about the bankruptcy filing, Movant had previously obtained relief from stay to proceed with these enforcement actions in prior bankruptcy cases affecting this Property as set forth in paragraph 16 above.

c. ☐ For other facts justifying annulment, see attached continuation page.

18. **Grounds for relief from turnover requirements:**

a. ☐ Debtor(s) has/have mismanaged the Property. The Custodian can more effectively manage the Property during the bankruptcy proceedings. See attached Declaration of _____.

b. ☐ Debtor(s) is/are not an appropriate fiduciary to collect and disburse proceeds of the Property for the benefit of the estate. See attached Declaration of _____.

c. ☐ Other *(specify)*:

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed on _____, _____, at _____ *(city, state)*.

_____ _____

Print Declarant's Name *Signature of Declarant*

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PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF _____

1. I am over the age of 18 and not a party to the within action. My business address is as follows:

2. **Regular Mail Service:** On _____, pursuant to Local Bankruptcy Rule 9013-1, I served the documents described as: NOTICE OF MOTION and MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362, and FOR RELIEF FROM TURNOVER UNDER 11 U.S.C. § 543 (including supporting declarations) on the interested parties at their last known address in this case by placing a true and correct copy thereof in a sealed envelope with postage thereon fully prepaid in the United States Mail at _____, California, addressed as set forth on the attached list.

> ***NOTE:*** *If the Notice and Motion have been served pursuant to an Order Shortening Time ("Order"), you must file a Proof of Service that indicates that the notice and service requirements contained in the Order have been met.*

3. **See attached list for names and addresses of all parties and counsel that have been served.** *(In the manner set forth in Local Bankruptcy Rule 7004-1(b), specify capacity in which service is made; e.g., Debtor(s), Debtor's(s') Attorney, Trustee, Trustee's Attorney, Creditors Committee, or 20 largest unsecured creditors, etc.)*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated:

_____ _____
Typed Name *Signature*