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FILED & ENTERED

JUN 02 2017

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY bakchell DEPUTY CLERK

NOT FOR PUBLICATION CHANGES MADE BY COURT
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

RAMON DE JESUS CONTRERAS, aka RAMON
CONTRERAS,

Debtor,

MARIA DEL ROSARIO CONTRERAS, aka
ROSARIO CONTRERAS, aka MARIA
CONTRERAS, aka MARIA R. CONTRERAS,

Joint Debtor.

Case No. 2:11-bk-17125-RK

Chapter 7

[Honorable Robert N. Kwan]

**ORDER DENYING MOTION FOR ORDER
(i) VACATING ORDER ENTERED MAY 1,
2013 (AUTHORIZING SURCHARGE AND
DISTRIBUTION OF CASH COLLATERAL)
AND (ii) AUTHORIZING DISTRIBUTION
TO THE ESTATES CREDITORS WITH
ALLOWED CLAIMS**

Date: May 30, 2017

Time: 2:30 p.m.

Place: 255 E. Temple Street

Courtroom 1675

Los Angeles, CA 90012

Judge: Hon. Robert N. Kwan

A hearing on the Trustee's *Motion for Order (i) Vacating Order Entered May 1, 2013*
(*Authorizing Surcharge and Distribution of Cash Collateral*) and (ii) *Authorizing Distribution to*
the Estate's Creditors with Allowed Claims (docket no. 561) ("Motion") came on for hearing on

1 May 30, 2017 at 2:30 p.m. before the Honorable Robert N. Kwan, United States Bankruptcy
2 Judge presiding. Appearances were noted on the record. Having considered the Motion, and for
3 the reasons stated in the Court's tentative ruling (attached hereto as Exhibit A), and good cause
4 appearing therefor,

5 **IT IS HEREBY ORDERED THAT:**

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7 1. The Motion is denied without prejudice.

8 **IT IS SO ORDERED.**

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25 Date: June 2, 2017



26 Robert Kwan
27 United States Bankruptcy Judge
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EXHIBIT A – TENTATIVE RULING

Deny motion to vacate cash collateral distribution order to negate distribution of approximately \$260,000 after surcharge to secured creditors Bank of America, N.A., and Bank of New York-Mellon previously ordered by the court. Denial will be without prejudice. First, the proper authority for such motion is not 11 U.S.C. 105(a), but FRBP 9024 and FRCP 60(b)(5) for relief from judgment because applying it prospectively is no longer equitable. Second, movant has not properly served Bank of America, N.A. and Bank of New York-Mellon, N.A. pursuant to FRBP 9013, 9014 and 7004(h) by certified mail as FDIC-insured depository institutions at their addresses listed on the FDIC Bank Find search feature. Third, the moving papers do not give meaningful notice to Bank of America and Bank of New York-Mellon that the trustee seeks an order negating the ordered distribution on their secured claims because no meaningful information was given in the moving papers about the loans and collateral relating to these secured claims for them to make an informed decision about allowing the money ordered to them will be redistributed (or converted) to the estate to pay other creditors. Fourth, the motion is based on inadmissible hearsay that Bank of America and Bank of New York-Mellon no longer want their money ordered by the court. Appearances are required on 5/30/17.