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**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

Leslie Klein,

Debtor(s)

Case No.: 2:23-bk-10990-NB

Chapter: 11

**MEMORANDUM DECISION GRANTING  
CHAPTER 11 TRUSTEE'S MOTION FOR  
ORDER ENFORCING THE AUTOMATIC  
STAY AND SANCTIONS, SUBJECT TO  
FURTHER PROCEEDINGS TO  
ESTABLISH DOLLAR AMOUNT OF  
SANCTIONS**

Hearing:

Date: April 8, 2025

Time: 2:00 p.m.

Place: Courtroom 1545

255 E. Temple Street

Los Angeles, CA 90012

(or via Zoomgov per posted procedures)

This Memorandum Decision supplements this Bankruptcy Court's "Interim Order Granting Motion for Order Enforcing the Automatic Stay and Sanctions Against (A) The Debtor, (B) Daniel Crawford, (C) Crawford Law Group, (D) Leslie Klein & Associates, Inc., and (E) EKLK Foundation, and Related Relief" (dkt. 1026, "Stay Violation Order"). Specifically, this decision elaborates on this Bankruptcy Court's oral findings of fact and

conclusions of law set forth on the record at the above-captioned hearing on Trustee's motion (dkt. 969, the "Stay Violation Motion") seeking to enforce the automatic stay and an award of sanctions arising from the responding parties' stay violation.

## **1. BACKGROUND**

Life Capital Group, LLC ("Life Capital") is a California limited liability corporation that was formed on or about April 8, 2011. Stay Violation Motion (dkt. 969), Ex. B. Life Capital is governed by a limited liability company operating agreement. *Id.*, Ex. C (the "LLC Agreement"). As set forth in the LLC Agreement, Debtor holds a 50% membership interest in Life Capital and Shlomo Rechnitz holds the other 50% membership interest. *Id.*, Ex. C, Schedule A.

### **a. The Life Capital Action**

On January 23, 2025 Trustee commenced an adversary proceeding in this Bankruptcy Court (Adv. No. 2:25-ap-01020-NB) (the "**Life Capital Action**") against Life Capital, Mr. Rechnitz, Jonathan Polter (the sole manager of Life Capital) and other parties, seeking to avoid, as a fraudulent and/or preferential transfer, Debtor's pre-petition release of his rights and entitlements to distributions from the proceeds of life insurance policies governed by the terms and conditions of the LLC Agreement pursuant to a settlement agreement (the "Life Capital Settlement") in which the parties agreed on the terms and conditions concerning the distribution of proceeds from certain life insurance policies.

### **b. The LKA Action**

On March 6, 2025 - just over one month after Trustee filed the Life Capital Action asserting that this bankruptcy estate has an interest in certain life insurance proceeds - Leslie Klein & Associates, Inc. ("LKA") and EKLK Foundation ("EKLK" or, with LKA, the "Klein Entities") filed an action in California Superior Court (Case No. 25STCV06300) (the "**LKA Action**") asserting an interest in those same proceeds. Specifically, the Klein Entities asserted claims against Life Capital, Mr. Polter, and Mr. Rechnitz alleging that Debtor and Mr. Polter agreed that LKA would be designated as a "lender" in the LLC

1 Agreement and that all amounts paid by LKA for life insurance premiums or to maintain  
2 life insurance policies made before the formation of Life Capital would be repaid to it  
3 from payments made by the respective insurers on the policies before any amounts  
4 would be paid to Debtor and Mr. Rechnitz. Stay Violation Motion (dkt. 969), Ex. F at  
5 PDF pp. 163:10-21.<sup>1</sup>

6 **c. The EKLK Action**

7 Also, on March 6, 2025 - again, just over one month after Trustee filed the Life  
8 Capital Action asserting that this bankruptcy estate has an interest in certain life  
9 insurance proceeds - EKLK filed an action in California Superior Court (Case No.  
10 25STCV06306) (the "**EKLK Action**" or, with the LKA Action, the "**Superior Court**  
11 **Actions**") asserting another interest in those same proceeds. Specifically, EKLK  
12 asserted claims against Mr. Rechnitz, among others, alleging that in 2011 EKLK  
13 entered into an agreement with Sytamar Foundation ("SYTR"), a charitable foundation,  
14 whereby the parties agreed, among other things, that SYTR would assume EKLK's  
15 responsibility for making premium payments for three life insurance policies in which  
16 EKLK was the assigned designated beneficiary: (x) the Goodkin Policy (Policy No.  
17 UME2041681), (y) the Holtzman Policy (Policy No. 6003033), and (z) the Roth Policy  
18 (Policy No. US0023724L) (collectively, the "Policies"), and, in exchange, EKLK and  
19 SYTR would split the benefits and proceeds paid by the insurers of those policies. Stay  
20 Violation Motion (dkt. 969), Ex. G at PDF p. 174:6-12.<sup>2</sup>

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21  
22 <sup>1</sup> LKA further alleges that Life Capital has received proceeds from policies and has distributed money from those  
23 proceeds without making payments due to it (*id.*, at PDF p. 164:11-13) and has transferred certain beneficial rights  
24 and interests in some of the policies to third parties. *Id.*, at PDF p. 164:25-26. As a result of the foregoing, LKA seeks  
25 an award of damages, declaratory relief, injunctive relief and/or the imposition of a constructive trust, and avoidance  
26 of certain transfers made to the defendants in that action and/or third parties that allegedly were wrongfully distributed  
in violation of its rights and claims to such funds, rights and/or beneficial interests. *Id.*, at PDF pp. 167:10-11:6. In  
other words, LKA not only asserts rights that allegedly would be prior to Trustee's claims but seeks a constructive  
trust and other enforcement of such purported rights.

27 <sup>2</sup> EKLK further alleges that it did not receive the required payments under the Policies and that those monies and  
28 certain rights and/or beneficial interests in the Policies were wrongfully converted and distributed to other parties. *Id.*  
at 174:26-180:19. Accordingly, EKLK seeks an award of damages, declaratory relief, injunctive relief and/or the  
imposition of a constructive trust, and the avoidance of certain transfers, among other things. *Id.*, at PDF pp. 180:23-

1 **2. EVIDENTIARY OBJECTIONS**

2 The Klein Entities and Daniel A. Crawford, Esq. (collectively, "Respondents")<sup>3</sup>  
3 object (dkt. 997 at PDF pp. 10-12) to the admissibility of (x) paragraph 3 of the Lucas  
4 Declaration (dkt. 969, PDF p. 22); (y) "Schedule C" of Life Capital's Operating  
5 Agreement (*id.*, Ex. C, Schedule C PDF p. 61); and (z) page 33 of the Life Capital's  
6 Operating Agreement (*id.*, Ex. C, PDF p. 58) on the grounds that the documents lack  
7 foundation, are hearsay and/or the declarant has not established that he is a custodian  
8 of records.

9 This Bankruptcy Court orally sustained those objections but granted leave for the  
10 Trustee's counsel to make an offer of proof at the hearing, to be supplemented with  
11 Trustee's declaration, about whether the Trustee could establish (i) a sufficient factual  
12 basis that he is the custodian of records or "another qualified witness" within the  
13 meaning of Rule 803(6)(D) (Fed. R. Evid.) and (ii) that the other elements of Rule  
14 803(6) are satisfied (and a sufficient foundation for admissibility of the documents), and  
15 to follow up with the Trustee's actual written declaration verifying the foregoing things.  
16 See Dkt. 1026, p. 2:17-24. See also, e.g., *United States v. Childs*, 5 F.3d 1328, 1334  
17 (9th Cir. 1993) ("The phrase 'other qualified witness' [in FRE 803(6)] is broadly  
18 interpreted to require only that the witness understand the record-keeping system.")  
19 (citation omitted, emphasis added); see also Stay Violation Order (dkt. 1026).

20 In this Court's experience, trustees in bankruptcy generally qualify as an "other  
21 qualified witness" under this broad rule. In addition, analogous authority supports that  
22 conclusion. See, e.g., *MRT Constr. Inc. v. Hardrives, Inc.*, 158 F.3d 478, 483 (9th Cir.  
23 1998) ("records a business receives from others are admissible under [FRE 803(6)]  
24 when those records are kept in the regular course of that business, relied upon by that

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25  
26 181:24. In other words, EKLK not only asserts rights that allegedly would be prior to Trustee's claims but seeks a  
constructive trust and other enforcement of such purported rights.

27 <sup>3</sup> Debtor did not file any written response in advance of the hearing on the to the Stay Violation Motion or present any  
28 oral response at the hearing, so any opposition has been waived and/or forfeited. See *In re Hamer*, 138 S. Ct. 13, 17  
n.1, 199 L. Ed. 2d 249 (2017) (distinguishing forfeiture and waiver)

business, and where that business has a substantial interest in the accuracy of the records." (emphasis added); *In re New Century TRS Holdings, Inc.*, 502 B.R. 416 (Bankr. D. Del. 2013) (similarly broad definition of "qualified witness," who need not have personally participated in creation of that record or know who actually recorded the information; if he or she is familiar with record-keeping procedures of organization).

Based on this Bankruptcy Court's consideration of Trustee's counsel's representations on the record at the above-captioned hearing and review of Trustee's supplemental declaration (dkt. 1028) filed after the hearing, this Bankruptcy Court finds and concludes that Trustee has established sufficient grounds to admit the documents so Respondents' evidentiary objections are overruled.

### 3. JURISDICTION, AUTHORITY, AND VENUE

This Bankruptcy Court has jurisdiction, and venue is proper, under 28 U.S.C. §§ 1334 and 1408. This is a "core" proceeding in which this Bankruptcy Court has the authority to enter a final judgment or order under 28 U.S.C. § 157(b)(2)(A). See *generally Stern v. Marshall*, 131 S. Ct. 2594 (2011); *In re Deitz*, 469 B.R. 11 (9th Cir. BAP 2012) (discussing *Stern*); *In re AWTR Liquidation, Inc.*, 547 B.R. 831 (Bankr. C.D. Cal. 2016) (same).

### 4. DISCUSSION

#### a. § 362(a)(3)

The parties' disputes concern the portion of the automatic stay contained in § 362(a)(3)<sup>4</sup>, which provides:

(a) [With inapplicable exceptions,] a [bankruptcy] petition ... operates as a stay, applicable to all entities, of—

\* \* \*

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate [.]  
[§ 362(a)(3), emphasis added.]

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<sup>4</sup> Unless the context suggests otherwise, a "chapter" or "section" ("§") refers to the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Code"), a "Rule" means the Federal Rules of Bankruptcy Procedure or other federal or local rule, and other terms have the meanings provided in the Code, Rules, and the parties' filed papers.

1           **b. The parties' dispute**

2           Trustee argues that Respondents violated the automatic stay under § 362(a)(3)  
3 by filing the State Court Actions because Respondents are seeking to usurp the rights,  
4 benefits and control of proceeds and/or beneficial rights and interests in millions of  
5 dollars derived from life insurance policies that the estate has an interest in and which  
6 are the subject of the Life Capital Action. Stay Violation Motion (dkt. 969) at pp. 10:21-  
7 11:10.

8           Respondents contend that neither action involves property of the estate (or  
9 asserts claims against Debtor). Opp. (dkt. 997) pp. 3:11-12 & 23, 4:14-5:9. They argue  
10 that the LKA Action does not affect property of the estate because LKA seeks to recover  
11 payments and enforce rights to which it allegedly is entitled prior to any distribution to  
12 Debtor and that those payments did not pass through Debtor's hands at any time, but  
13 instead were wrongfully (they assert) conveyed to other parties. *Id.*, pp. 4:14-5:9.  
14 Respondents also argue that the EKLK Action involves life insurance policies that were  
15 never Debtor's property and, even assuming the policies might later become property of  
16 the estate in the event EKLK is successful (because EKLK is wholly owned by Debtor),  
17 there is no property in which Debtor himself owns even an indirect interest unless and  
18 until a judgment is entered in favor of EKLK. *Id.*, pp. 3:14-4:13.

19           **c. Legal standards**

20           "The scope of the automatic stay is undeniably broad." *In re Bialac*, 712 F.2d  
21 426 (9th Cir. 1983). "It is designed to effect an immediate freeze of the status quo by  
22 precluding and nullifying post-petition actions, judicial or nonjudicial, in nonbankruptcy  
23 fora against the debtor or affecting the property of the estate." *Hillis Motors, Inc. v.*  
24 *Hawaii Auto. Dealers' Ass'n*, 997 F.2d 581, 585 (9th Cir. 1993).

25           For conduct that violates the automatic stay to be sanctionable, it is not  
26 necessary to show that the violator knew that its acts violated the automatic stay. Once  
27 that person knows of the bankruptcy case, and hence of the possible application of the  
28 automatic stay, they act at their own risk, unless there is an "objectively reasonable

1 basis" to conclude that the conduct "might be lawful" under the automatic stay. *Taggart*  
2 *v. Lorenzen*, 587 U.S. 554, 560 (2019).

3 "[A] creditor who attempts, but fails, to achieve actual control over estate property  
4 does not give the creditor a safe harbor against a stay violation action." *In re Qarni*,  
5 2019 LEXIS 3779, at \*9 (Bankr. E.D. Cal. Dec. 11, 2019) (citations omitted). In other  
6 words, an "act to" obtain possession of property, or to exercise control over property, is  
7 still an "act" even if it does not succeed.

8 As noted above, § 362(a)(3) stays "any act to obtain possession of property of  
9 the estate or property from the estate or to exercise control over property of the estate."

10 § 362(a)(3) (emphasis added). The Ninth Circuit has applied a three-part test to  
11 determine whether a creditor has violated § 362(a)(3). *Bialac*, 712 F.2d 426, 429.

12 First, the court examined whether a "property" interest existed. *Id.* Property  
13 rights are generally, but not always, determined under applicable State law. *Butner v.*  
14 *United States*, 440 U.S. 48, 54 (1979) ("Congress has generally left the determination of  
15 property rights in the assets of a bankrupt's estate to state law.") (footnote omitted,  
16 emphasis added). But that is not always so. For example, "property of the estate"  
17 includes not just property of a debtor as of the petition date (§ 541(a)(1)) but also  
18 recoveries of avoidance actions (§ 541(a)(3)) and legal claims that belong to the estate  
19 by virtue of the filing of the petition (§ 541(a)(7)).

20 Second, the Ninth Circuit asked whether, if any rights in property existed, such  
21 property was "of the estate" under 11 U.S.C. § 541. *Bialac*, 712 F.2d 426, 429. This is  
22 important because some property interests that belong to a debtor do not pass into the  
23 estate, such as certain retirement accounts under § 541(b)(7), and conversely some  
24 property interests, such as avoidance actions and their recoveries, do not belong to a  
25 debtor as of the petition date but are property of the estate under § 541(a)(3) and (7). In  
26 other words, to come within § 362(a)(3) any property must be property "of the estate."

27 Third, the Ninth Circuit determined "if the property was altered in a manner  
28 contrary to the relevant provisions of 11 U.S.C. § 362(a) ...." *Bialac*, 712 F.2d 426, 429-

30 (emphasis added). In *Bialac* the Ninth Circuit held that a creditor's act of foreclosing on 5/6ths of a promissory note converted the debtor's 1/6 undivided interest into a divided interest and transformed his right to redeem 100% (6/6ths) of the promissory note for \$450,000.00 into a right to redeem only 1/6th for \$300,000.00, which was a huge financial loss. *Id.*, 712 F.2d 426, 432. That constituted an act in violation of § 362(a)(3).

**(i) The legal claims in the Life Capital Action qualify as “property,”  
and so do the equity interests in Life Capital**

Respondents focus on (A) the life insurance policies, (B) the proceeds of those policies, and (C) the Klein Entities' claims to those things as asserted in the LKA Action and the EKLK Action. They argue that at best Life Capital has certain claims and property interests, but that Debtor's 50% ownership interest in Life Capital does not give him any direct property interest in the property belonging to Life Capital. That is true as far as it goes.

But, first, Respondents do not deny that Debtor's 50% ownership interest in Life Capital qualifies by itself as “property.” Second, Respondents do not deny that legal claims (such as Trustee's legal claims asserted in the Life Capital Action) are a form of intangible property. See e.g., *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 707 (9th Cir. 1986) (“[t]he scope of section 541 is broad and includes causes of action”).

**(ii) The claims in the Life Capital Action and the equity interests in  
Life Capital itself are property “of the estate”**

Respondents contend that “neither of the Superior Court Actions involves property of the estate.” Opp. (dkt. 997) p. 3:14-15. This Bankruptcy Court disagrees.

Again, the property at issue is not the life insurance policies, their proceeds, or Respondents' asserted claims to an interest in those things. Instead, the property at issue is (A) the bundle of rights comprising Debtor's equity interests in Life Capital, including the dollar value of that equity interest after payment of legitimate claims or



interests that are determined to be of higher priority, and (B) the bundle of rights asserted in the Life Capital Action. Both of those things are property “of the [bankruptcy] estate” under § 541(a)(1), (3), and (7). Respondents do not claim otherwise.

**(iii) Trustee’s bundles of rights were “altered” in a manner contrary to § 362(a)(3)’s proscription against taking “possession” or “control” over property of the estate**

Respondents willfully undertook acts to obtain possession of, or seek control over, parts of the bundles of rights belonging to the bankruptcy estate. Again, the estate’s interests include its ownership of Life Capital and the estate’s claims asserted in the Life Capital Action. By filing the State Court Actions, which assert purportedly superior rights in the same life insurance proceeds and assets sought by Trustee in the Life Capital Action, and which would denude Life Capital of enormous value, Respondents have violated § 362(a)(3).

To illustrate, consider a hypothetical scenario, and contrast that with the facts in this case. The hypothetical scenario is that a bankruptcy estate asserts a 0.1% interest in the stock of General Motors and does not assert any direct claim against the real or personal property held by General Motors, and then during the bankruptcy case a vendor sues General Motors for nonpayment. In that scenario, the vendor’s suit would not violate the automatic stay of § 362(a)(3) because the vendor is not engaging in acts to seizing control over General Motors, nor is the vendor engaging in acts to seize or attempt to control any property that the estate itself owns (as distinguished from property owned by General Motors).

This case presents a very different factual scenario. Here, Trustee has not only asserted a 50% membership interest in Life Capital, including an undivided 50% interest in the residual value of all the assets of Life Capital after payment of creditors, but has also filed a lawsuit asserting claims in the property of Life Capital - i.e., rights regarding disposition of certain actions contemplated by Life Capital with respect to more than

1 \$30,000,000.00 of unmatured life insurance policies. Stay Violation Motion (dkt. 969) p.  
2 11:5-8. Then, almost immediately after Trustee asserted such claims, Respondents  
3 asserted their own claims to the same property that attempted to usurp all of the value  
4 of the estate's 50% interest in Life Capital and all of the value of Trustee's claims, by  
5 purporting to have primacy over whatever interests Trustee might hold.

6 By filing the State Court Actions, Respondents attempted to seize "possession"  
7 or "exercise control over property" of or from the estate, in violation of the automatic  
8 stay. They were asserting competing interests in the very same property that the  
9 Trustee is seeking to recover for the benefit of the estate. See e.g., *Qarni*, 2019 LEXIS  
10 3779, at \*9 ("The act of filing suit, which includes causes of action that seek to exercise  
11 control over property of the estate, is itself a violation of [§] 362(a)(3)," and creditor's  
12 action to appoint receiver for individual debtor's corporation was attempt to exercise  
13 control over debtor's right to steer corporate affairs).

14 This is no less a violation of § 362(a)(3) than what happened in *Bialac*. In that  
15 case a seizure of property that did not belong to the debtor (the 5/6ths interest in the  
16 promissory note that did not belong to him) nevertheless converted his 1/6 undivided  
17 interest into a divided interest, and converted his right to redeem the entire promissory  
18 note into a much more expensive right to redeem only a 1/6 interest in the promissory  
19 note. See *Bialac*, 712 F.2d 426, 429-30.

20 Likewise, this is no less a violation of § 362(a)(3) than what happened in *Hillis*  
21 *Motors*. In that case a state agency's proceeding to dissolve a corporate debtor for  
22 failure to file corporate exhibits and pay its annual fees effectuated a transfer of all  
23 corporate property to the debtor's sole shareholder and deprived the trustee from  
24 continuing to oversee the administration of the estate for the benefit of creditors in  
25 accordance with the terms of the confirmed plan. See *Hillis Motors*, 997 F.2d 581, 586-  
26 90.

27 To be clear, this Bankruptcy Court is not ruling that Respondents are prohibited  
28 from properly asserting any claims they believe they might have, even if those claims

1 assert an interest in the same property in which the estate claims an interest. The  
2 problem is not Respondents' desire to protect whatever rights and interests they might  
3 have, which they could have done by, for example, seeking relief from the automatic  
4 stay. The problem is that Respondents sought to assert primacy over the bundle of  
5 rights that Trustee was asserting without seeking relief from the automatic stay.

## 6 **5. SANCTIONS**

7 Trustee asks this Court to impose sanctions against Respondents pursuant to  
8 § 105(a) in the form of his attorney's fees and costs. See *In re Dyer*, 322 F.3d 1178,  
9 1189-90 (9th Cir. 2003) ("Trustee may be entitled to recovery for violation of the  
10 automatic stay under § 105(a) as a sanction for ordinary civil contempt") (citation and  
11 quotation marks omitted). To "hold a [party] in civil contempt" for violating the automatic  
12 stay, there must be "no objectively reasonable basis for concluding that the creditor's  
13 conduct might be lawful" under the automatic stay. *Taggart v. Lorenzen*, 587 U.S. 554,  
14 560. Accordingly, this Bankruptcy Court must determine whether there was an  
15 "objectively reasonable basis" for Respondents to conclude that filing the State Court  
16 Actions would not violate § 362(a)(3), even though those were acts calculated to  
17 denude the value of the estate's 50% interest in Life Capital and to supersede Trustee's  
18 claims in the Life Capital Action.

19 It is not necessary for a party subjectively to want to violate the automatic stay.  
20 *Qarni*, 2019 LEXIS 3779, at \*6 (citing authorities). But it is relevant, as Trustee  
21 highlights, that Respondents previously engaged in similar conduct in violation of the  
22 automatic stay by filing a probate complaint seeking to exercise control over real  
23 property belonging to Debtor. Stay Violation Motion (dkt. 969), p. 13:3-16 & 2:24-ap-  
24 01140-NB, dkt. 64. After Judge Sandra Klein (who previously presided over this case)  
25 issued an order directing Debtor and Mr. Crawford to appear and show cause why they  
26 have not violated the automatic stay and why they should not be sanctioned, they  
27 dismissed the probate action. *Id.* Accordingly, Respondents were even more aware of  
28

1 the potential application of the automatic stay than a typical respondent, who has no  
2 such prior warning.

3 By filing the State Court Actions, Respondents knew they were acting to seize or  
4 exercise control over \$30 million or so of property that this Court might find is property  
5 of the estate. This Bankruptcy Court has little trouble concluding that Respondents  
6 lacked an objectively reasonable basis to believe that their actions were consistent with  
7 the automatic stay. In addition, their filing of the State Court Actions establishes a  
8 pattern that, once the estate asserts an interest in an asset, Respondents have  
9 attempted to go into State Court to undue or supersede that interest.

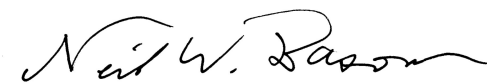
10 In sum, a finding of civil contempt is appropriate because Respondents violated  
11 the automatic stay based on “an objectively unreasonable understanding of the  
12 [automatic stay or] its scope.” *Taggart*, 587 U.S. 554, 562. *See also Dyer*, 322 F.3d  
13 1178. This Bankruptcy Court will determine, in further proceedings, an appropriate  
14 dollar amount of civil contempt sanctions, including reimbursing Trustee and the estate  
15 for the costs of Respondents’ stay violations. *See Stay Violation Order* (dkt. 1026, pp.  
16 8:25-4:17).

17 **6. CONCLUSION**

18 For the reasons set forth above, Respondents violated § 362(a)(3) of the  
19 automatic stay by filing the State Court Actions, and civil contempt sanctions are  
20 appropriate. The dollar amount of those sanctions will be determined in future  
21 proceedings.

22 ###

23  
24 Date: April 28, 2025

25   
26 \_\_\_\_\_  
27 Neil W. Bason  
28 United States Bankruptcy Judge