

**Note:** This is not a required form of order. It is a sample default order granting relief from the automatic stay and abandonment in a chapter 7 or chapter 13 case. The order assumes that all of the relief granted by the order was requested in the motion, that proper notice was given, that proper service of the motion and notice was made, and that no objections were filed. Counsel should of course exercise independent judgment whether this form of order is sufficient.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

(NAME)

Debtor.

Case No. (number)

**DEFAULT ORDER GRANTING RELIEF FROM STAY AND ABANDONMENT OF  
PROPERTY (optional: LOCATED AT XXXX)**

This matter came before the Court on the Motion for Relief from Stay and to Abandon Property (“Motion”) filed on (date) by (name of movant) (“Movant”).

The undersigned counsel for Movant certifies under penalty of perjury that on (date) (insert name of person or law firm conducting the search) accessed and conducted a search of the data banks of the Department of Defense Manpower Data Center (DMDC), and found that the DMDC does not possess any information indicating that (insert name of Debtor) is currently on active military duty of the United States or her allies.” [(Or:) Movant has filed an Affidavit of Non-Military Service reflecting that, according to the Department of Defense Manpower Data Center, (insert name of Debtor) is not an active member of the military service of the United States nor her allies.]

The Court, having reviewed the record and considered the Motion, and being sufficiently advised, FINDS: (a) on (date), Movant served the Motion and notice (“Notice”) of the Motion by United States first class mail in accordance with Bankruptcy Rule 7004, made applicable to

service of this Motion by Bankruptcy Rule 9014, on the Debtor, counsel of record for the Debtor, and the case Trustee (the “Trustee”), (b) the Notice specified an objection deadline of twenty-one days from the date of mailing of the Notice, to which three days is added under Bankruptcy Rule 9006(f); (c) the notice given of the Motion was sufficient in form and content; (d) the objection deadline, including three days added under Bankruptcy Rule 9006(f), expired on (*date*); (e) as of (*date*), neither the Debtor nor the Trustee, nor any other party in interest, has filed an objection to the Motion; and (e) the Motion is well taken and should be granted as provided herein. It is, therefore,

**ORDERED:**

1. Movant and any and all holders of any liens against the Property (defined below), pursuant to 11 USC §362(a), hereby are granted relief from the automatic stay:

(a) To enforce their rights in the Property, including foreclosure of liens, under the terms of any prepetition notes, mortgages, security agreements and/or other prepetition agreements to which Debtor is a party by commencing or proceeding with appropriate action against the Debtor (consistent with paragraph 3 below) and/or the Property in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to Movant under law or equity with respect to the Property.

2. The Property consists of [*insert description of the Property*].

3. The Trustee is hereby deemed to have abandoned the Property from the estate, and, therefore, the Property no longer is property of the estate.

4. The automatic stay is not modified to permit any act to collect any amounts as an individual liability of the Debtor, other than as necessary to exercise rights with respect to

interests in the Property, including but not limited to naming the Debtor as a defendant in litigation to obtain an *in rem* judgment and exercising any right to repossess the Property in accordance with applicable nonbankruptcy law.

5. The terms of this order do not waive Movant's claim against the estate for any deficiency owed by the Debtor to Movant after any foreclosure sale or other disposition of the Property.

6. *[If applicable: The fourteen (14) day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.]*

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Robert H. Jacobvitz  
UNITED STATES BANKRUPTCY JUDGE

Submitted by:

(signature block)

Copies of This Order To:

Debtor  
(name and address)

Attorney for Debtor  
(name and address)

Trustee  
(name and address)