

1 Thomas W. Barth, SBN 154075
 2 Mikhail Parnes, SBN 300922
 3 BARTH DALY LLP
 4 431 I Street, Suite 201
 5 Sacramento, California 95814
 6 Telephone: (916) 440-8600
 7 Facsimile: (916) 440-9610
 8
 9 Attorneys for STARS HOLDING CO. LLC

FILED
 JUL 25 2016
 CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 BY *[Signature]*

10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

IN THE UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA

10 HSBC BANK USA, National Association,
 11 as Indenture Trustee for the benefit of the
 12 Noteholders and the Certificateholders of
 13 Business Loan Express Business Loan
 14 Trust 2005-A,

Case No. 2:09-CV-02356-WBS-EFB

**STIPULATION AND [PROPOSED]
 ORDER AFTER HEARING**

Plaintiff,

v.

Date: July 18, 2016
 Time: 1:30 p.m.
 Ctrm: 5

15 DARA PETROLEUM, INC. dba WATT
 16 AVENUE EXXON, a California
 17 corporation; SARBJIT S. KANG, an
 18 individual; U.S. SMALL BUSINESS
 19 ADMINISTRATION, a United States
 20 government agency; and DOES 1
 21 THROUGH 20, inclusive,

Defendants.

21 WHEREAS HSBC Bank USA, National Association, as Indenture Trustee for the benefit
 22 of the Noteholders and the Certificateholders of Business Loan Express Business Loan Trust
 23 2005-A ("HSBC") filed that certain *Application for Issuance of Order Directing Stars Holding*
 24 *Co. LLC, Azad Amiri and Sarbjit S. Kang to Show Cause Why They Should Not be Held in Civil*
 25 *Contempt* (the "Application") and supporting documents [docket nos. 137, 137-1, 137-2, 137-3,
 26 154, 155, 156, 157, 158, 159, 163, 163-1, 164, 165, 175, 175-1], requesting this Court to issue an
 27 order directing Stars Holding Co. LLC ("Stars"), Azad Amiri ("Amiri") and Sarbjit S. Kang
 28 ("Kang") to show cause why they should not be held in civil contempt for violation of the

{00019587}

BARTH DALY LLP
 ATTORNEYS AT LAW
 SACRAMENTO, CALIFORNIA

1 *Memorandum and Order re: Motion to Appoint Receiver; Motion for Preliminary Injunction in*
2 *Aid of Receiver (the "Receivership Order") entered on May 2, 2014 [docket no. 119];*

3 WHEREAS the Court ordered Stars, Amiri and Kang to personally appear in the court on
4 June 29, 2015, at 2:00 p.m. to show cause why they should not be adjudged in civil contempt for
5 violation of the Receivership Order [docket entry 141];

6 WHEREAS the Court continued the hearing to October 14, 2015 to be heard before
7 Magistrate Judge Edmund F. Brennan [docket no 153];

8 WHEREAS Judge Brennan held a hearing on October 14, 2015. HSBC appeared through
9 its counsel, Eric S. Pezold of Snell & Wilmer L.L.P. Jeffrey Kravitz appeared on behalf of Dara
10 Petroleum, Inc. dba Watt Avenue Exxon ("Dara"), Kang and Narges Eghtesadi. No appearances
11 were made by Stars or Amiri, and neither Kang nor Narges Eghtesadi personally appeared.

12 WHEREAS Judge Brennan entered his *Order, Findings and Certification RE: Civil*
13 *Contempt* on May 16, 2016 [docket no. 162] wherein Judge Brennan ordered Stars, Amiri and
14 Kang to appear before the Court on June 13, 2016, at 1:30 p.m. "to show cause why the findings
15 herein that they are in civil contempt should not be adopted and why they should not be ordered
16 to reimburse plaintiff the reasonable attorneys' fees incurred by their violation of the Court's
17 May 2, 2014 order appointing a receiver and entering a preliminary injunction." Judge Brennan
18 also ordered HSBC to file a supplemental brief with respect to the reasonableness of the
19 attorneys' fees and costs sought by the Application;

20 WHEREAS the Court held a hearing on June 13, 2016, at which HSBC appeared through
21 its counsel, Eric S. Pezold of Snell & Wilmer L.L.P., Stars appeared through its counsel, Thomas
22 Barth, and Amiri and Kang personally appeared. Gabe Liberman, counsel to Kang, also appeared
23 and represented to the Court that Kang had filed a bankruptcy petition, case no. 15-23895 (the
24 "Kang Bankruptcy Case"), after the Application had been filed. The Court continued the hearing
25 to July 18, 2016 at 1:30 pm to provide Stars and Amiri a further opportunity to respond to the
26 Application and for HSBC to file a reply brief in support of the Application. The Court ordered
27 Stars and Amiri to personally appear at the continued hearing;

28 ///

1 WHEREAS Stars filed an *Opposition to HSBC Bank USA's Application for Issuance of*
2 *Order to Show Cause and Supplemental Request for Reasonable Attorneys' Fees and Costs* filed
3 by Stars ("Stars' Opposition") [docket nos. 173, 173-1, 176]. Amiri did not file a written
4 opposition to the Application; and,

5 WHEREAS the Court held a hearing on July 18, 2016, in which the Court heard
6 arguments of counsel of HSBC and Stars and heard testimony from Amiri and Kang. Stars and
7 Amiri, non-parties to this litigation, appeared at the hearing and therefore, the Court has personal
8 jurisdiction over Stars and Amiri to enter the findings, orders and relief herein. The Court
9 overruled *Plaintiff's Evidentiary Objections to Declaration of Haleh Amiri* [docket no. 175-1] and
10 admitted paragraphs 3 and 7 of such declaration only for the purposes of Rule 803(3) of the
11 Federal Rules of Evidence.

12 The parties hereto, by and through their counsel, hereby stipulate and respectfully request
13 an order of the Court based thereon.

14 **STIPULATION**

15 Based on the foregoing, the aforementioned parties, by and through their counsel of
16 record, and individually, with respect to the persons appearing *pro se*, hereby stipulate (the
17 "Stipulation") that the Court shall enter an order (the "Order") to resolve the Application as
18 follows:

19 1. The Application by HSBC is ~~denied~~ granted in part, as per the terms of this
20 Order, and otherwise denied].

21 2. Stars, Amiri, Dara, Haleh Amiri ("Haleh"), and Nasrin Amiri ("Nasrin") are
22 hereby enjoined from transferring, encumbering, diverting, damaging, removing, obtaining
23 possession of, assigning, conveying, devising, pledging, selling, or disposing of, directly or
24 indirectly, in whole or in part, the real and personal property located at 3499 El Camino Avenue,
25 Sacramento, California (the "Property"), without further order of the Court.

26 3. Stars, Amiri, Dara, Haleh and Nasrin are hereby enjoined from interfering with or
27 delaying in any manner, direct or indirect, the foreclosure of the Property by Kevin Singer, the
28 court-appointed receiver, without further order of the Court.

1 4. The automatic stay of 11 U.S.C. section 362(a) shall not arise with respect to the
2 Property in any bankruptcy case filed under any chapter of Title 11 of the United States Code
3 whether such case is filed in the United States Eastern District of California or any other district
4 by or against Stars, Amiri, Kang, Dara, Haleh or Nasrin.

5 5. Any voluntary or involuntary bankruptcy filing under any chapter of Title 11 of
6 the United States Code in the United States Eastern District of California by or against Stars,
7 Amiri, Kang, Dara, Haleh and/or Nasrin that is made after the entry of the Order until the
8 Property is foreclosed shall be referred to United States District Court Judge William B. Shubb
9 without further order of this Court. To this end, the bankruptcy reference as contained in General
10 Orders 182, 182-A and 223 of the United States District Court Eastern District of California is
11 hereby withdrawn with respect to any voluntary or involuntary bankruptcy filing under any
12 chapter of Title 11 of the United States Code in this District that is made after the entry of this
13 Order until the Property is foreclosed by or against Stars, Amiri, Kang, Dara, Haleh and/or
14 Nasrin.

15 6. If any of Stars, Amiri, Dara, Haleh and/or Nasrin violate the Court's Order
16 regarding the injunction imposed according to Paragraphs 2 or 3 of this Stipulation, HSBC may
17 immediately apply for:

18 a. Sanctions against any such person or entity violating the Order for the
19 purpose of preventing continued violations, which shall be awarded by the Court in the amount of
20 One Thousand Dollars (\$1000.00) per day of any continuing violation, levied individually against
21 each person or entity in such violation, until the violation ceases to exist, or has been corrected in
22 such manner as to eliminate the adverse effect of the violation on the receivership.

23 b. Issuance by this Court of an order to show cause why the party(ies) who
24 have committed the violations should not be held in civil contempt, for recovery of damages and
25 attorneys' fees and costs, incurred as a result of such violations. Upon such application by HSBC,
26 the Court shall schedule briefing by the parties and a hearing on such shortened time, as the Court
27 deems appropriate under the circumstances.

28 ///

1 the Court shall schedule briefing by the parties and a hearing on such shortened time, as the Court
2 deems appropriate under the circumstances.

3 ///

4 c. Such further relief as may be necessary or appropriate to allow the
5 Receiver to continue with any actions within the authority granted by the Receivership Order,
6 regardless of the actions by other parties in violation of the Order.

7 7. The Court reserves the right to amend the Order to include relief against Kang to
8 the extent that HSBC seeks relief from the bankruptcy court overseeing the Kang Bankruptcy
9 Case or if the Kang Bankruptcy Case is dismissed without a discharge.

10 **IT IS SO STIPULATED.**

11 Dated: July 25 2016.

BARTH DALY LLP

12 By 

13 THOMAS W. BARTH
14 Attorneys for STARS HOLDING CO. LLC

15 Dated: July 25 2016.

SNELL & WILMER L.L.P.

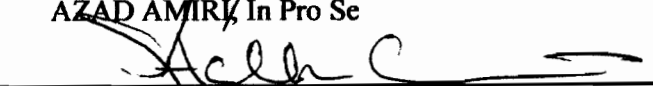
16 By 

17 ERIC S. PEZOLD
Attorneys for Plaintiff HSBC BANK USA


18 Dated: July 25, 2016.

19 
AZAD AMIRI, In Pro Se

20 Dated: July 25, 2016.

21 
HALEH AMIRI, Individually and as Managing
Member of Stars Holding Co. LLC.

22 Dated: July 25, 2016.

23 
NASRIN AMIRI, Individually and as Member of
Stars Holding Co. LLC

24 ///

25 SARBIT S. KANG, DARA PETROLEUM, INC.

26 ///

27 ///

28 ///

1 Good cause having been found on the basis of the Stipulation among the parties, the Court
2 orders:

3 **ORDER**

4 **IT IS ORDERED** that:

5 1. The Application by HSBC is ~~denied~~ granted in part, as per the terms of this
6 Order, and otherwise denied].

7 2. Stars, Amiri, Dara, Haleh Amiri ("Haleh"), and Nasrin Amiri ("Nasrin") are
8 hereby enjoined from transferring, encumbering, diverting, damaging, removing, obtaining
9 possession of, assigning, conveying, devising, pledging, selling, or disposing of, directly or
10 indirectly, in whole or in part, the real and personal property located at 3499 El Camino Avenue,
11 Sacramento, California (the "Property"), without further order of the Court.

12 3. Stars, Amiri, Dara, Haleh and Nasrin are hereby enjoined from interfering with or
13 delaying in any manner, direct or indirect, the foreclosure of the Property by Kevin Singer, the
14 court-appointed receiver, without further order of the Court.

15 4. The automatic stay of 11 U.S.C. section 362(a) shall not arise with respect to the
16 Property in any bankruptcy case filed under any chapter of Title 11 of the United States Code
17 whether such case is filed in the United States Eastern District of California or any other district
18 by or against Stars, Amiri, ~~Kang~~, Dara, Haleh or Nasrin.

19 5. Any voluntary or involuntary bankruptcy filing under any chapter of Title 11 of
20 the United States Code in the United States Eastern District of California by or against Stars,
21 Amiri, Kang, Dara, Haleh and/or Nasrin that is made after the entry of this Order until the
22 Property is foreclosed shall be referred to United States District Court Judge William B. Shubb
23 without further order of this Court. To this end, the bankruptcy reference as contained in General
24 Orders 182, 182-A and 223 of the United States District Court Eastern District of California is
25 hereby withdrawn with respect to any voluntary or involuntary bankruptcy filing under any
26 chapter of Title 11 of the United States Code in this District that is made after the entry of this
27 Order until the Property is foreclosed by or against Stars, Amiri, Kang, Dara, Haleh and/or
28 Nasrin.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. If any of Stars, Amiri, Dara, Haleh and/or Nasrin violate this Order regarding the injunction imposed according to Paragraphs 2 or 3 hereof, HSBC may immediately apply for:

a. Sanctions against any such person or entity violating the Order for the purpose of preventing continued violations, which shall be awarded by the Court in the amount of One Thousand Dollars (\$1000.00) per day of any continuing violation, levied individually against each person or entity in such violation, until the violation ceases to exist, or has been corrected in such manner as to eliminate the adverse effect of the violation on the receivership.

b. Issuance by this Court of an order to show cause why the party(ies) who have committed the violations should not be held in civil contempt, for recovery of damages and attorneys' fees and costs, incurred as a result of such violations. Upon such application by HSBC, the Court shall schedule briefing by the parties and a hearing on such shortened time, as the Court deems appropriate under the circumstances.

c. Such further relief as may be necessary or appropriate to allow the Receiver to continue with any actions within the authority granted by the Receivership Order, regardless of the actions by other parties in violation of this Order.

7. The Court reserves the right to amend this Order to include relief against Kang to the extent that HSBC seeks relief from the bankruptcy court overseeing the Kang Bankruptcy Case or if the Kang Bankruptcy Case is dismissed without a discharge.

Dated: 7/25/2016


HONORABLE WILLIAM B. SHUBB
United States District Court Judge