

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA
3 MODESTO CALIFORNIA

4 In re:) Case. No. -A-13
5)
6) D.C. No.
7)
8 Debtor(s))
9)
10)
11 Movant(s),) Date:
12 vs.) Time: 1:30 p.m.
13) Place: Courtroom
14) 1130 12th Street
15 Respondent(s)) Modesto, CA 95354
16)

17 ORDER ON MOTION FOR RELIEF FROM AUTOMATIC STAY

18 A hearing on the above-referenced motion was held at the
19 date, time and place set forth above. Appearances were noted on
20 the record. For the reasons set forth on the record and in the
21 minutes of the proceedings, it is hereby

22 ORDERED, that this order pertains to the property described
23 on Exhibit A.

24 ORDERED, that the motion is granted to the extent set forth
25 herein.

26 ORDERED, that continuation of the automatic stay is
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1 conditioned as follows: The automatic stay shall remain in effect
2 if the debtor(s)

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13 ORDERED, that if the debtor(s) fail to do any of the
14 foregoing, the court will modify the automatic stay to permit the
15 movant to foreclose and to obtain possession of the subject real
16 property following the sale, all in accordance with applicable
17 non-bankruptcy law, based on the declaration of a competent
18 witness. Any declaration of default and proposed order shall be
19 served by facsimile on the debtor(s)' counsel three court days
20 before submission to the court, and the transmittal to the court
21 shall include proof of such service. The only relevant
22 opposition to the creditor's declaration of default will consist
23 of a showing that the claimed default did not occur. Any order
24 terminating the automatic stay shall be served on the debtor(s),
25 debtor(s)' counsel, the chapter 13 trustee and the holders of all
26 junior liens.

1 ORDERED, that this motion may be restored to calendar not
2 more than once should the debtor(s) default in post-petition
3 mortgage payments during the period
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7 ORDERED, that if the motion is restored to calendar pursuant
8 to the foregoing paragraph: (A) movant shall file a supplemental
9 declaration, an updated Information Sheet (complying with LBR
10 4001-1(c)), verified payment history (complying with LBR 4001-
11 1(d)(1)(i), and statement compliant with LBR 4001-1(d)(ii) or (iii)
12 or LBR 4001-1(d)(2), if applicable, in the Modesto Division not
13 less than fifteen calendar days prior to the hearing, (B) movant
14 shall serve notice of the restored motion (with copies of the
15 required supplemental documentation, detailed above) not less
16 than fifteen calendar days prior to the hearing, plus three days
17 for mailing, (C) pursuant to LBR 1001-1(f), LBR 4001-1(a) and LBR
18 9014-1(f)(3), opposition, if any, shall be in writing and shall
19 be filed in the Modesto Division and served not less than seven
20 calendar days prior to the hearing, (D) the act of restoring the
21 motion to calendar shall constitute movant's consent that it is
22 movant's responsibility, if necessary, to obtain the opposition,
23 if any, from the court's internet case information system and
24 that movant's failure to do so for any reason, including without
25 limitation computer problems, constitutes grounds to deny the
26 restored motion and (E) pursuant to LBR 1001-1(f), no reply shall
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1 be permitted or considered.

2 ORDERED, that movant's request for attorney fees is granted.

3 Because the value of the collateral exceeds movant's claim, movant

4 may amend its claim to add attorneys fees equal to the lesser of

5 \$675 or the amount actually billed for this motion, plus costs of

6 \$150. However, if the automatic stay is modified to allow

7 foreclosure, movant may enforce any unpaid portion of the fee

8 award only against movant's collateral.

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14 ORDERED, that except as so ordered, the motion is denied.

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16 Dated:

Thomas C. Holman
United States Bankruptcy Judge

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28 EDC.003-205 (10/2003)