

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis  
Bankruptcy Judge  
Modesto, California

April 10, 2014 at 10:00 a.m.

- 
1. [13-91459-E-11](#) LIMA BROTHERS DAIRY CONTINUED MOTION FOR RELIEF  
WJS-1 Hagop T. Bedoyan FROM AUTOMATIC STAY  
9-26-13 [[34](#)]  
AMERICAN AGCREDIT, PCA VS.

CONT. FROM 3-6-14, 2-13-14, 1-16-14, 10-31-13, 10-10-13

Local Rule 9014-1(f)(2) Motion - Continued Hearing.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on September 26, 2013. By the court's calculation, 14 days' notice was provided. 14 days' notice is required. That requirement was met.

**Final Ruling:** The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion.

**The Motion for Relief from the Automatic Stay is continued to 10:00 a.m. on May 22, 2014 pursuant to the Stipulation of the parties.** No appearance at the April 10, 2014 hearing is required.

American AgCredit, PCA ("Movant") seeks relief from the automatic stay with respect to an asset identified as the Dairy Herd and milk pool quota. The moving party has provided the Declarations of Teresa Rose, Eric Capron, and Steve Gallichio to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor. Movant seeks relief pursuant to 11 U.S.C. § 362(d)(1), as cause exists because there is a potential for damage to the dairy herd from insufficient feed.

The Rose Declaration states that Debtor had borrowed total of \$2,561,128.14 from Movant. There have been post-petition payments received by milk check assignment, which may serve to decrease the total debt slightly.

The Capron Declaration states that Debtor had approximately 60 days of feed on hand on August 20, 2013. However, supplements needed to be purchased to generate feed mix with appropriate nutrition level (estimated cost of \$50,000). As of September 4, 2013, Debtor has failed to file a motion to appoint a broker to liquidate the herd.

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The Gallichio Declaration states that he performed a Dairy Valuation. He found that additional feed will need to be purchased. Also, the Debtor did not have supplements such as oat hay, straw or corn stalks for supplements with alfalfa. There are 3,403 animals which he valued at \$2,880,500.

Movant argues that it has been in contact with Debtor's Counsel and understood that the herd would be sold, but no motion to sell has been brought forward and then the September 11, 2013 status report by the Debtor also stated that Debtor expected to employ a broker to sell its livestock. However, no such motion has been filed to date.

## **PRIOR HEARINGS**

### **Stipulation for Relief and Continued Hearing**

The parties stated on the record a stipulation to grant the Motion and modifies the automatic stay the hearing to modify the stay to allow Movant to exercise its rights in the "Dry Cows," "bred heifers," "open heifers," "bucket calves (0-6 months)." For this relief, the 14-day stay of enforcement is waived. The hearing is continued as to the balance of the motion and collateral to 10:00 a.m. on October 31, 2013.

No additional documents have been filed to date either arguing for or against further relief from the stay.

## **DECEMBER 11, 2013 ORDER**

On December 11, 2013, the court continued the hearing on the motion for relief from the automatic stay. Dckt. 81.

## **JANUARY 8, 2014 ORDER**

On January 8, 2014, the court ordered that the hearing on the Motion for Relief be continued until February 13, 2013, to be heard at 10:00 am. Dckt. No. 98. It was further ordered that any opposition to the Motion be filed on or before January 30, 2014, and that any reply to opposition to the Motion be filed on or before February 6, 2014.

## **FEBRUARY 3, 2014 ORDER**

On February 3, 2014, the court ordered that the hearing on the Motion for Relief be continued until March 6, 2014 at 10:00 a.m., and trailed to be heard with the Chapter 11 Case Status Conference on the 3:30 p.m. calendar. Dckt. No. 136. It was further ordered that any opposition to the Motion be filed on or before February 20, 2014, and that any reply to opposition to the Motion be filed on or before February 27, 2014.

Nothing has been filed to date in conjunction with this Motion for Relief to date.

## **MARCH 6, 214 HEARING**

**April 10, 2014 at 10:00 a.m.**

The court notes the Status Conference Statement states that the Debtor-in-Possession has requested that Ag Credit agree to continue the hearing on this motion 30 days to give the Debtor-in-Possession time to file a Plan and Disclosure Statement.

The parties filed a stipulation to continue the hearing to April 10, 2014.

**APRIL 10, 2014 HEARING**

The parties filed a stipulation to continue the hearing to May 22, 2014. Dckt. 190.