

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

May 6, 2014 at 9:31 A.M.

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1. [13-33900](#)-B-7 DAYY PAYNE MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
4-2-14 [[36](#)]
SANTANDER CONSUMER USA, INC.
VS.

Tentative Ruling: The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral consisting of a 2013 Dodge Dart (VIN 1C3CDFBA3DD123563) (the "Collateral"), at 12:01 a.m. on December 2, 2013, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

The debtor did not file a compliant statement of intention with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2).

The court will issue a minute order.

2. [14-20010](#)-B-7 ALI/KELLY AKYUZ MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
4-4-14 [[46](#)]
NISSAN - INFINITI, LT VS.

Tentative Ruling: The motion is dismissed as moot. The automatic stay terminated as to the subject vehicle, a leased 2011 Nissan Altima (VIN 1N4AL2AP4BN507613) (the "Vehicle") at 12:01 a.m. on March 18, 2014, by operation of 11 U.S.C. § 365(p)(1), and the debtors' possessory interest in the Vehicle has from that date has no longer been property of the estate.

The debtors' petition was filed under chapter 7 on January 1, 2014. Pursuant to the applicable terms of 11 U.S.C. § 365(d)(1), the trustee may assume or reject an unexpired lease of personal property of the debtor within sixty (60) days after the order for relief. In this case, as of March 17, 2014, sixty days after the filing of debtor's petition, including the automatic enlargement of time afforded by Fed. R. Bankr. P. 9006(a)(1)(C), the chapter 7 trustee had not assumed or rejected the lease of the Vehicle. Pursuant to 11 U.S.C. § 365(p)(1), where a lease of personal property is rejected or not timely assumed by the trustee under section 362(d), the debtors' interest in the leased property is no longer property of the estate and the automatic stay under section 362(a)

is automatically terminated. Thus, the automatic stay terminated with respect to the Vehicle at 12:01 a.m. on March 18, 2014, by operation of 11 U.S.C. § 365(p)(1), and the debtors' possessory interest in the Vehicle has from that date no longer been property of the estate. The movant already has the relief it seeks by this motion.

The court will issue a minute order.

3. [14-20912](#)-B-7 ROGER/FONG HODGDON MOTION FOR RELIEF FROM
MJ-1 AUTOMATIC STAY
PNC BANK, N.A. VS. 3-27-14 [[15](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the debtors and the estate pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 2951 Erin Drive, Sacramento, California (APN 225-0990-020) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make nineteen (19) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary for an effective reorganization or rehabilitation in this chapter 7 case. The chapter 7 trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

4. [14-22539](#)-B-7 KENNETH WELKER MOTION FOR RELIEF FROM
RCO-1 AUTOMATIC STAY AND/OR MOTION
GREEN TREE SERVICING, LLC FOR ADEQUATE PROTECTION
VS. 4-7-14 [[13](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the debtor and the estate pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 8685 Skyway, Paradise, California (APN 051-101-017-000) (the "Property")

and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees or costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make fifty-four (54) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The chapter 7 trustee has filed a report of no distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

5. [13-32044](#)-B-7 KATHERINE FILLINGER MOTION FOR RELIEF FROM
DJJD-1 AUTOMATIC STAY
4-9-14 [[17](#)]
SETERUS, INC. VS.

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The motion is removed from the calendar. The movant withdrew the motion on April 24, 2014 (Dkt. 23).

6. [13-26848](#)-B-7 ERIC/SCHLONDA WILLIAMS MOTION FOR RELIEF FROM
MJ-1 AUTOMATIC STAY
3-18-14 [[54](#)]
FIRST MORTGAGE CORPORATION
VS.

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The motion is dismissed.

The motion is moot. The bankruptcy case was dismissed by order entered April 29, 2014 (Dkt. 64). The movant already has the relief it seeks by this motion.

The court will issue a minute order.

7. [14-22451](#)-B-7 BARTOLOME ARIAS AND MOTION FOR RELIEF FROM
PPR-1 CONSUELO VERDUZCO AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
4-4-14 [[13](#)]
- U.S. BANK, N.A. VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the debtors and the estate pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose on the real property located at 32 E. 21st Street, Tracy, California (APN 233-290-46) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make nineteen (19) mortgage payments. The debtors have filed a statement of intention to surrender the Property. The chapter 7 trustee has filed a report of no distribution.

The court will issue a minute order.

8. [13-34976](#)-B-11 CORINNE HUTTLINGER CONTINUED MOTION FOR RELIEF
CLH-2 FROM AUTOMATIC STAY
3-20-14 [[73](#)]
- ENVIRONMENTAL CPR, INC. VS.

Disposition Without Oral Argument: This motion continued from April 8, 2014. The court established a briefing schedule. Neither the movant nor any other party in interest has filed supplemental briefing. This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. Pursuant to 11 U.S.C. § 362(d)(1), the automatic stay is modified to permit movant to prosecute Contra Costa County Superior Court Case no. L13-04304 (the "State Court Action") to judgment or settlement. The automatic stay is not modified to permit execution on any judgment that movant may obtain. Except as so ordered, the motion is denied.

The court will issue a minute order.

9. [10-33091](#)-B-7 GASSPECS, INC.
SSA-3

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-19-14 [[285](#)]

STEPHEN FERLMANN VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted to the extent set forth herein. Pursuant to Fed. R. Bankr. P. 9019, the Stipulation (Dkt. 285) between the chapter 7 trustee and L&W Construction, Inc. ("L&W") is approved and shall be binding between the parties thereto. Pursuant to the Stipulation, the automatic stay is modified to permit the parties thereto to proceed to dismiss with prejudice their remaining claims and counterclaims in L & W Construction, Inc. v. Gasspecs, Inc. et al., San Joaquin County Superior Court case number 39-2008-00192986-CU-BC-STK on the terms and conditions set forth in the Stipulation. Except as so ordered, the motion is denied.

The court construes this motion as primarily seeking approval of a compromise of a controversy between the trustee and L&W. The court has great latitude in approving compromise agreements. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988). The court is required to consider all factors relevant to a full and fair assessment of the wisdom of the proposed compromise. Protective Committee For Independent Stockholders Of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 88 S.Ct. 1157, 20 L.Ed.2d 1 (1968). The court will not simply approve a compromise proffered by a party without proper and sufficient evidence supporting the compromise, even in the absence of objections.

As to the compromise, the chapter 7 trustee alleges without dispute that the Agreement is fair and equitable. The chapter 7 trustee alleges without dispute that the costs involved in pursuing claims against L&W, coupled with the uncertainty of the litigation and the existence of significant priority claims in the case that continued litigation would yield no benefit to general unsecured creditors. The court finds that the compromise is a reasonable exercise of the trustee's business judgment. In re Rake, 363 B.R. 146, 152 (Bankr. D. Idaho 2006). Accordingly, the court finds that the trustee has carried his burden of persuading the court that the proposed compromise is fair and equitable, and the motion is granted.

The court will issue a minute order.

10. [14-20093](#)-B-7 CATHERINE PITTS
CJO-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-16-14 [[12](#)]

U.S. BANK TRUST, N.A. VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.