

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

May 13, 2014 at 9:31 A.M.

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1. [11-42505](#)-B-13 WILLIAM PARSONS AND MOTION FOR RELIEF FROM
TRM-52 SHERENE CHANDLER AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
4-4-14 [[66](#)]
- WEST MAUI RESORT PARTNERS,
LP 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 debtor and the estate pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to foreclose on the real property located at 104 Kaanapali Shores Place, Lahaina, Maui, Hawaii (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.

The movant alleges without dispute that the debtors are obligated to the creditor pursuant to a promissory note made by the debtors for the creditor, which note is secured by a Purchase Money Mortgage Security Agreement and Financing Statement With Power of Sale, both of which were filed as exhibits to the motion, and both of which identify the movant, West Maui Resort Partners, LP, as the lender and obligee. The debtors' chapter 13 plan (Dkt. 41), confirmed by order entered August 16, 2012 (Dkt. 61), does not provide for the movant's claim. The plan provides for a claim in favor of "Diamond Resorts Financial" secured by a "Hawaii timeshare," which may or may not be the Property as neither the plan nor the debtors' sworn schedules identify the "Hawaii timesahre" more specifically. The movant alleges without dispute that it has not received thirteen post-petition payments based on the obligation secured by the Property. The foregoing constitutes a lack of adequate protection and cause for relief from the automatic stay.

The court will issue a minute order.

2. [13-35509](#)-B-13 JEFFERY/PATRICIA COTA
APN-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
4-14-14 [[25](#)]

BMW BANK OF NORTH AMERICA
VS.

Tentative Ruling: The motion is dismissed as moot. Section 2.11 of the debtors' chapter 13 plan, filed December 19, 2013, (Dkt. 5), confirmed by order entered March 7, 2014, (Dkt. 24), already provides relief from the "all bankruptcy stays," including the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a), for this Class 4 claim regarding a 2007 BMW M6 (VIN WBSEK93517CY78825) (the "Collateral"). The movant already has the relief it seeks by this motion.

The court will issue a minute order.