

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis  
Bankruptcy Judge  
Sacramento, California

July 22, 2014 at 1:30 p.m.

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1. [14-22811-E-13](#) ADELAIDA VASQUEZ MOTION FOR RELIEF FROM  
PD-1 Pro Se AUTOMATIC STAY  
6-9-14 [[32](#)]

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

DISMISSED 7-9-14

**Final Ruling:** No appearance at the July 22, 2014 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 13 Trustee, and Office of the United States Trustee on June 9, 2014. By the court's calculation, 43 days' notice was provided. 28 days' notice is required.

The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

**The Motion for Relief From the Automatic Stay is granted.**

U.S. Bank National Association, as Trustee for Residential Funding Mortgage Securities I, Inc., Mortgage Pass-Through Certificates, Series 2005-SA4 ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 615 Vervais Ave, Vallejo, California (the "Property"). Movant has provided the Declaration of Rodeny Carpenter to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The court dismissed the bankruptcy case on July 9, 2014. Though dismissing the case, the court has continuing jurisdiction to address the conduct of counsel and creditor parties appearing in this case. The court's

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jurisdiction over parties concerning their conduct in a bankruptcy case or adversary proceeding is not terminated by the dismissal of the case or adversary proceeding. *Schering Corp. v. Vitarine Pharmaceuticals, Inc.*, 889 F.2d 490, 495-496 (3rd Cir. 1989) ("The analogy of Rule 11 sanctions to contempt proceedings is apt. Both are designed to deter misbehavior before the Court. See Fed. R. Civ. P. 11, advisory committee's note ('Since its original promulgation, Rule 11 has provided for the striking of pleadings and imposition of disciplinary sanctions to check abuses in the signing of pleadings...To hold that a district court has no power to order sanctions after a voluntary dismissal is to emasculate Rule 11 in those cases where wily plaintiffs file baseless complaints, unnecessarily sap the precious resources of their adversaries and the courts, only to insulate themselves from sanctions by promptly filing a notice of dismissal.');

*Greenberg v. Sala*, 822 F.2d 882, 885 (9th Cir. 1987) ("At the time the district court denied the defendants' motions for Rule 11 sanctions, the case had been dismissed. The dismissal, however, did not deprive the court of jurisdiction to consider the motions. See *Szabo Food Service, Inc. v. Canteen Corp.*, No. 86-3093, slip op. (7th Cir. Jun. 29, 1987) (voluntary dismissal under Rule 42(a)(1)).")

The Carpenter Declaration states that there are post-petition defaults in the payments on the obligation secured by the Property, with a total of \$1717.02 in post-petition payments past due.

Trustee has filed a response in support of Movant's motion. Stating that the Debtor is delinquent \$2,400 under the proposed plan and has paid \$0.00 to date. (Dckt. 47).

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$425,857.76 (including \$326,250.00 secured by Movant's first deed of trust), as stated in the Carpenter Declaration and Schedule D filed by Adelaida Vasquez ("Debtor"). The value of the Property is determined to be \$200,000.00, as stated in Schedules A and D filed by Debtor.

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments which have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Property for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). Based upon the evidence submitted to the court, and no opposition, the court determines that there is no equity in the property for either the Debtor or the Estate, and the property is not necessary for any effective reorganization in this

Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

Furthermore, 11 U.S.C. § 362(d)(4) allows the court to grant relief from stay where the court finds that the petition was filed as part of a scheme to delay, hinder or defraud creditors that involved either (i) transfer of all or part ownership or interest in the property without consent of secured creditors or court approval or (ii) multiple bankruptcy cases affecting the property. 3 Collier on Bankruptcy ¶ 362.07 (Alan N. Resnick & Henry J. Sommer eds. 16<sup>th</sup> ed.).

The court finds that proper grounds exist for issuing an order pursuant to 11 U.S.C. § 364(d)(4). Movant has provided sufficient evidence concerning a series of seven (7) bankruptcy cases being filed with respect to the subject property. The court finds that the filing of the present petition works as part of a scheme to delay, hinder, or defraud Movant with respect to the Property by both the transfer of an interest in the property and the filing of multiple bankruptcy cases.

The moving party's request for attorney fees is denied, as the Motion fails to state with particularity the grounds for relief, including the provisions of the deed of trust and any other contractual provisions from which relief can be granted. See Fed. R. Bankr. P. 9013. The court cannot determine what "non-bankruptcy law" is being asserted as the basis for attorney fees. Though the points and authorities makes reference to the deed of trust, the movant was unable to direct the court to any specific provision. Further, no information is given as to the amount of legal fees requested, the legal fees counsel is actually being paid for the motion, or how the court could determine if the fees were reasonable. As such, the request for attorney fees is denied. FN.1

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FN.1. Notwithstanding denying the request for attorneys' fees in this contested matter, this creditor and counsel have presented a plausible basis for the court awarding reasonable attorneys' fees in connection with a motion for relief which a creditor could include as part of its bid or payoff demand in connection with a non-judicial foreclosure. While not part of the secured claim to be paid through bankruptcy, 11 U.S.C. § 506(b), and not knowing whether there is an unsecured claim, California Code of Civil Procedure §§ 580b and 580d anti-deficiency issues, such may well not be an impediment to the awarding of reasonable attorneys fees, actually incurred and paid or to be paid, for the legal services rendered.  
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No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Automatic Stay filed by U.S. Bank National Association, as Trustee for Residential Funding Mortgage Securities I, Inc., Mortgage Pass-Through Certificates, Series 2005-SA4 having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are immediately vacated to allow U.S. Bank National Association, as Trustee for Residential Funding Mortgage Securities I, Inc., Mortgage Pass-Through Certificates, Series 2005-SA4, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 615 Vervais Ave, Vallejo, California.

**IT IS FURTHER ORDERED** that relief is granted pursuant to 11 U.S.C. § 362(d)(4) with this order granting relief from the stay, if recorded in compliance with applicable State laws governing notices of interests or liens in real property, shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except as ordered by the court in any subsequent case filed during that period.

No other or additional relief is granted.

2. [13-34624-E-13](#) DEBRA RANDELL  
PD-1 Mark W. Briden

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-20-14 [[81](#)]

FLAGSTAR BANK, FSB VS.

**Tentative Ruling:** The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on June 20, 2014. By the court's calculation, 32 days' notice was provided. 28 days' notice is required.

The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the non-responding parties are entered.

**The Motion for Relief From the Automatic Stay is granted.**

Flagstar Bank, FSB ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 5648 Mountain View Dr, Redding, California (the "Property"). Movant has provided the Declaration of Alissa Sheesley to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Sheesley Declaration states that there are 7 post-petition defaults in the payments on the obligation secured by the Property, with a total of \$18,206.23 in post-petition payments past due. The Declaration also provides evidence that there are pre-petition payments in default, with a pre-petition arrearage of \$90,357.73.

#### **DEBTOR'S OPPOSITION**

Opposition has been filed by Debra Randell ("Debtor") asserting the

debtor will file a Third Amended Chapter 13 Plan on or before July 11, 2014. Debtor states the Third Amended Chapter 13 Plan will re-classify movant creditor, Flagstar Bank FSB, as a Class Two creditor and provide Adequate Protection payments of \$1,661.00 monthly and retroactive to December 25, 2013, the date of the initial Chapter 13 Plan payment. Payments would continue until a loan modification is finalized. However, no new plan has been filed to date.

Debtor withdrew the opposition on July 10, 2014.

## **DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$492,320.47 (including \$417,050.47 secured by Movant's first deed of trust), as stated in the Sheesley Declaration and Schedule D filed by ("Debtor"). The value of the Property is determined to be \$320,000.00 as stated in Schedules A and D filed by Debtor.

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments which have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Property for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). Based upon the evidence and opposition submitted to the court, the court determines that there is no equity in the property for either the Debtor or the Estate, and the property is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

The moving party's request for attorney fees is denied, as the Motion fails to state with particularity the grounds for relief, including the provisions of the deed of trust and any other contractual provisions from which relief can be granted. See Fed. R. Bankr. P. 9013. The court cannot determine what "non-bankruptcy law" is being asserted as the basis for attorney fees. Though the points and authorities makes reference to the

deed of trust, the movant was unable to direct the court to any specific provision. Further, no information is given as to the amount of legal fees requested, the legal fees counsel is actually being paid for the motion, or how the court could determine if the fees were reasonable. As such, the request for attorney fees is denied. FN.1

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FN.1. Notwithstanding denying the request for attorneys' fees in this contested matter, this creditor and counsel have presented a plausible basis for the court awarding reasonable attorneys' fees in connection with a motion for relief which a creditor could include as part of its bid or payoff demand in connection with a non-judicial foreclosure. While not part of the secured claim to be paid through bankruptcy, 11 U.S.C. § 506(b), and not knowing whether there is an unsecured claim, California Code of Civil Procedure §§ 580b and 580d anti-deficiency issues, such may well not be an impediment to the awarding of reasonable attorneys fees, actually incurred and paid or to be paid, for the legal services rendered.  
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No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Automatic Stay filed by Flagstar Bank, FSB having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are immediately vacated to allow Flagstar Bank, FSB, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 5648 Mountain View Dr, Redding, California.

No other or additional relief is granted.

3. [13-22028-E-13](#) FAITH EVANS  
[14-2105](#)  
EVANS V. MOULTON ET AL

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
4-16-14 [[1](#)]

Plaintiff's Atty: Patricia Wilson  
Defendant's Atty: Pro Se  
Real Parties in Interest: unknown

Adv. Filed: 4/16/14  
Answer: 5/14/14

Nature of Action:  
Recovery of money/property - turnover of property  
Recovery of money/property - other

Notes:

Continued from 7/9/14 to allow Defendant to consult with attorney.

4. [14-22297-E-13](#) ANTHONY FURR  
TJS-2 Pro Se

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR RELIEF FROM CO-DEBTOR STAY  
6-23-14 [[51](#)]

PENNYMAC HOLDINGS, LLC VS.

DISMISSED 7-9-14

**Tentative Ruling:** The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on June 23, 2014. By the court's calculation, 29 days' notice was provided. 28 days' notice is required.

The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the non-responding parties are entered.

**The Motion for Relief From the Automatic Stay is granted.**

PennyMac Holdings, LLC fka PennyMac Mortgage Investment Trust Holdings, I, LLC ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 2822 H Street, Sacramento, California (the "Property"). Movant has provided the Declaration of Rita Garcia, Bankruptcy Manager, to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The court dismissed the bankruptcy case on July 9, 2014. Though dismissing the case, the court has continuing jurisdiction to address the conduct of counsel and creditor parties appearing in this case. The court's jurisdiction over parties concerning their conduct in a bankruptcy case or adversary proceeding is not terminated by the dismissal of the case or

adversary proceeding. *Schering Corp. v. Vitarine Pharmaceuticals, Inc.*, 889 F.2d 490, 495-496 (3rd Cir. 1989) ("The analogy of Rule 11 sanctions to contempt proceedings is apt. Both are designed to deter misbehavior before the Court. See Fed. R. Civ. P. 11, advisory committee's note ('Since its original promulgation, Rule 11 has provided for the striking of pleadings and imposition of disciplinary sanctions to check abuses in the signing of pleadings...To hold that a district court has no power to order sanctions after a voluntary dismissal is to emasculate Rule 11 in those cases where wily plaintiffs file baseless complaints, unnecessarily sap the precious resources of their adversaries and the courts, only to insulate themselves from sanctions by promptly filing a notice of dismissal.');

*Greenberg v. Sala*, 822 F.2d 882, 885 (9th Cir. 1987) ("At the time the district court denied the defendants' motions for Rule 11 sanctions, the case had been dismissed. The dismissal, however, did not deprive the court of jurisdiction to consider the motions. See *Szabo Food Service, Inc. v. Canteen Corp.*, No. 86-3093, slip op. (7th Cir. Jun. 29, 1987) (voluntary dismissal under Rule 42(a)(1)).")

The Garcia Declaration states that there are three (3) post-petition defaults in the payments on the obligation secured by the Property, with a total of \$11,933.46 in post-petition payments past due. The Declaration also provides evidence that there are 57 pre-petition payments in default, with a pre-petition arrearage of \$240,068.57.

The Garcia Declaration also provides that this case is one of three cases filed by Debtor that affect the subject real property: First case filed February 1, 2012 (Case No. 12-22048); Second Case filed April 27, 2012 (Case No. 12-28240) and this case, filed March 6, 2014, one day before the scheduled foreclosure sale.

## **OPPOSITION**

Opposition has been filed by Anthony Furr "Debtor" asserting various arguments about transferring the subject property, ownership dispute with Movant regarding being a party in interest and the Note, assignment and chain of title issues, and issues with MERS.

As previously stated by the Bankruptcy Appellate Panel in *Hamilton v. Hernandez*, No. CC-04-1434-MaTK, 2005 Bankr. LEXIS 3427 (B.A.P. 9th Cir. Aug. 1, 2005), relief from stay proceedings are summary proceedings which address issues arising only under 11 U.S.C. Section 362(d). *Hamilton*, 2005 Bankr. LEXIS 3427 at \*8-\*9 (citing *Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985)). In 2013 the Ninth Circuit Court of Appeals reaffirmed the limited scope of motions for relief in *Arkison v. Griffin (In re Griffin)*, 719 F.3d 1126 (9th Cir. 2013), stating,

"A proceeding to determine eligibility for relief from a stay only determines whether a creditor should be released from the stay in order to argue the merits in a separate proceeding. *Johnson v. Righetti*, 756 F.2d 738, 740-41 (9th Cir. 1985). Given the limited nature of the relief obtained through this proceeding and because final adjudication of the parties' rights and liabilities is yet to occur, a party seeking stay relief need only establish that it has a

colorable claim to the property at issue. *In re Veal*, 450 B.R. 897, 914-15 (B.A.P. 9th Cir. 2011)."

This bankruptcy court does not determine underlying issues of ownership, contractual rights of parties, or issue declaratory relief. That litigation is left to a court properly exercising jurisdiction over the dispute and resolving those matter in a lawsuit between the parties. See Fed. R. Bankr. P. 7001 requiring an adversary proceeding if the bankruptcy court exercises federal court jurisdiction to determine the extent, validity, priority, or amount of an interest in or lien against property.

#### **TRUSTEE'S RESPONSE**

Trustee states that there is a pending motion to dismiss and that there is no current plan on file.

#### **DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$840,465.44, secured by Movant's first deed of trust, as stated in the Garcia Declaration. Debtor valued the real property as \$.00 in Schedule D. Movant has provided a Broker's Price Opinion valuing the property at \$435,000.00.

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments which have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Property for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). Based upon the evidence submitted to the court, the opposition of the Debtor, the court determines that there is no equity in the property for either the Debtor or the Estate, and the property is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

Furthermore, 11 U.S.C. § 362(d)(4) allows the court to grant relief from stay where the court finds that the petition was filed as part of a scheme to delay, hinder or defraud creditors that involved either (i) transfer of all or part ownership or interest in the property without consent of secured creditors or court approval or (ii) multiple bankruptcy cases affecting the property. 3 Collier on Bankruptcy ¶ 362.07 (Alan N. Resnick & Henry J. Sommer eds. 16th ed.).

The court finds that proper grounds exist for issuing an order pursuant to 11 U.S.C. § 364(d)(4). Movant has provided sufficient evidence concerning a series of three (3) bankruptcy cases being filed with respect to the subject property. The court finds that the filing of the present petition works as part of a scheme to delay, hinder, or defraud Movant with respect to the Property by both the transfer of an interest in the property and the filing of multiple bankruptcy cases.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waving the 14-day stay of enforcement required under Rule 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Automatic Stay filed by PennyMac Holdings, LLC fka PennyMac Mortgage Investment Trust Holdings, I, LLC having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are immediately vacated to allow PennyMac Holdings, LLC fka PennyMac Mortgage Investment Trust Holdings, I, LLC, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed which is recorded against the property to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale obtain possession of the real property commonly known as 2822 H Street, Sacramento, California.

**IT IS FURTHER ORDERED** that relief is granted pursuant to 11 U.S.C. § 362(d)(4) with this order granting relief from the stay, if recorded in compliance with applicable State laws governing notices of interests or liens in real property, shall be binding in any other case under this title purporting to affect such real property filed not

later than 2 years after the date of the entry of such order by the court, except as ordered by the court in any subsequent case filed during that period.

**IT IS FURTHER ORDERED** that the fourteen (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is waived for cause shown by Movant.

No other or additional relief is granted.