

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

September 17, 2013 at 9:31 A.M.

1. [13-27508](#)-B-7 LINDA MCINNES MOTION FOR RELIEF FROM
EAT-1 AUTOMATIC STAY
8-16-13 [[12](#)]
ONEWEST BANK, FSB VS.

Tentative Ruling: This motion is unopposed. In this instance, the court issues the following abbreviated tentative ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d) (1) in order to permit the movant to foreclose on the real property located at 7122 Bonita Avenue, Citrus Heights, CA 95610 ("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 ordered waived. Except as so ordered, the motion is denied.

As it pertains to relief pursuant to 11 U.S.C. § 362 (d) (2), the motion is denied. According to the movant's own calculations, the fair market value of the Property is \$225,000.00. The total of all liens on the Property is \$199,502.61. Therefore, the debtor's equity in the Property is \$25,497.39.

Movant alleges without dispute that the debtor has failed to make seven (7) mortgage payments. Movant incorrectly alleges 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 trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

2. [12-39612](#)-B-7 PHILLIP/MARY SWIMLEY MOTION FOR RELIEF FROM
KMR-1 AUTOMATIC STAY
8-16-13 [[55](#)]
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 against the estate and the debtors 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 1212 Caribou Pl, Davis, CA 95616-5717 ("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. 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 trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

3. [13-29015](#)-B-7 COLIN/SHERRY CHOMEZKO MOTION FOR RELIEF FROM
JBB-1 AUTOMATIC STAY
8-9-13 [[12](#)]
VANTAGE WEST CREDIT UNION
VS.

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

The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral, a 2006 Chrysler PT Cruiser (VIN 3A4FY58B16T341404) (the "Collateral"), at 12:01 a.m. on August 3, 2013, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

There is no evidence that the debtors performed the intention stated in their statement filed under 11 U.S.C. § 521(a)(2) (retain and reaffirm) with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2)(B).

The court will issue a minute order.

4. [12-39019](#)-B-7 APRIL HOLLY MOTION FOR RELIEF FROM
PD-1 AUTOMATIC STAY
8-30-13 [[131](#)]
UNION BANK, 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.

5. [13-27919](#)-B-7 FRANK OMIATEK
NLG-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-8-13 [[26](#)]

FEDERAL NATIONAL MORTGAGE
ASSOCIATION 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 against the estate and the debtor 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 3099 Degolia Street, Placerville, CA 95667 ("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 ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make fifteen (15) 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 trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

6. [13-30823](#)-B-7 FRANK ARRIAGA
RTD-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-20-13 [[7](#)]

YOLO FEDERAL CREDIT UNION
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 against the estate and the debtor 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 613 Connor Lane, Woodland, CA 95695 ("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 debtor has failed to make three (3) 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 court will issue a minute order.

7. [13-29435](#)-B-7 JOSEPH/KRISTA CORSENTINO MOTION FOR RELIEF FROM
JFL-1 AUTOMATIC STAY
8-16-13 [[9](#)]
FEDERAL NATIONAL MORTGAGE
ASSOCIATION 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 against the estate and the debtors 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 7112 Treetop Court, Citrus Heights, CA 95621. ("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. The court awards no fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make thirteen (13) 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 trustee has filed a statement of non-opposition to the motion and a report of no distribution.. The debtors have filed a statement of intent to surrender the Property.

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.

8. [13-26640](#)-B-7 DONNA/HARVEY BILLS MOTION FOR RELIEF FROM
CJO-1 AUTOMATIC STAY
8-23-13 [[48](#)]
JPMORGAN CHASE BANK, 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.

9. [13-20645](#)-B-7 ROBERT/TRISTINA KITAY MOTION FOR RELIEF FROM
SEG-1 AUTOMATIC STAY
8-15-13 [[96](#)]
SCOTT GOOD 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.

10. [13-28748](#)-B-7 ROBIN MURPHY MOTION FOR RELIEF FROM
PPR-1 AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
8-14-13 [[12](#)]
CALIFORNIA HOUSING FINANCE
AGENCY 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 against the estate and the debtor 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 3954 Bainbridge Drive, North Highlands, CA 95660 ("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 debtor has failed to make six (6) 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 trustee has filed a statement of non-opposition to the motion and a report of no distribution. The debtor has filed a statement of intent to surrender the Property.

The court will issue a minute order.

11. [13-26549](#)-B-7 LORA MESSERET MOTION FOR RELIEF FROM
EAT-1 AUTOMATIC STAY
8-20-13 [[23](#)]
PHH MORTGAGE CORP. VS.

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

The motion is granted in part and dismissed as moot in part. As to the debtor, the motion is dismissed as moot. The automatic stay terminated with respect to the debtor at 12:01 a.m. on June 10, 2013, by operation

of 11 U.S.C. § 362(c)(3)(A). As to the estate, the automatic stay is modified 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 330 Jade Circle, Vallejo, CA 94590-8187 ("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.

The debtor has had one Chapter 7 bankruptcy case, case no. 13-21604, pending and dismissed within the past year. The case was filed on February 7, 2013, and dismissed on May 2, 2013. Based on this filing and dismissal, the automatic stay in the current case terminated with respect to the debtor on the 30th day after the filing of the petition. 11 U.S.C. § 362(c)(3)(A). The debtor failed to file a motion for continuation of the automatic stay before the expiration of the 30-day period. 11 U.S.C. § 362(c)(3)(B).

The movant alleges without dispute that the debtor has failed to make fourteen (14) mortgage payments. The 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 trustee has filed a report of no distribution.

The court will issue a minute order.

12. [13-30666](#)-B-7 VIET TRAN MOTION FOR RELIEF FROM
SW-1 AUTOMATIC STAY
8-30-13 [[9](#)]
WELLS FARGO BANK, 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.

13. [13-26980](#)-B-7 TROY/BONNI SORBER MOTION FOR RELIEF FROM
NLG-1 AUTOMATIC STAY
8-8-13 [[12](#)]
FEDERAL NATIONAL MORTGAGE
ASSOCIATION VS.

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

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on September 10, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified 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 4921 Volcanoville Road, Georgetown, CA 95634 ("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 ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make fourteen (14) 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 trustee has filed a report of no distribution.

The court will issue a minute order.

14. [13-22683](#)-B-7 MARLON/NIKKI HUMPHREYS MOTION FOR RELIEF FROM
NLG-1 AUTOMATIC STAY
8-23-13 [[24](#)]
FEDERAL NATIONAL MORTGAGE
ASSOCIATION VS.

Disposition Without Oral Argument: The court issues the following abbreviated ruling.

The motion is denied without prejudice.

The movant did not give sufficient notice of the motion. This motion is filed under LBR 9014-1(f)(1), which requires that the motion be filed and served 28 days before the date of the hearing. The movant filed and served the motion on August 23, 2013, only 25 days before the date of the hearing.

The court will issue a minute order.

15. [13-27393](#)-B-7 LARRY/CATHERINE DUCHARME MOTION FOR RELIEF FROM
KMR-1 AUTOMATIC STAY
8-7-13 [[16](#)]
BANK OF NEW YORK MELLON VS.

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

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on September 9, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified 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 27527 South Chrisman Road, Tracy, CA 95376 ("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 eight (8) 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

trustee has filed a report of no distribution.

The court will issue a minute order.

16. [13-28498](#)-B-7 INESE/ERIK SILENIEKS MOTION FOR RELIEF FROM
NLG-1 AUTOMATIC STAY
8-16-13 [[10](#)]
FEDERAL NATIONAL MORTGAGE
ASSOCIATION 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 against the estate and the debtors 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 4748 Greenholme Drive #3, Sacramento, CA 95842 ("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 ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make nine (9) 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 trustee has filed a report of no distribution.

The court will issue a minute order.