

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Chief Bankruptcy Judge

Modesto, California

November 12, 2015 at 10:00 a.m.

-
1. [14-91500](#)-E-7 LAURA AKIN CONTINUED MOTION FOR RELIEF
 APN-1 Pro se FROM AUTOMATIC STAY
 9-22-15 [[28](#)]

WELLS FARGO BANK, N.A. VS.
WITHDRAWN BY M.P.

Final Ruling: No appearance at the November 12, 2015 hearing is required.

Wells Fargo Bank, N.A. having filed a Withdrawal of the Motion for Relief from the Automatic Stay (Dckt. 38), pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041 **the Motion was dismissed without prejudice, and the matter is removed from the calendar.**

2. [15-90411](#)-E-7 JOHN/MONICA BERGMAN MOTION FOR RELIEF FROM
 EAT-1 Charles L. Hastings AUTOMATIC STAY
 9-30-15 [[41](#)]

NATIONSTAR MORTGAGE, LLC 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.

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

November 12, 2015 at 10:00 a.m.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, parties requesting special notice, and Office of the United States Trustee on September 30, 2015. 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). The defaults of the non-responding parties are entered.

The Motion for Relief From the Automatic Stay is granted.

MOTION FOR RELIEF FROM AUTOMATIC STAY

Nationstar Mortgage LLC ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 3112 Highgate Rd, Modesto, California (the "Property"). Dckt. 41. Movant has provided the Declaration of Raquel Bryan to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Bryan Declaration states that there are 3 post-petition defaults in the payments on the obligation secured by the Property, with a total of \$5,428.71 in post-petition payments past due. Dckt. 44.

DEBTOR'S DECLARATION IN RESPONSE

John and Monica Bergman ("Debtor") filed a declaration to oppose the instant Motion on October 27, 2015. Dckt. 62. Debtor asserts that, after Debtor filed for Chapter 7 relief, Nationstar stopped sending monthly mortgage statements to Debtor and refused to do so even after Debtor requested the statements be sent. *Id.* ¶ 4-5. Debtor attached Exhibit A, titled a "Printout from Bank of the West checking account." Exhibit A states that, during the time frame of July 1, 2015, through September 2, 2015, a monthly payment of \$1,829.22 was paid to a "Nationstar Mortgage *1374" on July 24, 2015. Dckt. 63 Exh. A

MOTION TO ABANDON

The Trustee has filed a Motion to Abandon the Highgate Road Property. Motion, Dckt. 57. The Trustee asserts that there is no equity in the Property for the bankruptcy estate and it is of inconsequential benefit and value to the estate.

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 \$360,527.88 (including \$304,289.97 secured by Movant's first deed of trust), as stated in the Bryan Declaration and Schedule D filed by Debtor. The value

of the Property is determined to be \$270,000.00, 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 does not grant the relief on the alleged grounds of non-payment and makes no determination as to whether a default in payments exists.

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). This being a Chapter 7 case, the property is *per se* not necessary for an effective reorganization. See *In re Preuss*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

Debtor's declaration in opposition to the Motion asserts that upon the filing of the bankruptcy case Nationstar Mortgage stopped sending the monthly payment statements and would not confirm that payments had been made by Debtor. Further, that as of the commencement of this case Debtor was current on the payments and no default existed. Declaration, Dckt. 62. This may raise issues for Debtor and Nationstar Mortgage concerning performance of the parties contractual obligations under the note and deed of trust, and applicable statutory obligations, concerning performance under and proper loan servicing. However, these issues exceed the scope of this Motion for Relief proceeding. *Hamilton v. Hernandez*, No. CC-04-1434-MaTK, 2005 Bankr. LEXIS 3427 (B.A.P. 9th Cir. Aug. 1, 2005) (citing *Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985)).

The abandonment of the property will result in the termination of the automatic stay as it applies to the Property. 11 U.S.C. § 362(c)(1). The deadline to object to the entry of a discharge for Debtor expired on October 23, 2015. Order, Dckt. 51. No adversary proceeding objecting to entry of Debtor's discharge has been filed. With the entry of the discharge, the automatic stay shall terminate as to Debtor, replaced by the discharge injunction. 11 U.S.C. § 362(c)(2)(C); § 524.

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.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the 14-day stay of enforcement required under Rule 4001(a)(3). The Motion merely requests such relief in the prayer, leaving it to the court to determine what grounds, if any, are those upon which such relief is based (subject to the certifications under Fed. R. Bank. P. 9011). This additional relief, setting aside the fourteen day stay of enforcement set

forth by the Supreme Court in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not 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 Nationstar Mortgage LLC ("Movant") 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 Nationstar Mortgage 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 3112 Highgate Rd, Modesto, California.

IT IS FURTHER ORDERED that the fourteen (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is not waived.

No other or additional relief is granted.

3. 15-90831-E-7 DAVID/LOUANE ANDERSON MOTION FOR RELIEF FROM
 RCO-1 Christian J. Younger AUTOMATIC STAY
 9-30-15 [[11](#)]

JAMES B. NUTTER & COMPANY
VS.

Final Ruling: No appearance at the November 12, 2015 hearing is required.

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, Debtor's Attorney, Chapter 7 Trustee, and Office of the United States Trustee on September 30, 2015. 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.

<p>The Motion for Relief From the Automatic Stay is granted.</p>

James B. Nutter & Company ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 20900 Morgan Drive, Groveland, California (the "Property"). Movant has provided the Declaration of Loretta Fierro to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Fierro Declaration states that there is a principal balance due of \$272,308.05. Dckt. 15 ¶ 4. Movant also requests the court take judicial notice of Debtor's Statement of Intention to surrender the property to Movant. Dckt. 1 p. 41.

David and Louane Anderson ("Debtor") did not file opposition to the motion.

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 \$288,899.38 (including \$272,842.14 secured by Movant's first deed of trust), as stated in the Fierro Declaration and Schedule D filed by Debtor. The value

of the Property is determined to be \$180,000.00, as stated in Schedules A and D filed by Debtor. Dckt. 1 Schedules A, D.

Movant's contention that the mere lack of equity is "cause," as set forth in 11 U.S.C. § 362(d)(1) is without merit. Lack of equity is one of the two necessary elements for relief from the automatic stay under 11 U.S.C. § 362(d)(2). The fact that the debtor has no equity in the estate is not sufficient, standing alone, to grant relief from the automatic stay under 11 U.S.C. § 362(d)(1). *In re Suter*, 10 B.R. 471, 472 (Bankr. E.D. Penn. 1981); *In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). Moving party has not adequately plead or provided an evidentiary basis for granting relief for "cause."

However, 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). This being a Chapter 7 case, the property is *per se* not necessary for an effective reorganization. See *In re Preuss*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the 14-day stay of enforcement required under Rule 4001(a)(3). Specifically, that Debtor has stated the intention to surrender this property so that Movant may proceed to foreclose on the Property. This part of the requested relief is not 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 James B. Nutter & Company ("Movant") 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 James B. Nutter & Company, 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 20900 Morgan Drive, Groveland, California.

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.

4. [15-90852](#)-E-7 BERNARD/SANDRA LEIGHTON MOTION FOR RELIEF FROM
PPR-1 Ashley R. Amerio AUTOMATIC STAY
9-29-15 [[11](#)]
BANK OF AMERICA, N.A. 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.

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 7 Trustee on September 28, 2015. By the court's calculation, 45 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 denied.

MOTION FOR RELIEF FROM STAY

Bank of America, N.A. ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 1601 Vivian Road, Modesto, California (the "Property"). Movant has provided the Declaration of Wilmore Dolmos to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Dolmos Declaration states that there is 1 post-petition default in the payments on the obligation secured by the Property, with a total of \$1,799.51 in post-petition payments past due. The Declaration also provides evidence that there are 2 pre-petition payments in default, with a pre-petition arrearage of \$3,494.66.

DEBTOR'S OPPOSITION

Bernard and Sandra Leighton ("Debtor") filed an opposition on October 27, 2015. Dckt. 18. Debtor asserts that two payments have been paid, and "Debtors believe they will make the third payment up by the end of November." *Id.* ¶ 3. In addition, Debtor argues that Creditor's interest is adequately protected because Debtor's Schedule A asserts a property value of \$307,231.00, while secured claims of \$248,619.56 do not exceed that value; thus, there is sufficient equity in the property to provide for Movant's secured claim. *Id.* ¶ 4.

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 \$265,319.52 (including \$248,619.56 secured by Movant's first mortgage), as stated in the Dolmos Declaration and Schedule D filed by Debtor. Dckt. 13; Dckt. 1 Schedule D. The value of the Property is determined to be \$307,231.00, as stated in Schedules A and D filed by Debtor. Finally, Debtor has claimed an exemption of \$175,000.00 pursuant to C.C.P. § 704.730, as demonstrated on Debtor's filed Schedule C. Dckt. 1 Schedule C.

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).

In addition, 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). This being a Chapter 7 case, the property is *per se* not necessary for an effective reorganization. See *In re Preuss*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

The asserted default is not a sufficient arrearage in light of the significant equity cushion to be "cause" for termination of the automatic stay. The interests of Movant are adequately protected.

In the Motion, Movant asserts that the value of the Property is

\$307,231.00. Motion, ¶ 8; Dckt. 11. The Motion then asserts that all of the encumbrances (including the secured claim of Movant) are \$248,619.56. Motion, ¶ 9. The secured claims consist of the following as alleged in the Motion,

Movant's Secured Claim.....	\$231,919.60
Judgment Lien.....	\$ 14,756.96

There is a \$76,000 equity cushion (25% of the amount of Movant's secured claim) protecting Movant's position. Based on the asserted homestead exemption, it appears that the judgment lien would be junior to the homestead exemption.

Based on the statements made in the Motion and Supporting Declaration, which are made pursuant to the certifications required by Federal Rule of Bankruptcy Procedure 9011, it appears that the Motion affirmatively misstates that there is (1) no equity cushion, and (2) Debtor has no equity in the Property. Movant demonstrates that Debtor has an equity in the property of approximately \$70,000 (which even taking into costs of sale, estimated at 8%, an equity of \$51,000 in the Property).

The deadline for filing a complaint objecting to the entry of a discharge for Debtor expired on October 30, 2015. Dckt. 21. No such adversary proceedings have been commenced. Upon the entry of Debtor's discharge and the closing of this case, the automatic stay will be terminated. 11 U.S.C. § 362(c). The Trustee has filed a No Asset Report in this case, indicating that upon the entry of the discharge this case should promptly be closed.

The Motion is denied.

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 Bank of American N.A. ("Movant") 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 Motion for Relief From the Automatic Stay is denied.

5. [15-90866-E-7](#) LEONARD/GERALDINE MOTION FOR RELIEF FROM
CJO-1 PIOTRZKOWSKI AUTOMATIC STAY
Mark S. Nelson 10-22-15 [[17](#)]
U.S. BANK TRUST, N.A. VS.

Tentative 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. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Chapter 7 Trustee on October 22, 2015. By the court's calculation, 21 days' notice was provided. 14 days' notice is required.

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). 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. At the hearing -----.

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

U.S. Bank Trust, N.A., as Trustee for LSF9 Master participation Trust, by Caliber Home Loans, Inc., as its attorney in fact , and its successors and/or assignees ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 510 Morning Glory Dr., Patterson, California (the "Property"). Movant has provided the Declaration of Julio Nazario to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Nazario Declaration states that there are 5 pre-petition payments in default, with a pre-petition arrearage of \$21,622.65.

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 \$255,434.77, as stated in the Nazario Declaration and Schedule D filed by Leonard and Geraldine Piotrkowski ("Debtor"). The value of the Property is determined to be \$207,844.00, as stated in Schedules A and D filed by Debtor. Dckt. 11 Schedules A, D.

Movant's contention that the mere lack of equity is "cause," as set forth in 11 U.S.C. § 362(d)(1) is without merit. Lack of equity is one of the two necessary elements for relief from the automatic stay under 11 U.S.C. § 362(d)(2). The fact that the debtor has no equity in the estate is not sufficient, standing alone, to grant relief from the automatic stay under 11 U.S.C. § 362(d)(1). *In re Suter*, 10 B.R. 471, 472 (Bankr. E.D. Penn. 1981); *In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). Moving party has not adequately plead or provided an evidentiary basis for granting relief for "cause."

However, 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). This being a Chapter 7 case, the property is *per se* not necessary for an effective reorganization. See *In re Preuss*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the 14-day stay of enforcement required under Rule 4001(a)(3), and this part of the requested relief is not 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 U.S. Bank Trust, N.A., as Trustee for LSF9 Master participation Trust, by Caliber Home Loans, Inc., as its attorney in fact, and its successors and/or assignees ("Movant") 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 Trust, N.A., as

Trustee for LSF9 Master participation Trust, by Caliber Home Loans, Inc., as its attorney in fact, 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 510 Morning Glory Dr., Patterson, California .

IT IS FURTHER ORDERED that the fourteen (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is not waived.

No other or additional relief is granted.