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3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
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8 In re:)
9) Case No. 06-22175-B-7
10 John/Glenda Van Doorn) Docket Control No. PA-1
11 Debtors.) Date: January 9, 2007
12) Time: 9:30 a.m.
_____)

13 On or after the calendar set forth above, the court issued
14 the following ruling. The official record of the ruling is
appended to the minutes of the hearing.

15 Because the ruling constitutes a "reasoned explanation" of
16 the court's decision under the E-Government Act of 2002 (the
"Act"), a copy of the ruling is hereby posted on the court's
17 Internet site, www.caeb.uscourts.gov, in a text-searchable
format, as required by the Act. However, this posting does not
18 constitute the official record, which is always the ruling
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 Neither the respondents within the time for opposition nor
21 the movant within the time for reply has filed a separate
22 statement identifying each disputed material factual issue
23 relating to the motion. Accordingly, both movant and respondent
24 have consented to the resolution of the motion and all disputed
25 material factual issues pursuant to FRCivP 43(e). LBR 9014-
26 1(f)(1)(ii) and (iii).

27 The motion is granted in part and denied in part. As
28 against the estate only, the automatic stay is modified pursuant

1 to 11 U.S.C. § 362(d)(2) in order to permit the movant to
2 foreclose on the following piece of real property located in
3 Sutter and Yuba Counties, California:

4 Unimproved real property located on Brown Road in
5 Sutter County, California, (APN 021-160-006) (the
6 "Brown Road Property").

7 Real property located on McGowan Road in Olivehurst,
8 California (APN 014-201-050-000) (the "McGowan
9 Property").

10 Real property located at 1120 Holly Avenue,
11 Marysville, California (APN 020-293-014-000) (the
12 "Holly Property").

13 Real property located at 5139 Arboga Road, Olivehurst, California
14 (APN 013-440-054-000) (the "Arboga Property").

15 Real property located at 5576 South Gledhill Avenue
16 #A, Olivehurst, California (APN 021-331-019-000)
17 (the "Gledhill Property").

18 Movant is permitted as against the estate to obtain
19 possession of the subject real properties following the sale, all
20 in accordance with applicable non-bankruptcy law. Movant alleges
21 that the subject real property in Sutter County has a value of
22 \$750,000 and is encumbered by two perfected deeds of trust or
23 mortgages in favor of the movant. Movant also alleges that the
24 subject real property located in Yuba County has a collective
25 value of \$465,200, and is encumbered by a perfected deed of trust
26 or mortgage in favor of the movant. The security interests
27 secure claims of \$502,322.62 and \$209,212.76 based on two notes
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1 held by movant. Considering the junior and senior liens that
2 also encumber the subject real properties and taking into account
3 the fact that one of the notes is cross-collateralized by all of
4 the subject real properties, there is little or no equity and
5 there is no evidence that the subject real property is necessary
6 to an effective reorganization or rehabilitation. The lack of
7 written opposition by the trustee and his filed statement of non-
8 opposition shows that the trustee cannot administer the subject
9 property for the benefit of creditors. This is cause for relief
10 from the automatic stay.

11 As to the debtors, the motion is denied as moot as to the
12 relief requested under 11 U.S.C. Sections 362(d)(1) and (d)(2).
13 The debtors were discharged from all dischargeable debts on
14 December 27, 2006, and the automatic stay ended as to them on
15 that date by operation of law. 11 U.S.C. § 362(c)(2)(C).

16 The debtors' response to the motion is unpersuasive. As
17 noted above, the debtors have received their discharge in this
18 case. They cannot assume the position of the chapter 7 trustee
19 to oppose the motion on behalf of the bankruptcy estate, as
20 chapter 7 trustee has filed a statement of non-opposition on
21 behalf of the estate. Furthermore, the debtors' belief regarding
22 the value of the subject real properties is completely
23 unsupported by any evidence and the court therefore assigns it no
24 weight in reaching its decision.

25 Because the value of the collateral exceeds movant's claim,
26 movant is awarded attorneys fees equal to the lesser of \$675 or
27 the amount actually billed plus costs of \$150. These fees and
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1 costs may be enforced only against the movant's collateral. The
2 court may award additional fees at the conclusion of the hearing
3 on February 7, 2007.

4 The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is
5 waived.

6 Except as so ordered, the motion is denied.

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