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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. 06-23847-B-11
10 EAGLE MEADOWS OF NATOMAS,)
11 Debtor(s).) Docket Control No. FWP-1
12) Date: December 12, 2006
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
17 "Act"), a copy of the ruling is hereby posted on the court's
Internet site, www.caeb.uscourts.gov, in a text-searchable
18 format, as required by the Act. However, this posting does not
constitute the official record, which is always the ruling
appended to the minutes of the hearing.

19 **DISPOSITION WITHOUT ORAL ARGUMENT**

20 The failure of any party in interest to file timely written
21 opposition as required by this local rule may be considered
22 consent to the granting of the motion. See Ghazali v. Moran, 46
23 F.3d 52, 53 (9th Cir. 1995); LBR 9014-1(f)(1). Therefore, this
24 matter is resolved without oral argument.

25 The motion is granted in part pursuant to 11 U.S.C. §
26 1112(b) and the case is dismissed. The court finds cause to
27 convert or dismiss pursuant to 11 U.S.C. §§ 1112(b)(4)(A), (G),
28 and (H). The debtor-in-possession failed to attend the meeting

1 of creditors scheduled for October 26, 2006, and the continued
2 meeting scheduled for November 1, 2006. The court also finds
3 that there is a continued diminution of the estate because it has
4 no income, has no cash on hand, and interest continues to accrue
5 on its secured debt. This continued diminution coupled with the
6 general lack of resources for the estate leads to a conclusion
7 that there is the absence of a reasonable likelihood of
8 rehabilitation.

9 The court also finds that this case was filed in bad faith.
10 Lack of good faith in filing can constitute cause for the
11 dismissal. In re Marsch, 36 F.3d 825, 828 (9th Cir. 1994). The
12 factors a court may consider in determining whether a bankruptcy
13 petition is filed in bad faith include (1) whether the debtor has
14 only one asset, (2) whether the debtor has an ongoing business to
15 reorganize, (3) whether there are any unsecured creditors, (4)
16 whether the debtor has any cash flow or sources of income to
17 sustain a plan of reorganization to make adequate protection
18 payments, and (5) whether the case is essentially a two-party
19 dispute capable of prompt adjudication in state court. In re St.
20 Paul Self-Storage Ltd. Partnership, 185 B.R. 580, 582-83 (B.A.P.
21 9th Cir. 1995). Here, all five of these factors are present.
22 The debtor has only one asset, has no ongoing business to
23 reorganize, has no unsecured creditors, has no cash flow or
24 sources of income to sustain a plan of reorganization, and is
25 involved in what is essentially a two-party dispute with the
26 movant that is capable of prompt adjudication in state court.
27 The presence of these factors indicates that the debtor is

1 unreasonably deterring or harassing creditors rather than
2 attempting a speedy and feasible reorganization, and filed this
3 case in bad faith. See Id. at 583.

4 Based on these findings, the court finds that dismissal is
5 in the best interests of creditors. The movant appears able and
6 willing to continue to pursue his claim outside of bankruptcy.
7 Moreover, the debtor filed a statement of non-opposition to this
8 motion on December 5, 2006.