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3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5

6 In re:) Case No. 06-22225-D-7
7)
7 BETSEY WARREN LEBBOS,)
8)
8 Debtor.)
9)
9)
10 LINDA SCHUETTE,)
11) Adv. Pro. No. 07-2006-D
11 Plaintiff,) Docket Control No. MPD-9
12)
12 v.)
13 BETSEY WARREN LEBBOS,) DATE: June 18, 2008
13 et al.,) TIME: 10:00 a.m.
14) DEPT: D
14 Defendants.)
15)

16 This memorandum decision is not approved for publication and may
17 not be cited except when relevant under the doctrine of law of
18 the case or the rules of claim preclusion or Issue preclusion.

18 MEMORANDUM DECISION

19 Plaintiff Linda Schuette seeks an order allowing
20 registration of the judgment entered in this proceeding in the
21 Central District of California and other districts, pursuant to
22 28 U.S.C. § 1963. For the reasons set forth below, the court
23 will grant the plaintiff's motion in part.

24 I. INTRODUCTION

25 On January 3, 2007, the plaintiff filed the complaint herein
26 seeking to set aside alleged fraudulent transfers, to recover
27 property and/or monetary damages, for turnover of property, and
28 for declaratory relief. The defendants are Betsey Warren Lebbos,

1 individually and as a trustee of the Aida Madeleine Lebbos No. 2
2 Trust, and Jason Gold and Thomas Carter, as co-trustees of the
3 Aida Madeleine Lebbos No. 2 Trust.

4 On April 17, 2008, this court issued findings of fact and
5 conclusions of law on the plaintiff's motion for default judgment
6 against all the defendants, and a judgment against all the
7 defendants. The judgment determined the right, title, and
8 interest in certain real property commonly known as 2121 East
9 First Street, #202, Long Beach, California 90803 ("the
10 Property"), located within the Central District of California.
11 In particular, pursuant to the judgment, certain transfers of the
12 Property were set aside and avoided, and all right, title, and
13 interest in and to the Property was awarded to the plaintiff.

14 Pursuant to the judgment, the plaintiff's interest in the
15 Property was determined to be superior to any interest of
16 defendants Lebbos, Gold, and Carter, and each of them, and the
17 defendants, and each of them, were ordered to turn over to the
18 plaintiff the Property, all keys, access codes, and access cards
19 to the Property and to common areas in the building in which the
20 Property is located, and all insurance coverage information for
21 the Property. Also pursuant to the judgment, the plaintiff was
22 granted immediate access to, control over, and possession of the
23 Property.

24 On May 13, 2008, the plaintiff filed a Motion for Order
25 Directing Clerk to Register Judgment Under 28 U.S.C. § 1963 ("the
26 Motion"), supported by the plaintiff's declaration in which she
27 testified that none of the defendants has turned over possession
28 or control of the Property to her, and that none has provided her

1 with the keys, access codes, or access cards. Instead, the
2 defendants have appealed from the orders entering their defaults
3 and from the judgment. According to the plaintiff's counsel's
4 declaration, the defendants have unsuccessfully sought a stay
5 from the United States District Court, the Bankruptcy Appellate
6 Panel, and the Ninth Circuit Court of Appeals.

7 On June 3, 2008, Defendant Betsey Warren Lebbos filed
8 opposition to the Motion and a declaration, and a hearing was
9 held on June 18, 2008. The following parties appeared and
10 presented oral argument: John Read (by telephone), making a
11 special appearance for defendant Betsey Warren Lebbos (by
12 telephone), and Howard Nevins, making a special appearance for
13 Michael Dacquisto, counsel for the plaintiff.

14 The Motion having been briefed and argued by those parties
15 wishing to be heard, the court took the Motion under submission.

16 II. ANALYSIS

17 This court has jurisdiction over the motion pursuant to 28
18 U.S.C. §§ 1334 and 157(b)(1). The Motion is a core proceeding
19 under 28 U.S.C. § 157 (b)(2)(A), (E) & (H).

20 Pursuant to 28 U.S.C. § 1963, a judgment for the recovery of
21 money or property entered in a bankruptcy court may be registered
22 by filing a certified copy of the judgment in any other district,
23 but only when the judgment has become final or "when ordered by
24 the court that entered the judgment for good cause shown."

25 The procedure is typically invoked where a judgment debtor
26 has assets in a district other than the one in which the judgment
27 was entered. See Finova Capital Corp. v. Richard A. Arledge,
28 Inc., 2008 U.S. Dist. LEXIS 27868, *6 (D. Ariz. 2008); Blaine

1 Larsen Processing, Inc. v. Hapco Farms, Inc., 2000 U.S. Dist.
2 LEXIS 22870, *42-44 (Dist. Idaho 2000); In re Southern Industrial
3 Banking Corp., 121 B.R. 229, 232 (Bankr. E.D. Tenn. 1990).¹

4 In the present case, the rationale for permitting
5 registration of the judgment in the Central District of
6 California is even more compelling, in that the judgment directly
7 awards to the plaintiff all right, title, and interest in the
8 Property, which is located in that district. The judgment is on
9 appeal, the defendants have not obtained a stay pending appeal,
10 they have not posted a bond, and they have not turned over
11 control of, access to, and possession of the Property to the
12 plaintiff. These factors comprise good cause for permitting
13 registration of the judgment in the Central District of
14 California, where the Property is located, as a necessary and
15 appropriate enforcement mechanism.

16 The court has considered defendant Lebbos' opposition and
17 the arguments made on her behalf at the hearing. With one
18 exception, these arguments go to the merits of the judgment, and
19 the court finds them not pertinent to the good cause analysis
20 required under § 1963. Defendant Lebbos' other argument, that
21 "[t]here is no enforcement that can take place in another
22 district," is not supported by any analysis and is contradicted

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24 1.

25 It is well established that the "good cause" requirement
26 may be satisfied by showing that the party against whom
27 the judgment was entered has insufficient assets to
28 satisfy the judgment in the district in which the case
was brought, but has assets in another state.

Blaine Larsen Processing, Inc., 2000 U.S. Dist. LEXIS 22870, at
*43.

1 by the fact that the Property is located in the Central District
2 of California. Registration of the judgment in that district
3 will allow the plaintiff to seek appropriate enforcement of the
4 judgment with respect to the Property.

5 However, at this time, the court will decline to allow
6 registration of the judgment in any district other than the
7 Central District of California. The case law is clear that "good
8 cause must be demonstrated for each state in which the Plaintiff
9 seeks to register the judgment" (Blaine Larsen Processing, Inc.,
10 2000 U.S. Dist. LEXIS 22870, at *44), and that registration will
11 be permitted only in districts where the judgment debtor is shown
12 to have assets. Finova Capital Corp., 2008 U.S. Dist. LEXIS
13 27868, at *7. At this time, the plaintiff has not identified any
14 property of any defendant that is located in any other district.

15 III. CONCLUSION

16 The plaintiff has testified that the defendants have not
17 turned over possession or control of the Property to her, and
18 have not provided her with the keys, access codes, or access
19 cards for the Property. Inasmuch as the judgment is on appeal,
20 and the defendants have failed to post a bond or obtain a stay
21 pending appeal, and inasmuch as the judgment pertains directly to
22 property located within the Central District of California, the
23 court will permit the plaintiff to register the judgment in the
24 Central District of California, pursuant to 28 U.S.C. § 1963. As
25 to districts other than that district, the motion will be denied.

26 The plaintiff is to submit an appropriate order.

27 Dated: June 18, 2008

28 /s/
ROBERT S. BARDWIL
United States Bankruptcy Judge