

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

March 15, 2016 at 1:30 P.M.

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1. [16-20398](#)-C-13 VIENG SAYPHACHANH MOTION FOR RELIEF FROM
BAW-1 Pro Se AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
2-10-16 [[13](#)]

QUICKEN LOANS, INC. VS.
DEBTOR DISMISSED: 02/16/2016

Final Ruling: No appearance at the March 15, 2016 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 (*pro se*), Chapter 13 Trustee, and Office of the United States Trustee on February 10, 2016. Twenty-eight 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.

The Motion for Relief From the Automatic Stay is denied.

Quicken Loans, Inc. seeks relief from the automatic stay with respect to the real property commonly known as 5988 Kaitlyn Drive, Pueblo, Colorado. The moving party has provided a declaration to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Declaration states that the Debtor has not made xx post-petition payments, with a total of \$2,548.87 in post-petition payments past due.

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this property is determined to be \$412,278.36 (including \$412,278.36 secured by movant's first trust deed), as stated in the Declaration, while the value of the property is determined to be 300,000.00, as stated in Schedules A and D filed by Debtor.

Discussion

The debtor was dismissed on February 16, 2016. Therefore, the motion is denied as moot.

The court shall issue a minute 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 the creditor 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 filed by Quicken Loans, Inc. is denied as moot.
