

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Chief Bankruptcy Judge

Sacramento, California

July 30, 2019 at 10:00 a.m.

1. [19-23735-E-13](#) **ROBIN/THOMAS HARLAND** **MOTION FOR RELIEF FROM**
[KMR-1](#) **Stephen Reynolds** **AUTOMATIC STAY**
7-2-19 [19]
DEUTSCHE BANK NATIONAL TRUST
COMPANY VS.

No Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and the Chapter 13 Trustee on July 2, 2019. By the court's calculation, 28 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

<p>The Motion for Relief from the Automatic Stay is XXXXXXXXXX.</p>

Deutsche Bank National Trust Company, as Trustee for Fremont Home Loan Trust 2006-3, Asset-Backed Certificates, Series 2006-3 ("Movant") seeks relief from the automatic stay with respect to the debtors, Robin Arlene Harland and Thomas Scott Harland's ("Debtor"), real property commonly known as 2263 Casa Dulce Way, Plumas Lake, California ("Property"). Movant has provided the Declaration of Tonya R. Caldwell to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

July 30, 2019 at 10:00 a.m.

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Movant argues this bankruptcy case was filed to unfairly delay Movant's ability to foreclose on the Property, Movant is not adequately protected, and cause exists for termination of the stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(4).

In support of this argument, Movant asserts that Debtor has filed four recent bankruptcy cases, including the present case, which has precluded Movant's attempts to foreclose on the Property and mitigate losses. As Exhibit 6, Movant filed docket headers for each of Debtor prior 3 cases. Dckt. 24.

Movant also asserts Debtor is due for 10 regular monthly mortgage payments from September 1, 2019 through June 1, 2019 as of June 21, 2019. This assertion is supported by the testimony of Tonya R. Caldwell. Declaration ¶ 7, Dckt. 23.

As Exhibit 4, Movant also filed a payment history chart reflecting prepetition payments missed from September 1, 2019 through June 1, 2019. Dckt. 24.

CHAPTER 13 TRUSTEE'S RESPONSE

The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Response on July 12, 2019. Dckt. 26. Trustee notes several case details, including that there is no confirmed plan, Debtor's first payment will come due July 25, 2019, and Movant filed Proof of Claim, No. 3 asserting a claim of \$338,981.48 and prepetition arrearages of \$23,773.67.

Trustee also notes that in Debtor's most recent prior case, No. 17-28427, \$15,155.00 was disbursed in ongoing mortgage payments from September through March 2019, \$32,475.00 disbursed overall to the ongoing mortgage, and \$15,526.06 disbursed towards prepetition arrearages. Declaration, Dckt. 27.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on July 16, 2019. Dckt. 29. Debtor asserts multiple filings have been made her to pay creditors and maintain their family home.

Debtor argues the most recent prior case was dismissed for failure to make payments after debtor Robin Harland became disabled, resulting in loss of employment and income. Debtor represents the present case provide for payments Debtor can make under Debtor's changed circumstances.

Debtor also notes that Movant's declaration in support of the Motion conflicts with Trustee's declaration as to when payments were made.

PRIOR FILINGS

The court summarizes Debtor's recent case history as follows:

- A. Case No. 16-22157
 - 1. Filed: April 5, 2016
 - 2. Chapter 13

3. Plan Confirmed: December 1, 2016
 4. Dismissal Date: February 28, 2017
 5. Reason for Dismissal: delinquency in plan payments of \$3,602.11
- B. Case No. 17-22209
1. Filed: April 3, 2017
 2. Chapter 13
 3. Dismissal Date: November 21, 2017
 4. Reason for Dismissal: failure to confirm a Chapter 13 Plan within 75 days of proposed plan being denied confirmation
- C. Case No. 17-28427
1. Filed: December 31, 2017
 2. Chapter 13
 3. Plan Confirmed: July 30, 2018
 3. Dismissal Date: June 7, 2019
 4. Reason for Dismissal: delinquency in plan payments of \$12,837.01

APPLICABLE LAW

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because “cause” is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff’d sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). 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. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

11 U.S.C. § 362(d)(4) allows the court to grant relief from the stay when the court finds that the petition was filed as a part of a scheme to delay, hinder, or defraud creditors that involved either (i) transfer of all or part ownership or interest in the property without consent of the secured creditors or court approval or (ii) multiple bankruptcy cases affecting particular property. 3 COLLIER ON BANKRUPTCY ¶ 362.07 (Alan n. Resnick & Henry H. Sommer eds. 16th ed.).

DISCUSSION

Movant argues relief is warranted here because Debtor’s have used their bankruptcy filings to delay foreclosure proceedings.

However, the fact that a debtor commences a bankruptcy case to stop a foreclosure sale is neither shocking nor *per se* bad faith. The automatic stay was created to stabilize the financial crisis and allow all parties, debtor and creditors, to take stock of the situation.

No further explanation is given for why the cases here were part of a scheme to delay, hinder, or defraud creditors.

Movant points to 10 prepetition payments missed to bolster its arguments. However, the Trustee has presented contradictory evidence showing that in Debtor's most recent prior case, No. 17-28427, \$15,155.00 was disbursed in ongoing mortgage payments from September through March 2019. Declaration, Dckt. 27.

The Trustee's testimony is more credible than Movant's testimony (Declaration ¶ 7, Dckt. 23) which asserted there were 10 payments missed "From 09/01/18 To 06/01/19." Furthermore, Trustee's evidence shows that in Debtor's prior case \$32,475.00 was made on the ongoing mortgage payment and \$15,526.06 disbursed towards prepetition arrearages. Declaration, Dckt. 27.

\$48,001.06 in payments made over roughly 18 months does not on its face indicate a bad faith filing, or a scheme to delay creditors.

Reviewing the Proofs of Claims Filed in this and the prior cases and the Trustee's final accounting filed in the three prior cases:

Current Case

Proof of Claim No. 3

Amount of Claim.....(\$338,981.48)

Pre-Petition Arrearage...(\$ 23,773.87)

Case 17-28427

Proof of Claim No. 3

Trustee's Final Report, Payments to
Movant (Dckt. 105)

Amount of Claim.....(\$354,998.02)

Current.....\$32,475.00

Pre-Petition Arrearage...(\$ 32,286.95)

Arrearage.....\$15,526.06

Case 17-22209 (No Plan Confirmed, Creditor was only creditor paid in case)

Proof of Claim No. 3

Trustee's Final Report, Payments to
Movant (Dckt. 63)

Amount of Claim.....(\$353,485.01)

Current.....\$12,872.16

Pre-Petition Arrearage...(\$ 27,708.65)

Arrearage.....\$0

Case 17-28427

Proof of Claim No. 5

Trustee's Final Report, Payments to
Movant (Dckt. 68)

Amount of Claim.....(\$355,760.48)

Current.....\$24,299.00

Pre-Petition Arrearage...(\$ 22,574.58)

Arrearage.....\$0

Since April 2016 Debtor has had the continuing protection of the Bankruptcy Code and afforded the opportunity to diligently and in good faith to prosecute a Chapter 13 plan, cure the arrearage to this Creditor, and move forward financially. There has spanned thirty-nine (39) months since the filing of the first case. If Debtor confirms a Chapter 13 plan in this case and took the maximum sixty (60) months allowed for a Chapter 13 plan, then with the prior starts and stops with these multiple cases, Debtor will effectively obtain a 100 month plan.

While the total claim stated by Movant is now \$16,821.00 lower than when Debtor started this thirty-nine (39) months ago, the arrearage is (\$23,773.87), which is \$1,000 more than when this chain of bankruptcy cases commenced.

Debtor has provided additional evidence that the prior case was dismissed after her debtor Robin Harland became disabled, resulting in loss of employment and income. Declaration, Dckt. 30.

A review of the Schedules may offer the first clue to why these bankruptcy cases have been unsuccessful. On Schedule I Debtor lists having combined income (after taxes and withholding on co-debtor Thomas Harland's wages) of \$6,278.93. Dckt. 1 at 34-35. Of this, there is \$1,024 in gross pension or retirement income for debtor Robin Harlan. *Id.* There does not appear to be any payment for state and federal taxes for this \$12,000 a year in retirement income which is placed on the \$86,448 of gross wage income of co-debtor Thomas Harland.

On Schedule J the family unit is identified as four persons—the two debtors, a son and a brother. *Id.* at 36-37. It appears that the son has special needs which cause additional expenses. No income is shown on Schedule I for the dependent brother. On Schedule A/B debtor lists owning three cars (of which only two are operational). However, on Schedule J, the monthly expense for the registration, repairs, maintenance, and gas for the two vehicles is stated to be only (\$350). If annual registration for each of the vehicles is (\$300), that would average (\$50) a month. Assuming routine maintenance bills of (\$300) a year for each vehicle (though given the age of the vehicle two sets of new tires would drive up that average), that would be another (\$50) a month.

That would leave (\$125) per vehicle for gas each month. If gas costs (\$3.50) a gallon, that allows for the purchase of thirty-five (35) gallons of gas a month, which averages eight (8) gallons a

week. If the vehicle gets twenty (20) miles to the gallon, each debtor would be restricted to driving only twenty-two miles a day. That does not seem realistic.

The food and housekeeping supplies budget of (\$675) a month for four adults may also be unreasonably low. If one backs out (\$125) a month for housekeeping supplies, that leaves (\$550) for food, which is only (\$1.48) per person, per day, per meal for food (in a 31 day month).

It may well be that the repeated failures in plan performance may be because Debtor is trying to maintain a life style, while not extravagant, is not affordable.

With respect to good cause for relief pursuant to 11 U.S.C. § 362(d)(1), Movant has only argued Debtor is delinquent in prepetition payments.

At the hearing, **XXXXXXXXXXXXXXXXXX**

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 Deutsche Bank National Trust Company, as Trustee for Fremont Home Loan Trust 2006-3, Asset-Backed Certificates, Series 2006-3 (“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 **XXXXXXXXXXXXXXXXXX**.

No other or additional relief is granted.

THE FOUNTAINS AT LODI, LLC

Tentative Ruling: 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)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*Pro Se*), Chapter 7 Trustee, and Office of the United States Trustee on July 2, 2019. By the court's calculation, 28 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). Debtor, creditors, the Chapter 7 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 offer 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. At the hearing, -----.

The Motion for Relief from the Automatic Stay is granted.

The Fountains at Lodi, LLC ("Movant"), seeks relief from the automatic stay with respect to the real property commonly known as 1718 Sylvan Way, #902 Lodi, California ("Property"). The moving party has provided the Declaration of Shalene Garcia to introduce evidence as a basis for Movant's contention that the debtor, Stephen Carlton Williams ("Debtor"), does not have an ownership interest in or a right to maintain possession of the Property. Movant presents evidence that it is the owner of the Property. Based on the evidence presented, Debtor would be at best a tenant at sufferance. Movant commenced an unlawful detainer action in California Superior Court, County of San Joaquin, case number LOD-VC-LUDR-2019-7866 on June 20, 2019. Exhibit B. Dckt. 19.

Based upon the evidence submitted, the court determines that there is no equity in the Property for either 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 Ramco Indus. v. Preuss (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, to exercise its rights to obtain possession and control of the Property, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

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 The Fountains at Lodi, 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 vacated to allow Movant and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as 1718 Sylvan Way, #902 Lodi, California.

No other or additional relief is granted.

3. [19-23754-E-7](#) RITA SCHROEDER
Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-27-19 [\[15\]](#)

COASTLINE CAPITAL FUND III,
LLC VS.
DEBTOR DISMISSED: 7/1/2019
Pro Se

Tentative Ruling: 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)(C).

Motion—Hearing Required.

Sufficient Notice Not Provided. As discussed below, the Notice failed to meet the requirements of the Local Bankruptcy Rules and was not sufficient to give proper notice of this Motion.

The Motion for Relief from the Automatic Stay is denied without prejudice.

On June 27, 2019 the movant, Coastline Capital Fund III, LLC ("Movant") filed a this Motion, Notice of Hearing, Information Sheet, Declaration, and Exhibits. Dckts. 15-19. A Proof of Service, evidence required to show service was effected and due process given in this Matter, was attached to each document filed. Some of the Exhibits were also filed with the Declaration.

Filing joined documents is not permitted practice in the Bankruptcy Court. "**Motions, notices, objections, responses, replies, declarations, affidavits, other documentary evidence, exhibits, memoranda of points and authorities, other supporting documents, proofs of service, and related pleadings shall be filed as separate documents.**" LOCAL BANKR. R. 9004-2(c)(1)(emphasis added).

Furthermore, the Local Bankruptcy Rules are clear as to what is required to be stated in any notice:

B) Notice.

(i) The notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition.

(ii) If written opposition is required, the notice of hearing shall advise potential

respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition.

(iii) The notice of hearing shall advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling, and can view [any] pre-hearing dispositions by checking the Court's website at www.caeb.uscourts.gov after 4:00 P.M. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing.

(iv) When notice of a motion is served without the motion or supporting papers, the notice of hearing shall also succinctly and sufficiently describe the nature of the relief being requested and set forth the essential facts necessary for a party to determine whether to oppose the motion. However, the motion and supporting papers shall be served on those parties who have requested special notice and those who are directly affected by the requested relief.

LOCAL BANKR. R. 9014-1(d)(3)(B).

The Notice filed fails to meet any of the above requirements. Dckt. 16. In reviewing the Notice filed, it appears to be just an alternate version of the Motion, and not a notice pleading. The Notice does not provide any information about the hearing or what is required of the Debtor, except for the caption information on all pleadings.

In some respects, the Notice is more like the "true" motion. The Notice contains a clear prayer for relief, and makes several requests for relief, including:

1. For an order terminating the stay.
2. That the 14 day stay be waived.
3. That the relief from stay be binding and effective in any other bankruptcy.
4. That attorney's fees be awarded.

Notice, Dckt. 16. The Motion only states the following:

Based on the factors listed above, cause exists for relief from the automatic stay. Secured Creditor respectfully requests the Court grant annulment of the automatic stay pursuant to 11 U.S.C. § 362(d)(4).

Motion, Dckt. 15.

Failure to comply with the Local Bankruptcy Rules is cause for an appropriate sanction. LOCAL BANKR. R. 1001-1(g), 9014-1(l). Here, Movant's failure included deficient notice. Therefore, the

appropriate sanction is denial of the Motion without prejudice.

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 Coastline Capital Fund III, 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 Motion is denied without prejudice.

THE COURT HAS PREPARED THE FOLLOWING ALTERNATIVE RULING IF APPLICANT PROVIDES SUFFICIENT NOTICE

The Motion for Relief from the Automatic Stay is granted.

Coastline Capital Fund III, LLC (“Movant”) seeks relief from the automatic stay with respect to the debtor Rita Schroeder’s (“Debtor”) real property commonly known as 6332 Puerto Dr., Rancho Murieta, California (“Property”). Movant has provided the Declaration of Andreas Mirza to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Mirza Declaration provides testimony that Debtor has not made any payments since June 2009, and that the current payoff amount for the loan is \$895,005.04. Declaration ¶ 5, Dckt. 17. Mirza further testifies this bankruptcy case postponed a foreclosure sale set for June 13, 2019. *Id.*, ¶ 15.

DISCUSSION

11 U.S.C. § 362(d)(4) allows the court to grant relief from the stay when the court finds that the petition was filed as a part of a scheme to delay, hinder, or defraud creditors that involved either (i) transfer of all or part ownership or interest in the property without consent of the secured creditors or court approval or (ii) multiple bankruptcy cases affecting particular property. 3 COLLIER ON BANKRUPTCY ¶ 362.07 (Alan n. Resnick & Henry H. Sommer eds. 16th ed.).

Certain patterns and conduct that have been characterized as bad faith include recent transfers of assets, a debtor’s inability to reorganize, and unnecessary delays by serial filings. *Id.* The Debtor here has the following case history:

A. Case No. 10-29032

1. Filed: 4/8/2010
 2. Chapter 13
 3. Dismissal Date: 5/10/2010
 4. Reason for Dismissal: failure to timely file documents.
- B. Case No. 10-37856
1. Filed: 7/8/2010
 2. Chapter 7
 3. Dismissal Date: 3/18/2011
 4. Discharge received: March 18, 2011.
- C. Case No. 16-21399
1. Filed: 3/7/2016
 2. Chapter 13
 3. Dismissal Date: 5/11/2016
 4. Reason for Dismissal: failure to pay filing fee.
- D. Case No. 16-23751
1. Filed: 6/10/2016
 2. Chapter 13
 3. Dismissal Date: 9/2/2016
 4. Reason for Dismissal: failure to appear at Meeting of Creditors, provide trustee various documents and delinquency in plan payments.
- E. Case No. 16-26828
1. Filed: 10/14/2016
 2. Chapter 13
 3. Dismissal Date: 1/19/2017
 4. Reason for Dismissal: failure to appear at Meeting of Creditors, provide trustee various documents and information, and ineligibility for Chapter 13 relief.
- F. Case No. 19-23754
1. Filed: 6/13/2019
 2. Chapter 13
 3. Dismissal Date: 7/1/2019
 4. Reason for Dismissal: failure to timely file documents.

Relief pursuant to 11 U.S.C. § 362(d)(4) may be granted if the court finds that two elements have been met. The filing of the present case must be part of a scheme, and it must contain improper transfers or multiple cases affecting the same property. With respect to the elements, the court concludes that the filing of the current Chapter 13 case in the Eastern District of California was part of a scheme by Debtor to hinder and delay Movant from conducting a nonjudicial foreclosure sale by filing multiple bankruptcy cases.

The fact that a debtor commences a bankruptcy case to stop a foreclosure sale is neither shocking nor *per se* bad faith. The automatic stay was created to stabilize the financial

crisis and allow all parties, debtor and creditors, to take stock of the situation.

The filing of the current Chapter 13 case was not for any bona fide, good faith Chapter 13 reason. Debtor has been in and out of bankruptcy for the past decade. Debtor at this point knows the basic filing requirements, and still failed to timely file all necessary documents. Dckt. 20. This is because the case was filed for the sole purpose of delaying foreclosure. Declaration ¶ 15, Dckt. 17

Review of Trustee Final Reports

A review of the Final Reports filed by the Chapter 13 trustees in the Debtor's prior cases discloses that the following amounts were paid into the Chapter 13 plans in those cases and the distributions made to creditors as part of any purported reorganization or restructure of Debtor's finances:

Case	Monies Paid into Chapter 13 Plan by Trustee	Disbursements to Creditors
16-26828 CH 13 Trustee's Final Report, Dckt. 52	\$0.00	\$0.00
16-23751 CH 13 Trustee's Final Report, Dckt. 57	\$0.00	\$0.00
16 21399 CH 13 Trustee's Final Report, Dckt. 46	\$200.00 With \$193.75 Refunded to Debtor	\$0.00
10-37856 CH 13 - Converted to Chapter 7 Discharge March 18, 2011 Trustee's Final Report, Dckt. 35 Chapter 7 Trustee No Asset Report	\$0.00	\$0.00
10-29032 16-23751 CH 13 Trustee's Final Report, Dckt. 18	\$0.00	\$0.00

The court finds that proper grounds exist for issuing an order pursuant to 11 U.S.C. § 362(d)(4). Movant has provided sufficient evidence concerning bankruptcy cases being filed to prevent actions against the Property. Movant has provided the court with evidence that Debtor has engaged in a scheme to hinder, defraud, and delay creditors through the multiple filing of bankruptcy cases.

In granting the 11 U.S.C. § 362(d)(4) relief, the court notes that such is not the end of the game for Debtor. While granting relief through this case, if Debtor has a good faith, bona fide reason to commence another case while that order is in effect for the Property, the judge in the subsequent case can impose the stay in that case. 11 U.S.C. § 362(c)(4). That would ensure that Debtor, to the extent that some bona fide reason existed, would effectively assert such rights rather than filing several bankruptcy cases that are then dismissed.

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.

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 Coastline Capital Fund III, 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 vacated to allow Movant, 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 that is recorded against the real property commonly known as 6332 Puerto Dr., Rancho Murieta, California, ("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 to obtain possession of the Property.

~~IT IS FURTHER ORDERED~~ that the above relief is also granted pursuant to 11 U.S.C. § 362(d)(4), which further provides:

~~"If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording."~~

~~No other or additional relief is granted.~~