

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Modesto, California

September 6, 2018 at 2:00 p.m.

1.	<u>18-90464</u>-E-11	PREMIER WEST COAST PROPERTIES LLC	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 6-21-18 [1]
-----------	-----------------------------	--	---

Debtor's Atty: Mark J. Hannon

Notes:
Continued from 8/2/18

Operating Reports filed: 8/16/18

[MJH-1] Order denying motion to employ filed 8/5/18 [Dckt 26]

[MJH-2] Motion/Application to Retain and Employ Mark J. Hannon as Counsel for Debtor in Possession filed 8/22/18 [Dckt 30], set for hearing 9/27/18 at 10:30 a.m.

SEPTEMBER 6, 2018 STATUS CONFERENCE

The Debtor in Possession has not filed an updated Status Report. Debtor in Possession has filed a Motion to Dismiss this case, which functionally serves as an updated Status Report. Dckt. 34. It is reported that the precipitating cause of the bankruptcy, the pending foreclosure on the estate's only property, has been resolved with an agreement with the US SBA to modify the loan to which the foreclosure relates. Motion, p. 2:2-10; Dckt. 34.

Thus, it appears that this case is a short-lived bankruptcy, which can now be dismissed.

AUGUST 2, 2018 STATUS CONFERENCE

At the Status Conference is continued to **2:00 p.m. on September 6, 2018.**

Review of Schedules and Statement of Financial Affairs

The court reviewed the Petition and Schedules filed in this case, which have been signed by Brent Hill as “president” of the limited liability company debtor. Dckt. 1 at 4, 18. While using the title “president,” the court notes that under California law it is the members or a managing member who acts for the limited liability company. CAL. CORP. CODE § 17703.01.

In reviewing the Schedules filed under penalty of perjury by Brent Hill, it is stated that the debtor’s assets consist of the following as of the commencement of this case:

- A. 3609 Oakdale Road Property.....\$3,035,000 FMV;
- B. Cash and cash equivalents.....None;
- C. Deposit accounts.....None;
- D. Deposits or prepayments.....None;
- E. Inventory.....None;
- F. Office FF&E.....None; and
- G. Machinery, equipment.....None.

Dckt. 1 at 6–7. On Schedule G, the debtor lists three five-year leases with monthly rent and CAM of \$12,065.00. *Id.* at 14.

On the Statement of Financial Affairs, Mr. Hill states under penalty of perjury that in the first five and one-half months of 2018 the debtor had \$95,872.00 in income, in 2017 had \$208,846.00 in income, and in 2016 had \$228,663.00, with that income from operating a business. *Id.* at 19.

No information is provided in response to Question 28 of the Statement of Financial Affairs, which requires an answer to the following:

List the debtor’s officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.

Id. at 24.

A separate list of equity security holders has been filed, which states that Brent Hill and Sheryl Hill are each a 50% “Limited Partner” of the limited liability company debtor (not identified as members of the limited liability company). Dckt. 4 at 1.

On June 22, 2018, a “Balance Sheet” was filed (which is not attested to under penalty of perjury by anyone) stating that as of June 11, 2018, Premier West Coast Properties, LLC, had the following assets:

- A. Check/Savings.....\$3,341.92;
- B. Real property.....\$3,287,000.07; and
- C. Loan fees—Scedco.....\$26,585.15.

Dckt. 9. The above is inconsistent with the information provided under penalty of perjury in the Schedules.

The Schedules, which have been prepared by counsel and signed by Mr. Hill under penalty of perjury, raise serious questions as to the accuracy of the information. First, taken as true, Mr. Hill states under penalty of perjury that the debtor had no personal property assets at the commencement of the case. Though generating almost \$100,000 in the first five months of 2018 (and over \$200,000 in the prior two years), the debtor had no money—no cash, no savings account, no checking account, and no business account.

Further, the debtor had no accounts receivable, nor did it have any intangible assets. It is stated under penalty of perjury that the debtor had no office equipment, no equipment, and no other personal property relating to its multi-million dollar rental company.

A Preliminary Status Report was filed on July 16, 2018, for the first Chapter 11 Status Conference. Dckt. 16. The document is stated to be filed by “Debtor.” *Id.* at 1:15. Because this is a Chapter 11 case, the debtor in possession, as the fiduciary of the bankruptcy estate in lieu of a trustee being appointed, should be the party filing the status report. The Status Report states that “Debtor” intends to continue to operate the business. It appears that “Debtor” does not understand, and is not aware, that all of the property of the debtor, both real and personal, is now property of the bankruptcy estate (11 U.S.C. § 541). Furthermore, the debtor is not “Debtor,” but Debtor in Possession, exercising the powers of a bankruptcy trustee that operates the business and controls the property of the bankruptcy estate. 11 U.S.C. §§ 1106–1108.

2. [18-90071-E-7](#) PRAVINKUMAR/MADHUKANTA CONTINUED STATUS CONFERENCE RE:
[18-9006](#) GANDHI COMPLAINT
5-21-18 [\[1\]](#)

DHALIWAL V. GANDHI ET AL

**ADVERSARY PROCEEDING DISMISSED:
8/26/18**

Final Ruling: No appearance at the September 5, 2018 Status Conference is required.

Plaintiff's Atty: David A. Boone
Defendant's Atty: unknown

Adv. Filed: 5/21/18
Answer: none

Nature of Action:
Dischargeability - false pretenses, false representation, actual fraud
Dischargeability - fraud as fiduciary, embezzlement, larceny
Dischargeability - willful and malicious injury
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

<p>The Adversary Proceeding having been dismissed, the Status Conference is removed from the Calendar.</p>

Notes:
[RHS-1] Order sustaining Order to Show Cause and dismissing adversary proceeding without prejudice filed 8/26/18 [Dckt 11]