

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO

In re:) Case No. <00-00000>
)
[NAME OF DEBTOR(S)],) Chapter <13> <11>
)
Debtor(s).) Judge <_____>
)
) MOTION OF <MOVANT> FOR
) RELIEF FROM STAY
)
) <ADDRESS OF REAL PROPERTY OR
) DESCRIPTION OF PERSONAL
) PROPERTY>

<MOVANT> (the “Movant”) moves this Court, under Bankruptcy Code §§ 361, 362, and 363, and other sections of Title 11 of the United States Code, and under Federal Rule of Bankruptcy Procedure 4001 for an order conditioning, modifying or dissolving the automatic stay imposed by Bankruptcy Code § 362.

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. On <DATE>, the < DEBTOR(S) AND/OR OTHER PERSON(S), STATE NAME(S) IF APPLICABLE> obtained a loan from <LENDER NAME> in the amount of <AMOUNT>. Such loan was evidenced by a <PROMISSORY NOTE> <OTHER> dated <DATE> (the “Note”), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the <DEBTOR(S) AND/OR OTHER PERSON(S), STATE NAME(S) IF APPLICABLE> executed a Security Agreement in favor of <STATE NAME> dated <DATE> (the “Security

Agreement”). The Security Agreement granted a lien on the <DESCRIBE REAL AND/OR PERSONAL PROPERTY, INCLUDE ADDRESS IF REAL ESTATE> owned by <NAME OF DEBTOR(S) AND/OR OTHER PERSON(S), STATE NAME(S) IF APPLICABLE> (the “Collateral”). The Collateral is more fully described in the Security Agreement (check one):

- attached as Exhibit B;
- OR
- contained in the Note, attached as Exhibit A.

4. The lien created by the Security Agreement was duly perfected by:

- Filing of the Security Agreement in the office of the <COUNTY> County Recorder on <DATE>.
- Filing of the UCC-1 Financing Statement in the office of _____ on <DATE>.
- Notation of the lien on the Certificate of Title.
- Other (state with particularity)_____

A copy of the recorded Security Agreement, UCC-1 Financing Statement, Certificate of Title or other document, as applicable, is attached as Exhibit <___>. Based on <STATE SOURCE OF INFORMATION>, the lien is the <1st, 2nd, 3rd, etc.> lien on the Collateral.

5. The entity in possession of the original Note as of the date of this motion, is <NAME AND ADDRESS OF PERSON OR ENTITY IN POSSESSION OF ORIGINAL NOTE>.

6. The entity servicing the loan is: <the Movant, OR NAME OF SERVICER, OR N/A>.

7. The Note was transferred, as evidenced by the following:

a. If the Collateral is real estate:

i. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the original lender (check only one):

N/A.

OR

By endorsement on the Note,
payable to_____.

OR

By blank endorsement on the Note.

OR

By allonge attached to the Note,
payable to_____.

OR

By blank allonge, attached to the Note.

OR

The Note is not endorsed to the Movant, or is not endorsed in blank with an allegation that the Movant is in possession of the original Note. The factual and legal basis upon which the Movant is entitled to bring this motion is (explain with particularity and attach supporting documentation):

_____.

OR

By endorsement on the Note or by allonge attached to the Note, through a power of attorney. If this box is checked, a copy of the power of attorney is attached as Exhibit <____>. Explain why it provides Movant the authority to endorse the Note:

_____.

<ii. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the <FIRST TRANSFEREE> to < _____> [ADD ADDITIONAL TRANSFER SECTIONS AS APPROPRIATE. THE LAST TRANSFEREE MUST BE THE MOVANT].>

<iii. A court has already determined that Movant has the ability to enforce the Note with a judgment dated <INSERT DATE OF JUDGMENT> in the <INSERT NAME OF COURT>. A copy of the judgment is attached at Exhibit <_>.>

<iv. Other _____ [explain].>

b. If the Collateral is not real estate (check one):

N/A.

OR

From the original lender to <FIRST TRANSFEREE> by <STATE METHOD OR DOCUMENT EFFECTING TRANSFER>. [ADD ADDITIONAL TRANSFER SECTIONS AS APPROPRIATE. THE LAST TRANSFEREE MUST BE THE MOVANT.]

8. The Security Agreement was transferred as follows (check one):

N/A.

OR

From the original lender, mortgagee, or mortgagee's nominee on <DATE> to <FIRST TRANSFEREE>. The transfer is evidenced by the document(s) attached to this Motion as Exhibit <_>. [ADD ADDITIONAL TRANSFER SECTIONS AS APPROPRIATE. THE LAST TRANSFEREE MUST BE THE MOVANT.]

9. The value of the Collateral is <\$AMOUNT>. This valuation is based on

<DESCRIBE MANNER OF VALUATION>.

10. As of the date of this motion, there is currently due and owing on the Note the outstanding principal balance of <AMOUNT> , plus interest accruing thereon at the rate of <___%> per annum [\$_____ PER DAY] from <DATE>, as described in more detail on the worksheet. The total provided in this paragraph cannot be relied upon as a payoff quotation.

11. The amount due and owing on the Note as set forth in paragraph 10 <DOES/DOES NOT> include a credit for the sum held in a suspense account by the Movant. The amount of the credit is \$ <AMOUNT OR N/A>.

12. Other parties known to have an interest in the Collateral besides the debtor(s), the Movant, and the trustee are (check all that apply):

- N/A.
- The <COUNTY> County Treasurer, for real estate taxes, in the amount of \$<AMOUNT>.
- <CO-OWNERS, IF APPLICABLE, STATE NAME>.
- <ANY OTHER PARTY HOLDING A LIEN, IF APPLICABLE, IN THE AMOUNT OF \$_____ [ADD ADDITIONAL PARTIES AS APPROPRIATE]>.

13. The Movant is entitled to relief from the automatic stay under Bankruptcy Code § 362(d) for these reason(s) (check all that apply):

- Debtor has failed to provide adequate protection for the lien held by the Movant for these reasons: <EXPLAIN>.
- Debtor has failed to keep the Collateral insured as required by the Security Agreement.
- Debtor has failed to keep current the real estate taxes owed on the Collateral.

- Debtor has failed to make periodic payments to Movant since the commencement of this bankruptcy case for the months of <STATE EACH MONTH AND YEAR>, which unpaid payments are in the aggregate amount of <AMOUNT> through <DATE>. The total provided in this paragraph cannot be relied upon as a postpetition reinstatement quotation.
- Debtor is delinquent in funding the plan, and therefore the trustee has failed to make periodic payments to Movant since the commencement of the bankruptcy case for the months of <STATE EACH MONTH AND YEAR>, which unpaid payments are in the aggregate amount of <AMOUNT> through <DATE>. The total provided in this paragraph cannot be relied upon as a postpetition reinstatement quotation.
- Debtor has no equity in the Collateral, because the Collateral is valued at _____, and including the Movant's lien, there are liens in an aggregate amount of _____ on the Collateral.
- Debtor's plan provides for surrender of the Collateral.
- The property is not necessary to an effective reorganization because _____.
- Other cause (set forth with specificity):_____.

14. Movant has completed the worksheet, attached as Exhibit <____>.

WHEREFORE, Movant prays for an order from the Court granting Movant relief from the automatic stay of Bankruptcy Code § 362 to permit Movant to proceed under applicable nonbankruptcy law.

Respectfully submitted,

/s/ <Attorney>
 <Attorney & Bar Number>
 <Law Firm>
 <Street Address>
 <City, State and Zip Code>
 <Phone Number>
 Attorney for Movant

CERTIFICATE OF SERVICE

The undersigned certifies that on <date>, a true and correct copy of the foregoing [entire title of pleading with Movant's name] was served via the Court's electronic case filing system on the following who are listed on the Court's Electronic Mail Notice List:

<name>

and by regular U.S. mail, postage prepaid, to:

<name and address>.

/s/ <Attorney>

<Attorney & Bar Number>