

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Thursday, December 01, 2016

Hearing Room 302

9:00 AM

1:16-13226 Zoila Villafana

Chapter 13

#1.00 ■
Order 1- Setting Status Conference; 2- Directing Compliance with Applicable Law; and 3- Requiring Debtor(s) to explain why this case should not be converted or dismissed with 180-day bar to refile

Docket No: 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zoila Villafana

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
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Thursday, December 01, 2016

Hearing Room 302

9:00 AM

1:16-13238 Mohammad Reza Izadmehr

Chapter 13

#2.00 Order 1- Setting Status Conference: 2- Directing Compliance with Applicable Law; and 3- Requiring Debtor(s) to explain why this case should not be converted or dismissed with 180-day bar to refile

Docket No: 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mohammad Reza Izadmehr	Pro Se
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Trustee(s):

Elizabeth (SV) F Rojas (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
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Thursday, December 01, 2016

Hearing Room 302

9:00 AM

1:16-13301 Maria E Guzman

Chapter 13

#2.01 Order 1- Setting Status Conference: 2- Directing Compliance with Applicable Law; and 3- Requiring Debtor(s) to explain why this case should not be converted or dismissed with 180-day bar to refile

Docket No: 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria E Guzman

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 302

9:00 AM

1:16-13304 Salome Pena Gonzalez

Chapter 13

#2.02 Order 1- Setting Status Conference: 2- Directing Compliance with Applicable Law; and 3- Requiring Debtor(s) to explain why this case should not be converted or dismissed with 180-day bar to refile

Docket No: 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Salome Pena Gonzalez

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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1:09-19550 Michael Lee Bjorkman

Chapter 11

#3.00 Post Confirmation Status Conference

fr. 1/25/10, 2/22/10, 8/2/10, 12/15/10, 1/27/11,
3/10/11(from 9:30am), 3/24/11(per stip entrd
3/24/11), 5/26/11, 2/2/12, 3/1/12, 4/12/12, 11/15/12,
6/13/13,11/21/13, 12/5/13, 6/12/14, 1/15/15,
11/5/15; 5/12/16, 5/19/16, 11/10/16

Docket No: 1

Tentative Ruling:

Status conference was continued from November 10, 2016 for consideration of the motion for final decree. In the motion, Debtor does not state under penalty of perjury or provide evidence that he has paid the unsecured creditors as required under the confirmed amended plan. Debtor also represents on page 5, paragraph 15 of his declaration that the IRS taxes were determined to be unsecured, but he does not cite to the orders so finding and does not explain whether they were paid as unsecured creditors.

Debtor must explain (1) what exactly has been paid to unsecured creditors and how that compares to the terms of the confirmed amended plan; and (2) what was paid to the IRS and when those payments were authorized as unsecured.

APPEARANCE REQUIRED.

Party Information

Debtor(s):

Michael Lee Bjorkman

Represented By
Louis J Esbin

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1:15-11292 Mark Handel

Chapter 11

#4.00 First And Final Application Of Levene, Neale,
Bender, Yoo & Brill L.L.P. For Approval Of Fees
And Reimbursement Of Expenses

Period: 4/14/2015 to 11/8/2016,
Fee: \$343,998.00,
Expenses: \$12,216.91.

Docket No: 168

Tentative Ruling:

Period: 4/14/2015 to 11/8/2016,
Fee: \$343,998.00,
Expenses: \$12,216.91.

Application APPROVED. NO APPEARANCE REQUIRED.

Party Information

Debtor(s):

Mark Handel

Represented By
David L. Neale
John-Patrick M Fritz

Movant(s):

Mark Handel

Represented By
David L. Neale
John-Patrick M Fritz

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1:15-12000 Floridalma Pimentel Terraza and Maynor Antonio Terraza Chapter 11

#5.00 Status and Case Management Conference

fr. 11/19/15, 12/10/15; 3/3/16, 10/20/16

Docket No: 0

Tentative Ruling:

The case has been closed on an interim basis while debtor completes her plan payments. NO APPEARANCE REQUIRED AT STATUS CONFERENCE

Party Information

Debtor(s):

Floralma Pimentel Terraza

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Maynor Antonio Terraza

Represented By
Anthony Obehi Egbase

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9:30 AM

1:16-11961 Stronghold Asset Management Corp.

Chapter 11

#6.00 Motion for relief from stay

PENNYMAC LOAN SERVICES, LLC

Docket No: 37

Tentative Ruling:

On July 6, 2016, Stronghold Asset Management Corp. ("Debtor") filed for chapter 11 relief. Debtor claims that the purpose of the filing was to save from non-judicial foreclosure the real property located at 5021 Topeka Dr., Tarzana CA 91356 ("Topeka Property"). The Topeka Property is co-owned by Debtor and the Akselrod Family Trust.

The Topeka Property was allegedly occupied by holdover tenants – Harvey J. Williams and Beverly Ann Williams (the "Williams"). The Williams were the original borrowers of the subject loan from Hawthorne Savings Bank. In a current bankruptcy case administered by this Court, In re Harvey J. Williams, 1:16-11952-MT, Harvey Williams asserted a 100% interest in the Topeka Property on its schedules. On October 4, 2016, PennyMac moved for relief from the automatic stay. On November 17, 2016, the Court entered an order granting the motion, under 11 U.S.C. §362(d)(1) and (d)(4), with an expressed finding that "the Debtor was involved in this scheme." Order Granting Motion for Relief From the Automatic Stay, ¶3(d)(3).

On October 26, 2016, PennyMac Loan Services, LLC. ("Movant" or "PennyMac"), as holder of the first deed of truth and successor in interest to Hawthorne Savings Bank, moved for relief from the automatic stay on the following basis:

Petition Date: 7/6/16

Chapter: 11

Service: Proper. Opposition filed but not served on Movant.

Property: 5021 Topeka Dr., Tarzana CA 91356

Property Value: \$2,800,000 (per Debtor's amended

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Stronghold Asset Management Corp.

Chapter 11

schedules)

Amount Owed: \$2,685,720.06

Equity Cushion: 0%

Equity: \$0

Post-Petition Delinquency: \$678,018.92 (58 payments of 11,175.78)

Movant requests relief under 11 U.S.C. 362(d)(1) and (d)(2). Movant seeks relief requested in paragraphs **2** (proceed under non-bankruptcy law); **3** (Movant permitted to engage in loss mitigation activities); **7** (waiver of the 4001(a)(3) stay); **9** (relief under 362(d)(4)).

I. Standing

Debtor's argument that Movant is not a party in interest is refuted by evidence attached to the motion. Movant holds a deed of trust recorded in the Los Angeles County Recorder's Office on February 9, 2000. Motion for Relief from Stay, Exh. 2. The promissory note reflects the original loan between the Williams and Hawthorne Savings Bank. Id. at Exh. 1., The Corporate Assignment of Deed of Trust shows an assignment of Hawthorne Savings Bank. Id. at Exh. 3.

Debtor's argument that Movant lacks standing because of its failure to file a proof of claim is without merit. In Chapter 11, a proof of claim is not necessary if the creditor's claim is listed by the debtor on the debtor's schedules, unless the claim is scheduled as disputed, contingent, or unliquidated. 11 U.S.C. §1111(a); Fed. R. Bankr. P. 3003(c)(c). Debtor's Schedule D clearly listed PennyMac's secured claim as the only creditor on the Topeka Property. Schedule D, ECF No. 16. Debtor left unchecked the boxes where it would indicate the claim as contingent, unliquidated, or disputed. Id.

Movant has standing to bring this motion for relief from stay.

II. 11 U.S.C. §362(d)(2)

Under Section 362(d)(2), stay relief is available to a secured creditor if a debtor lacks equity in the collateral, but only if it is also shown that the collateral is

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not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). The party requesting such relief has the burden of proof on the issue of debtor's equity in property. 11 U.S.C. § 362(g)(1).

a. Equity Cushion

Debtor argues that Movant's valuation of the property at \$2,800,000 is not supported by evidence. Yet Debtor's own amended schedules list the property at the same market value. Amended Schedule A/B, ECF No. 24. With a property value of \$2,800,000, PennyMac's claim of \$2,685,720.06, and cost of sale at 8%, the equity calculation is as follows:

$$\begin{aligned} &(\text{FMV} - (\text{Cost of Sale [8\%] + lien}) / \text{FMV} = \text{Equity} \\ &(\$2,800,000 - (\$224,000 + \$2,685,720.06)) = \text{\textbf{-\$109,720.06}} \end{aligned}$$

PennyMac's claim clearly overencumbers the equity in the property.

b. Not Necessary for an Effective Reorganization

Once the movant under §362(d)(2) establishes that he is an undersecured creditor, it is the burden of the debtor to show that the collateral is necessary for an effective reorganization. 11 U.S.C. §362(g)(1). "Effective reorganization" requires debtor to prove that a proposed plan "is not patently unconfirmable and has a realistic chance of being confirmed." In re Sun Valley Newspaper, Inc., 171 B.R. 71, 75 (B.A.P. 9th Cir. 1994).

Per the Court's scheduling order, the deadline to file a plan and disclosure statement is March 10, 2017. This deadline was based on representations made by debtor at the initial status conference. It is allegedly in the process of "renovating, clearing, cleaning up, and getting the [Topeka Property] ready for tenants to occupy the main house and guest house." Opposition, 8:5-7. The Court has serious concerns regarding the eve of foreclosure filing. Such concerns will be addressed in the Section 362(d)(4) discussion below. For purposes of Section 362(d)(2), Debtor's plan appears to be theoretically plausible, although completely lacking in any evidence or detail whatsoever.

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It is unclear whether debtor really has a plan as first it says it will renovate and obtain income for a plan, and then it claims it will sell, but the offer is too low. What money the debtor actually has is unclear, and why the eve of foreclosure transfer had to be made on any good faith basis is unclear. The plan deadline was postponed a significant time, given the filing and transfer history of this case, and now debtor's intentions appear to have changed, so a plan appears to be possibly speculative at this point. Thus, relief from stay under 11 U.S.C. §362(d)(2) is quite possible.

Debtor makes much of the fact that PennyMac did not appear at the status conference. This is irrelevant, as a creditor has no duty to appear at the status conference and always has the right to bring a relief from stay motion. The court is always aware that unilateral, uncontested status reports from the debtor for Chapter 11 status conferences may or may not present the whole picture of the debtor's situation. In fact, such status reports are often supplemented by additional information from parties once contested motions are filed.

III. 11 U.S.C. §362(d)(4)

To obtain relief under Section 362(d)(4), the court must find that the following three elements are present:

- (1) the debtor's bankruptcy filing was part of a scheme;
- (2) the object of the scheme was to delay, hinder or defraud creditors; and
- (3) the scheme must involve either (a) the transfer of some interest in the real property without the secured creditor's consent or court approval, or (b) multiple bankruptcy filings affecting the property.

First Yorkshire Holdings, Inc. v. Pacifica L 22, LLC (In re First Yorkshire Holdings, Inc.), 470 B.R. 864, 870-71 (B.A.P. 9th Cir. 2012).

(1) Bankruptcy Filing was Part of a Scheme

A scheme is defined as an "intentional artful plot or plan to delay, hinder or defraud creditors. In re Duncan & Forbes Development, Inc., 368 B.R. 27, 32 (Bankr.

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C.D. Cal. 2007), citing *Black's Law Dictionary* (8th ed. 2003). It is a "intentional construct" and not a product of "misadventure or negligence." *Id.* In *Duncan*, although the debtor transferred a piece of real property from an individual to a related corporation, the bankruptcy court did not designate such act as a "scheme" as such transfers are often undertaken for important legal and practical reasons. *Id.* at 33 (Holding that the bankruptcy filing just four days after the transfer was suspicious but not sufficient to infer a "scheme").

Here, the filing is surrounded by a much more suspect and peculiar set of facts. Debtor's schedules, where were filed late, lists PennyMac as its only creditor. Edward Akselrod is listed as the 100% shareholder and officer of the debtor. List of Equity Holders, ECF No. 16. The chapter 11 petition was a blanket sheet filing on the day before a scheduled foreclosure of the Topeka Property. If the Akselrod trust is funding this effort and already owned the property, why was the transfer to this debtor necessary? Why does the very conclusory and generalized passive voice declaration of Edward Akselrod not address any of this?

Over the past five-and-a-half years, five bankruptcies have been filed to shield the Topeka Property from foreclosure. The first case, In re Harvey Joseph Williams and Beverly Ann Williams, 1:11-bk-10702-MT, was filed on January 18, 2011, and dismissed on February 23, 2011. The second case, In re Vivian Alicia Gill, 2:13-bk-35958-VK, was filed October 25, 2013, and relief from stay was granted as to the Topeka Property on December 23, 2013. The third case, In re Harvey J Williams, 1:15-bk-13473-MT, was filed on October 19, 2015, and dismissed on February 8, 2016. The fourth case, In re Harvey J Williams, 1:15-13738-MB, was filed November 11, 2015 and dismissed on November 25, 2015.

The fifth and current case, In re Harvey J Williams, 1:16-bk-11952-MT, was filed on July 5, 2016. On October 4, 2016, PennyMac moved for relief from the automatic stay. On November 17, 2016, the Court entered an order granting the motion, under 11 U.S.C. §362(d)(1) and (d)(4), with an expressed finding that Harvey Williams was involved in a scheme to delay and defraud creditors.

In a related adversary, Pauline Akselrod, as Trustee of the Akselrod Trust, and second lienholder of the property behind Movant, commenced civil action against Harvey Williams to obtain title to the Topeka Property by its purchase at a foreclosure

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sale held on January 24, 2000. Pauline Akselrod v. Harvey J. Williams, 1:16-ap-01003-MT, Complaint, ECF No. 1. The case was removed to the California Superior Court. No further updates have been provided to the Court other than Debtor's statement that the Williams have vacated the property. Opposition, 5:27-28.

This series of events begs many questions regarding the legitimacy of this filing. What is the chain of title from the Williams to Debtor and the Akselrod Family Trust? What happened in the removed state court action between Paul Akselrod and the Williams? Did the Akselrod Family Trust attain title as a result of the state court action? If it was through foreclosure, how did the Akselrod Family Trust as the second lienholder, jump ahead of PennyMac? Why did a member of the Akselrod Trust form a separate single asset entity – Stronghold Asset Management – to hold 50% of the interest in the Topeka Property? There are no exhibits and no documentation of any sort attached to the very generalized and scattered version of events Akselrod provides in his declaration. His version of events is completely unsupported by any evidence.

Given past transgressions involving the Topeka Property, Debtor's relationship to the Williams is integral to whether Debtor's filing was be a part of a pattern of bad acts constituting a "scheme" under Section 362(d)(4). Debtor must come to the hearing prepared to answer the above questions IN DETAIL.

**(2) The Objective of the Scheme was to Delay, Hinder or Defraud
Creditors**

Debtor states that the bankruptcy was not filed to delay, but instead to prevent an inequitable forced sale of the property. In arguing that the bankruptcy is not meant to delay, hinder or default creditors, Debtor argues that, having "removed the Williams from the [Topeka Property], and with funding from the Akselrod Family Trust," Debtor has been "cleaning, fixing and remodeling" the property to ready it for "a new tenant" or "even for sale to a prospective buyer." Opposition, 6:5-8. This is inconsistent with the information offered in the Williams relief from stay hearing where it came to the court's attention that the Williams were out of the property as of last June.

Answers to questions above will help the Court to determine whether the bankruptcy is legitimate or rather a scheme to hinder PennyMac from asserting its

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CONT... **Stronghold Asset Management Corp.**
rights as the first lienholder on the property.

Chapter 11

**(3) The Scheme Included Multiple Bankruptcy Filings or Transfer of
Some Interest in the Real Property Without the Secured Creditor's
Consent or Court Approval**

As discussed above, the Topeka Property has been is the subject of five bankruptcy filings. Without approval of the Court or consent of PennyMac, title was transferred from Harvey and Beverly Williams to Debtor and the Akselrod Family Trust. The findings have already been made in the Williams case under 362(d)(4). It is not clear why they should not bind this debtor as well.

The Harvey Williams chapter 13 case has already been ordered converted to Chapter 7. If this debtor is now seeking to sell the property, it is unclear why it should remain in chapter 11. Perhaps the Chapter 7 Trustee should figure out the chain of title between Stronghold Assets Management, Akselrods, the Akselrod Family Trust, and the Williams. Without the Topeka Property, neither bankruptcy cases have a real reason to stay in Chapter 13 and Chapter 11.

Party Information

Debtor(s):

Stronghold Asset Management Corp.

Represented By
Louis J Esbin

Movant(s):

PennyMac Corp.

Represented By
William F McDonald III

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1:16-12791 Menco Pacific, Inc.

Chapter 11

#7.00 Motion for relief from stay

JON BLUMENTHAL

Docket No: 33

Tentative Ruling:

To be treated as a status conference

Party Information

Debtor(s):

Menco Pacific, Inc.

Represented By
Jeffrey S Shinbrot

Movant(s):

Jon Blumenthal

Represented By
William P Fennell

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1:16-12791 Menco Pacific, Inc.

Chapter 11

#8.00 Motion to Reject Executory Settlement Agreement
Between The Debtor and Jon Blumenthal

Docket No: 49

Tentative Ruling:

To be treated as a status conference

Party Information

Debtor(s):

Menco Pacific, Inc.

Represented By
Jeffrey S Shinbrot

Movant(s):

Menco Pacific, Inc.

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
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Hearing Room 302

9:30 AM

1:16-12869 Tul Investments, Inc.

Chapter 11

#9.00 Status and Case Management Conference.

Docket No: 1

Tentative Ruling:

The court will set deadlines but may change any as appropriate since debtor did not serve creditors with the status conference notice until November 23 even though the court's order setting the status conference was entered on October 5, 2016. The debtor in possession has a fiduciary responsibility to creditors to give proper notice and should not continue in the vein.

Proposed claim bar date: 60 days from when NOTICE IS GIVEN, which should be ASAP

Objections to claims deadline: 30 days from claims bar date

Proposed disclosure statement filing deadline: File by January 20, 2017

Proposed disclosure statement hearing: March 9, 2017 at 9:30 am

DEBTOR TO LODGE SCHEDULING ORDER WITHIN 7 DAYS OF THE INITIAL STATUS CONFERENCE

Party Information

Debtor(s):

Tul Investments, Inc.

Represented By
Matthew Abbasi

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1:16-12869 Tul Investments, Inc.

Chapter 11

#10.00 Motion for relief from stay

ABMS LIMITED LIABILITY COMPANYYT

Docket No: 40

Tentative Ruling:

It is unclear if this matter is still needed, given subsequently filed pleadings

Party Information

Debtor(s):

Tul Investments, Inc.

Represented By
Matthew Abbasi

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1:16-12920 Bang T Phan

Chapter 11

#11.00 Scheduling and Case Management Conference

Docket No: 1

Tentative Ruling:

Debtor should submit a claims bar date for 60 days after the submission of
teh order

A proposed disclosure hearing date is April 27 at 9:30 am.

Party Information

Debtor(s):

Bang T Phan

Represented By
John K Rounds

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9:30 AM

1:16-13054 Tamara Zderich

Chapter 11

#12.00 Scheduling and Case Management Conference

Docket No: 1

Tentative Ruling:

No status report was filed.

Has debtor obtained counsel?

A discharge was obtained on 8/6/12 so no discharge may be granted in this case.

What is debtor's purpose in filing?

Party Information

Debtor(s):

Tamara Zderich

Pro Se