

IN THE SUPREME COURT OF THE STATE OF NEVADA

ITC FINANCIAL SERVICES, A
NEVADA CORPORATION; THE LAND
HOLDING GROUP, INC., A NEVADA
CORPORATION; ITC HOMES, AN
ARIZONA CORPORATION; RON
AMIRAN, AN INDIVIDUAL; DORIAN
AMIRAN, AN INDIVIDUAL; SUE
ELLEN AMIRAN, A/K/A SUE ELLEN
SAVALAS, AN INDIVIDUAL;
STERLING REALTY INVESTMENTS,
INC., A NEVADA CORPORATION; AND
MESONIC AMERICA, INC., AN
UNKNOWN BUSINESS ENTITY,
Appellants,

vs.

MOSHE GEDALIA, A NEVADA
RESIDENT; SUZIE GEDALIA, A
NEVADA RESIDENT; AND M & S
UNLIMITED, LLC, AN ARIZONA
CORPORATION,
Respondents.

No. 46655

FILED

SEP 20 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rubard*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This appeal was docketed in this court on January 24, 2006. This appeal has been stayed pursuant to the automatic stay provisions of federal bankruptcy law since February 28, 2006. See U.S.C. § 362(a)(1). On February 28, 2006, this court entered an order directing appellant ITC Homes to file a report informing this court of the status of the bankruptcy proceedings by May 30, 2006. To date, ITC has failed to file such a status report. There is no information before this court that the bankruptcy

proceeding has concluded or that any party has sought relief from the stay.

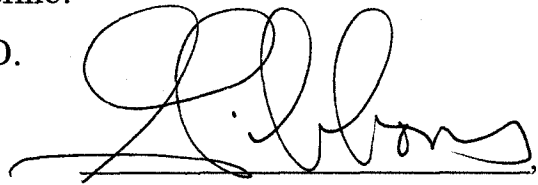
Rather than have this matter pending indefinitely on this court's docket, we conclude that judicial efficiency will be best served if this appeal is dismissed without prejudice. Because a dismissal *without prejudice* will not require this court to reach the merits of this appeal and is not inconsistent with the primary purposes of the bankruptcy stay – to provide protection for debtors and creditors – we further conclude that such dismissal will not violate the bankruptcy stay.¹ See Independent Union of Flight Attendants v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. § 362(a)]”), Dean v. Trans World Airlines, Inc., 72 F.3d 754, 756 (9th Cir. 1995) (holding that a post-bankruptcy petition dismissal will violate the automatic stay “where the decision to dismiss first requires the court to consider other issues presented by or related to the underlying case”).

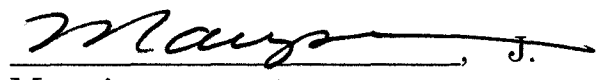
Accordingly, cause appearing, we dismiss this appeal. This dismissal is without prejudice to appellants' right to move for

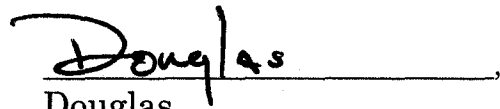
¹ The automatic stay provides a debtor “with protection against hungry creditors” and gives it a “breathing spell from its creditors” by stopping all collection efforts. Dean v. Trans World Airlines, Inc., 72 F.3d 754, 755 (9th Cir. 1995). Further, it assures creditors “that the debtor's other creditors are not racing to various courthouses to pursue independent remedies to drain the debtor's assets.” Id. at 755-6.

reinstatement of this appeal upon either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if appellants deem such a motion appropriate at that time.

It is so ORDERED.


Gibbons J.


Maupin J.


Douglas J.

cc: Hon. Michael A. Cherry, District Judge
M. Nelson Segel, Settlement Judge
Bullivant Houser Bailey
Patti & Sgro, P.C.
Clark County Clerk