

IN THE SUPREME COURT OF THE STATE OF NEVADA

GRS SAHARA AVENUE  
CORPORATION,

Appellant,

vs.

ELI APPLEBAUM; AND HIGH DESERT  
INVESTMENT GROUP, A NEVADA  
CORPORATION,

Respondents.

No. 50141

**FILED**

JUN 03 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER DISMISSING APPEAL

On November 20, 2007, this court entered an order directing appellant, by December 5, 2007, to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that appellant's claims against Apple Investments, Inc. (Apple) remained pending in the district court.<sup>1</sup> On December 7, 2007, appellant filed a motion for an extension of time to cure the jurisdictional defect. Appellant represented that it had filed a motion for certification pursuant to NRCP 54(b) in the district court, and that once such certification was obtained, jurisdiction would vest in this court.

<sup>1</sup>Apple is not a party to this appeal. However, Apple was a party to the consolidated cases below. When cases have been consolidated in the district court, they become one case for all appellate purposes. Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 609, 797 P.2d 978, 980 (1990). Thus, all claims against all parties in the consolidated action must be resolved before the action becomes appealable as a final judgment. Id.

Appellant also represented that Apple had filed for bankruptcy, and appellant therefore had to apply to the bankruptcy court for a lift of the automatic stay before its motion for NRCP 54(b) certification could be resolved. See 11 U.S.C. § 362(a)(1) and Ingersoll-Rand Financial Corp. v. Miller Mining, Co. Inc., 817 F.2d 1424 (9<sup>th</sup> Cir. 1987).

On February 4, 2008, appellant filed a motion for a second extension of time to respond to our order to show cause, explaining that the bankruptcy court had not yet decided whether to lift the automatic stay.

This court granted the motions by order entered February 20, 2008. Our order directed appellant to file a response to our order to show cause by March 10, 2008. On March 18, 2008, appellant filed an untimely response, requesting a third extension of time to obtain NRCP 54(b) certification.<sup>2</sup> Given the applicability of the automatic stay, this appeal may linger indefinitely on this court's docket pending final resolution of the bankruptcy proceedings. In addition, we construe appellant's failure to respond to our order to show cause as an admission that this court lacks jurisdiction over this appeal.

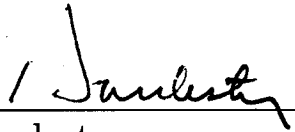
Accordingly, we dismiss this appeal. This dismissal is without prejudice to appellant's right to move for reinstatement of this appeal

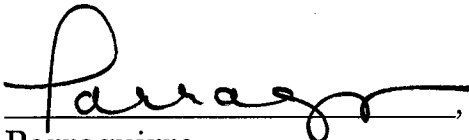
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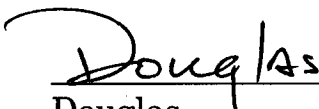
<sup>2</sup>A review of the district court's docket entries reveals that, to date, no order has been entered regarding NRCP 54(b) certification.

upon either the entry of a certification pursuant to NRC 54(b), the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Susan Johnson, District Judge  
William F. Buchanan, Settlement Judge  
Muije & Varricchio  
Susan Frankewich, Ltd.  
Law Office of Daniel Marks  
Lewis & Roca, LLP/Las Vegas  
Eighth District Court Clerk