



1           The circumstances of this case are extremely unfortunate,  
2 and result from dismissal of debtors' then-pending Chapter 13  
3 case for non-appearance at the 11 U.S.C. § 341 meeting of  
4 creditors. It is not disputed that the debtors did not appear,  
5 nor that after dismissal the residence was foreclosed upon by the  
6 lender, and T&M was the successful bidder, all at a time when no  
7 stay was in place.

8           Subsequently, the debtors moved to vacate the order of  
9 dismissal, which was granted. Vacating the order of dismissal  
10 did not reinstate the automatic stay status *quo ante*, as if no  
11 dismissal had occurred. Debtors have been unable to provide the  
12 Court with authority for the proposition that the Court may  
13 vacate a foreclosure sale conducted when no automatic stay was in  
14 place to prevent it. Debtors ask this Court to employ its  
15 equitable powers to redress a drastic consequence of the case's  
16 interim dismissal. However, as the Court noted at the hearing,  
17 the Supreme Court has made clear:

18                           The short answer to these arguments is  
19                           that whatever equitable powers remain in the  
20                           bankruptcy courts must and can only be  
                          exercised within the confines of the  
                          Bankruptcy Code.

21 Norwest Bank Worthington v. Ahlers, 485 U.S. 197, 206 (1988).

22 ///

23 ///

24 ///

25 ///

26 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

For the foregoing reasons, and for those stated on the record during the hearing on debtors' motion to set aside the foreclosure sale, relief from stay to allow T&M to proceed to obtain possession of the property must be granted.

IT IS SO ORDERED.

DATED: APR 15 2010



PETER W. BOWIE, Chief Judge  
United States Bankruptcy Court