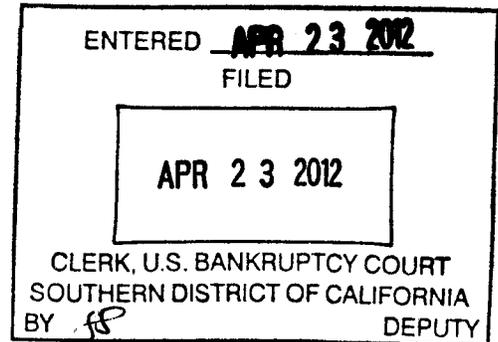


1 **WRITTEN DECISION - NOT FOR PUBLICATION**



8 UNITED STATES BANKRUPTCY COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

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11 In re ) Case No. 12-00026-PB11

12 DAVID M. ANDERSON, ) ORDER ON MOTION FOR

13 ) RELIEF FROM STAY

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16 Asserted Creditors Victoria Place, LLC and James Lessley

17 seek relief from the automatic stay in this Chapter 11 case.

18 Relief would allow them to resume proceedings in state court

19 against debtor Anderson and other defendants on multiple claims

20 ranging from breach of contract to misrepresentation to fraud.

21 In opposition to the motion for relief, Mr. Anderson argues

22 he is trying to move the case along quickly, has filed a draft

23 proposed plan and disclosure statement, and proposes to seek

24 estimation of the claims of Lessley and Victoria Place in order

25 to speed the process along. It is true that 11 U.S.C. § 502(c)

26 provides for estimation of a claim under certain circumstances.

1 That subsection provides:

2 (c) There shall be estimated for purposes of  
3 allowance under this section -

4 (1) any contingent or unliquidated claim,  
5 the fixing or liquidation of which, as the  
6 case may be would unduly delay the  
7 administration of the case; or

8 (2) any right to payment arising from a  
9 right to an equitable remedy for breach of  
10 performance.

11 As of the most recent hearing on the relief from stay  
12 motion, debtor had not filed a motion to estimate. However,  
13 debtor invoked his intent to do so in opposition to the stay  
14 relief motion. That gives rise to the question of whether the  
15 claims of Mr. Lessley and Victoria Place, LLC are amenable to  
16 estimation under § 502(c). To be amenable, they must be either  
17 contingent or unliquidated. In re Audre, Inc., 216 B.R. 19  
18 (9<sup>th</sup> Cir. BAP 1997); In re Keenan, 201 B.R. 263 (Bankr. S.D. CA  
19 1996).

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1           In order to decide the relief from stay motion, the Court  
2 needs to resolve whether estimation is available to debtor and  
3 whether it will advance confirmation of a plan of reorganization.  
4 Accordingly, Mr. Anderson shall file and serve a motion to allow  
5 estimation (focused on the issues of contingency and liquidation,  
6 not amount) on or before May 14, 2012. Mr. Lessley and Victoria  
7 Place, LLC shall file and serve any opposition to the motion they  
8 may have on or before May 29, 2012. Debtor may file and serve a  
9 reply on or before June 5, 2012. Hearing on the motion to allow  
10 estimation will be held on June 18, 2012 at 11 a.m., before this  
11 Court. In the meantime, the automatic stay shall remain in full  
12 force and effect pending further order of this Court.

13           IT IS SO ORDERED.

14           DATED: APR 23 2012

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17 PETER W. BOWIE, Chief Judge  
18 United States Bankruptcy Court  
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