

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
RICHARD LAWRENCE BICKFORD) CASE NO. 09-13458
)
)
Debtor)

**DECISION ON MOTION FOR RELIEF FROM STAY
AND MOTION FOR ABANDONMENT**

At Fort Wayne, Indiana, on November 5, 2009.

This matter is before the court to consider a motion for relief from stay and abandonment, as to real property commonly known as 6133 Kent Rd., Fort Wayne, Indiana, 46816-3531, filed by BAC Home Loans Servicing, L.P. The motion has been noticed out and there have been no objections to it within the time required. See, N.D. Ind. L.B.R. B-2002-2. Accordingly, so long as the motion alleges sufficient facts to state a claim for the relief sought, it may be granted. See, In re White, 409 B.R. 491 (Bankr. N.D. Ind. 2009).

The motion states that the debtor intends to surrender movant's collateral and, absent objection, this constitutes sufficient "cause" for relief from stay under § 362(d)(1). Indeed, such a motion may be one way by which a debtor fulfills its duty to perform that intention within the time required. See, 11 U.S.C. § 521(a)(2).

As for the requested abandonment (and relief from stay pursuant to § 362(d)(2)), the motion does not fare so well. It alleges that the movant is owed \$73,857.22 and then contends "there is little or no equity" in its collateral, but the motion does not contain any allegations concerning the property's value. Since there are no facts in the motion supporting the claim that there is "little or no equity in the property" that statement is nothing more than an unsupported conclusory allegation.

See, White, 409 B.R. at 495. As a result, the facts set out in the motion do not suffice to demonstrate that the movant is entitled to abandonment under § 554.

BAC Home Loans Servicing, L.P. is entitled to be relieved of the automatic stay so that it may foreclose upon or otherwise proceed against the real property commonly described as 6133 Kent Rd., Fort Wayne, IN 46816-3531, but the request to abandon that property will be denied, without prejudice. An order doing so will be entered.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court