

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: : **CHAPTER 11**
: :
MICHAEL A. GREGORAKOS, : **CASE NO 09-78940-MHM**
: :
Debtor. : :

ORDER DENYING MOTION TO VACATE DISMISSAL

On August 11, 2009, an order was entered dismissing this case because Debtor failed to timely pay the filing fee due in this case. On August 13, 2009, Debtor filed a motion to vacate that dismissal, showing that he has now paid the filing fee in full. On August 14, 2009, to avoid involuntary dispossession from his residence, the real property located in Cobb County, Georgia known as 3184 Robinson Road, Marietta, Georgia 30068 (the "Property"), Debtor filed an emergency motion for hearing on the motion to vacate dismissal. Vacating the dismissal order, however, would not prevent the dispossession, as Debtor's mortgagor has been granted *in rem* relief from the automatic stay, and Debtor's motion to stay that order pending appeal has been denied by an order entered contemporaneously. Additionally, vacating the dismissal order would be an exercise in futility, as the facts in this case show more than ample grounds for dismissal.

By order entered August 3, 2009 [Doc. No. 16], the motion of GRP Loan, LLC (“GRP”), for *in rem* relief was granted as to the Property, which has been involved in three other bankruptcy filings:

- Michael A. Gregorakos filed **Case No. 08-62286-MHM**, a chapter 11, February 5, 2008. GRP filed a *Motion for Relief from Stay and Request to Validate the Foreclosure Sale* of the Property February 11, 2008 [Doc. No. 12]. An order granting that motion was entered March 24, 2008 [Doc. No. 23]. The case was subsequently dismissed by consent October 9, 2008 [Doc. No. 53].
- Michael E. Jones, the purported cook for the Gregorakos family, filed Chapter 7 **Case No. 08-76049-MHM**, August 19, 2008. GRP filed a *Motion for Relief* September 5, 2008 [Doc. No. 11], also regarding the Property. An order granting that motion was entered September 30, 2008 [Doc. No. 14]. The case was dismissed March 9, 2009 [Doc. No. 21].
- Mary Gregorakos, the mother of Michael, filed Chapter 13 **Case No. 09-72614-MHM** May 15, 2009. GRP filed an *Emergency Motion for Relief* also regarding the Property, May 15, 2009 [Doc. No. 4] and amended that motion to include a brief in support thereof, June 1, 2009 [Doc. No. 13]. An order granting that motion was entered June 24, 2009 [Doc. No. 15]. Having filed neither Schedules¹ nor a Chapter 13 plan, Mary Gregorakos filed a motion to voluntarily dismiss the case July 30, 2009 [Doc. No. 20] and the case was dismissed by order entered August 5, 2009 [Doc. No. 21].

¹ Section 521(a) and Bankruptcy Rule 1007(b) require a debtor to file schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts and unexpired leases, and a statement of financial affairs (the "Schedules").

Debtor in this case and the debtors in the three cases described above appear to have filed those cases to litigate an alleged wrongful foreclosure by GRP, but, as more fully set forth in the order entered in **Case No. 09-72614** June 24, 2009 [Doc. No. 15], the substance of that issue should be addressed in the state courts.

The multiple filings by Debtor, his mother and his employee – without reasonable efforts to make the mortgage payments before foreclosure or make *quantum meruit* payments since – demonstrate a bad faith filing without any reasonable prospect for reorganization. Such a bad faith filing constitutes cause for dismissal under 11 U.S.C. §1112 and §105. Additionally, the entry of the order granting *in rem* relief as to the Property effectively appears to remove any basis for reorganization. Debtor's Schedule I shows no income and, curiously, Schedule J shows no expense for Rent or Home Mortgage. Vacating the dismissal order, therefore, would be a useless act; accordingly, it is hereby

ORDERED that Debtor's motion to vacate dismissal is *denied*.

IT IS SO ORDERED, this the 14th day of October, 2009.

MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE