

This Order was entered denying relief from stay based on the Affidavit of Dory Goebel.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION



In re:) Case No. 07-16212
)
DINO ANTONOPOULOS,) Chapter 13
)
Debtor.) Judge Pat E. Morgenstern-Clarren
)
) **ORDER DECLINING TO ENTER**
) **ORDER FOR RELIEF FROM STAY**
) **ON AFFIDAVIT**

The debtor Dino Antonopoulos filed his chapter 13 case on August 17, 2007. On November 9, 2007, Wells Fargo Bank, N.A. as Trustee for Option One Mortgage Loan Trust 2002-3 Asset-Backed Certificates, Series 2002-3, c/o Option One Mortgage Corporation filed a motion for relief from stay alleging that the debtor was in default under a note secured by a mortgage on the debtor’s residence and asking that the automatic stay be lifted to permit the creditor to pursue its state court remedies; i.e. foreclosure.¹ The parties resolved the motion by entering into an agreed order that required the debtor to make certain payments and permitted the creditor to obtain relief from stay on filing an affidavit establishing a default under the agreement.²

On April 28, 2008, Dory Goebel, an “assistant vice president of Fidelity National Foreclosure Solutions, which is Asst. Secretary for Option One Mortgage Corporation for Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2002-3 Asset-Backed Certificates, Series 2002-3” filed an affidavit in which she alleged that the debtor is in default

¹ Docket 17.

² Docket 25.

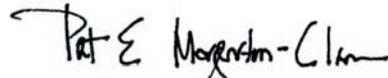
under the agreed order and submitted a proposed order granting relief from stay.³

The affidavit is deficient in these respects:

- (1) The connection between the affiant and the agreed order is too vague to establish that this affiant has standing to request relief under the agreed order;
- (2) The affidavit states that it is offered under an agreed order dated December 28, 2008, a date that has not yet arrived in the calendar; and
- (3) The affidavit states that the debtor is in default “on the Stipulated/ Agreed Order payments from 1/1/08 through 3/1/08 is [sic] \$649.89, on the post-petition payments from 1/1/08 through 4/1/08 is [sic] \$3,619.76, plus late charges from 1/1/08 through 3/1/08 is [sic] \$162.90.” This is too vague to give the debtor reasonable notice of the alleged deficiency. Any statement of default, whether of monthly payments or late charges, must have the date and the amount of each payment due.

The court, therefore, declines to enter judgment ordering relief from stay based on this document.

IT IS SO ORDERED.



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

³ Docket 27.