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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:) Case No. 01-16634
)
JEFFREY NEAL MARTIN and) Chapter 7
PAMELA SUE MARTIN,)
) Judge Arthur I. Harris
Debtors.)

ORDER

On November 12, 2002, the debtors, Jeffrey Neal Martin and Pamela Sue Martin, filed a motion (Docket No. 26) for an order for Countrywide to appear and show cause why it should not be held in contempt for failure to provide an accounting of mortgage payments made by the debtors to Countrywide, pursuant to an earlier agreed order (Docket No. 15). A hearing on the motion (argument only) was held on January 14, 2003, at which time the parties requested a continuance. The matter was adjourned for further argument on February 25, 2003, at which time the parties indicated that they were unable to resolve the matter on their own.

The Court therefore issued a scheduling order dated February 28, 2003 (Docket No. 27). The February 28, 2003, order directed:

Countrywide and Debtors to meet in person, no later than March 25, 2003, to attempt to resolve the issues related to the payment history. Prior to the meeting, Countrywide is ordered to provide to the Debtors an accurate and complete accounting of all mortgage

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payments, and an explanation of all charges on the Debtors' account. The Court further orders the parties to file, on or before April 8, 2003, a joint statement in which they: (1) identify any issues remaining in dispute which need to be resolved by the Court; (2) indicate whether an evidentiary hearing will be necessary; and (3) submit suggestions for resolving the remaining issues.

Unfortunately, the parties failed to comply with the directives of the February 28, 2003, order. Therefore, an evidentiary hearing that would have resolved the matter did not go forward on April 15, 2003. Instead, the Court admonished counsel and issued a new scheduling on April 24, 2003 (Docket No. 30).

The April 24, 2003, order described counsel's noncompliance with the prior scheduling order and further provided, in pertinent part:

[T]he Court once again orders Countrywide and Debtors to meet in person or by conference call no later than May 8, 2003, to attempt to resolve the issues related to the payment history. Prior to the meeting, Countrywide is ordered to provide to the Debtors an accurate and complete accounting of the mortgage balance and payments from July 9, 2001, to the present, and an explanation of all charges on the Debtors' account. The Court further orders the parties to file on or before May 29, 2003, a joint statement in which they: (1) identify any issues remaining in dispute which need to be resolved by the Court; (2) indicate whether an evidentiary hearing will be necessary; (3) submit suggestions for resolving the remaining issues; and (4) describe their respective efforts to comply with this order.

A pretrial conference or evidentiary hearing, if needed, will be held in this matter on June 24, 2003, at 1:30 p.m.

Unfortunately, counsel again failed to comply with the directives of the Court's order. The joint pretrial statement (Docket No. 29) was not filed until June 19,

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2003, and did not identify the issues remaining in dispute which need to be resolved by the Court. Moreover, the late filing once again prevented an evidentiary hearing from going forward on June 24, 2003, that could have resolved the matter. Instead, the Court again admonished counsel and indicated it would issue a final scheduling order. In fact, the Court indicated that, were it not for counsel's oral recitations of their efforts to comply with the Court's scheduling order on June 24, 2003, the Court would have dismissed the Martins' motion, without prejudice, for failure to comply with the Court's orders under Fed. R. Civ. P. 41(b), as made applicable to this case by Fed. R. Bankr. P. 7041 and 9014(c).

Accordingly, in order to secure the just, speedy, and inexpensive determination of this matter, the Court once again orders Countrywide and Debtors to meet in person or by conference call no later than July 18, 2003, to attempt to resolve the issues related to the payment history. The Court further orders the parties to file, on or before July 25, 2003, a joint statement in which they: (1) identify any issues remaining in dispute which need to be resolved by the Court; (2) indicate whether an evidentiary hearing will be necessary; (3) submit suggestions for resolving the remaining issues; and (4) describe their respective efforts to comply with this order.

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An evidentiary hearing, if needed, will be held in this matter on August 8, 2003, at 9:00 a.m.

IT IS SO ORDERED.

/s/ Arthur I. Harris 04/24/2003
Arthur I. Harris
United States Bankruptcy Judge