

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

In re:

SK FOODS, L.P., a California
limited partnership, et al.,

Debtors.

BRADLEY D. SHARP, Chapter 11
Trustee,

CIV. NO. S-12-0775 LKK

Appellant,

O R D E R

v.

SSC FARMS 1, LLC, et al.,

Appellees.

_____ /

On March 23, 2012, Cary Collins and his accounting firm, Collins and Associates (collectively, "appellants" or "Collins appellants") filed this appeal from the adversary proceeding below, Sharp v. SSC Farms, I (In re SK Foods, L.P.), Bankr. 9-2692. On March 28, 2012, appellants sought from this court an emergency stay pending their appeal of what they say is a final ruling of the Bankruptcy Court. Appellants assert that absent the stay, they will be subject to a \$1,000 per day fine imposed by a separate contempt order issued by the Bankruptcy Court. There are numerous procedural flaws in this appeal and emergency motion that render

1 this court unable to decipher what appellants want, or how the
2 relief they seem to want could afford them any relief.

3 1. Appellants purport to appeal from a March 21, 2012
4 "Tentative ruling" of the Bankruptcy Court. See Dkt. No. 1 at
5 p.34.¹ (That order, in turn, denied appellant's motion to
6 reconsider its February 1, 2012 order compelling their production
7 of documents.) Appellants may appeal as of right only from a
8 "final" judgment, order or decree of the Bankruptcy Court. 28
9 U.S.C. § 158(a).²

10 2. Appellants seem to want "emergency" relief from the
11 Bankruptcy Court's contempt order, yet they do not seek a stay of
12 that order.³ Instead they seek a stay of a tentative ruling
13 denying a motion for reconsideration. Appellants do not explain
14 how ruling on this motion will grant them any relief.

15 3. Appellants seem to believe that if they can overturn the
16 Bankruptcy Court's February 1, 2012 order (compelling production
17 of documents), they will no longer be subject to that court's
18 \$1,000 per day fine. However, the Bankruptcy Court's contempt

19

20 ¹ "p.____" refers to the page number assigned by the CM/ECF
21 system.

22 ² Interlocutory appeals are permitted, but only with leave of
23 the district court. 28 U.S.C. § 158(a)(3). Appellants have not
sought leave to file an interlocutory appeal.

24 ³ Appellants have separately appealed the contempt order. See
25 Collins v. SSC Farms I, LLC (In re SK Foods, L.P.), Civ. No. 2:12-
26 cv-655 LKK. However, appellants have not moved to stay that order.
An appeal of the contempt order has also been filed by SSC Farming,
LLC. SSC Farms I, LLC v. Sharp (In re SK Foods, L.P.), Civ. No.
2:12-cv-894 LKK.

1 order fines them for violating its November 16, 2011 stipulation
2 and order (in addition to violating the February 1st order). See
3 Bankr. Dkt. No. 666 ¶¶ 1-2. Appellants do not explain how granting
4 them the relief they seek will purge this separate contempt (and
5 if it is not a separate contempt, appellants do not explain why
6 not).

7 4. Appellants seek an emergency stay pending appeal, but
8 they do not disclose that their request for a stay has already been
9 denied by the Bankruptcy Court, nor explain why, in their view,
10 that decision was in error.

11 Accordingly, it is ordered that:

12 1. Appellants' emergency application (Dkt. No.4) is **DENIED**
13 and the April 18, 2012 hearing date is **VACATED**;

14 2. Appellants shall, within seven (7) days of the date of
15 this order, amend their Notice of Dismissal to reflect that they
16 are appealing a final order of the Bankruptcy Court. If appellants
17 fail to do so, the Clerk of the Court is directed to **DISMISS** this
18 appeal, and all stays issued by this court are **VACATED**, without
19 further order of this court.

20 3. If appellants wish to renew their request for a stay
21 pending appeal, they may do so by filing a noticed motion for such
22 relief no later than fourteen (14) days from the date of this order
23 for the earliest available hearing date;

24 4. Any renewed request shall comply with the local rules of
25 the district court, including Local Rule 230, and the Bankruptcy
26 Rules governing requests for stays on appeal;


1 5. This court's temporary stay (Dkt. No. 8), and any
2 continuance thereof, is **VACATED**;

3 6. The bankruptcy court's order or orders imposing a \$1,000
4 per day fine on appellants is temporarily **STAYED** until further
5 order of this court. If appellants do not file a timely renewal
6 of their request, this temporary stay is **VACATED** without further
7 order of this court.

8 IT IS SO ORDERED.

9 DATED: April 12, 2012.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT