

United States District Court
For the Northern District of California

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E-FILED on: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re: Fred Farmahin Farahani,
Debtor.

No. C-08-05786 RMW

[Re Docket No. 1]

ORDER DENYING THE REQUEST FOR A
TEMPORARY RESTRAINING ORDER

Pro se plaintiff Fred Farmahin Farahani is currently a chapter 11 debtor in case 08-52082 before Judge Roger Efremsky. On November 24, 2008, the bankruptcy court issued an order terminating the automatic stay pursuant to the bankruptcy laws as of December 31, 2008 to permit Mr. Farahani's secured creditor to foreclose on Mr. Farahani's real property at 1650 Pomona Avenue, San Jose, California. *See In re Fred Farmahin Farahani*, Case No. 08-52082-RLE, Docket No. 57, 1-2 (Bankr. N.D. Cal. Nov. 24, 2008). The order further provides: "no trustee's sale may take place until 31 days later or on or after February 1, 2009, pursuant to a prior Order granted to the junior deed of trust holder Salazar." *Id.* at 2. The bankruptcy court then issued another order that "[t]he automatic stay is modified to the extent that in the event the Court grants full relief from the automatic stay to senior secured creditor, Ronald Floria, then Adolfo Salazar will have immediate relief to conduct a trustee's sale against the real property located at 1650 Pomona Avenue, San Jose,

ORDER DENYING THE REQUEST FOR A TEMPORARY RESTRAINING ORDER
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1 County of Santa Clara, California, without further order from the Court." Docket No. 60 (Nov. 26,
2 2008). Mr. Farahani has since filed a motion before the bankruptcy court to reconsider its ruling
3 modifying the automatic stay. *See* Docket No. 61 (Dec. 23, 2008). The bankruptcy court does not
4 yet appear to have acted on the motion to reconsider.

5 Mr. Farahani has also filed a case with this court. Mr. Farahani's filing is difficult to
6 comprehend.¹ He informed the court clerk that he seeks a temporary restraining order to prevent a
7 sale of his property on Friday, which is January 2, 2009. It is not clear, but this sale may be the
8 result of the bankruptcy court's order granting the junior creditor Adolfo Salazar "immediate relief"
9 to conduct a trustee's sale once the court grants full relief from the stay to Mr. Farahani's senior
10 secured creditor, Ronald Floria, on December 31, 2008.

11 Mr. Farahani alleges that Mr. Floria violated various laws, and notes that he has ongoing
12 litigation against Mr. Floria in state court. Mr. Farahani fails, however, to demonstrate how the
13 bankruptcy court has erred in lifting the automatic stay. Thus, whether the court construes Mr.
14 Farahani's filing as an appeal from the bankruptcy court's order or as some form of complaint, the
15 court discerns no basis for granting relief from the bankruptcy court's orders or issuing an order
16 barring a sale of the property.

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18 DATED: 12/30/2008



RONALD M. WHYTE
United States District Judge

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28 ¹ Mr. Farahani alleges that he was hospitalized between March 9 and April 12, 2008 as the
result of a stroke.

1 **Notice of this document has been mailed to:**

2 **Appellant:**

3 Fred Farmahin Farahani
4 1705 Westmont Avenue
5 Campbell, CA 95008

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7 **Dated:** 12/30/2008

TSF
Chambers of Judge Whyte

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