

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARLIN LUSTGRAAF,

Plaintiff,

vs.

SUNSET FINANCIAL SERVICES,
INC., and BRYAN S. BEHRENS,

Defendants.

8:08-CV-335

ORDER

JEAN (J.P.) POOLE & DEE POOLE,
TRUSTEES OF THE POOLE
FAMILY TRUST,

Plaintiffs,

vs.

SUNSET FINANCIAL SERVICES,
INC., and BRYAN S. BEHRENS,

Defendants.

8:08-CV-399

ORDER

WILLIAM GREEN AND JOANN
GREEN,

Plaintiffs,

vs.

SUNSET FINANCIAL SERVICES,
INC., and BRYAN S. BEHRENS,

Defendants.

8:09-CV-13

ORDER

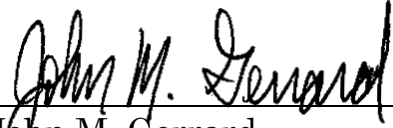
This matter is before the Court on the stipulation and motion for dismissal without prejudice (case no. 8:08-cv-335 filing 388; case no. 8:08-cv-399 filing 383; case no. 8:09-cv-13 filing 354) of the claims of Marlin Lustgraaf, Jean (J.P.) and Dee Poole, JoAnn Green, and Sunset Financial Services against Bryan S. Behrens. As the Court previously stated in its order of June 11, 2013 (case no. 8:08-cv-335 filing 387), the parties are not precluded by the automatic bankruptcy stay from voluntarily dismissing their claims against Behrens, as such a dismissal is not a "continuation" of a proceeding against the debtor within the meaning of 11 U.S.C. § 362(a)(1). See *Dennis v. A.H. Robins Co., Inc.*, 860 F.2d 871, 872 (8th Cir. 1988); see also *O'Donnell v. Vencor Inc.*, 466 F.3d 1104, 1110-11 (9th Cir. 2006). Accordingly, the parties' motion will be granted pursuant to Fed. R. Civ. P. 41(a)(2).

IT IS ORDERED:

1. The moving parties' motions for dismissal without prejudice (case no. 8:08-cv-335 filing 388; case no. 8:08-cv-399 filing 383; case no. 8:09-cv-13 filing 354) are granted.
2. The claims of Marlin Lustgraaf, Jean (J.P.) and Dee Poole, JoAnn Green, and Sunset Financial Services against Bryan S. Behrens are dismissed without prejudice.
3. The claims asserted by William Green and Sunset Financial Services' cross-claim against Behrens involving William Green's claim are not affected by this order.

Dated this 19th day of July, 2013.

BY THE COURT:



John M. Gerrard
United States District Judge