

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUCAS WALKER HUNNICUTT, and  
BRANDIS LYNN HUNNICUTT,

Defendants.

CASE NO. BK17-40660  
A17-4030

**8:17CV136**

**ORDER**

This matter is before the Court on the Report and Recommendation of the United States Bankruptcy Judge recommending that this Court withdraw the previous referral of the matter to the bankruptcy court, [Filing No. 5](#). This is a mortgage foreclosure action filed by the United States Attorney on behalf of the United States of America, acting through the Rural Housing Service, an agency of the United States Department of Agriculture. The United States seeks a judgment in the amount of \$88,835.93 plus interest and costs, a declaration regarding lien priority, authorization to sell the collateral, and an order regarding disposition of proceeds.

Defendants petitioned for bankruptcy relief under Chapter 7 of the Bankruptcy Code on April 28, 2017. They filed a Suggestion of Bankruptcy with the District Court on May 17, 2017, suggesting that the foreclosure action was stayed upon filing of the bankruptcy petition. In response to the Suggestion of Bankruptcy, the District Court referred the case to the bankruptcy court.

Local Rule NENR 1.5(a)(1) was amended in December 2014 to allow the District Court to stay the litigation against a party in bankruptcy until the party requests

referral of the case to the Bankruptcy Court. No party requested a referral. The bankruptcy court recommended that this court withdraw the reference of this case to the bankruptcy court and stay all proceedings until the automatic stay is lifted or the bankruptcy case is dismissed.

Bankruptcy court records show that the parties thereafter stipulated and agreed that the plaintiff Rural Housing Service should be relieved from the Automatic Stay provided for in Section 362 of the Bankruptcy Code or any other order or provision requiring a stay. *See In Re: Lucas Walker Hunnicutt and Brandis Lynn Hunnicutt*, Case No. BK 17-40660, Filing No. 12 (Bankr. D. Neb. June 8, 2017). Also, the debtors consented to the plaintiff's taking possession of the real property involved in this action and authorized the plaintiff to sell, lease or otherwise dispose of such real property, with the net proceeds of such disposition to be applied to the amount owed by the defendants to the Rural Housing Service. *Id.* On July 6, the bankruptcy court approved the stipulation. *Id.*, Filing No. 17. Accordingly, pursuant to the stipulation of the parties,

IT IS ORDERED:

1. The Report and Recommendation of the U.S. Bankruptcy Court ([Filing No. 5](#)) is adopted.
2. The automatic stay of this action is lifted.
3. This action may proceed.

Dated this 14th day of July, 2017.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge