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7 **UNITED STATES BANKRUPTCY COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
9 **SACRAMENTO DIVISION**

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11 In re:

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13 DONALD CLYDE WILLIS,

14 Debtor (s).

Case No. 10-53326-C-7
Chapter 7
DC No. MDE-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY

15 Date: April 26, 2011
16 Time: 9:30 a.m.
17 Judge: Klein
18 Dept: C
19 Ctrm: 35
Floor: 6th
Place: 501 I STREET
SACRAMENTO, CA

20 TO THE DEBTOR DONALD CLYDE WILLIS, THE CHAPTER 7 TRUSTEE AND ALL
21 OTHER INTERESTED PARTIES:

22 BANK OF THE WEST ("Movant") moves this Court for an Order
23 granting Movant relief from the automatic stay to exercise its
24 remedies under its secured interests and non-bankruptcy law,
25 including but not limited to foreclosure upon and sale of the
26 interests of Debtors and JOHN W. REGER, Chapter 7 Trustee, in
27 certain real property as set forth herein. Movant alleges:

28 This Court has jurisdiction over this matter pursuant to 11

1 U.S.C. §361 and §362 and Federal Rules of Bankruptcy Procedure
2 4001, 9013 and 9014, and Local Bankruptcy Rules for the Eastern
3 District, Rule 4001-1. This is a core proceeding under 28 U.S.C.
4 157 (b) (2).

5 This motion is based upon all of the documents, records and
6 evidence on file in the instant case together with the Notice of
7 Motion, this Motion, and the Declaration of KELLY A COLLINS filed
8 and served concurrently herewith, and such additional documents,
9 records, evidence and argument of counsel as may be presented.

10 Movant is the holder of a note payable by Debtor in the
11 original principal amount of \$183,200.00 (the "Note") secured by
12 a deed of trust (the "Deed of Trust") encumbering the real
13 property commonly known as 12197 South Stoneridge Circle,
14 Paradise, California 95969 and legally described herein in the
15 Deed of Trust (the "Property").

16 Debtor filed the instant Bankruptcy under Chapter 7 of the
17 United States Bankruptcy Code on or about December 22, 2010.

18 As set forth in the Declaration of Kelly A Collins filed and
19 served concurrently herewith, there is no equity in the Property.
20 By the Debtor's own admission in Schedule D, the Property has a
21 fair market value of \$160,000.00, while the total amount owed to
22 Movant is \$178,189.23.

23 The Debtor is delinquent with the contractual payments due
24 to Movant for the months of December 2010 through March 2011, and
25 each successive month thereafter. As of March 23, 2011, the
26 total indebtedness under the Note and Deed of Trust was
27 \$178,189.23.

28 Movant alleges that its interest in the Property is not

1 adequately protected, that cause exists in that Movant is not
2 receiving its regular monthly payments, there is no equity in the
3 Property and the Property is not necessary for an effective
4 reorganization.

5 Movant is also entitled to attorney's fees and costs under
6 the Note and Deed of Trust or alternatively under 11 U.S.C. §
7 506(b) and such other relief as the Court deems just and proper.
8 This demand is based on the instant Motion for Relief from
9 Automatic Stay and the following Declaration of Kelly A Collins.

10 WHEREFORE, Movant prays this Court issue an Order:

11 A. Terminating the automatic stay to permit Movant, its
12 successors and/or assigns, to exercise its lawful remedies under
13 its security instruments and non-bankruptcy law, including but
14 not limited to foreclosure upon and sale of the Property; and

15 B. That upon foreclosure, in the event the Debtor fails to
16 vacate the real property, to permit Movant to proceed with all
17 lawful remedies available in state court including but not
18 limited to the right to possession thereof and unlawful detainer
19 action;

20 C. In the event this Chapter 7 proceeding is converted to
21 another Chapter, the order be deemed binding and of full force
22 and effect in any such converted proceeding as to the parties
23 herein; and

24 D. That the 14-day waiting period prescribed by Federal
25 Rules of Bankruptcy Procedure, Rule 4001 (a)(3) be waived.

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1 E. Movant shall be granted such other and further relief
2 as this Court deems just and proper.

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THE ESTLE LAW FIRM

DATED: March 28, 2011

By: /s/ Mark D. Estle
MARK D. ESTLE, Attorney for
Movant BANK OF THE WEST