

SIGNED.



Dated: July 25, 2008

James M. Marlara
JAMES M. MARLAR
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

10 In re: 11 PHILLIP BRIAN STONICH and TERESA 12 MARIE STONICH, _____ Debtors. 13 14 In re: 15 AGUA NEGRA SPRINGS RANCH, LLC, 16 _____ Debtor.) Chapter 11) No. 2:07-bk-06842-JMM) No. 2:08-bk-00968-JMM) (Jointly Administered))) MEMORANDUM DECISION) RE: VARIOUS MOTIONS
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17 Before the court are various motions, filed either by creditors or by the Debtors. The
18 proceedings are being heard as jointly administered cases.

19 The Debtors have been in chapter 11 proceedings for six or seven months,
20 respectively. They now wish to retain new counsel, with a \$75,000 retainer, to begin the process
21 again. This effectively doubles the cost of the cases. They have withdrawn their filed plans of
22 reorganization. Their current counsel wishes to substitute out, or the Debtors' wish to proceed with
23 different counsel. They assert that they can have modified plans filed within ten days, but cannot
24 clearly articulate what such new plans will envision. Based on prior events in these cases, the court
25 must assume that the plans will be liquidating in nature, at a pace controlled by the Debtors. The
26 Debtors have already had this opportunity, however, and the cases appear to now require more
27 impartial assistance.

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1 To date, the court and creditors have been generally patient, expecting viable plans
2 to unfold. Now, the cases are shadowed with uncertainty. It is not fruitful to continue these cases
3 either in debtor-in-possession status, nor in reorganization mode. It is in the best interests of the
4 creditors to convert these cases to chapter 7.

5 These cases deserve the oversight of an impartial trustee, and should be converted to
6 chapter 7, due to the Debtors' inability to timely confirm reorganization plans. 11 U.S.C.
7 § 1112(a)(4)(A).

8 The court will enter separate orders regarding the following matters:

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|----|--------------------------------------|--|--|
| 10 | <u>Dkt. #235</u> | Conditional Application for Order Authorizing and Approving the Retention and Employment of Tiffany & Bosco, P.A. as Debtors' General Bankruptcy Counsel | Denied |
| 13 | <u>Dkt. #238</u> | Application for Substitution of Debtors's Counsel | Denied |
| 15 | <u>Dkt. #16</u>
<u>Agua Negra</u> | First National Bank of New Mexico's Motion for Relief from Automatic Stay | Final hearing set for September 11, 2008 at 11:30 a.m. to allow a chapter 7 trustee to examine the property and assess its viability |
| 19 | <u>Dkt. #121</u> | Joint Motion for Approval of Stipulated Order for Settlement Agreement between Debtors and First National Bank of New Mexico | Denied as moot |
| 22 | <u>Dkt. #81</u> | First Hawaiian Bank's Motion for Relief from Automatic Stay | Final hearing set for September 11, 2008 at 11:00 a.m. in order to enable the chapter 7 trustee to investigate and determine if property has realizable equity for the estate |
| 26 | <u>Dkt. #160</u> | Confirmation of plan | Moot, plan withdrawn at Dkt. #256 |

1 Dkt. #51

2 Citimortgage, Inc.'s Motion for Relief
3 from the Automatic Stay

4 Final hearing continued to
5 **September 11, 2008 at**
6 **10:30 a.m.** in order to
7 enable the chapter 7 trustee
8 to investigate and determine
9 if property has realizable
10 equity for the estate

11 Good cause appearing, this court will also, *sua sponte*,¹ order both of these cases to
12 be converted to proceedings under chapter 7, and the U.S. Trustee will be requested to appoint a
13 liquidating trustee.

14 DATED AND SIGNED ABOVE.

15 COPIES served as indicated below
16 on the date signed above:

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¹ The First National Bank of New Mexico has also requested this relief.

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