

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re Chapter 13
SUZANNE M. MCCORMICK,

Case No. 17-22009-rdd

Debtor.

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**DEBTOR SUZANNE MC CORMICK'S OPPOSITION TO C2GRE LLC'S MOTION TO
CONFIRM AUTOMATIC STAY DOES NOT EXIST OR LIFT STAY AND DEBTOR'S
CROSS-MOTION TO DISMISS C2GRE LLC'S MOTION AND TO CONTINUE THE
AUTOMATIC STAY UNDER 11 U.S.C. § 362(c)(3)(A)(B).**

**TO: HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE**

SUZANNE M. McCORMICK, being duly sworn, deposes and says and declares under oath and penalties of perjury as follows: I make this affidavit on my own personal knowledge, as the debtor herein.

1. I am the Debtor in this case having filed a second Bankruptcy Petition on or about Jan. 4, 2017 making such filing in Good Faith under law and Equity.
2. I make this statement in Opposition to a Motion filed by counsel for C2GRE LLC to either confirm that the Automatic Stay does not apply or alternatively to Lift the Automatic Stay of Bankruptcy protection and further make a Cross-Motion to Dismiss the Motion of C2GRE LLC and further to Continue the Automatic Stay in good faith under **11 U.S.C. § 362(c)(3)(A)(B)**.
3. C2GRE LLC through counsel has moved for an Order”confirming the automatic stay pursuant to §362(d) of Title 11 of the United States Code, 11 U.S.C. §101, et seq. (the “Bankruptcy Code”) does not apply to the action for possession of the property located at 231 Clinton

Avenue, Dobbs Ferry, New York (the “Property”) pursuant to §362(b)(22), or alternatively, relief from the automatic stay.”

4. This motion of C2GRE LLC must be denied and Dismissed under law and equity.
5. C2GRE LLC’s motion is brought under an inapplicable Exception to the automatic stay under Bankruptcy law and because this section does not apply to the facts of this case, the motion must be denied and dismissed.
6. The express terms of the law that C2GRE LLC move this Court under provide an exception to the Automatic Bankruptcy Stay but only as follows to: “the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor”.
7. By its very terms this exception only applies to a “lessor” for residential property “in which the debtor resides as a tenant under a lease or rental agreement” and C2GRE LLC is not now or has never been a “lessor” at my property at 231 Clinton Avenue, Dobbs Ferry, New York (the “Property”) nor have I ever been residing “as a tenant under a lease or rental agreement” with C2GRE LLC as my “lessor” and thus this exception has no application in this case and must be dismissed at this time.
8. I have owned and resided in the subject residential property for approximately 50 years and have substantial Equity and claims under Equity in the subject property as the “Owner” and C2GRE LLC is not a “creditor” of my Estate and is nothing more than an intermediate party seeking to take possession from a series of fraudulent and bad faith actions in the State Courts of New York under circumstances which C2GRE LLC knew and should have known that any

claim to possession or right or title on their part was compromised and pursued under known defects, lack of due process and fraudulent proceedings.

9. Thus, C2GRE LLC has not come into this Bankruptcy Court of equity with “unclean hands” and should have no superior right of possession or title to the subject property.
10. The automatic stay is triggered by the filing of a bankruptcy petition. 11 U.S.C. § 362(a). “The scope of the stay is broad.” Gordon v. Taylor, et al. (In re Taylor), 430 B.R. 305, 311 (Bankr. N.D. Ga. 2010).
11. The filing of a petition under any chapter of the Bankruptcy Code generally triggers the application of the automatic stay and brings to a halt most actions by creditors against the debtor, including "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate[.]" 11 U.S.C. § 362(a)(3).
12. According to applicable New York law, a "beneficial" or "equitable" owner of an asset is "[o]ne recognized in equity as the owner of something because use and title belong to that person, even though legal title may belong to someone else. . . ." In re Worldcom, Inc., 343 B.R. 430, 439 (Bankr.S.D.N.Y.2006) (citing Black's Law Dictionary 1130 (7th Ed.1999))
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