

IT IS ORDERED

Date Entered on Docket: May 9, 2022



**The Honorable David T. Thuma
United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

**In re:
BRENT LAYNE BUTTRAM,
Debtor.**

Case No. 20-10778-t7

**DEFAULT ORDER GRANTING WELLS FARGO BANK, N.A.,
RELIEF FROM AUTOMATIC STAY AND ABANDONMENT
OF PROPERTY LOCATED AT 1537 S. FLORIDA AVE.**

This matter comes before the Court upon Wells Fargo Bank, N.A.'s Motion for Relief from Automatic Stay and Abandonment of Real Property Located at 1537 S. Florida Ave, filed on April

11, 2022 (Doc. 119) (“Motion”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently advised on the premises, FINDS:

1. On April 11, 2022, Wells Fargo Bank, N.A. (“Wells Fargo”) served the Motion and a Notice of the Motion and Deadline to Object Thereto, also filed on April 11, 2022 (Doc. 120) (the “Notice”) on counsel of record for the Debtor, the case trustee (the “Trustee”), and counsel for the Trustee by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on counsel of record for the Trustee, the Debtor, and counsel of record for the Debtor by United States First Class Mail, postage prepaid, in accordance with Bankruptcy Rules 7004 and 9014. Wells Fargo also served copies of the Notice on all parties on the mailing matrix maintained by the Bankruptcy Court Clerk for this case, via First Class U.S. Mail, postage prepaid;

2. The Motion relates to the real property commonly known as 1537 S Florida Ave, Alamogordo, NM 88310, and more particularly described as follows:

A Tract of land in the South Half of the South Half of the Northwest Quarter of the Northwest Quarter (S1/2 S1/2 NW1/4 NW1/4) in Section 32, Township 16 South, Range 10 East, NMPM, Otero County New Mexico.

SAVE AND EXCEPT

Tract 1: (RW6)

A tract of land within the Northwest Quarter of Section 32, Township 16 South, Range 10 East, NMPM, Otero County, New Mexico, more particularly described as follow:

From the Northwest corner of said Section 31 South 00° 00’ 25” West along the West line of said Section 32 a distance of 999.37 feet; Thence South 89° 59’ 35” East leaving the West line of said Section 32, a distance of 50.00 feet to a point of the East Right-of-way line of South Florida Avenue for the point of beginning and the Northeast corner of this Tract; Thence South 00° 00’ 25” West along a line which is the 50.00 feet East of and parallel to the West line of said Section 32, a distance of 333.46 feet to the Southeast corner of this tract; Thence North 89° 59’ 35” West along the property line common to the Buttram Tract and the Jobe Tract, a distance of 20.00 feet to the Southwest corner of this tract; Thence North 00° 00’ 25” East along a line 30 feet East of

and parallel to the West line of said Section 32, a distance of 33.46 feet to the Northwest corner of this tract; Thence South 89° 59' 35" East a distance of 20.00 feet back to the point of beginning.

Tract 2: (CME3)

A tract of land within the Northwest Quarter of Section 32, Township 16 South, Range 10 East, NMPM, Otero County, New Mexico, more particularly described as follows:

From the Northwest corner of said Section 32; thence South 00° 00' 25" West along the West line of said Section 32 a distance of 99.37; Thence South 89° 59' 35" East leaving the West line of said Section 32 a distance of 50.00 feet to the point on the East Right-of-Way line of South Florida Avenue for the point of beginning an Northwest corner of this tract; Thence North 90° 00' 00" East along the North line of said Buttram Property a distance of 109.88 feet to the Northeast corner of this tract; Thence South 00° 00' 00" East a distance of 25.00 feet to the Southeast corner of this tract; Thence North 90° 00' 00" West a distance of 109.88 feet to the Southwest corner of this tract; Thence North 00° 00' 25" East along a line 50 feet East of and parallel to the West line of said Section 32 a distance of 25.00 feet back to the point of beginning.

Tract 3: (CME 5A)

A tract of land within the Northwest Quarter of Section 32, Township 16 South, Range 10 East, NMPM, Otero County, New Mexico, more particularly described as follows:

From the Northwest corner of said Section 32; Thence South 00° 00' 25" West along the West line of said Section 32 a distance of 1314.52 feet; Thence South 89° 59' 35" East leaving the West line of said Section 32 a distance of 50.00 feet to a point on the East Right-of-Way line of South Florida Avenue for the point of beginning and the Northwest corner of this tract; Thence North 90° 00' 00" East a distance of 130.02 feet to the Northeast corner of this tract; Thence South 00° 00' 00" West a distance of 18.06 feet to the Southeast corner of this tract; Thence South 89° 53' 27" West along a line coincident with the South line of the Buttram Tract, which line is also coincident with the Jobe Tract, a distance of 103.02 feet to the Southwest Corner of this tract; Thence North 00° 00' 25" East along a line coincident with the East Right-of-Way line of South Florida Avenue and a line 50 feet East of and parallel to the West line of said Section 32 a distance of 18.31 feet back to the point of beginning

("Property");

3. The Notice specified an objection deadline of twenty-one (21) days from the date of service of the Notice, to which three (3) days were added for those served by mail pursuant to Fed.R.Bankr.P. 9006(f);

4. The Notice was sufficient in form and content;

5. The objection deadline expired on May 5, 2022;

6. As of May 9, 2022, neither the Debtor nor the Trustee, nor any other party in interest, has filed an objection to the Motion;

7. The Motion is well-taken and should be granted as provided herein; and,

IT IS THEREFORE ORDERED, ADJUDGED and DECREED as follows:

A. the automatic stay be, and hereby is, lifted as to the Property (1537 S Florida Ave, Alamogordo, NM 88310), and Wells Fargo is permitted to proceed in State Court with the action to foreclose its Mortgage against the Property as permitted by the Note and Mortgage and pursuant to applicable non-bankruptcy law, including selling the Property at foreclosure sale in accordance with law;

B. any applicable automatic stay does not remain in effect as to the entry of a personal judgment against the Jack J. Buttram Testamentary Trust for which Brent L. Buttram is the Trustee or the collection of any deficiency, if any, owed or claimed to be owed to Wells Fargo by the Jack J. Buttram Testamentary Trust;

C. the Property be, and hereby is, abandoned from Debtor's bankruptcy estate pursuant to 11 U.S.C. § 554(b) as of entry of this Order, and the Property therefore no longer is property of the estate; and,

D. this Order shall be immediately effective, and the stay provided by Bankruptcy Rule 4001(a)(3) is hereby waived and shall not apply.

###END OF ORDER###

Submitted by:

MOSES, DUNN, FARMER & TUTHILL, P.C.

By: /s/ Karla K. Poe

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