

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re	:	CHAPTER 11
	:	(Jointly Administered)
<b>NEW CENTURY TRS HOLDINGS, INC.,</b>	:	
<i>et al.</i> <sup>1</sup>	:	Case No. 07-10416 (KJC)
Debtors	:	(D.I. 11104)

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<b>EL VEASTA LAMPLEY,</b>	:	Adv. Pro. No 13-50907 (KJC)
Plaintiff,	:	(D.I. 2)
	:	
v.	:	
	:	
<b>NEW CENTURY TRS HOLDINGS, INC.,</b>	:	
<i>et al.</i>	:	
Defendants	:	

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**MEMORANDUM ORDER**  
**DENYING EL VEASTA LAMPLEY’S MOTION FOR STAY<sup>2</sup>**

On March 18, 2013, El Veasta Lampley (“Lampley”) filed an adversary complaint against New Century TRS Holdings, Inc. and related entities asserting claims for fraud, violation of the Real Estate Settlement Procedures Act, 12 U.S.C. §2605, violation of the Fair Housing Act, 42 U.S.C. 3601, and other claims.

Lampley also filed a Motion for a Stay (Adv. D.I. 2) (the “Motion for Stay”) asking this

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<sup>1</sup>The Court approved joint administration of the chapter 11 cases of New Century TRS Holdings, Inc. and fourteen related entities by Order dated April 3, 2007 (D.I. 52). New Century Warehouse Corporation, a California corporation, filed a chapter 11 bankruptcy petition on August 3, 2007. The jointly administered debtors and New Century Warehouse Corporation are referred to jointly herein as the “Debtors.”

<sup>2</sup>This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 1334 and 157(a), which is a core proceeding pursuant to 28 U.S.C. 157(b)(1) and (b)(2)(B). This Court has jurisdiction to determine whether it has subject matter jurisdiction over the claims asserted in the Motion for Stay. *Mata v. Eclipse Aerospace, Inc. (In re AE Liquidation, Inc.)*, 435 B.R. 894, 900 (Bankr.D.Del. 2010) citing *Chicot County Drainage Dist. v. Baxter State Bank*, 308 U.S. 371, 376-77, 60 S.Ct. 317, 84 L.Ed. 329 (1940)

Court to “stay the lock out of the writ of execution . . . , remand possession to [Lampley] and/or assign a court appointed official to control the property until the litigation is finalized.” On March 28, 2013, the Trustee for the New Century Liquidating Trust filed an objection to the Motion for Stay.<sup>3</sup> The parties presented oral argument at a hearing on April 10, 2013 to consider the Motion for Stay.<sup>4</sup>

### Background

In January 2006, Lampley obtained a loan from New Century Mortgage Corporation secured by a mortgage lien against her property located at 20051 Big Bend Lane, Huntington Beach, California (the “Property”). In the Motion for Stay, Lampley asserts that a foreclosure sale of the Property occurred on January 27, 2012. (Motion for Stay, ¶6). On August 31, 2012, the Superior Court of California, Orange County (the “California State Court”) entered a judgment against Lampley and in favor of U.S. Bank, National Association as Trustee for the Structured Asset Investment Loan Trust, 2006-4 (“U.S. Bank”) in an unlawful detainer action. (Motion for Stay, ¶9 and Exhibit 9). Lampley claims that, in reviewing the paperwork received from the mortgage servicing company, she noticed that the Assignment of Deed of Trust signed by New Century was back-dated to a date one day prior to the notice of default. (Motion for Stay, ¶7). She filed a motion for reconsideration and motion to vacate the foreclosure judgment in California State Court, but the motions were denied. (*Id.*).

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<sup>3</sup>On November 20, 2009, the Court entered an Order confirming the Modified Second Amended Joint Chapter 11 Plan of Liquidation (the “Modified Plan”) (D.I. 9905). The Modified Plan adopted, ratified and confirmed the New Century Liquidating Trust Agreement, dated as of August 1, 2008, which created the Trust and appointed Alan M. Jacobs as Liquidating Trustee of New Century Liquidating Trust and Plan Administrator of New Century Warehouse Corporation.

<sup>4</sup>Lampley was permitted to participate in the hearing by telephone.

Lampley asserts that she found a Notice to Vacate posted on her front door on January 19, 2013. (Motion for Stay, ¶10 and Exhibit. 9). Lampley filed a motion for a stay in the California State Court that was denied on January 25, 2013. (Motion for Stay, ¶10). On March 18, 2013, Lampley filed the Motion for Stay in this Court.

### Discussion

This Court does not have jurisdiction to issue a stay of action by a non-debtor (U.S. Bank) against a non-debtor (Lampley) with respect to a mortgage loan that the Debtors had no interest in as of the commencement of the bankruptcy estate.<sup>5</sup> *See Scott v. Aegis Mortgage Corp. (In re Aegis Mortgage Corp.)*, 2008 WL 2150120, \*5 (Bankr.D.Del. May 22, 2008) (A declaration as to the rights of parties under a mortgage that was transferred prior to the bankruptcy filing will not alter the debtors' rights, liabilities, options or freedom of action because the debtors are no longer a party to it.). The relief sought by Lampley will not have any effect on the Debtors' bankruptcy estate or the Trust. *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3d Cir. 1984)<sup>6</sup> ("The usual articulation of the test for determining whether a civil proceeding is "related to" a bankruptcy case is whether the outcome of that proceeding could conceivably have any effect of the estate being administered in bankruptcy...."). *See also In re Resorts Int'l*,

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<sup>5</sup>In the Objection, the Liquidating Trust asserts that Trust's books and records reflect that Lampley's mortgage loan was sold to Lehman Brothers Bank, FSB on or about March 28, 2006 and service was released to America's Servicing Company on or about June 1, 2006. (Objection, ¶11). Although, in her pleadings, Lampley raises concerns with the timing and validity of the recorded assignments, she does not dispute the Debtors' sale of the mortgage loan.

<sup>6</sup>While *Pacor* was overruled on other grounds by *Things Remembered, Inc. v. Petrar*, 516 U.S. 124, 134-35 (1995)(Stevens, J. concurring), the *Pacor* test for "related to" jurisdiction was discussed favorably by the U.S. Supreme Court in *Celotex Corp. v. Edwards*, 514 U.S. 300, 308, 115 S.Ct. 1493, 1499, 131 L.Ed.2d 403 (1995), and in footnote 6 of *Celotex*, the Supreme Court noted that - - as of that time - - eight other circuit courts had adopted the *Pacor* test with little or no variation.

*Inc.*, 372 F.3d 154, 168-69 (3d Cir. 2004)(Post-confirmation, a bankruptcy court’s jurisdiction is limited to matters in which “there is a close nexus to the bankruptcy plan or a proceeding, as when a matter affects the interpretation, implementation, consummation, execution, or administration of a confirmed plan or incorporated litigation trust agreement).

Moreover, the *Rooker-Feldman* doctrine prevents the Court from granting relief on a matter that was previously litigated in and determined by a state court. The United States Court of Appeals for the Third Circuit applied the *Rooker-Feldman* doctrine to bankruptcy courts, explaining:

The *Rooker-Feldman* doctrine precludes lower federal courts “from exercising appellate jurisdiction over final state-court judgments” because such appellate jurisdiction rests solely with the United States Supreme Court. *See Lance v. Dennis*, 546 U.S. 459, 463, 126 S.Ct. 1198, 163 L.Ed.2d 1059 (2006). We have held that this doctrine applies equally to federal bankruptcy courts. *See In re Knapper*, 407 F.3d 573, 582 (3d Cir. 2005).

The *Rooker-Feldman* doctrine is implicated when, “in order to grant the federal plaintiff the relief sought, the federal court must determine that the state court judgment was erroneously entered or must take action that would render that judgment ineffectual.” *FOCUS v. Allegheny County Court of Common Pleas*, 75 F.3d 834, 840 (3d Cir. 1996). Accordingly, a claim is barred by *Rooker-Feldman* under two circumstances: (1) “if the federal claim was actually litigated in state court prior to the filing of the federal action” or (2) “if the federal claim is inextricably intertwined with the state court adjudication, meaning that federal relief can only be predicated upon a conviction that the state court was wrong.” *In re Knapper*, 407 F.3d at 580.

Moreover, a federal claim is “inextricably intertwined” with an issue adjudicated by a state court when (1) the federal court must determine that the state court judgment was erroneously entered in order to grant the requested relief, or (2) the federal court must take an action that would negate the state court’s judgment. *Id.* at 581 (quoting *Walker v. Horn*, 385 F.3d 321, 330 (3d Cir. 2004)).

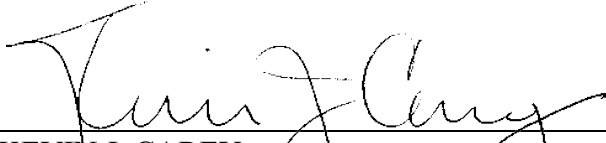
*Madera v. Ameriquest Mortgage Co. (In re Madera)*, 586 F.3d 228, 232 (3d Cir. 2009).

Granting the relief requested in the Motion for Stay would negate the state court’s previous judgment on the same issue.

For the foregoing reasons and for the reasons stated on the record at the April 10, 2013

hearing, it is **ORDERED** that the Motion for Stay is **DENIED**.

BY THE COURT:



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KEVIN J. CAREY  
UNITED STATES BANKRUPTCY JUDGE

Dated: April 15, 2013

cc: Alan M. Root, Esquire<sup>7</sup>

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<sup>7</sup>Counsel shall serve a copy of this Memorandum Order upon all interested parties and file a Certificate of Service with the Court.