

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
BATESVILLE DIVISION**

IN RE: VALRI D. ROEBEN

**1:03-bk-12843 E
CHAPTER 13**

**ORDER DISMISSING CASE WITH PREJUDICE AND GRANTING,
IN PART, EMC MORTGAGE CORPORATION'S MOTION FOR
RELIEF IN REM FROM AUTOMATIC STAY**

On May 14, 2003, a hearing was held on the Objection to Claimed Exemptions, and the Objection to Confirmation of Plan and Motion to Dismiss filed by the Standing Chapter 13 Trustee on April 15, 2003, and the Motion for Relief *in rem* from Automatic Stay and Co-Debtor Stay, the Objection to Confirmation of Plan, and the Motion to Dismiss with Prejudice filed by EMC Mortgage Corporation (“**EMC**”) on March 31, 2003. Appearances were entered by C. Richard Crockett, the Madden Law Firm, for Debtor Valeri D. Roeben; Waylan Cooper, Wilson & Associates, for EMC; the Standing Chapter 13 Trustee, David Coop; and Mary Pruniski for the Chapter 13 Trustee. Neither Debtor nor Debtor’s spouse, Richard Roeben, (“**Spouse**”) was present. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (G), and (L), and the Court has jurisdiction to enter a final judgment in this case. In accordance with the Memorandum Opinion previously entered in this case, it is hereby

ORDERED that EMC’s Motion for Relief *in rem* from Automatic Stay and Co-Debtor Stay is **GRANTED, IN PART, AND DENIED, IN PART**. The Motion is **GRANTED** as to EMC’s request for an *in rem* order on the property designated in the Memorandum Opinion as the Heber Springs Property. EMC is therefore entitled to initiate foreclosure proceedings immediately against the Heber Springs Property securing the mortgage and promissory note in this case. Furthermore,

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the filing of a future bankruptcy petition by any individual or entity will not extend the protection of the automatic stay of 11 U.S.C. § 362(a) to the Heber Springs Property for a period of six (6) months from the date of entry of this Order. EMC's Motion for Relief *in rem* from Automatic Stay is **DENIED** as to EMC's request to prohibit any person or entity with an interest in the Heber Springs Property from filing additional petitions in bankruptcy listing EMC as a creditor. It is also

ORDERED that EMC cause this Order to be properly recorded in the land records for Cleburne County, Arkansas to provide notice to any individual or entity that may have or may obtain an interest in the Heber Springs Property in the next six (6) months. It is also

ORDERED that Federal Rule of Bankruptcy Procedure 4001(a)(3) does not apply in this case, thus permitting EMC to immediately enforce and implement this Order granting relief *in rem* from the automatic stay. It is also

ORDERED that EMC's Motion to Dismiss with Prejudice is **GRANTED, IN PART, AND DENIED IN PART**. The Motion is **GRANTED** to the extent that this case is hereby dismissed, and Debtor is prohibited from filing a petition under any chapter of the Bankruptcy Code for a period of three (3) years from the date of entry of this Order, unless Debtor first seeks and receives Court approval for filing a bankruptcy petition during this period. EMC's Motion to Dismiss with Prejudice is **DENIED** as to EMC's request to prohibit Spouse from refileing a bankruptcy case under any chapter of the Bankruptcy Code. It is also

ORDERED that EMC's Objection to Confirmation is **MOOT**. It is also

ORDERED that the Objection to Claimed Exemptions and the Objection to Confirmation of Plan and Motion to Dismiss, all filed by the Standing Chapter 13 Trustee, are **MOOT**.

IT IS SO ORDERED.



HONORABLE AUDREY R. EVANS
UNITED STATES BANKRUPTCY JUDGE

DATE: June 23, 2003

cc: C. Richard Crockett, attorney for Debtor
Waylan Cooper, attorney for EMC
David D. Coop, Standing Chapter 13 Trustee
U.S. Trustee