



ORDERED in the Southern District of Florida on July 26, 2022.

A handwritten signature in black ink, reading "Erik P. Kimball", is positioned above the judge's name.

Erik P. Kimball, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:

BERNSTEIN FAMILY REALTY, LLC,

Case No. 22-13009-EPK

Debtor.

Chapter 7

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ORDER DISMISSING CASE WITH PREJUDICE

THIS MATTER came before the Court for hearing on July 20, 2022 upon the *Motion to Dismiss with Prejudice* [ECF No. 52] filed by Joanna Sahm, as personal representative of the estate of Walter Sahm, and Patricia Sahm (together, the "Secured Creditors"). Prior to the hearing, Ted S. Bernstein filed his *Response and Joinder of Ted. S. Bernstein, Trustee, to Motion to Dismiss with Prejudice* [ECF No. 60] (the "Joinder"), wherein Ted S. Bernstein joined in the relief requested in the Motion. In addition, two responses in opposition to the relief requested in the Motion were filed by Eliot I. Bernstein, ECF Nos. 55 and 71.

In the Motion, the Secured Creditors request that this case be dismissed with two years' prejudice to both the filing of a voluntary bankruptcy petition by Bernstein Family Realty, LLC

(the “Debtor”) and the filing of an involuntary bankruptcy petition against the Debtor by Joshua Bernstein, Jacob Bernstein, Daniel Bernstein (together, the “Petitioning Bernsteins”) or their parents, Eliot I. Bernstein and Candice Bernstein.

For the reasons stated on the record, having considered the Motion, the Joinder, the responses, and the arguments presented at the hearing, and being otherwise fully advised in the premises, the Court finds as follows:

The Debtor owns one real asset: the single-family home located at 2753 N.W. 34th Street, Boca Raton, Florida 33434 (the “Real Property”). Since prior to the initiation of this case, the Debtor has had no operations or employees. The Debtor has, at most, a few minor unsecured creditors.

This case was initiated when the Petitioning Bernsteins filed an involuntary chapter 11 petition against the Debtor. However, the Petitioning Bernsteins are not creditors of the Debtor, and this case was filed as an involuntary case because the Debtor had been dissolved and had no manager, and thus, nobody to sign a voluntary bankruptcy petition on behalf of the Debtor.

Dissatisfied with rulings by the state court in a foreclosure case resulting in a judgment and the scheduling of a foreclosure sale, the Petitioning Bernsteins—supported by Eliot I. Bernstein and Candice Bernstein—filed this case as a litigation tactic for the sole purpose of getting the effect of the section 362 automatic stay in order to stymie a foreclosure sale of the Real Property. Once such stay was achieved, the Debtor did nothing in this bankruptcy case. Moreover, after this case was converted to chapter 7, the Debtor failed to file schedules as required by the Court’s conversion order,¹ ECF No. 29, and failed to attend its section 341 meeting of creditors on July 6, 2022 despite the Clerk’s notice that such failure may result in dismissal. ECF No. 31.

¹ After schedules filed by Eliot I. Bernstein were stricken, ECF No. 46, Mr. Bernstein filed schedules, purportedly on behalf of the Debtor as its “acting manager.” ECF No. 53. Such schedules show almost nothing in terms useful information.

Given the foregoing, the Court concludes that this case was filed in bad faith and should be dismissed with prejudice.

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. The Motion [ECF No. 52] is GRANTED.
2. All objections to the Motion, including those filed by Eliot I. Bernstein at ECF Nos. 55 and 71, are OVERRULED.
3. The above-captioned case is DISMISSED with two years' prejudice, from the date of this Order, to filing of, in any United States Bankruptcy Court: (a) any voluntary petition for relief under Title 11 of the United States Code by Bernstein Family Realty, LLC; and (b) any involuntary petition for relief against Bernstein Family Realty, LLC under Title 11 of the United States Code by Eliot I. Bernstein, Candice Bernstein, Joshua Bernstein, Jacob Bernstein, or Daniel Bernstein.
4. The Court reserves jurisdiction to hear, determine, and enforce the Motion for Sanctions filed by the Secured Creditors at ECF No. 69.

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Submitted by:

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Bradley S. Shraiberg is directed to immediately serve a conformed copy of this Order and to file a Certificate of Service evidencing same.