

**IN THE CIRCUIT COURT OF PRESTON COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

DOMENICK MARRARA, JR., individually and
as co-Trustee of the SANDRA JEAN MARRARA TRUST,
SANDRA JEAN MARRARA,
as co-Trustee of the SANDRA JEAN MARRARA TRUST, and
SANDRA JEAN MARRARA TRUST,

Plaintiffs,

v.

Civil Action No. 13-C-198
Presiding Judge Russell M. Clawges, Jr.
Resolution Judge Christopher C. Wilkes

ROCCO S. MARRARA, JR., individually and
as Trustee of the MARY JANE MARRARA IRREVOCABLE TRUST, and
as Trustee of the ROCCO S. MARRARA, SR. CREDIT SHELTER TRUST,
MARY JANE MARRARA IRREVOCABLE TRUST,
ROCCO S. MARRARA, SR. CREDIT SHELTER TRUST,
FIREBIRD CO.,
D & R DISTRIBUTORS, INC., and
PURE LAND, CO.,
RIPLEY ASSOCIATES, LLC,
MARY LOU MARRARA,
As Executrix of THE ESTATE OF ROBERT S. MARRARA,
THE ESTATE OF ROBERT S. MARRARA,
VICKIE HELSLEY, individually and as
Trustee of THE ROBERT S. MARRARA REVOCABLE LIVING TRUST, and
THE ROBERT S. MARRARA REVOCABLE LIVING TRUST,

Defendants.

ORDER LIFTING STAY TO PROCEED WITH DISCOVERY

On or about May 14, 2014, Defendant D&R Distributors, Inc., filed for Chapter 7 bankruptcy protection in the United States Bankruptcy Court of the Northern District of West Virginia. On or about October 2, 2014, Defendant Pure Land Co., also filed for Chapter 7 bankruptcy protection in the United States Bankruptcy Court of the Northern District of West Virginia. On or about October 21, 2014 the Court held a

hearing in this matter. At said hearing the Court determined that it did not believe that this matter should proceed while the automatic stay of proceedings, pursuant to 11 U.S.C. § 362, was in place with regards to both D&R Distributors, Inc., and Pure Land Co. Accordingly, on or about November 12, 2014, the Court entered an Order staying the present matter.

The Plaintiffs in this matter recently filed a Motion with the Bankruptcy Court requesting that the automatic stay applicable to D&R Distributors, Inc., and Pure Land Co., be lifted so that the parties could proceed with discovery in the present matter. Subsequently, Plaintiffs and the respective bankruptcy trustees for D&R Distributors, Inc., Thomas H. Fluharty, and for Pure Land, Co., Aaron C. Amore, agreed that the present matter could continue for the purpose of proceeding with discovery.

On or about January 29, 2015, the United States Bankruptcy Court for the Northern District of West Virginia entered an Agreed Order Granting Motion for Relief from Automatic Stay to Allow Discovery to Proceed. Said Order lifts the automatic stay applicable to D&R Distributors, Inc., and Pure Land Co., pursuant to 11 U.S.C. § 362, and specifically provides that discovery can proceed in this case. The Bankruptcy Court further ordered that any discovery disputes that arise under the West Virginia Rules of Civil Procedure shall be resolved by the Circuit Court of Monongalia County.

Accordingly, based on the foregoing, the Court **ORDERS** that the stay in the present matter is hereby lifted. The Court further **ORDERS** that the parties can immediately proceed with discovery in this matter. The Court further **ORDERS** that

any disputes or issues that arise under the West Virginia Rules of Civil Procedure or West Virginia law shall be resolved by the present Court, in accordance with the January 29, 2015 Order of the Bankruptcy Court.

The Clerk of the Court is directed to send copies of the Order to the following counsel of record and to the Business Court Division:

William C. Brewer, Esq.
J. Tyler Slavey, Esq.
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P.O. Box 4206
Morgantown, WV 26504

William J. Leon
William J. Leon, LC
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Pure Land, Co.
Aaron C. Amore, Trustee
206 West Liberty Street
P.O. Box 386
Charles Town, WV 26515

D&R Distributors, Inc.
Thomas H. Fluharty, Trustee
408 Lee Ave.
Clarksburg, WV 26301

Business Court Division
Berkeley County Judicial Center
380 W. South Street
Martinsburg, WV 25401
Attn: Carol A. Miller

Ripley Associates, LLC
c/o Rocco Marrara, Jr.
105 Kingwood Avenue
Kingwood, WV 26537

Mary Lou Marrara, as Executrix of
The Estate of Robert S. Marrara,
The Estate of Robert S. Marrara
P.O. Box 172
Arthurdale, WV 26520

Vickie Helsley, individually and as
Trustee of the Robert S. Marrara
Revocable Living Trust and the Robert
S. Marrara Revocable Trust
285 Helsley Lane
Great Capacon, WV 25422

3 copies
S/D 2-9-15

ENTER: July 3, 2015

A TRUE COPY:

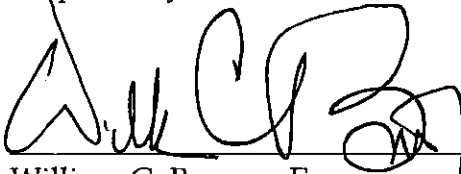
ATTEST: S/BETSY CASTLE
CLERK OF THE CIRCUIT COURT
By: Kisha Keshman Deputy

[Signature]
PRESIDING JUDGE RUSSELL M. CLAWGES, JR.

Entered: February 9, 2015

Betsy Castle, Clerk
by: Kisha Keshman, Deputy

Prepared by:

A handwritten signature in black ink, appearing to read 'William C. Brewer', written over a horizontal line.

William C. Brewer, Esq.

J. Tyler Slavey, Esq.

BREWER & GIGGENBACH, PLLC

P.O. Box 4206

Morgantown, WV 26504


Patrick M. Flalley
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA (CLARKSBURG)

In re:

PURE LAND CO.,

Debtor.

Case No. 1:14-bk-01075
Chapter 7

D & R DISTRIBUTORS, INC.

Debtor.

Case No. 1:14-bk-00565

DOMENICK MARRARA, JR., individually and
as co-Trustee of the SANDRA JEAN MARRARA TRUST,
SANDRA JEAN MARRARA,
as co-Trustee of the SANDRA JEAN MARRARA TRUST, and
SANDRA JEAN MARRARA TRUST

Movants.

AGREED ORDER GRANTING MOTION
FOR RELIEF FROM AUTOMATIC STAY TO
ALLOW DISCOVERY TO PROCEED

This matter is before this Court on the Motion for Relief from the Automatic Stay which was filed in the Pure Land Co. bankruptcy case (the "Motion") which seeks authorization to allow the civil action of *Domenick Marrara, Jr., et al. v. Rocco S. Marrara, Jr., et al.*, Case No. 13-C-198, currently pending in the Circuit Court of Preston County West Virginia, Business Court Division (the "State Court Case"), to proceed. This Agreed Order has also been tendered for consideration in the D & R Distributors, Inc. bankruptcy case as the debtor in that case is also a party to the State Court Case.

The Court has been advised that Aaron Amore, Trustee of the Pure Land Co. bankruptcy case, Thomas Fluharty, Trustee of the D & R Distributors, Inc. bankruptcy case (together the

“Trustees”) and the Movants have reached an agreement to allow discovery to proceed in the State Court Case, provided that the Trustees are permitted to participate in the discovery process on behalf of the bankruptcy estates. The Movants and the Trustees assert that allowing the discovery process to proceed will give the parties an opportunity to evaluate the claims asserted in the State Court Case which will aid them and this Court in determining whether certain claims against the Debtors should ultimately be adjudicated in the State Court Case or by this Court. The Movants and Trustees further request that this Court otherwise continue the hearing on the Motion for a period of approximately 120 days to allow the parties an opportunity to engage in the discovery process.

Based upon the agreement of the Movants and the Trustees, and finding good cause for approving the agreement as outlined herein, it is hereby **ORDERED** that:

1. The automatic stay pursuant to 11 U.S.C. § 362 is hereby modified to permit discovery to proceed in the State Court Case with the understanding that the Trustees shall be served with copies of all discovery requests and notices of depositions and shall be permitted to fully participate in the discovery process on behalf of the bankruptcy estates. Any discovery disputes that may arise under the West Virginia Rules of Civil Procedure during the discovery process shall be subject to the jurisdiction of the judge presiding over the State Court Case, and the automatic stay is lifted to allow the judge presiding over the State Court Case to adjudicate any such discovery disputes.

2. A telephonic hearing on the Motion is hereby scheduled to take place on the 28th day of April, 2015 at 10:00 a. m. Parties in interest may participate in the telephonic hearing by dialing 877-848-7030 and entering pass code 6500181 when prompted.

3. Except as specifically set forth in this Order, nothing herein shall limit or impair any rights that the Trustees and/or Movants may have in this case under the Bankruptcy Code, Bankruptcy Rules and/or other applicable bankruptcy law.

4. This Order shall be effective immediately upon entry, and the stay provided by Bankruptcy Rule 4001(a)(3) is hereby waived.

IT IS SO ORDERED.

AGREED TO BY:

/s/ David M. Thomas

David M. Thomas (WV Bar No. 7241)
Michael R. Proctor (WV Bar No. 9122)
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Co-Counsel for Movants

/s/ Aaron C. Amore (with permission)

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/s/ William C. Brewer

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/s/ Thomas H. Fluharty (with permission)

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