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DEAN ANDAL

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:
CITY OF STOCKTON,
CALIFORNIA,

Debtor,

Case No. 12-32118-C-9
DC No.: JTS-02

Judge: Hon. Christopher M. Klein

**DEAN ANDAL'S MOTION FOR ORDER
SHORTENING TIME TO HEAR
MOTION FOR RELIEF FROM
AUTOMATIC STAY**

DEAN ANDAL (hereinafter "Movant"), moves the Court by this Motion for entry of an order shortening time to hear a Motion for Relief from the Automatic Stay in the above matter. Specifically, the purpose for the attached Motion for Relief from the Automatic Stay is to allow Movant to bring a writ of mandate in the Superior Court for the County of San Joaquin against the CITY OF STOCKTON, CALIFORNIA (hereinafter "Debtor") as real party in interest, pursuant to California Elections Code section 9295. Movant's writ of mandate will challenge the impartiality of proposed language on the upcoming November 5, 2013 ballot. The Debtor, through its elected City Council, approved proposed language for a measure to be placed on the November 5, 2013 ballot. Movant makes the instant Motion for an order shortening the time to hear a Motion for Relief from the Automatic Stay in order to allow Movant sufficient time to proceed in state court with the writ of mandate. Movant requests that any hearing necessary for

1 this Motion for an order shortening time take place on August 6, 2013 at 9:30 a.m. in Department
2 35 or as soon thereafter as the Court's calendar will permit in order to ensure timely resolution of
3 Movant's Motion for Relief from the Automatic Stay.

4 Pursuant to California Elections Code section 9295(b)(1) any voter challenging proposed
5 language for a ballot must bring a writ of mandate during a "10-calendar-day public examination
6 period." Movant is informed and believes that the "10-calendar-day public examination period"
7 for the measure for which Movant seeks to challenge is scheduled to open on **August 13, 2013**.
8 As a result, Movant will be irreparably harmed if an order shortening the time to hear a Motion
9 for Relief from the Automatic Stay is not granted in order to allow Movant the sufficient time to
10 seek relief from the automatic stay in this matter and bring a timely writ of mandate in state court.

11 **RELIEF REQUESTED**

12 Pursuant to Local Rule 9014-1(f)(3), the Court can, for good cause shown, order that the
13 amount of notice for a hearing be shortened to fewer than 14 days. Because of the time sensitivity
14 described herein, Movant respectfully requests an order to shorten the notice period so that the
15 attached Motion for Relief from the Automatic Stay will be heard prior to the noticed August 20,
16 2013 hearing date. This is the only way to allow Movant sufficient time to file the writ of
17 mandate in San Joaquin County Superior Court within the 10 day public examination period
18 opening on August 13, 2013.

19 Movant moves for relief from the automatic stay as to Debtor and Debtor's bankruptcy
20 estate in order to proceed in the Superior Court for the County of San Joaquin with a petition for
21 writ of mandate challenging proposed ballot language on the November 5, 2013 ballot
22 (hereinafter Non-Bankruptcy Action). Pursuant to California Elections Code section 9295, which
23 provides that a state court may issue a writ of mandate to prevent the publication of false or
24 misleading information in the ballot pamphlet for any election, Movant seeks to challenge the
25 proposed language of a measure titled "Law Enforcement, Crime Prevention, and other essential
26 City Services Measure" (hereinafter "Measure") in the upcoming November 5, 2013 election.
27 Movant believes the proposed Measure language is misleading to the average voter and seeks a
28 writ of mandate in state court ordering the language altered. A copy of the resolution adopting the

1 proposed Measure language is attached as Exhibit "A" to the Declaration of Joseph T. Speaker in
2 support of the Motion for Relief from the Automatic Stay.

3 As discussed above, Movant only has a brief ten (10) calendar day window to file the
4 Non-Bankruptcy Action. Specifically, California Elections Code section 9295 states in pertinent
5 part:

6
7 a) The elections official shall make a copy of the material ...
8 available for public examination in the elections official's office for
9 a period of 10 calendar days immediately following the filing
10 deadline for submission of those materials.

11 ...

12 (b)(1) During the 10-calendar-day public examination period
13 provided by this section, any voter of the jurisdiction in which the
14 election is being held, or the elections official, himself or herself,
15 may seek a writ of mandate or an injunction requiring any or all of
16 the materials to be amended or deleted. The writ of mandate or
17 injunction request shall be filed no later than the end of the 10-
18 calendar-day public examination period.

19 (2) A peremptory writ of mandate or an injunction shall be issued
20 only upon clear and convincing proof that the material in question
21 is false, misleading, or inconsistent with the requirements of this
22 chapter, and that issuance of the writ or injunction will not
23 substantially interfere with the printing or distribution of official
24 election materials as provided by law.

25 (3) The elections official shall be named as respondent, and the
26 person or official who authored the material in question shall be
27 named as real parties in interest. In the case of the elections official
28 bringing the mandamus or injunctive action, the board of
supervisors of the county shall be named as the respondent and the
person or official who authored the material in question shall be
named as the real party in interest.

Movant is informed and believes that the 10-day public examination period is set to take
place on August 13, 2013, however the 10-day public examination may be commenced sooner at
the registrar of voters' discretion. For this reason, time is of the essence with obtaining relief from
the automatic stay in order to allow Movant to timely file the Non-Bankruptcy Action.

SERVICE OF MOTION

The supporting Declaration of Joseph T. Speaker, along with a proposed form of order

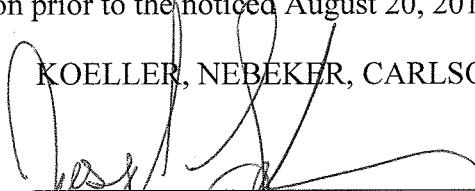
1 shortening notice, and the proposed Motion for Relief from the Automatic Stay are attached
2 hereto. Notice of this Motion for an order shortening time was provided to counsel of record for
3 Debtor on August 2, 2013 via email. (See Speaker Decl. ¶ 7.) Pursuant to Local Rule 9014-
4 1(f)(3), no written opposition to the Motion for Relief from the Automatic Stay is necessary.

5 **CONCLUSION**

6 WHEREFORE, Movant prays that this Court issue an Order Shortening Time to Hear
7 Movant's Motion for relief from the automatic stay to allow Movant to proceed with the timely
8 filing of the Non-Bankruptcy Action prior to the noticed August 20, 2013 hearing date.

9 DATED: August 2, 2013

KOELLER, NEBEKER, CARLSON & HALUCK, LLP

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11 
12 Jerome R. Satran, Esq.
13 Joseph T. Speaker, Esq.
14 Attorneys for Movant
15 DEAN ANDAL
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