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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re
PACIFIC PROPERTIES,
Debtor.

Case No. 91-55806

Chapter 11

**MEMORANDUM DECISION RE
MOTION TO COMPEL FILING AND
CONFIRMATION OF PLAN OF
REORGANIZATION BY DATE
CERTAIN**

FACTS

This matter comes before the Court on the motion of Western Federal Savings and Loan Association ("Western Federal") for an Order Compelling the Debtor to File and Confirm a Plan of Reorganization by a Date Certain. This case was filed on September 21, 1991. Ten months have now elapsed, and the Debtor has not proposed a plan or made any payments to Western Federal on a secured obligation.

DISCUSSION

Sections 1106 and 1107 of the Bankruptcy Code, when read together, provide that the debtor shall file a plan of reorganization as soon as practicable. The Court has considered the arguments advanced by both the Debtor and Western Federal. It has also noted that Western Federal has not alleged that it is not adequately protected, and the Debtor is prepared to file a plan by August 31, 1992. This Court has the authority to issue an appropriate order to force a Chapter 11 debtor to file a plan. In re Hollander, 50 Bankr. 15 (Bankr. S.D.Fla. 1985). Therefore, the Debtor is ordered to

1 file its plan and disclosure statement no later than August 31, 1992.

2 The Court agrees with the Debtor that there are unforeseen contingencies in the plan
3 confirmation process, so I will decline to impose a provision that results in an automatic conversion
4 or dismissal of the case for failure to confirm that plan by a certain date. However, if the Debtor fails
5 to timely confirm a plan, this Court will entertain at that time a motion by Western Federal or any
6 other party in interest seeking to pursue its remedies, including dismissal under Section 1106(a)(5),
7 conversion for failure to effectuate a plan under Section 1112(b)(2), see *In re Koerner*, 800 F.2d
8 1358, 1368 (5th Cir. 1986), or an order permitting it to file its own plan under Section 1121 since the
9 exclusivity period has long ago expired.

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