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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

VITAMIN RESEARCH PRODUCTS, INC.,
Debtor.

Case No. 91-56061
Chapter 11

AMERICAN AGING ASSOCIATION,
Plaintiff,

MEMORANDUM DECISION

vs.

VITAMIN RESEARCH PRODUCTS, INC.,
Defendant.

FACTS

We are here on the Motion for Adequate Protection filed by American Aging Association. The Movant is seeking to enforce a provision in an agreement with the Debtor that the Debtor will furnish a copy of its mailing list to American Aging Association.

DISCUSSION

The essence of adequate protection is the assurance of the maintenance and continued recoverability of the lien value during the interim between the filing of a reorganization case and the confirmation of a plan of reorganization or dismissal. In re Arriens, 25 Bankr. 79, 81 (Bankr. D.Ore. 1982). It is clear from the legislative history of the Bankruptcy Code that Congress was aware of

1 situations where giving a secured or lien creditor an absolute right to its possessory interests might be
2 seriously detrimental to the rehabilitation of the Debtor. Therefore, Section 361 was enacted to
3 provide the means by which conflicting rights in the Debtor's property may be protected. In re
4 Aurora Cord and Cable Co., Inc., 2 Bankr. 342, 346 (Bankr. N.D. Ill. 1980)(emphasis added).

5 It appears that the invocation of the adequate protection provisions of the Bankruptcy Code is
6 inapposite to the situation presented here. The Movant has established neither its status as a secured
7 creditor nor its entitlement to adequate protection. Adequate protection is a term of art that the
8 Movant has apparently misconstrued.

9 The nature of the relief requested in the Motion appears to be the turnover of specific
10 property to which the Movent asserts an interest. The appropriate vehicle to pursue the turnover of
11 property is to commence an adversary proceeding pursuant to Bankruptcy Rules 7001 and 7003 by
12 complaint rather than by motion. Therefore, the relief requested is denied.

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