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Saturday, January 10, 1987

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

WILLIAM C. HAAS CONSTRUCTION CO., INC.

No. 1-87-01681

[Debtor](#).

Memorandum of Decision

The debtor in this [Chapter 7](#) proceeding is a corporation with one shareholder. It has no assets. It has not conducted business since 1975. There are no avoidable transfers. It has no [priority](#) or secured debts. Its only unsecured debts are those arising out of a lawsuit which was pending when the debtor filed its petition; all are scheduled as disputed, in an unknown amount. The moving party, Santa Rosa Highlands Homeowners Association, is the [plaintiff](#) in the lawsuit. It seeks dismissal of this proceeding on grounds that it is pointless, and intended to benefit only the debtor's sole shareholder who is not himself in bankruptcy. The Court agrees, and grants the motion to dismiss. Pursuant to section 727(a)(1) of the [Bankruptcy Code](#) the debtor in this case, a corporation, cannot receive a [discharge](#). Since there are no assets or avoidable transfers, there is no estate to administer. A Chapter 7 proceeding for this debtor is therefore completely meaningless. The only possible effect of the filing is the chance that, due to an unusual set of circumstances surrounding the litigation pending in state court, the debtor's sole shareholder might escape liability for a defectively constructed condominium project. Only the debtor opposes dismissal; neither the [trustee](#) nor any "[creditor](#)" expresses an objection. Section 707(a) of the Code provides that after notice and a hearing the Court may dismiss a Chapter 7 case for cause. The Code does not

define "cause," and the three examples listed in that section are examples only, and not exclusive. What constitutes cause is left to the court's soundly exercised discretion. In re Blanchette (Bkrtcy.D.R.I.1985) 54 B.R. 890, 891-92; In re Charles George Land Reclamation Trust (Bkrtcy.D.Mass.1983) 30 B.R. 918. Cause for dismissal may exist where an abuse of the purpose or spirit of the bankruptcy laws is found, or where the debtor does not honestly require bankruptcy protection. See In re Bingham (Bkrtcy.M.D.Pa.1987) 68 B.R. 933, 935, and cases cited therein. There is clearly no legitimate purpose for this proceeding. There is no possible benefit to either the debtor or its creditors. The only possible benefit is to the debtor's sole shareholder, and this benefit is not within the purpose of the bankruptcy laws. Therefore, cause exists to dismiss this proceeding. This Chapter 7 proceeding will accordingly be dismissed, with prejudice. The Court declines to award sanctions. A separate order will be entered pursuant to Bankruptcy Rule 9021.

Dated: January 10, 1987

ALAN JAROSLOVSKY

U.S. [BANKRUPTCY JUDGE](#) 

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