

The document below is hereby signed.

Signed: June 7, 2017



A handwritten signature in black ink, reading "S. Martin Teel, Jr.", is written over a horizontal line.

S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	
LATRICIA LEE HARDY,)	Case No. 16-00280
)	(Chapter 7)
Debtor.)	Not for publication in
)	West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER
DENYING DEBTOR'S MOTION FOR A STAY PENDING APPEAL

This decision addresses a motion filed by the debtor, LaTricia Hardy, for a stay pending appeal. See Dkt. No. 208-1. The motion will be denied.

I

THE EVENTS LEADING TO THE APPEAL

The debtor, LaTricia Hardy, and her mother, Patricia White, own commercial real estate located at 1414-1416 Pennsylvania Avenue SE, Washington, DC 20003 (the "Property"). On May 31, 2016, the debtor commenced this case by filing a voluntary petition under chapter 13 of the Bankruptcy Code (11 U.S.C.). On July 25, 2016, the court entered an order converting the case to a case under chapter 7 of the Bankruptcy Code. Bryan Ross was appointed the chapter 7 trustee in the case. When the debtor

filed her petition, the debtor's one-half ownership interest in the Property became property of the estate that, during the pendency of this case under chapter 7 of the Bankruptcy Code, only the chapter 7 trustee is authorized to administer. As noted in *Hopkins v. Foothill Mountain, Inc. (In re Hopkins)*, 346 B.R. 294, 303 (Bankr. E.D.N.Y. 2006):

Property of the estate falls under the exclusive jurisdiction of the bankruptcy court. See 28 U.S.C. § 1334(e).¹ Since property of the estate is now in *custodia legis*, it is administered exclusively by a specifically designated fiduciary, a trustee. See, e.g., 11 U.S.C. §§ 323(a), 363 and 704. All rights held by a debtor in the property are extinguished, unless the property is exempted from the estate under 11 U.S.C. § 522 or abandoned back to the debtor under 11 U.S.C. § 554.²

In Adversary Proceeding No. 16-10034 the court entered a final order on November 15, 2016, authorizing Ross to sell the Property free and clear of Patricia White's 50% co-owner's interest in the Property pursuant to 11 U.S.C. § 363(h). Ross

¹ 28 U.S.C. § 1334(e)(1) provides:

The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate[.]

The bankruptcy cases in which such exclusive jurisdiction lies have been referred to the bankruptcy judges of this district pursuant to District Court Local Bankruptcy Rule 5011-1.

² The court cited as examples of this proposition *Miller v. Pacific Shore Funding*, 287 B.R. 47, 50-51 (D. Md. 2002), and *Rowland v. Novus Financial Corp.*, 949 F.Supp. 1447, 1453 (D. Haw. 1996).

has proceeded to attempt to sell the Property, and currently is moving towards closing on a sale pursuant to a contract of sale approved by the court.³

On September 9, 2016, on motion of the trustee, the court entered an order (Dkt. No. 79) directing the debtor to turn over the Property to the trustee. The order noted that the Property allegedly was unoccupied. In any event, as discussed below, the current occupants of the Property were not tenants of the Property at the time of entry of the turnover order. After the conversion of this case to chapter 7 on July 25, 2016, and the entry of the turnover order on September 9, 2016, the debtor not only failed to comply with the turnover order but also allowed other persons to occupy the Property. The debtor represents that she entered into landlord-tenant lease agreements with the current occupants in 2017, but she failed to produce any such leases despite requests from the trustee and orders from the court to do so.

As established at a hearing of May 23, 2017, those leases between the debtor and the current occupants of the Property, if they in fact exist, are the only leases currently in place with

³ One sale approved by the court by an order entered on January 30, 2017, fell through, but Ross obtained a second proposed contract of sale. Pursuant to a hearing of April 19, 2017, the court approved that contract of sale, entering a written order to that effect on June 2, 2017. The sale has not yet closed, in part because the debtor has not turned over the Property to the trustee.

respect to the Property.⁴ After conversion of the debtor's bankruptcy case to chapter 7, the debtor's interest in the Property was property of the bankruptcy estate, to be administered by the chapter 7 trustee. Thus, after conversion of the case, the debtor had no authority to enter into such leases of the Property, and the leases (if they exist) are thus nullities. In any event, entering into any such leases amounted to acts to exercise control over property of the estate in violation of the automatic stay. See 11 U.S.C. § 362(a)(3). Accordingly, those leases (if they exist), entered into in violation of the automatic stay, are void. See *CPI Crude, Inc. v. U.S. Dep't of Energy*, 77 B.R. 320, 322 (D.D.C. 1987).⁵ Moreover, when the debtor entered into any such lease agreements after entry of the court's order directing turnover of the

⁴ The debtor has maintained that she had a lease from her mother to use the premises to operate the Capitol Hill Beauty Salon, but for reasons explained in the *Memorandum Decision re Trustee's Contempt Motion Against Debtor and Debtor's Motion to Dismiss Trustee's Claims* (Dkt. No. 201 entered on May 26, 2017) at 3-5, the court found that no such lease existed, and concluded that even if such a lease existed, the debtor had no authority to enter into the leases she entered into in 2017 with the current occupants of the Property, and that the turnover order remained fully enforceable. The forthcoming sale of the Property will necessarily be free and clear of whatever interests the debtor has in the Property.

⁵ Although 11 U.S.C. § 362(d)(1) permits the court, for cause, to enter an order annulling the automatic stay, thereby retroactively undoing the void character of an act that was in violation of the automatic stay, no such order has been entered in this case.

Property, those leases were entered into in violation of the turnover order and were therefore invalid.

On April 28, 2017, Ross filed a *Motion for Order to Show Cause Why the Debtor Should Not Be Held in Contempt for Failure to Comply with Order Approving Turnover of Real Property* (Dkt. No. 167) (the "*Contempt Motion*") on April 28, 2017, seeking to hold the debtor in civil contempt and seeking additional relief related to the void leases and the debtor's interference with his obtaining possession of the Property pursuant to the turnover order. The debtor opposed the trustee's *Contempt Motion* by filing a *Motion to Dismiss Trustee's Claims* (Dkt. No. 193). On April 28, 2017, the bankruptcy court issued an *Order Directing Debtor to Appear and Show Cause Why She Should Not Be Held in Civil Contempt* (Dkt. No. 171) ("*Order to Show Cause*") directing the debtor to respond to the *Contempt Motion* and to appear before the bankruptcy court on May 23, 2017, and show cause why she ought not be held in civil contempt. The *Order to Show Cause* contained, *inter alia*, the following provisions:

ORDERED, that the Debtor shall provide to the counsel for the Trustee and produce in Court on the date of the hearing, the name, address and phone number of any person alleged to be a tenant, licensee or otherwise authorized to enter the property at 1414-1416 Pennsylvania Ave., S.E., Washington, D.C.; and it is further

ORDERED, that the Debtor shall provide to counsel for the Trustee and produce in Court on the date of the hearing each and every writing created since the Petition Date which is a lease, license or authorizes

the use of the property at 1414-1416 Pennsylvania, Ave. S.E., Washington, D.C.

The court held a hearing on the trustee's *Contempt Motion* and the debtor's *Motion to Dismiss the Trustee's Claims* on May 23, 2017. At that hearing, the debtor failed to comply with the court's above-quoted directives in its *Order to Show Cause*. Although the debtor testified that there are written leases between her and current occupants of the Property, which she testified she entered into in 2017, she produced no documents at the hearing showing that there are any written leases with respect to the Property.

The court issued an oral ruling at the hearing in favor of the trustee, and supplemented that ruling in a *Memorandum Decision re Trustee's Contempt Motion Against Debtor and Debtor's Motion to Dismiss Trustee's Claims* (Dkt. No. 201) entered on May 26, 2017. Also on May 26, 2017, pursuant to the court's oral ruling of May 23, 2017, and the supplemental *Memorandum Decision* of May 26, 2017, the court entered an order (Dkt. No. 202) denying the debtor's *Motion to Dismiss Trustee's Claims* and an *Order re Trustee's Motion Against Debtor for Contempt* (Dkt. No. 205) ("*Order re Trustee's Motion for Contempt*"). The *Order re Trustee's Motion for Contempt* contained in pertinent part the following provisions:

. . . it is
ORDERED, that the Debtor, LaTricia L. Hardy, be and
the same is hereby found to be in contempt for her

violations of the automatic stay of 11 U.S.C. § 362(a)(3) and this Court's Order Granting Chapter 7 trustee's Motion for Turnover of Real Property of the Estate (Doc. 79) entered on September 9, 2016, requiring that she turn over the improved real property located at 1414-1416 Pennsylvania, Ave., S.E., Washington, D.C. (the "Property") to the Trustee by engaging in leasing activities in 2017 in an attempt to deny the Chapter 7 trustee possession of the Property; and it is further

ORDERED, that to the extent she has not already done so, the Debtor shall deliver to counsel to the Patrick J. Kearney, Esq., counsel to the Chapter 7 trustee, the full name, address and phone number of all persons whom she contends have a lease or other right to be on the Property within 1 day of the date of this Order by hand delivery or facsimile or email for which counsel confirms receipt; and it is further

ORDERED, that any grant of a lease or right to use or occupy the Property, by the Debtor since the date of conversion to Chapter 7 is declared VOID because she lacked the power to grant such lease or right of use of occupancy; and it is further

ORDERED, that any grant of a lease or right to use or occupy the Property by Patricia White or any agent on her behalf entered after November 15, 2016, is subject to the Chapter 7 trustee's right to sell the Property free and clear of such lease, use or occupancy; and it is further

ORDERED, that the Chapter 7 trustee shall promptly give notice, which, at a minimum, shall include the form notice filed herewith and signed by the Court, by first class mail to all alleged tenants or users of the Property identified by the Debtor, that they must vacate the Property within five (5) days after the date of the Notice or suffer eviction, and it is further

ORDERED, that consistent with the Order Granting Chapter 7 Trustee's Motion of Turnover of Real Property (Doc 79) entered on September 9, 2016, on the sixth day after the date of the Notice (that on such date the Chapter 7 trustee shall post at the Property and mail to any tenants or users of the Property identified by the Debtor) giving notice to all persons that are a tenant or user of the Property to vacate the Property, the United States Marshal shall, upon request of the Chapter 7 trustee (which request shall certify the date of such Notice and certify that it was posted and mailed as

required by this Order), evict the Debtor and/or any and all other occupants from the Property[.]

II

THE NOTICE OF APPEAL

On May 26, 2017, the debtor filed a notice of appeal (Dkt. No. 208) identifying the order being appealed as an order of May 23, 2017 (the date on which the court made its oral ruling), and appending the court's *Memorandum Decision* of May 26, 2017. Attached to the notice of appeal is the debtor's *Emergency Motion to Stay Bankruptcy's Court Order Pending Appeal*, seeking a stay of "the May 23, 2017 Bankruptcy Court order that's imposing a five (5) day Motion to Quit (eviction) or suffers eviction and on the latter of the sixth day the United States Marshall shall evict the Debtor and/or any and all other occupants from the Property, residential tenant and commercial tenants pending final deposition of the Appeal with United States District Court." See Dkt. No. 208-1, at 1-2. The court will assume, without deciding, that the notice of appeal was effective as a notice of appeal regarding the order (Dkt. No. 202) denying the debtor's *Motion to Dismiss Trustee's Claims* and the *Order re Trustee's Motion for Contempt* (Dkt. No. 205), which were the orders dealing with eviction that were issued pursuant to the court's oral ruling of May 23, 2017, as supplemented by the *Memorandum Decision* of May 26, 2017.

III

THE MOTION FOR A STAY PENDING APPEAL

In *Hardy v. Ross (In re Hardy)*, 561 B.R. 281, 283 (D.D.C. 2016), three consolidated appeals by the debtor, the District Court addressed the standards for a stay pending appeal: the debtor must show

(1) that she has a strong likelihood of success on the merits; (2) that she will suffer irreparable injury if injunctive relief is denied; (3) that other interested parties will not suffer substantial harm if injunctive relief is granted; and (4) that the public interest favors the granting of injunctive relief, or at least, that the granting of injunctive relief is not adverse to the public interest.

A. Likelihood of Success on the Merits

The debtor has failed to make a strong showing that she is likely to prevail on the merits of her appeal.

1. Alleged Lack of Subject Matter Jurisdiction.

In her emergency motion for a stay pending appeal, the debtor argues, first, that this court lacked subject matter jurisdiction to rule on the trustee's *Contempt Motion* and the debtor's opposition thereto (in the form of a *Motion to Dismiss the Trustee's Claims*). The trustee's *Contempt Motion* was plainly a proceeding "arising in" the bankruptcy case over which the district court had subject matter jurisdiction pursuant to 28 U.S.C. § 1334(b). See *Stoe v. Flaherty*, 436 F.3d 209, 216 (3d Cir. 2006) ("The category of proceedings 'arising in' bankruptcy cases 'includes such things as administrative matters, orders to

turn over property of the estate and determinations of the validity, extent, or priority of liens.' 1 *Collier on Bankruptcy* § 3.01[4][c][iv] at 3-31 (quotations and footnotes omitted)."). In turn, pursuant to District Court Local Bankruptcy Rule 5011-1, the district court has referred all such proceedings to the bankruptcy judges of this district. The bankruptcy court therefore had authority to decide the matter under 11 U.S.C. § 157(b)(1) (granting bankruptcy judges authority to "hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11" upon the district court's referral of such cases and proceedings to the bankruptcy court).

2. Alleged Bar of the Pending Appeal of the Turnover Order.

The debtor argues, second, that the bankruptcy court had no authority to issue its orders enforcing the turnover order while the appeal of the turnover order is pending. However, the District Court denied a stay of the turnover order pending appeal, and where there is no stay in place the Bankruptcy Court plainly has authority to enforce the turnover order despite a pending appeal of that order. See *In re AOV Indus., Inc.*, 46 B.R. 190, 192 (D.D.C. 1984) (noting that despite a pending appeal of an order it was "plain" that the bankruptcy court was entitled to implement the confirmed plan for which the confirmation order had not been stayed" (citing *In re Roberts, Inc.*, 652 F.2d 793,

798 (9th Cir. 1981))). "Unless a bankruptcy court's ruling is stayed pending appeal, that court retains jurisdiction to engage in proceedings to enforce its own rulings." *Garrett v. Coventry II DDR/Trademark Montgomery Farm, L.P. (In re White-Robinson)*, 777 F.3d 792, 796 (5th Cir. 2015) (citation omitted).⁶

3. Assertion that the *Order re Trustee's Motion for Contempt* Could Only be Issued by an Article III Judge.

The debtor argues, third, that the bankruptcy court, not being a court under Article III of the Constitution, lacked constitutional authority under *Stern v. Marshall*, 564 U.S. 462 (2011), to issue its *Order re Trustee's Motion for Contempt* and its order denying the debtor's *Motion to Dismiss Trustee's Claims*. Those orders (which are the orders being appealed and the subject of the debtor's current emergency motion for a stay) were unquestionably issued in "core proceedings arising under title 11, or arising in a case under title 11" within the meaning of 28 U.S.C. § 157(b)(1). See *Stoe*, 436 F.3d at 216-19 (describing what constitutes a core proceeding "arising under

⁶ Quoting *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010), which dealt with the standards for obtaining a stay pending the filing and disposition of a petition for a writ of mandamus, the debtor points to the pendency of the appeal of the turnover order and argues that there is a "'fair prospect' to warrant a stay[,]" and that "the court will note probable jurisdiction." However, the District Court has already denied a stay pending the appeal of the turnover order, and the District Court's jurisdiction over that appeal does not, without a stay order, displace the bankruptcy court's authority to enforce the turnover order.

title 11" and a core proceeding "arising in a case under title 11"); *In re White-Robinson*, 777 F.3d at 795-96 (explaining that the bankruptcy court's actions to enforce a prior order it issued in a core proceeding are core proceedings). In any event, the *Order re Trustee's Motion for Contempt* and the order denying the debtor's *Motion to Dismiss Trustee's Claims* plainly fall within the non-exclusive list of examples of core proceedings set forth in 28 U.S.C. § 157(b)(2).⁷ Accordingly, the bankruptcy court had statutory authority to issue those orders.

However, under *Stern v. Marshall* a bankruptcy judge, not serving pursuant to a lifetime appointment, lacks constitutional authority to decide such a core proceeding if the proceeding falls within the judicial power of the United States under Article III, § 1, of the Constitution. 564 U.S. at 469 & 503. In *Stern v. Marshall*, Vickie Lynn Marshall was the debtor in a bankruptcy case. The assets of the bankruptcy estate included her cause of action against E. Pierce Marshall, the son of her

⁷ Core proceedings listed in 28 U.S.C. § 157(b)(2) include, *inter alia*: "matters concerning the administration of the estate" (§ 157(b)(2)(A)); "orders to turn over property of the estate" (§ 157(b)(2)(E)); "orders approving the use or lease of property, including the use of cash collateral" (§ 157(b)(2)(M)); "orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate" (§ 157(b)(2)(N)); and "other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims" (§ 157(b)(2)(O)).

deceased husband, for tortious interference with the gift she had expected from Pierce's father, on the basis that Pierce had wrongfully prevented his father from taking the legal steps necessary to provide Vickie with half his property. *Id.* at 470. Pierce filed an adversary proceeding complaint against Vickie contending that Vickie had defamed him and seeking a determination that the defamation claim was nondischargeable. *Id.* He later filed a proof of claim, seeking to recover from the bankruptcy estate the damages owed him based on his defamation claim. *Id.* Vickie responded in the adversary proceeding by asserting a counterclaim against Pierce based on her cause of action for tortious interference with the gift she had expected from Pierce's father. *Id.* The bankruptcy court granted Vickie summary judgment on Pierce's defamation claim. Months later, after a bench trial, the bankruptcy ruled in favor of Vickie on her counterclaim and entered a monetary judgment in her favor. *Id.* at 470-71.

Vickie's counterclaim was a core proceeding under 28 U.S.C. § 157(b)(2)(C) (listing "counterclaims by the estate against persons filing claims against the estate" as core proceedings). Nevertheless, the Court held that the bankruptcy judge's entry of a monetary judgment in favor of Vickie was a prohibited exercise of the judicial power of the United States. *Id.* at 469 & 503. The Court concluded on the facts of the case that Vickie had

pursued a "state law action independent of the federal bankruptcy law and not necessarily resolvable by a ruling on the creditor's proof of claim in bankruptcy." *Id.* at 487. The Court ruled that the bankruptcy court "lacked the constitutional authority to enter a final judgment on a state law counterclaim that is not resolved in the process of ruling on a creditor's proof of claim." *Id.* at 503. The holding in *Stern v. Marshall* is a narrow one limited to its facts. Here, the trustee's pursuit of the turnover order, as authorized by 11 U.S.C. § 542(a), and later of an order to enforce compliance with that turnover order was a far cry from pursuit, as in *Stern v. Marshall*, of a state law action independent of federal bankruptcy law.

Importantly, the Court noted in *Stern v. Marshall* that in deciding whether a bankruptcy court has constitutional authority to exercise its statutory authority to decide a core proceeding "the question is whether the action at issue stems from the bankruptcy itself or would necessarily be resolved in the claims allowance process." *Id.* at 499. Here, the trustee's *Contempt Motion* was unquestionably a proceeding that "stems from the bankruptcy itself." The bankruptcy court's turnover order, which the trustee sought to enforce by way of the *Contempt Motion*, stemmed from the bankruptcy case itself,⁸ and therefore was one

⁸ See 11 U.S.C. § 542(a) (providing the basis for a bankruptcy court ordering turnover).

that the bankruptcy court could issue under *Stern*.⁹ That turnover order remains in place. Similarly, the bankruptcy court's constitutional authority necessarily included taking steps to enforce its own turnover order and to enforce the protections of the estate provided by the automatic stay. See *Souther v. Tate (In re Tate)*, 521 B.R. 427, 439, 442-43 (Bankr. S.D. Ga. 2014) (noting that *Stern v. Marshall* did not abrogate the bankruptcy court's inherent authority under *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991), to enforce its own orders, as well as the broader authority to do so under 11 U.S.C. § 105(a)). See also *Bavelis v. Doukas (In re Bavelis)*, 519 B.R. 707, 709 (Bankr. S.D. Ohio 2014) (citing case law supporting the proposition that bankruptcy courts have constitutional authority to enforce their prior orders and that such authority is not affected by *Stern v. Marshall*). It was within the bankruptcy court's constitutional authority to declare the leases the debtor claims to have entered into with the current occupants void, as entered into in violation of the automatic stay (an issue that stems only from the bankruptcy case); to declare the alleged existing leases invalid in light of the court's prior turnover order (an order that did not exist outside of the bankruptcy

⁹ See *Geron v. Peebler (In re Pali Holdings, Inc.)*, 488 B.R. 841, 850 (Bankr. S.D.N.Y. 2013) ("[T]he reported post-*Stern* decisions have overwhelmingly held that bankruptcy judges can constitutionally enter final judgments in turnover actions." (footnote omitted)).

case); and to order that the trustee is authorized to have the United States Marshal evict both the debtor (who has failed to turn over the Property in violation of the turnover order) and her tenants (who have no rights pursuant to the void or invalid leases). The bankruptcy court constitutionally issued those orders to enforce its prior turnover order.

4. Argument That Only the Superior Court of the District of Columbia Could Evict the Tenants.

The debtor argues that any evictions must go through the Landlord and Tenant Branch of the Superior Court of the District of Columbia. The argument is without merit.

First, the provisions of the bankruptcy court's order regarding eviction did not address eviction pursuant to landlord-tenant law. Instead, they were based on the leases being void as entered into in violation of both the automatic stay of 11 U.S.C. § 362(a)(3) and the bankruptcy court's prior turnover order. Accordingly, although this court would ordinarily abstain in the case of a typical landlord-tenant dispute, this is not that type of case, and abstention would be inappropriate.

Second, the court had inherent authority as well as statutory authority under 11 U.S.C. § 105(a) to enter an order to enforce its own prior turnover order and to nullify acts in violation of the automatic stay and the turnover order.

Third, under 11 U.S.C. § 704(a)(1), the chapter 7 trustee must "collect and reduce to money the property of the estate for

which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest[.]” Here, the debtor’s misconduct has stalled the trustee’s efforts to sell the Property in order to obtain funds with which to pay creditors, thereby hampering the trustee’s effort to comply with § 704(a).

In light of the foregoing, forcing the chapter 7 trustee to proceed with seeking an order in the Superior Court to evict the occupants of the Property, as sought in the *Contempt Motion*, based on provisions of the Bankruptcy Code and violations of this court’s turnover order, would have made no sense. It is this bankruptcy court’s own turnover order that is being enforced; it is the automatic stay of 11 U.S.C. § 362(a)(3) that arose in the debtor’s bankruptcy case, the violation of which the bankruptcy court was authorized to address; and it is the debtor’s frustration of the chapter 7 trustee’s efforts, in compliance with federal bankruptcy law governing the trustee’s duties, expeditiously to accomplish a sale of the Property, for which a contract of sale has been approved by the bankruptcy court, that prompted the chapter 7 trustee’s *Contempt Motion* in the first place.

5. Conclusory Argument that the Evictions Are Illegal.

The debtor argues that the evictions pursuant to the bankruptcy court’s order are illegal, without providing any

explanation to render the argument anything other than conclusory. Moreover, it is the debtor's own illegal misconduct that necessitated the entry of an eviction order. As discussed already, the bankruptcy court has authority to enforce its prior turnover order and to declare void the debtor's purported leases with third parties currently occupying the Property. Thus, it was well within the bankruptcy court's authority to issue an order for eviction of any entities occupying the Property in violation of the prior turnover order and the automatic stay. See, e.g., *Jensen-Carter v. Hedback (In re Stephens)*, Civ. Nos. 11-3459 (JRT/AJB), 11-2661 (JRT/AJB), 2012 WL 1899716, at *4-5 (D. Minn. May 24, 2012) ("The Court concludes that the Bankruptcy Court had jurisdiction and authority to order an eviction because its order was necessary to give effect to its earlier orders.") This case has reached the stage where the court must resort to such an eviction order, given the debtor's violation of the automatic stay and frustration of the court's turnover order. See *Scarver v. Ellis (In re McKeever)*, 567 B.R. 652, 665 (Bankr. N.D. Ga. 2017) (acknowledging that bankruptcy courts have authority to order eviction from property of the estate and characterizing such action as "a last resort to enforce compliance with previously entered orders").

The debtor has not shown the existence of any law in the District of Columbia that would prevent the bankruptcy court from

exercising its authority over the Property to enforce its turnover order and the automatic stay. The debtor admitted at the May 23, 2017, hearing that the entities currently occupying the Property (pursuant to alleged written leases which the debtor has failed to produce despite being ordered to do so) entered into such occupancy in 2017. Thus, if such leases exist, the debtor entered into them after the automatic stay of 11 U.S.C. § 362(a)(3) arose, barring any exercise of control over property of the estate; after the debtor's case was converted to chapter 7 and the chapter 7 trustee became vested with the sole authority to enter into leases of property of the estate; and after entry of the court's turnover order. Thus, those entities occupying the Property (whoever they may be) have no right of occupancy pursuant to any supposed leases that the debtor says she granted those entities in 2017.

In any event, the debtor has no standing to assert the rights of those entities, and the bankruptcy court plainly can evict the debtor herself to enforce its turnover order.

B. Lack of Harm to the Debtor

The debtor points to irreparable harm to the supposed tenants of the Property - entities who she claims have rights pursuant to written leases that she failed to produce, in violation of the court's *Order to Show Cause*. She has no standing to raise claims of irreparable harm to those entities.

Further, it would be inappropriate to allow the debtor to raise the issue of harm to the supposed tenants when she caused any harm they may have suffered by entering into leases with them when she both lacked authority to do so and was barred from doing so by 11 U.S.C. § 362(a)(3). The debtor has failed to claim any harm to herself that would arise from a stay being denied.

C. Harm to the Trustee

If a stay pending appeal were granted, the harm to the trustee, as representative of the estate being administered for the benefit of creditors, is that his efforts to comply with his statutory duty to expeditiously liquidate property of the estate under 11 U.S.C. § 704(a)(1) will be impeded, and his ability to close on the contract of sale may be frustrated if the purchaser and back-up purchaser elect to back out based on the length of time it takes to deliver the Property free of any occupants.

D. The Public Interest

The public interest favors allowing the trustee to carry out his statutory duty to expeditiously liquidate the property of the estate. Thus, a stay pending appeal would be contrary to the public interest.

IV

CONCLUSION

For all of these reasons, the debtor has failed to show that a stay pending appeal is appropriate. It is thus

