

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE**

In re:

Financial Resources Mortgage, Inc., and
C L & M, Inc., a/k/a Commercial Project
Loan Servicing,
and other jointly administered cases*

Debtors

Bk. Nos. 09-14565-JMD
09-14566-JMD
Chapter 7

Jointly Administered

**Hearing Date: 07/13/10
Hearing Time: 9:00 a.m.**

Objection Deadline: 07/06/10

* Check the box that applies to this pleading [order]:

_____ This pleading concerns all jointly administered cases.

XXX This pleading concerns the following jointly administered case(s):

In Re Robert P. Farah, 10-10582-JMD

**CHAPTER 7 TRUSTEE’S MOTION TO COMPEL DEBTOR TO COOPERATE WITH
TRUSTEE AND SURRENDER PROPERTY OF THE ESTATE PURSUANT TO 11
U.S.C. §521(a)(3) AND (4)**

NOW COMES Steven M. Notinger, the Chapter 7 Trustee for Jointly Administered Debtor Robert P. Farah (“Debtor”) and moves this Court issue an Order compelling the Debtor to cooperate with the Trustee and surrender property of the estate pursuant to the Debtor’s duties as set out in 11 U.S.C. §521(a)(3 and (4). In support of this Motion, the Trustee states as follows:

1. The Debtor filed a voluntary Chapter 7 Petition on February 12, 2010 and the Trustee was appointed (the “Petition Date”).

2. The Debtor resides at property located at 86 Alpine Park Drive, Moultonborough, NH (“the Property”). The Property is the subject of a Motion for Relief, filed by the first mortgage holder, Deutsche Bank (“the Lender”). The Debtor is not paying the mortgage owed to the Lender, which is over \$830,000.00. Because the Property’s estimated value is over \$1,000,000.00, The Trustee and Deutsche Bank reached an agreement to allow the Trustee to market the Property for a time to try to recover some equity for the bankruptcy estate. Pursuant to that agreement, the Trustee hired Coldwell Banker Residential Brokerage (“the Realtor”) to market the Property for sale.

3. When the Realtor went to the Property to inquire about showings and the placement of a “For Sale” sign, the Debtor became uncooperative and refused to allow the Realtor to place a “For Sale” sign on the Property, stating further that he would cover any sign that the Realtor placed on the Property. In addition, the Debtor refused to provide keys to either the Debtor’s residence or a rental cottage on the Property to the Realtor, and would not allow access to the cottage at all. The cottage (which is not disclosed on the Debtor’s schedules) is apparently rented to a tenant. The Trustee has requested an accounting and turnover of any rents collected from the tenant and received no response from the Debtor.

4. The Debtor did allow the Realtor to show the residence on one occasion, but again refused any access to the cottage, effectively preventing the Realtor or the Trustee from meaningfully showing the Property to any prospective buyer.

5. The Trustee has requested voluntary compliance from the Debtor, to allow showings of the entire Property, including the residence and the cottage, upon reasonable notice

from the Realtor, and to turnover any rents collected from the tenant, but has received no response to his requests.

6. The Debtor has a duty to the Trustee under 11 U.S.C. §521(a)(3) to cooperate with him so that the Trustee can perform his duties under the Bankruptcy Code. The Debtor has a duty to the Trustee under 11 U.S.C. §521(a)(4) to surrender to the Trustee any property of the estate and any books and records pertaining thereto.

7. The Debtor, by refusing, despite repeated requests, to allow the placement of a “For Sale” sign on the Property and by refusing showings of the entire Property upon reasonable notice by the Realtor, is violating his duties to the Trustee under 11 U.S.C. §521(a)(3), and preventing the Trustee from carrying out his duties under the Bankruptcy Code, namely, the liquidation of estate assets.

8. The Debtor, by refusing to turn over the rents from the cottage on the Property and accounting for same, despite repeated requests, is violating his duties to the Trustee under 11 U.S.C. §521(a)(4) to surrender property of the estate and any books and records pertaining thereto.

9. The Trustee requests an Order from the Court compelling the Debtor to comply with his duties to the Trustee under 11 U.S.C. §521(a)(3) and (4), and for a mechanism for the Trustee to request sanctions for further violations of 11 U.S.C. §521(a)(3) and (4) by the Debtor.

WHEREFORE, the Trustee requests that the Court:

A. Grant this Motion and compel the Debtor to comply with his duties to the trustee under 11 U.S.C. §521(a)(3) and (4); and

B. Grant such other and further relief as the Court deems just and equitable.

Respectfully submitted,

STEVEN M. NOTINGER,
CHAPTER 7 TRUSTEE

By his attorneys:
Donchess & Notinger, PC

Dated: 6/22/10

By: /s/ Deborah A. Notinger
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CERTIFICATE OF SERVICE

I, Deborah A. Notinger, hereby certify that I have on this date served the foregoing Motion on each person named below either by first class mail, postage prepaid or by causing it to be filed electronically via the CM/ECF filing system:

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Dated: 6/22/10

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