

Form 1347

Motion Relief from Stay - Bonded Contract Completion

Surety Counsel
Name and Address

Attorneys for Surety

UNITED STATES BANKRUPTCY COURT

DISTRICT OF _____

In re

Principal,

Debtor.

Case No.:
Chapter 11

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
TO LIFT STAY TO PERMIT SURETY TO
PERFORM OBLIGATIONS UNDER
PERFORMANCE BOND

Hearing:
Date:
Time:
Place: United States Bankruptcy Court
Courtroom _____

Surety hereby moves this Court in accordance with Sections 362(d)(1) and 362(d)(2) of the Bankruptcy Code to lift the automatic stay to allow it to perform its obligations under its performance bond with respect to the [Identify Contract] ("Bonded Contract"). As allowed under the General Agreement of Indemnity ("GAI") signed by Principal, Under § 362(d)(2), Principal's performance under the subcontract will not benefit the estate because, as a bonded contract, Principal has no right to the use such funds other than for the bonded project and, therefore, the subcontract is not necessary for an effective reorganization, even presuming Principal shows it has the ability to reorganize, something it has been unable to do so far.

Additionally, under § 362(d)(1), cause exists to lift the stay because of pre-petition defaults by Principal whereby the subcontract was assigned to Surety and is therefore not property of the estate. The stay should be lifted for cause under § 362(d)(1).

Drafting A Motion For Relief From Stay

Michael Hoelscher



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