

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE JEFFERY WATSON POTTER,
Debtor.

BAP No. NM-13-082

YVETTE GONZALES, Trustee,

Bankr. No. 05-14071
Adv. No. 11-01042
Chapter 7

Plaintiff –
Counter-Defendant –
Cross-Defendant –
Appellee,

v.

BANK OF AMERICA, N.A. and LA
VISTA HOMEOWNERS
ASSOCIATION, NM,

DISMISSAL ORDER

December 2, 2013

Defendants –
Counter-Claimants –
Counter-Defendants –
Cross-Claimants –
Cross-Defendants –
Appellees

and

ROBERT A. ENGEL and WELLS
FARGO BANK NEW MEXICO, INC.,

Defendants –
Counter-Defendants –
Cross-Defendants –
Appellees,

and

MARTIN S. FRIEDLANDER,

Defendant –
Counter-Claimant –
Counter-Defendant –
Cross-Claimant –
Cross-Defendant –
Appellant,

and
O'REILLY AND DOHERTY, LLP,

Defendant –
Counter-Claimant –
Cross-Claimant –
Cross-Defendant –
Appellee.

Before THURMAN, Chief Judge, NUGENT, and ROMERO, Bankruptcy Judges.

On November 12, 2013, this Court entered an Order to Show Cause Why Appeal Should Not Be Considered for Dismissal as Interlocutory (“OSC”), requiring the pro se Appellant Martin S. Friedlander to do the following within fourteen (14) days, or the appeal would be dismissed:

Appellant shall file with the Court a memorandum of law setting forth the Appellant’s position regarding whether the order appealed is final, or whether leave to appeal an interlocutory order should be granted.

The deadline set forth in the OSC has expired without response. Fed. R. Bankr. P. 8001(b). As such, this appeal must be dismissed, subject to Appellant’s right to cure during the rehearing period set forth in Federal Rule of Bankruptcy Procedure 8015, after which time our mandate will issue, divesting this Court of jurisdiction over this appeal.¹

Accordingly, it is HEREBY ORDERED that:

- (1) This appeal is DISMISSED for failure to prosecute. Fed. R. Bankr. P. 8001(a).

¹ We note Appellant’s additional failures to pay to the bankruptcy court the appeal filing and docketing fees and file the Entry of Appearance, Statement of Interested Parties, and Statement Regarding Oral Argument. See 10th Circuit BAP Local Rules 8001-5; 8001-4. Notices of Deficiencies for these items were entered on November 12 and November 27, 2013, respectively. In order to exercise his right to cure, Appellant must also satisfy these deficiencies during the rehearing period set forth in Federal Rule of Bankruptcy Procedure 8015.

(2) All deadlines herein are TERMINATED.

For the Panel:

A handwritten signature in black ink that reads "Blaine F. Bates". The signature is written in a cursive style with a long horizontal stroke at the end.

Blaine F. Bates
Clerk of Court