

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No. 78092

Tonopah Solar Energy, LLC,
Appellant

v.

Brahma Group, Inc.,
Respondent

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Elizabeth A. Brown
Clerk of Supreme Court

Appeal
Fifth Judicial District Court
The Honorable Steven P. Elliott
Case No. CV 39348

**APPELLANT'S UNOPPOSED MOTION TO EXTEND THE DEADLINE
TO MOVE TO REINSTATE APPEAL**

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Through this unopposed Motion, Appellant Tonopah Solar Energy, LLC (“TSE”) seeks to extend the deadline to file a motion to reinstate its appeal of the Fifth Judicial District Court’s order denying its motion to expunge mechanic’s lien and awarding fees and costs against TSE. On July 30, 2020, TSE filed a voluntary petition for chapter 11 bankruptcy with the Delaware Bankruptcy Court. *See In Re Tonopah Solar Energy, LLC*, Case No. 20-11884- KBO, ECF No. 1, (Bankr. D. Del. 2020). The filing of this petition imposed an immediate automatic stay on this appeal. *See* TSE’s August 24, 2020 Notice of Bankruptcy Filing and Imposition of Automatic Stay (notifying this Court of TSE’s bankruptcy). On August 31, 2020, this Court issued an order dismissing TSE’s appeal without prejudice to TSE’s right to move for reinstatement of this appeal within 90 days of either the lifting of the automatic bankruptcy stay or “final resolution of the bankruptcy proceedings.”¹

On December 9, 2020, the Bankruptcy Court entered an order confirming the chapter 11 plan for TSE and the plan went into effect on or about December 18, 2020. *See In Re Tonopah Solar Energy, LLC*, Case No. 20-11884- KBO, ECF No. 291, (Bankr. D. Del. 2020). Therefore, on or about December 18, 2020, the automatic stay was lifted on the appeal before this Court.

¹ This Motion is necessary as it is unclear to TSE whether the phrase “final resolution of the bankruptcy proceedings” means an order by the Delaware Federal Bankruptcy District Court confirming the chapter 11 plan (which has already occurred) or whether this means the resolution of all appeals of the Delaware Bankruptcy Court’s order confirming the plan (which has not yet occurred).

On December 23, 2020, three creditors to the Delaware bankruptcy proceeding, CMB Export, LLC, CMB Infrastructure Investment Group IX, LP, and SolarReserve CSP Holdings, LLC, filed a notice of appeal challenging the Bankruptcy Court's confirmation of TSE's bankruptcy plan. *See In Re Tonopah Solar Energy, LLC*, Case No. 20-11884- KBO, ECF No. 307, (Bankr. D. Del. Dec. 23, 2021). It is TSE's understanding that the filing of a notice of appeal in the Delaware bankruptcy proceeding does not reimpose an automatic stay on other pending litigation. However, TSE desires to wait to see how the bankruptcy appeal is resolved prior to reinstating this appeal, as it is possible any decision on the bankruptcy appeal could impact how the Parties decide to proceed on the instant appeal.

Therefore, TSE requests that the Court extend the deadline to move to reinstate this appeal to 30 days after the aforementioned appeal of the Bankruptcy Court's order confirming the chapter 11 plan is resolved. TSE has conferred with counsel for the Respondent and can represent that the Respondent does not oppose this request for an extension.

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In the alternative, if the Court elects to deny this request for an extension of time, TSE requests that this Motion be construed as a Motion to Reinstate Appeal and that TSE's appeal be reinstated.

DATED: March 9, 2021.

/s/ Colby L. Balkenbush

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that I am an employee of Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC and that on March 9, 2021, I submitted the foregoing **APPELLANT'S UNOPPOSED MOTION TO EXTEND THE DEADLINE TO MOVE TO REINSTATE APPEAL** for filing via the Court's electronic filing system. Electronic notification will be sent to the following:

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