

This order is SIGNED.

Dated: October 22, 2021



**JOEL T. MARKER
U.S. Bankruptcy Judge**



msc

Prepared and Submitted by:

Michael R. Johnson (7070)
David H. Leigh (9433)
RAY QUINNEY & NEBEKER P.C.
36 South State Street, 14th Floor
P.O. Box 45385
Salt Lake City, UT 84145
(801) 532-1500
Email: mjohnson@rqn.com
Email: dleigh@rqn.com

Attorneys for Steven R. Bailey, Chapter 7 Trustee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re:

**EMPIRE SOLAR GROUP, LLC,

Debtor.**

Bankruptcy Case No. 21-23636

Chapter 7

Honorable Joel T. Marker

**ORDER MODIFYING THE AUTOMATIC STAY TO ALLOW CUSTOMERS UNDER
COMPLETED AND FULLY PAID CONTRACTS TO SEEK REDRESS FROM
APPLICABLE STATE RECOVERY FUNDS**

This matter is before the Court on the *Chapter 7 Trustee’s Motion to Modify the Automatic Stay to Allow Customers Under Completed and Fully Paid Contracts to Seek Redress from Applicable State Recovery Funds* (the “**Motion**”) that was filed on September 28, 2021 [Dkt. 60], by Steven R. Bailey, the Chapter 7 Trustee (the “**Trustee**”). In the Motion, the Trustee requests entry of an Order, entered pursuant to 11 U.S.C. § 362(d)(1) and Bankruptcy

Rule 4001, modifying the automatic stay, on a limited basis, for cause, to permit the Debtor's customers whose contracts were already completed and paid in full prior to the Petition Date, to pursue state court actions against the Debtor for the sole purpose of obtaining a judgment so that they can then seek restitution from various state-administered contractor recovery funds.

The Court, after carefully reviewing the Motion and such other and further papers and pleadings that were filed in support of and in opposition thereto, has determined that the Motion is well-taken, and that the relief requested therein should be granted.

Based upon the foregoing, and good cause appearing, **IT IS HEREBY ORDERED** as follows:

1. Effectively immediately upon the entry of this Order, the automatic stay of 11 U.S.C. § 362(a) shall be, and it hereby is, modified for cause to permit the Debtor's customers whose contracts were already completed and paid in full prior to the Petition Date, to pursue state court actions against the Debtor for the sole purpose of obtaining a judgment so that they can then seek restitution from various state-administered contractor recovery funds.

2. Except as set forth above, the automatic stay remains in full force and effect as it relates to the Debtor's customers and, among other things, the Debtor's customers shall continue to be stayed from collecting or enforcing, or attempting to collect or enforce, against the Debtor, its property and/or property of the bankruptcy estate, any judgment so obtained. The automatic stay also remains in full force and effect with respect to any contracts the Debtor had with customers which are not yet fully completed or paid in full, and for which additional funds may flow to the bankruptcy estate.

3. This Order shall take effect immediately upon its entry, and the 14-day stay period set forth in Fed. R. Bankr. P. 4001(a)(3) shall not apply to this Order.

-----END OF ORDER-----

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of October, 2021, a true and correct copy of the foregoing **ORDER MODIFYING THE AUTOMATIC STAY TO ALLOW CUSTOMERS UNDER COMPLETED AND FULLY PAID CONTRACTS TO SEEK REDRESS FROM APPLICABLE STATE RECOVERY FUNDS** was electronically filed and therefore served via ECF on the following:

- **B. Scott Allen** allen@mvmlegal.com, coley@mvmlegal.com
- **Steven R. Bailey** karen@baileylaw.org, UT06@ecfcbis.com
- **Megan K Baker** baker.megan@dorsey.com, long.scarlette@dorsey.com
- **Matthew M. Boley** mboley@ck.law, klopez@ck.law
- **Ryan C. Cadwallader** rcadwallader@kmclaw.com, twhite@kmclaw.com
- **Deborah Rae Chandler** dchandler@aklawfirm.com
- **John Christiansen** john@utahlaw.legal, r47656@notify.bestcase.com
- **Michael R. Johnson** mjohanson@rqn.com, docket@rqn.com;vmood@rqn.com
- **David H. Leigh** dleigh@rqn.com, moakeson@rqn.com;docket@rqn.com
- **Christopher J Martinez** martinez.chris@dorsey.com
- **Jason A. McNeill** mcneill@mvmlegal.com, coley@mvmlegal.com
- **Blake D. Miller** bmiller@aklawfirm.com, millermobile@gmail.com;millr.blaked@gmail.com
- **Gregory S. Moesinger** gmoesinger@kmclaw.com, tsanders@kmclaw.com
- **Mark C. Rose** mrose@mbt-law.com, markcroselegal@gmail.com
- **Mark S. Swan** mswan@strongandhanni.com, mark@swanlaw.net
- **Jeffrey L. Trousdale** jtrousdale@cohnckinghorn.com, mparks@ck.law;tkosec@ck.law
- **United States Trustee** USTPRegion19.SK.ECF@usdoj.gov

I further certify that on the 22nd day of October, 2021, a true and correct copy of the foregoing was mailed by first class mail, postage prepaid, to the following NON ECF parties requesting notice:

Gil Miller
Rocky Mountain Advisory
215 South State Street Ste 550
Salt Lake City, UT 84111

John P. Dillman
Linebarger Goggan Blair & Sampson, LLP
PO Box 3064
Houston, TX 77253-3064

Steven W. Kelly
S&D Law
1290 Broadway Ste 1650
Denver, CO 80203

Raymond J. Rotella
Kosto & Rotella P.A.
P.O. Box 113
Orlando, FL 32802

/s/ Carrie Hurst

1580170

DESIGNATION OF PARTIES TO BE SERVED

Service of the foregoing **ORDER MODIFYING THE AUTOMATIC STAY TO ALLOW CUSTOMERS UNDER COMPLETED AND FULLY PAID CONTRACTS TO SEEK REDRESS FROM APPLICABLE STATE RECOVERY FUNDS** (the “Order”)

should be served on the persons in the manner designated below:

By electronic service: I certify that the parties of record in this case as identified immediately below are registered CM/ECF users and will be served notice of entry of the foregoing Order through the CM/ECF system:

- **B. Scott Allen** allen@mvmlegal.com, coley@mvmlegal.com
- **Steven R. Bailey** karen@baileylaw.org, UT06@ecfcbis.com
- **Megan K Baker** baker.megan@dorsey.com, long.scarlette@dorsey.com
- **Matthew M. Boley** mboley@ck.law, klopez@ck.law
- **Ryan C. Cadwallader** rcadwallader@kmclaw.com, twhite@kmclaw.com
- **Deborah Rae Chandler** dchandler@aklawfirm.com
- **John Christiansen** john@utahlaw.legal, r47656@notify.bestcase.com
- **Michael R. Johnson** mjohnson@rqn.com, docket@rqn.com; vmoody@rqn.com
- **David H. Leigh** dleigh@rqn.com, moakeson@rqn.com; docket@rqn.com
- **Christopher J Martinez** martinez.chris@dorsey.com
- **Jason A. McNeill** mcneill@mvmlegal.com, coley@mvmlegal.com
- **Blake D. Miller** bmiller@aklawfirm.com, millermobile@gmail.com; miller.blaked@gmail.com
- **Gregory S. Moesinger** gmoesinger@kmclaw.com, tsanders@kmclaw.com
- **Mark C. Rose** mrose@mbt-law.com, markcroselegal@gmail.com
- **Mark S. Swan** mswan@strongandhanni.com, mark@swanlaw.net
- **Jeffrey L. Trousdale** jtrousdale@cohnekinghorn.com, mparks@ck.law; tkosec@ck.law
- **United States Trustee** USTPRegion19.SK.ECF@usdoj.gov

By U.S. Mail – In addition to the foregoing persons of record receiving notice of the entry of the Order through the CM/ECF system, the NON-ECF parties requesting notice as set forth below should be served with a copy of the Order by U.S. Mail pursuant to Fed R. Civ. P. 5(b).

Gil Miller
Rocky Mountain Advisory
215 South State Street Ste 550
Salt Lake City, UT 84111

John P. Dillman
Linebarger Goggan Blair & Sampson, LLP
PO Box 3064
Houston, TX 77253-3064

Steven W. Kelly
S&D Law
1290 Broadway Ste 1650
Denver, CO 80203

Raymond J. Rotella
Kosto & Rotella P.A.
P.O. Box 113
Orlando, FL 32802

Micheal Gipson
411 West Walnut St
Independence, MO 64050

/s/ Carrie Hurst
