

**ENTERED**

MAY 30 2006

**K.R.W.**

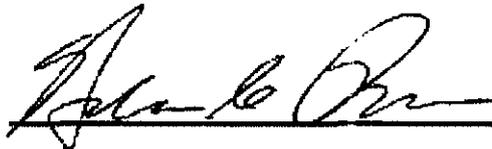
**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

**FILED**  
Glock & ...  
MAY 30 2006  
United States Bankruptcy Court  
Charleston, South Carolina (5)

IN RE:	)	C/A No. 06-01847
	)	
Pamela Theresa Young	)	Chapter 13
	)	
	)	<b>JUDGMENT</b>
Debtor	)	
_____	)	

Based upon the Findings of Fact and Conclusions of Law as recited in the attached Order of the Court, Debtor's Motion to Extend the Stay is granted and the automatic stay is extended as to all creditors pursuant to § 362(c)(3)(B). As a condition of extending the stay, the Debtor will be subject to a wage deduction order if requested by the trustee. As a further condition, should this case be dismissed for any reason, said dismissal shall be with prejudice as to any subsequent filing by the Debtor under Chapters 11, 12, and 13 of the Bankruptcy Code for a period of one (1) year.

**AND IT IS SO ORDERED.**



UNITED STATES BANKRUPTCY JUDGE

Charleston, South Carolina,  
May 30, 2006

**ENTERED**

**MAY 30 2006**

**K.F.W.**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE: )  
)  
Pamela Theresa Young )  
)  
)  
)  
Debtor )

C/A No. 06-01847

Chapter 13

**ORDER**

**ENTERED**  
Clerk & RM  
**MAY 30 2006**  
United States Bankruptcy Court  
Columbia, South Carolina (S.C.)

This matter comes before the Court upon a Motion to Extend Stay ("Motion") filed by Pamela Theresa Young ("Debtor") pursuant to 11 U.S.C. § 362(c)(3)(B). The Debtor served the Motion and a Notice of Hearing on all creditors and a hearing on the Motion was completed within the thirty (30) day period following the petition date. The Chapter 13 trustee filed a response. No other party in interest filed or served an objection or appeared.

On March 11, 2005, the Debtor filed her first case for Chapter 13 protection (Case No. 05-02897) in this Court. The Debtor's Chapter 13 Plan was confirmed on June 30, 2005. The first case was dismissed on August 19, 2005 for failure to perform the terms of a confirmed plan. On May 1, 2006, the Debtor filed this Chapter 13 case. Because the first case was pending within a one (1) year period preceding the filing of the current case, pursuant to § 362(c)(3)(A), the automatic stay provided by § 362(a) will terminate on May 31, 2006, thirty (30) days after the Debtor filed the current case.

Pursuant to § 362(c)(3)(C), there is a presumption as to all creditors that the Debtor did not file the current case in good faith because the Debtor's previous case was dismissed for failure to make timely plan payments pursuant to a confirmed plan. There is also a presumption of lack of good faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the last case or any other reason to conclude that this case will

conclude with a confirmed plan that will be fully performed. In light of any presumption the Debtor must demonstrate, by clear and convincing evidence, that she filed this case in good faith in order to extend the stay.

To support the contention that the current case was filed in good faith, Debtor Pamela Young testified as to her good faith and changed circumstances since the dismissal of her first case. According to her testimony and pleadings filed with the court, approximately one (1) month after she filed the first case, she broke her arm and was unable to work for two and a half months. She had no disability insurance and no unemployment compensation because she was not terminated from her job. She testified that she called the Chapter 13 trustee's office and informed them of her situation; however, after returning to work, she was unable to pay the higher monthly payment requested by the trustee to cure the delinquency.<sup>1</sup>

The debtor's arm has now healed and she is back to work with no disability. Debtor also testified that during the first case, the Debtor was employed in a third-shift job and was incurring child-care expenses. As of February, 2006, she has new daytime employment, and the Debtor's mother is taking care of her children. She is no longer paying for child-care and is making more money per hour in her new job. This testimony is supported by the schedules filed in both this and the prior case.

Finally, the Debtor's financial circumstances have further improved since the dismissal of the first case in that child support payments she is entitled to receive are now being collected through the Family Court. While Schedule I in both cases disclose the debtor's entitlement to an \$800 monthly support payment, the Debtor testified that she was not actually receiving that payment during the first case. She testified that as of August, 2005, the payment was subject to

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<sup>1</sup> Debtor was asked to cure the delinquency by paying \$682.50 monthly from June through September, 2005. Her regular plan payment of \$455 monthly would resume in October, 2005. Trustee's Motion to Dismiss Chapter 13 Case for Non-Payment, Case No. 05-02897-B, June 6, 2005.

collection by the Family Court. In January, 2006, the Debtor received \$3600 in back child support and is now receiving regular monthly support payments through the Family Court.

Based on the testimony of the Debtor as supported by the schedules, the Debtor has shown a substantial change in her personal and financial affairs since the dismissal of her first case. The court finds that the Debtor has met her burden of proof by clear and convincing evidence that this case was filed in good faith. The Debtor has presented evidence sufficient for the court to conclude at this point in the proceedings that the case will be concluded with a confirmed plan that will be fully performed.

It is therefore ordered that the automatic stay is extended as to all creditors pursuant to § 362(c)(3)(B). As a condition of extending the stay, the Debtor will be subject to a wage deduction order if requested by the trustee. As a further condition, should this case be dismissed for any reason, said dismissal shall be with prejudice as to any subsequent filing by the Debtor under Chapters 11, 12, and 13 of the Bankruptcy Code for a period of one (1) year.

**AND IT IS SO ORDERED.**



UNITED STATES BANKRUPTCY JUDGE

Charleston, South Carolina,  
May 30, 2006