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at ___ O'clock & ___ min. ___ M

MAY 3 0 2006

United States Bankruptcy Court
Columbia, South Carolina (30)

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

ENTERED

MAY 3 0 2006

D.L.L.

In re:)	Case No. 06-01840
)	Chapter 13
Benjamin P. Bradley)	
)	
)	ORDER
<u>Debtor</u>)	

This matter comes before the Court upon the Motion to Extend Stay ("Motion") filed by the debtor pursuant to 11 U.S.C. § 362(c)(3)(B). A hearing on the Motion, after notice to all creditors and the trustee, was completed within the thirty (30) day period following the petition filing date. The Chapter 13 Trustee filed an objection to the Motion. No other party in interest filed or served an objection or appeared.

The debtor was also a debtor in a case pending within the one (1) year period preceding the filing of this case. The automatic stay of § 362(a) will terminate pursuant to § 362(c)(3)(A) on the 30th day after the filing of this case, absent an order extending the stay. Pursuant to § 362(c)(3)(B) the debtor must show the court that this case is filed in good faith in order to extend the stay beyond that date. Further, § 362(c)(3)(C)(i)(III) will create a presumption that this case was not filed in good faith as to all creditors if the court finds that there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case or any other reason to conclude that this case will be concluded with a confirmed plan that will be fully performed.

The debtor's prior chapter 13 case pending within one year was filed

September 30, 2005, and dismissed on October 20, 2005.¹ He acted *pro se* in that case. The debtor filed schedules and statements in the prior case, but it was dismissed for failure to file a chapter 13 plan. The debtor filed a motion to reconsider the order of dismissal, but that motion was denied by the court. The debtor filed this case on May 1, 2006. In this case he is represented by counsel and has filed all schedules, statements and required documents. He has filed a chapter 13 plan proposing 100% repayment to general unsecured creditors. The debtor has substantial equity in real estate of as much as \$66,000 as indicated by his testimony and his schedules. He has scheduled general unsecured debt of less than \$5000. The chapter 13 trustee advised the court that the plan payment may need to increase slightly, but it appears that the debtor's budget, as amended, will support this increased payment. Further, in this case the debtor has equity that will assist with the completion of the 100% plan. As a result of the fact that the debtor is now represented by counsel and has successfully completed the filing of his statements and schedules, due to the evidence of the debtor's equity in property that far exceeds general unsecured debt to back up his proposal for repayment, and considering that the debtor has agreed to a wage deduction order, the court finds that these facts combined constitute a reason to find that the case will be concluded with a confirmed plan that will be fully completed. Therefore, no presumption of a lack of good faith arises in this case pursuant to § 362(c)(3)(C)(i)(III).

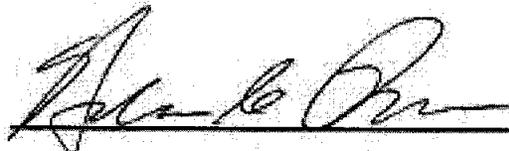
Further, the debtor has shown that he is making a good faith attempt to reorganize

¹ It appears from the court's records that the debtor also filed three cases between March and September of 1994. The first was a *pro se* case dismissed for failure to file statements and schedules. In the second the debtor was represented by an attorney but it also was dismissed for failure to file schedules and statements. The final case resulted in a confirmed plan but the case was ultimately dismissed for failure to make plan payments. Although the debtor has a history of unsuccessful bankruptcy filings, all but one occurred more than ten years ago.

and repay his debts as is evidenced by his 100% plan, his agreement to a wage deduction order for his chapter 13 plan payment, and his willingness to agree that should this case be dismissed for any reason, it shall be with prejudice for one year—which will further motivate the debtor to perform in this case. Based on these facts and on the testimony and demeanor of the debtor at the hearing, the court finds that the case is filed in good faith.

The court therefore finds that the debtor has met his burden of proof under § 362(c)(3)(B) by showing his good faith in filing this case and orders that the automatic stay is extended as to all creditors. As a condition of extending the automatic stay, it is further ordered that the debtor shall submit to a wage deduction order if requested by the trustee. Should the debtor fail to complete this Chapter 13 case for any reason, then this case, upon recommendation by the Trustee, shall be converted to a case under Chapter 7 of the Bankruptcy Code if the debtor is eligible to file such a case. Otherwise, the case shall be dismissed with prejudice as to any subsequent filing by the debtor under Chapters 11, 12 or 13 of the Bankruptcy Code for a period of one (1) year.

IT IS SO ORDERED

A handwritten signature in black ink, appearing to read "John C. [unclear]", written over a horizontal line.

UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina
May 30, 2006