

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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JAN 03 2006

United States Bankruptcy Court
Columbia, South Carolina (6)

IN RE:

C/A No. 05-45227-W

Jacquelyn J. Floyd,

JUDGMENT

Debtor.

Chapter 13

Based upon the findings of fact and conclusions of law made in the attached Order, the Motion to Extend Stay filed by Jacquelyn J. Floyd is granted. The automatic stay is extended pursuant to 11 U.S.C. § 362(c)(3)(B). Should this case be dismissed for any reason, the dismissal will be with prejudice to bar a re-filing for a period of one-hundred eighty (180) days as to Chapters 11, 12, and 13 of the Bankruptcy Code.


UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina,
January 3, 2006

ENTERED

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J.G.S.

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IN RE:

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Jacquelyn J. Floyd,

Debtor.

ORDER

Chapter 13

This matter comes before the Court upon a Motion to Extend Stay (the Motion") filed by Jacquelyn J. Floyd ("Debtor") pursuant to 11 U.S.C. § 362(c)(3)(B).¹ A hearing on the Motion, after notice to all creditors, was completed within the thirty (30) day period following the petition date. The Chapter 13 Trustee filed a response to the Motion but did not object to the Court granting the Motion.

Debtor filed for relief under Chapter 13 on December 3, 2005. Debtor was a debtor in a case pending within a one (1) year period preceding the filing of this case and thus the automatic stay of § 362(a) will terminate on the 30th day after the filing of this case, absent an order extending the stay. 11 U.S.C. § 362(c)(3)(A).

Debtor's previous case was voluntarily dismissed by Debtor before the confirmation of Debtor's proposed plan. There is no presumption under § 362(c)(3)(C)(i)(I) or (II) that Debtor did not file this case in good faith. Since the previous case was dismissed, Debtor is earning more income, her disposable income has increased, and it appears Debtor will complete her proposed Chapter 13 plan. The requirements of § 362(c)(3)(C)(i)(III) are met and there is no presumption that this case was not filed in good faith because it appears that Debtor has had a change in her financial circumstances. In re Adams, C/A No. 05-45030-W, slip op. at 3 (Bankr.

¹ Hereinafter internal references to the Bankruptcy Code (11 U.S.C. § 101 et. seq.), as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, shall be made by section number only.

ENTERED

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J.G.S.

D.S.C. Dec. 7, 2005).

Despite there being no presumption, Debtor must demonstrate by a preponderance of the evidence that she filed this case in good faith pursuant to § 362(c)(3)(B). In re Wallace, C/A No. 05-45119-W, slip op. at 2 (Bankr. D.S.C. Dec. 19, 2005). It appears that Debtor voluntarily dismissed her previous case because she lost her job after she filed the case and would be unable to make the proposed plan payments. Since the dismissal of her previous case, Debtor has found stable employment and her disposable income has increased. Debtor's proposed plan appears feasible and Debtor appears to have the intent and the ability to complete the proposed plan. All of these facts indicate that Debtor filed in good faith. Based upon the totality of the circumstance, the Court finds that Debtor has met her burden of proof and finds that this case was filed in good faith.

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, it is further ordered that should this case be dismissed for any reason, that the dismissal will be with prejudice to bar a re-filing for a period of one-hundred eighty (180) days as to Chapters 11, 12, and 13 of the Bankruptcy Code.

AND IT IS SO ORDERED.

Columbia, South Carolina,
January 3, 2006


UNITED STATES BANKRUPTCY JUDGE