

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

**FILED**

at \_\_\_\_\_ O'clock & \_\_\_\_\_ min \_\_\_\_\_ M

FEB 25 2008

IN RE:

C/A No. 08-00617-JW

Jake Lewis and Mary Fulwood Lewis,

Chapter 13

United States Bankruptcy Court  
Columbia, South Carolina (25)

Debtor.

**JUDGMENT**

Based upon the Findings of Fact and Conclusions of Law made in the attached Order of the Court, Jake Lewis's Motion to Extend the Automatic Stay is denied and the automatic stay shall terminate pursuant to 11 U.S.C. § 362(c)(3)(A). The automatic stay remains in effect as to Mary Fulwood Lewis.

Columbia, South Carolina,  
February 25, 2008

  
UNITED STATES BANKRUPTCY JUDGE

**ENTERED**

FEB 25 2008

R. S. S.

IN THE UNITED STATES BANKRUPTCY COURT  
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IN RE:

Jake Lewis and Mary Fulwood Lewis,

Debtor.

C/A No. 08-00617-JW

Chapter 13

ORDER

United States Bankruptcy Court  
Columbia, South Carolina (25)

ENTERED

FEB 25 2008

R. S. S.

This matter comes before the Court upon a Motion to Extend Stay ("Motion") filed by Jake Lewis<sup>1</sup> ("Debtor") pursuant to 11 U.S.C. § 362(c)(3). The Motion and Notice of Hearing on the Motion were served on all creditors and a hearing on the Motion was conducted within thirty days of the petition date.

Debtor was a debtor in a previous bankruptcy case (C/A No. 06-05401), which was pending within the one (1) year period preceding the filing of this case. Debtor's previous case was dismissed on October 23, 2007 for failing to make payments due to the chapter 13 trustee. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the automatic stay provided by 11 U.S.C. § 362(a) is scheduled to terminate on March 1, 2008, the thirtieth (30th) day after Debtor filed this bankruptcy case. Pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc), a presumption that Debtor did not file this bankruptcy case in good faith exists because Debtor's previous case was dismissed for a failure to perform the terms of a confirmed plan.

Debtor appeared at a hearing on the Motion but presented the testimony of his wife, who was not previously a debtor before this Court. Debtor's wife testified that this case was filed in good faith because she married Debtor during the previous case and is now contributing income to Debtor's household. However, it appears that the marriage occurred and Mrs. Lewis's employment began before the dismissal of the previous case. This does not indicate that there

<sup>1</sup> Debtor's wife, Mary Fulwood Lewis, was not previously a debtor before this court and therefore is not effected by the provisions of 11 U.S.C. § 362(c)(3)(A).

has been a substantial change in Debtor's personal or financial affairs since the dismissal of the previous case on October 23, 2007. See In re Goodwin, C/A No. 05-45110-jw, slip op. (Bankr. D.S.C. Dec. 19, 2005). It appears from Debtor's schedules that he has amassed substantial unsecured debt. The schedules indicate that this debt and the arrearage owed on the mortgages on his home have more than doubled since Debtor filed the prior case. Immediately prior to filing this case, it appears from Debtor's schedules that he took out multiple unsecured loans but now only proposes a one percent distribution to these creditors in his plan. This pre-petition conduct was not adequately addressed by Debtor at the hearing on the Motion and provides a strong indication that this case was filed in bad faith. See id. slip op. at 3. Moreover, Debtor has been a serial filer. This is Debtor's fourth case since 2004 and he also received a chapter 13 discharge in 2003 from his first chapter 13 case. Debtor's frequent filing is the type of abuse that Congress intended to curb when it amended 11 U.S.C. § 362. See In re Jupiter, 344 B.R. 754 (Bankr. D.S.C. 2006).

Debtor has failed to present clear and convincing evidence that this case was filed in good faith and therefore the Motion is denied.<sup>2</sup> The automatic stay shall terminate on March 1, 2008 pursuant to 11 U.S.C. § 362(c)(3)(A). The automatic stay remains in effect as to Debtor's wife.

**AND IT IS SO ORDERED.**

Columbia, South Carolina,  
February 25, 2008

  
UNITED STATES BANKRUPTCY JUDGE

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<sup>2</sup> The Court's findings are limited to the context of this Motion and nothing in this Order shall be construed as *res judicata* to prevent Debtor, the trustee, or any party in interest from challenging or establishing that this case or plan was filed or proposed in good faith for purposes of 11 U.S.C. §§ 1307 or 1325. See In re Charles, 332 B.R. 538, 542 (Bankr. S.D. Tex. 2005) (holding that Congress, by enacting § 362(c)(3), intended the courts to conduct an early triage of a case and determine whether a case is doomed to fail or whether a case has a reasonable likelihood of success).