

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

In re:

BRUCE GRANT BONAVENTURE,

Case No. 6:09-bk-18649-ABB

Chapter 11

Debtor.

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**ORDER**

This matter came before the Court on the Motion & Notice as to Creditors Taking Certain Prohibited Actions (Doc. No. 150) filed by the *pro se* Debtor Bruce Grant Bonaventure (“Debtor”) asserting Capital Management Services, LP and Citibank (South Dakota), N.A., and/or their agents, violated the automatic stay of 11 U.S.C. Section 362(a).

***11 U.S.C. Section 362(k)***

The Debtor filed this bankruptcy case on December 7, 2009 (“Petition Date”) and the automatic stay of 11 U.S.C. Section 362(a) arose by operation of law. Section 362(k) of the Bankruptcy Code provides for the impositions of sanctions where a creditor willfully violates the stay. A “willful violation” of the automatic stay occurs when the creditor “(1) knew the automatic stay was invoked and (2) intended the actions which violated the stay.” Jove Eng’g, Inc. v. I.R.S. (In re Jove Eng’g, Inc.), 92 F.3d 1539, 1545 (11th Cir. 1996).

The Debtor has the burden of proof to establish a violation of the automatic stay occurred and such violation was willful, as defined by the Eleventh Circuit. Hardy v. I.R.S. (In re Hardy), 97 F.3d 1384, 1390 (11th Cir. 1996).

### ***Post-Petition Correspondence***

Capital Management, on behalf of Arrow Financial Services, LLC (“Arrow”), issued a letter to the Debtor on May 13, 2010 offering to settle a debt for \$449.92. The letter states: “This is an attempt to collect a debt; any information obtained will be used for that purpose.” The letter was issued while the automatic stay was in effect.

Citibank, through its counsel Zakheim & Associates, P.A., issued to the Debtor on May 13, 2010 a Notice of Voluntary Dismissal Without Prejudice dismissing a Florida State Court case captioned *Citibank (South Dakota), N.A. v. Bruce Bonaventure*, Case No. 07-SC-9366-71. The Notice was issued while the automatic stay was in effect.

The bankruptcy case docket reflects Capital Management, Arrow, Citibank, and Zakheim & Associates did not have notice of the Debtor’s bankruptcy case when the correspondence was issued:

- (i) The Debtor filed a Master Mailing List on the Petition Date listing one creditor, Aurora Loan Services, LLC, and no other creditors. He filed a hand-written document on December 21, 2009 (Doc. No. 15) entitled “Required Schedules and Statement of Affairs Schedules A-J” listing various unsecured creditors including Citibank, Arrow, Capital Management, and Zakheim & Associates, but provided no addresses for the listed creditors.
- (ii) The Debtor filed various Schedules, including a Schedule F, on December 28, 2009 (Doc. No. 24), but listed only Aurora and Faslo Solutions as creditors in Schedule F. Citibank, Arrow, Capital Management, and Zakheim & Associates were not listed as creditors in the Schedules.
- (iii) The Debtor filed on April 16, 2010 a Request to Amend Previously Unlisted Creditors (Doc. No. 111) which is largely illegible and does not comply with the filing requirements of the Federal Rules of Bankruptcy Procedure and the Local Rules and Administrative Orders of this Court. A Notice of Deficient Filing was issued by the Court on April 20, 2010 (Doc. No. 112).

- (iv) The Debtor filed a hand-written Amended Schedule F on May 3, 2010 (Doc. No. 128) listing various creditors and addresses.
- (v) The Debtor filed another hand-written Amended Schedule F on June 2, 2010 (Doc. No. 161) listing various creditors and addresses. A Notice of Deficient Filing was issued by the Court.

Citibank, Arrow, Capital Management, and Zakheim & Associates did not receive notice of the bankruptcy case because the Debtor failed to provide a complete listing of all of his creditors with addresses as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules and Administrative Orders of this Court.

The Debtor has not established Citibank, Arrow, Capital Management, or Zakheim & Associates knew the automatic stay was invoked when the correspondence was issued to the Debtor. Citibank's Notice of Voluntary Dismissal dismisses a State Court proceeding and does not constitute an attempt to collect a debt. Neither Citibank, Arrow, Capital Management, nor Zakheim & Associates have committed a willful violation of the automatic stay pursuant to 11 U.S.C. Section 362(k). The Debtor's Motion is due to be denied.

Accordingly, it is

**ORDERED, ADJUDGED and DECREED** that the Debtor's Motion (Doc. No. 150) is hereby **DENIED**.

Dated this 2nd day of July, 2010.

/s/ Arthur B. Briskman  
ARTHUR B. BRISKMAN  
United States Bankruptcy Judge