

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

Case No. 6:06-bk-03491-ABB
Chapter 7 (converted)

JIMMY M. HOLYFIELD,

Debtor.

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ORDER

This matter came before the Court on the: (i) Motion to Modify Stay and for Other Relief (Doc. No. 20) (“Stay Relief Motion”) filed by Citifinancial Auto, Ltd., a secured creditor herein (“Citifinancial”), seeking relief from the automatic stay with respect to a vehicle owned by Jimmy M. Holyfield, the Debtor herein (“Debtor”); and (ii) the Debtor’s Motion for Continuation of the Automatic Stay in Case Filed After Prior Dismissal within Year of Filing (Doc. No. 18) (“Motion to Extend Stay”), to which Saxon Mortgage Services, Inc. (“Saxon”) objected (Doc. No. 25). A hearing was held on these and various other matters on February 27, 2007 at which counsel for Citifinancial, counsel for Saxon, counsel for the Debtor, the Chapter 13 Trustee, and other interested parties were present.

The Stay Relief Motion was continued to the confirmation hearing.¹ Counsel for the Debtor orally withdrew the Motion to Extend Stay. Counsel for the secured creditors requested the Court issue an Order confirming the automatic stay is no longer in effect.

Section 362(c)(3)(A) of the Bankruptcy Code provides the automatic stay, with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease, shall terminate on the thirtieth day if an individual debtor was a debtor in a Chapter 7, 11, or 13 case within the preceding one-year period that was dismissed.

The Debtor filed this bankruptcy case on December 20, 2006 (“Petition Date”) and the automatic stay of 11 U.S.C. Section 362(a) arose. He had filed a previous Chapter 13 case on September 1, 2006, which was dismissed on November 28, 2006 for his failure to maintain timely plan payments. No

¹ The Debtor, post-hearing, filed a Notice of Voluntary Conversion converting the case to Chapter 7 pursuant to 11 U.S.C. Section 1307(a) (Doc. No. 49).

extension of the automatic stay was granted in this case and the time period for obtaining an extension has expired pursuant to Section 362(c)(3)(B).

The automatic stay terminated thirty days after the Petition Date with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease pursuant to 11 U.S.C. Section 362(c)(3)(A). This Order is being issued pursuant to Section 362(j) confirming the automatic stay has terminated.²

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the automatic stay of 11 U.S.C. Section 362(a) terminated thirty days after the Petition Date with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease pursuant to 11 U.S.C. Section 362(c)(3)(A); and it is further

ORDERED, ADJUDGED and DECREED that Citifinancial’s Stay Relief Motion is hereby **MOOT** due to the statutory termination of the automatic stay.

Dated this 6th day of March, 2007.

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

² Section 362(j) provides: “On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.”