VTB Form A-1

2/20

**UNITED STATES BANKRUPTCY COURT**

**FOR THE DISTRICT OF VERMONT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**In re: Case # xx-xxxxx**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Chapter \_\_**

 **Debtor(s)**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Debtor’s Emergency Motion to Continue the Automatic Stay Under 11 U.S.C. § 362(c)(3)

**With Certificate of Service and Notice of Motion**

The Debtor,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, by counsel,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, files this motion seeking an extension of the automatic stay in a repeat-filer case, pursuant to 11 U.S.C. § 362(c)(3)(B).

In support of this relief, the Debtor alleges the following:

1. **Pertinent procedural history**:
2. Filing date and chapter of the prior bankruptcy case(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Docket number of the prior bankruptcy case(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Date the prior bankruptcy case(s) were dismissed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Reasons for dismissal(s) of the Debtor’s prior bankruptcy case(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Did the Court attach any conditions to the prior dismissals? If so, specify docket # and conditions:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The creditors to whom the Debtor seeks to have the automatic stay apply in the current, new bankruptcy case:

[ ]  All creditors

[ ]  Only the following creditors:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The **substantial changes in the Debtor’s financial or personal affairs** since the Debtor’s most recent previous bankruptcy case was dismissed [*if additional space is needed, attach additional pages and/or affidavit as an exhibit*]:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Any **other facts or circumstances** that support extension of the automatic stay in this case:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Evidentiary Hearing[[1]](#footnote-1)**

[ ]  The Debtor **is** requesting an evidentiary hearing at this time and attaches a Notice of Evidentiary Hearing pursuant to Vt. LBR 9014-1(b)(2).

[ ]  The Debtor **is not** requesting an evidentiary hearing at this time and will file that separately, at least 7 days prior to the hearing as required by Vt. LBR 9014-1(b)(2).

1. **Prayer for Relief**

WHEREFORE, the Debtor prays that the Court grant this motion and extend the automatic stay, with respect to [name creditors], for the pendency of this case.

[Date filed] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_, Vermont Name of attorney

 [address, telephone email of attorney]

**Certificate of Service**

[*pursuant to Fed. R. Bankr. Proc. 7004(a)–(h)*]

The undersigned hereby certifies they have served a copy of this pleading and any attachments on the entire mailing matrix (which is attached to this motion as an exhibit), by serving it electronically to all parties who accept service through the ECF system and on paper to the following parties, using the following methods:

(i) via U.S. first class mail, postage prepaid to the following parties on [*date*]:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 OR:

1. via certified or priority overnight mail, return receipt requested, postage prepaid to the following parties on [*date*]:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

OR:

1. via personal delivery, fax transmission or e-mail to the following parties on [*date*]:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [*Date filed*] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*name, address, telephone, email of*

*the person signing this certificate*]

Attachment: list of all parties on master mailing list who were served electronically

**UNITED STATES BANKRUPTCY COURT**

**FOR THE DISTRICT OF VERMONT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**In re: Case # xx-xxxxx**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Chapter \_\_**

 **Debtor(s)**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NOTICE OF MOTION**

**Regarding Debtor’s Emergency Motion To Continue The Automatic Stay**

**Under 11 U.S.C. § 362(c)(3)**

 **Notice is hereby given** to all parties entitled to notice that a motion has been filed seeking an order continuing the automatic stay in this bankruptcy case under 11 U.S.C. § 362(c)(3).

 **IF YOU OPPOSE THE MOTION** **you must file a written opposition with the Clerk of the Court, by [date], and serve a copy of your opposition on** the movant, the movant’s counsel, the U.S. trustee, and the case trustee. Addresses for those parties are set forth below.

 **IF AN OPPOSITION IS TIMELY FILED**, the Court will hold a hearing on the Motion and any opposition at [time] on [date] at the following location: [*indicate Rutland or Burlington location*].

 **IF NO OPPOSITION IS TIMELY FILED**, the Court may issue an order granting the Motion and directing the parties to proceed with the mortgage mediation without further notice or hearing.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 *[Signature]*

[*typed name, with address, email*

 *address, and telephone number]*

[*Name*] *Case Trustee*
[*Name of Law Firm, if any*]

[*Street Address or P.O. Box*]

[*City, State, Zip Code*]

*Counsel for Other Party to Mortgage*

[*Name of Law Firm, if any*]

[*Street Address or P.O. Box*]

[*City, State, Zip Code*]

[*Debtor’s Name*]

[*Street Address or P.O. Box*]

[*City, State, Zip Code*]

**UNITED STATES BANKRUPTCY COURT**

**FOR THE DISTRICT OF VERMONT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**In re: Case # xx-xxxxx**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Chapter \_\_**

 **Debtor(s)**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# [Proposed] ORDER

# Granting Debtor’s Motion to Continue the Automatic Stay, Pursuant to § 362(c)(3)

The Debtor filed a motion on *[date]*, by counsel *[attorney’s name]*, seeking an extension of the automatic stay in this repeat-filer case, pursuant to 11 U.S.C. § 362(c)(3)(B).

The Court has considered the Debtor’s motion, any objections that were filed, the testimony and arguments made at the hearing held on *[date]*, as well as the evidence admitted at that hearing, in support of the Debtor’s motion. Based on that record, **THE COURT FINDS**

1. the Debtor has satisfied the time requirements of this statute;
2. the Debtor has demonstrated a substantial change in the Debtor’s financial or personal affairs since the Debtor’s most recent previous bankruptcy case was dismissed, and
3. the Debtor has demonstrated cause to extend the stay in this case as to:

[ ]  all creditors

[ ]  only the following creditors: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

THEREFORE, **IT IS HEREBY ORDERED** that the automatic stay imposed by 11 U.S.C. § 362(a) is extended, as to the specified creditors, for the pendency of this case.

 **SO ORDERED.**

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: Heather Z. Cooper

Burlington, Vermont United States Bankruptcy Judge

1. When a debtor files a bankruptcy case within one year of when they had a previous bankruptcy case pending, the stay otherwise imposed by 11 U.S.C. § 362(a) does not automatically apply to the current case: if the Debtor had one case pending during the prior year, the automatic stay is only effective for thirty (30) days, unless and until the Debtor demonstrates cause to grant a stay for the pendency of the instant bankruptcy case. See 11 U.S.C. § 362(c)(3). [↑](#footnote-ref-1)