

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

**Robert Goodrich,
Debtor.**

**Chapter 13
Case # 17-10500**

*Appearances: Rebecca Rice, Esq.
Cohen & Rice
Rutland, Vermont
For the Debtor*

*Heather Z. Cooper, Esq.
Facey Goss & McPhee, P.C.
Rutland, Vermont
For Jennifer Soutar*

*Jan M. Sensenich, Esq.
Office of the Chapter 13 Trustee
Norwich, Vermont
As the Standing Trustee*

ORDER
OVERRULING THE CREDITOR'S OBJECTION
AND GRANTING DEBTOR'S MOTION TO CONTINUE THE AUTOMATIC STAY, WITH CONDITIONS

For the reasons set forth in the memorandum of decision of even date THE COURT FINDS

- (1) the early termination of the automatic stay, set forth in § 362(c)(3) (the "Controlling Statute"¹) applies in this case;
- (2) the Debtor has met the procedural requirements of that Statute by filing a timely motion to extend the stay, and timely presenting evidence at a hearing;
- (3) the rebuttable Presumption, imposed by § 362(c)(3)(C), that the Debtor filed this case not in good faith, arose in this case; and
- (4) under the totality of the circumstances presented by this case and the Debtor's most recent prior bankruptcy case (case # 15-11033), the Debtor has demonstrated he filed the current case in good faith, with clear and convincing evidence, and thus rebutted the Presumption.

Accordingly, the Court overrules the Objection of creditor Jennifer Soutar (the "Creditor") to the Debtor's Motion, and determines the Debtor is entitled to an extension of the automatic stay under § 362(c)(3).

¹ All capitalized terms in this order are defined terms and have the same meaning herein as in the accompanying memorandum of decision.

three bankruptcy filings, the Debtor's conduct with respect to the obligations he owes the Creditor, the history of persistent litigation between the Debtor and the objecting Creditor, and the potential risks the extension of the stay poses to the Creditor, that the imposition of conditions on that extension of the stay is warranted. The Court conditions the extension of the automatic stay, as to the Creditor, on the Debtor's timely delivery of plan payments, timely delivery of payments due the Creditor, and timely delivery of payments on all other obligations that have a direct effect on the Creditor's rights and collateral interest.

Accordingly, IT IS HEREBY ORDERED that the Creditor's Objection (doc. # 42) is overruled, the Debtor's Motion (doc. # 40) is GRANTED, and the stay is extended, as to the Creditor, subject to the following terms and conditions:


- I. Jennifer Soutar may immediately file a proposed order granting her conditional relief from the automatic stay in this case, which the Court will promptly grant (the "Creditor's Order").
- II. The Creditor's Order will be conditional at this time, but may become absolute, if the following events occur:
 - a) if the Debtor defaults by failing to:
 - i. make a plan payment,
 - ii. make any direct payment due to creditor Soutar,
 - iii. maintain the required insurance on the property securing creditor Soutar's interest, or
 - iv. remain current on any post-petition tax obligations for that property; and
 - b) if the Debtor fails to cure that default, or file a motion to modify his plan which is ultimately granted by the Court, within 14 days written notice from creditor Soutar (served on both the Debtor and his attorney); and
 - c) if creditor Soutar files an affidavit describing the default and failure to cure, and the Debtor fails to rebut the factual underpinnings of the affidavit within seven days.
- III. Creditor Soutar may then file a proposed order for absolute relief from stay, without any further notice to the Debtor or his attorney.

See Vt. LBR. 4001-1(i).

IT IS FURTHER ORDERED that if the Court dismisses this case, for any reason, this Order, and the conditional or absolute relief from stay the Court has granted to creditor Soutar in this case, will remain in effect for a period of one year from the date of dismissal of this case, including through the duration of any bankruptcy case(s) the Debtor files within one year of the date the Court dismisses this case.

IT IS FURTHER ORDERED that the automatic stay is extended as to all other creditors without condition, pursuant to § 362(c)(3)(B).

September 24, 2018
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge