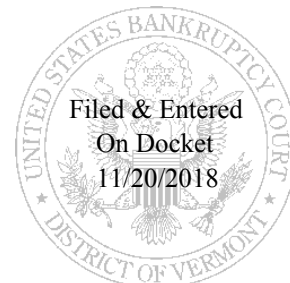


**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**



In re:

**Mark Kevin Fisher,
Debtor.**

**Chapter 7
Case # 18-10343**

*Appearances: Erik Valdes, Esq.
Fitts, Olson & Giddings
Brattleboro, Vermont
For the Debtor*

*Elana Baron, Esq.
Bragdon & Kossayda, P.C.
Keene, New Hampshire
For Brattleboro Savings & Loan*

**ORDER
SUSTAINING THE CREDITOR'S OBJECTION
AND DENYING DEBTOR'S MOTION TO EXTEND THE AUTOMATIC STAY UNDER 11 U.S.C. § 362(C)(3)**


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") applies in this case;
- (2) the Debtor has met the procedural requirements of the Controlling Statute by filing a timely motion to extend the stay;
- (3) the rebuttable Presumption,¹ imposed by § 362(c)(3)(C), that the Debtor filed this case not in good faith, arose in this case;
- (4) the Debtor was required to rebut this Presumption by clear and convincing evidence, pursuant to §§ 362(c)(3)(C)(i)(II)(aa) and 362(c)(3)(C)(i)(III)(aa);
- (5) under the totality of the circumstances presented by this case, and the Debtor's most recent prior bankruptcy case (case # 16-11462), the Debtor has failed to demonstrate he filed the current case in good faith as to the creditors to be stayed, with clear and convincing evidence, and thus has not rebutted the Presumption;
- (6) even if the Court applies a preponderance of the evidence burden, as the Debtor urges, the Debtor has still failed to demonstrate he filed the current case in good faith as to the creditors to be stayed, and failed to rebut the Presumption under this alternative analysis.

Accordingly, IT IS HEREBY ORDERED the Objection of creditor Brattleboro Savings and Loan Association to the Debtor's Motion (doc. # 15) is SUSTAINED.

IT IS FURTHER ORDERED the Debtor's Motion to Extend Stay, under 11 U.S.C. § 362(c)(3)(B) (doc. # 8) is DENIED and thus there is no automatic stay in place in this case, as to any creditor.

November 20, 2018
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge

¹ All capitalized terms in this Order have the same meaning as in the corresponding memorandum of decision.