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3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
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8 In re)
9) Case No. 06-23662-A-7
10 DONALD J. MEYERS,)
11) Docket Control No. RTD-2
12) Date: November 6, 2006
Debtor.) Time: 9:00 a.m.
_____)

13 On November 6, 2006 at 9:00 a.m., the court considered The
14 Golden 1 Credit Union's motion for relief from the automatic
15 stay. The court's ruling on the motion is appended to the
16 minutes of the hearing. Because that ruling constitutes a
17 "reasoned explanation" of the court's decision, it is also posted
on the court's Internet site, www.caeb.uscourts.gov, in a text-
searchable format as required by the E-Government Act of 2002.
The official record, however, remains the ruling appended to the
minutes of the hearing.

18 **Final Ruling**

19 The motion will be granted.

20 The movant, The Golden One Credit Union, seeks relief from
21 the automatic stay with respect to a 2005 Dodge Ram vehicle. The
22 movant alleges that the automatic stay terminated pursuant to
23 sections 362(h)(1)(A) and 521(a)(2)(A) because the debtor failed
24 to indicate on his statement of intention that he would redeem
25 the vehicle or reaffirm the debt secured by the vehicle.

26 11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7
27 debtor to file a statement of intention with reference to
28 property that secures a debt. The statement must be filed within

1 30 days of the filing of the petition or by the date of the
2 meeting of creditors, whichever is earlier. The debtor must
3 disclose in the statement whether he or she intends to retain or
4 surrender the property, whether the property is claimed as
5 exempt, and whether the debtor intends to redeem such property or
6 reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A).

7 The petition here was filed on September 18, 2006 and the
8 meeting of creditors was first convened on October 27, 2006.
9 Therefore, a statement of intention that refers to the movant's
10 vehicle and debt was due no later than October 18. The debtor
11 filed a statement of intention on September 18. In the
12 statement, while the debtor states that he intends to retain the
13 vehicle and continue to make regular payments, he does not state
14 whether he intends to redeem the vehicle or reaffirm the debt
15 secured by the vehicle. This is required by section
16 521(a)(6)(A) & (B).

17 If the property securing the debt is personal property and
18 an individual chapter 7 debtor fails to file a statement of
19 intention, or fails to indicate in the statement that he or she
20 either will redeem the property or enter into a reaffirmation
21 agreement, or fails to timely surrender, redeem, or reaffirm, the
22 automatic stay is automatically terminated and the property is no
23 longer property of the bankruptcy estate. See 11 U.S.C. §
24 362(h).

25 Here, the debtor failed to state his intention with respect
26 to whether he intends to redeem the vehicle or reaffirm the debt
27 secured by the vehicle. As a result, the automatic stay
28 automatically terminated on October 18.

1 The trustee may avoid automatic termination of the automatic
2 stay by filing a motion within whichever of the two 30-day
3 periods set by section 521(a)(2) is applicable, and proving that
4 such property is of consequential value or benefit to the estate.
5 If proven, the court must order appropriate adequate protection
6 of the creditor's interest in its collateral and order the debtor
7 to deliver possession of the property to the trustee. If not
8 proven, the automatic stay terminates upon the conclusion of the
9 hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

10 The trustee in this case has filed no such motion and the
11 time to do so has expired. The court also notes that the trustee
12 has filed a "no-asset" report on October 27, 2006, indicating
13 that he does not intend to administer the vehicle or any other
14 asset.

15 Therefore, even without this motion being filed, the
16 automatic stay terminated on October 18. However, the motion is
17 not moot. 11 U.S.C. § 362(j) requires the court to issue, at the
18 request of a creditor, an order confirming that the automatic
19 stay has terminated pursuant to section 362(h). The court will
20 so confirm. The movant has leave to repossess its collateral, to
21 dispose of it pursuant to applicable law, and to use the proceeds
22 from its disposition to satisfy its claim.

23 The court also notes that even if the automatic stay had not
24 already automatically terminated, there would be grounds to
25 terminate the automatic stay pursuant to 11 U.S.C. § 362(d)(1) &
26 (2). The subject property has a value of \$19,500 and is
27 encumbered by a perfected security interest in favor of the
28 movant. That security interest secures a claim of \$26,743.57.

1 There is no equity and there is no evidence that the property is
2 necessary to a reorganization or that the trustee can administer
3 the subject property for the benefit of creditors. Further, the
4 movant has no proof of insurance coverage on the vehicle. And,
5 the statement of intention states that the vehicle is being used
6 and maintained by the debtor's brother-in-law. This is cause for
7 the granting of relief from stay.

8 The 10-day stay of Fed. R. Bankr. P. 4001(a)(3) is ordered
9 waived due to the fact that the movant's vehicle is being used
10 without compensation and is depreciating in value.

11 Because the movant has not established that the value of its
12 collateral exceeds the amount of its claim, the court awards no
13 fees and costs. 11 U.S.C. § 506(b).