

Signed: April 30, 2008

SO ORDERED



ROBERT A. GORDON
U. S. BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND**

IN RE:

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BROOKLYN HARLEE A/K/A
BROOKLYN HARLEE, JR.

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Case No. 05-25591-RAG
Chapter 7

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Debtor

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CHASE HOME FINANCE, LLC
S/B/M TO CHASE MANHATTAN
MORTGAGE CORP.

*

*

Movant

*

Dkt. Nos. 18 & 22

BROOKLYN HARLEE A/K/A
BROOKLYN HARLEE, JR.,
George W. Liebmann, Trustee

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Respondents

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**AMENDED ORDER¹ GRANTING MOTION TO RECONSIDER
ORDER DENYING MOTION TO MODIFY STAY**

Before the Court is the Motion to Reconsider Order Denying Motion to Modify Stay

¹ This Amended Order only serves to correct a grammatical error on pg. 3 by inserting the definite article ‘the’ and to revise certain formatting and stylistic preferences.

(Motion) filed by Chase Home Finance, LLC s/b/m to Chase Manhattan Mortgage Corp. filed on April 7, 2008. (Dkt. No. 22). The Motion was filed to secure the reconsideration of the Order Denying Without Prejudice (Dkt. No. 20) the Movant's original Motion to Modify Stay to Permit Foreclosure of the Deed of Trust (Lift Stay Motion, Dkt. No. 18) entered on April 3, 2008. The Lift Stay Motion was denied because it did not include a detailed statement of the debt owed the Movant as required by Local Rule 4001-1(b)(1).² By supplemental filing, the Movant has supplied the required detailed statement and now is in compliance with the Local Rule. (Dkt. No. 23). However, the tone of the Motion reflects a measure of petulance on the Movant's part. In light of that, this would seem to be an appropriate time to explain why the original Lift Stay Motion was denied, the Order entered and the detailed statement required.

The undersigned has been on the Bench since June 19, 2006. The wide variance in form and substance between the papers filed was, and continues to be, striking. Motions for relief from the automatic stay constitute a substantial share of these papers. In this context, members of the creditor Bar desire fast, low-cost results. This is understandable; however, a comparison of the initial crop of lift stay motions that awaited rulings with the requirements of Local Rule 4001-1, made it crystal clear that most attorneys were ignoring some, or all, of the Rule's requirements. Those requirements were adopted, and made mandatory, for a reason.

For example, the requirements mandating that the obligation relied upon by the creditor

² The Court interprets this subsection as requiring that the movant submit an accounting, by summary or affidavit or other business records, attached to the motion for relief from stay that provides respondents with the balance due on account of the debt, the date of the missed payments, the total and breakout of the amount of the alleged default, and the application of any payments received. Some creditors include such averments in the motion itself, however, such practice must satisfy the level of detail required by the Local Rule as interpreted by this Court.

be thoroughly and independently documented by both the agreement's relevant terms and an accounting of the indebtedness due seemed to be fundamental ingredients of a legitimate motion. In light of the speed with which creditors expect these matters to be dealt with, it only seemed prudent, and wholly in keeping with notions of due process, that creditors be required in the first instance to establish their entitlement to relief from stay in a manner that stands up to scrutiny. Particularly in a world where secured paper is passed repeatedly from hand to corporate hand, the optimum method to achieve this standard is to provide copies of summaries or relevant business records. Moreover, it is just as important that the same standard be applied equally to all creditors, while some wiggle room is left for the grey area of individual style.

The decision whether to lift the stay is *always* a matter of sound discretion. *In re Robbins*, 964 F.2d 342, 345 (4th Cir. 1992). With that in mind, there should no longer be any confusion at this juncture as to how this Court interprets the Local Rule in question. In order to have confidence that an unopposed motion will pass through the system unmolested, creditor's counsel should be prepared to adequately support it with the required evidentiary materials. If they do, there will be no doubt as to the interest of their client that is in need of protection and the record will clearly reflect a basis for the requested relief in a manner that will not be subject to the taint of doubt or second guessing.

Accordingly, it is, by the United States Bankruptcy Court for the District of Maryland
ORDERED, that the detailed statement of account having been provided as required by
Local Rule 4001-1(b)(1), the Motion to Reconsider Order Denying Motion to Modify Stay is
granted, and it is further

ORDERED, that the automatic stay is lifted as to the real estate identified in the Motion

to Modify Stay to Permit Foreclosure of the Deed of Trust and known as 3626 Erdman Avenue, Baltimore, MD 21213 to permit the Movant to exercise its rights under the Deed of Trust including its right to sell the real estate at foreclosure.

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END OF ORDER