

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

IN RE:

CDF INC.,

CASE NO. 25-10197-JCO
Chapter 11, Sub V.

Debtor.

ORDER DENYING MOTION FOR RELIEF WITHOUT PREJUDICE

This matter came before the Court for hearing on the Motion for Relief filed by Carl Parson (“Parson”), as amended (“Motion”) and the Objection thereto by the Bankruptcy Administrator. (Docs. 68, 87, 94). Proper notice of hearing was given and appearances were noted on the record. Upon consideration of the pleadings, the record, and the arguments of counsel, this Court finds good and reasonable grounds exist to deny the Motion without prejudice.

JURISDICTION

This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 1334 and 157, and the Order of Reference of the District Court dated August 25, 2015. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (G).

FACTS

The Debtor, CDF Inc. (“CDF”) filed this Chapter 11 Subchapter V, voluntary bankruptcy petition on January 24, 2025 (“Petition Date”). On the Petition Date, CDF’s assets included: (1) a single family residence rental property located at 208E. 46th St, Tulsa, OK 74105 which was fully encumbered by a mortgage to American Heritage Bank; (2) a residential lot at 4227 Wood Glen

Trace, Orange Beach, Al 36561 which is encumbered by Parson's judgment lien; and (3) a note receivable ("Promissory Note") from Tolliver Enterprise Inc.¹ with a balance of \$493,027.33.² (Docs. 1 at 11, 54 at 1). CDF's proposed Chapter 11 Plan of Reorganization ("Plan") indicates that the \$6,083.41 is being paid monthly on the Promissory Note, it will continue to be paid through the end of the proposed plan period, and such income will be used to fund the plan. (Doc. 54 at 1-2).

Carl Parson ("Parson") filed his proof of claim in the amount of \$386,987.14 based on pre-petition judgments against CDF and a non-debtor, Don Farley. (ECF Claim No.4-1). The Plan proposes to pay the secured portion of Parson's claim over 5 years at 9.5% interest, with the first payment of \$2,545.43 due on the effective date of the Plan. The unsecured portion of Parson's debt will be paid a pro rata share of \$3,271.07 per month for 60 months.

Prior to the Petition Date, Parson instituted a garnishment upon Tolliver Enterprises and was embroiled in litigation with the Debtor in Oklahoma regarding the contest of his garnishment.³ (Doc. 87 at 1). Parson seeks relief from the Automatic Stay to appeal a ruling of the Oklahoma Court of Appeals regarding the status of a garnishment and allow all parties to proceed with their state law remedies. The Bankruptcy Administrator objected to the Motion on the grounds that: (1) maintaining the stay would provide the most expedient repayment of Parson's debt; and (2) it is

¹ Also known as Cimarron Properties Inc.

² The promissory note arose from CDF's owner financing of a Mobile Home park that it sold to Toliver Enterprises Inc. in 2016.

³ *Carl Parson, Individually and as Personal Representative for the Estate of Huber Leon FARLEY V. Don Farley, CDF, Inc., FarPro, LLC Sandra Farley, et al.*, Case No. CJ-20-36, in the District Court for Rogers County, Oklahoma.

unlikely that he will prevail on the merits should this court terminate the automatic stay.

ANALYSIS

The filing of a bankruptcy petition operates a stay as to the commencement or continuation of a judicial, administrative, or other action or proceedings against the Debtor as well as actions to obtain property of the estate. 11 U.S.C. §362(a). The automatic stay is among the most fundamental debtor protections in bankruptcy law and its scope in protecting debtors and debtor property is broad. *Midlantic Nat'l Bank v. New Jersey Dep't. of Environmental Protection*, 474 U.S. 494, 503, 106 S.Ct. 755, 761, 88 L.Ed.2d 859 (1986); *In re Roche*, 361 B.R. 615, 621 (Bankr. N.D. Ga. 2005) *In re Elrod*, 523 B.R. 790, 796 (Bankr. W.D. Tenn. 2015). Section 362 of the Bankruptcy Code provides in part:

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay --

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or

(2) with respect to a stay of an act against property under subsection (a) of this section, if --

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization.

11 U.S.C. §362 (d).

Bankruptcy Courts have broad discretion to determine what constitutes sufficient cause to warrant relief from stay. *In re Dixie Broad., Inc.*, 871 F.2d 1023 (11th Cir. 1989). Since “cause” is not specifically defined by the Bankruptcy Code, courts must determine whether relief is

appropriate by examining the totality of the circumstances in each case. *In re West Pace, LLC*, 2020 WL 6140389 (Bankr. M.D. Ala.); *In re Robertson*, 244 B.R. 880 (Bankr. N.D. Ga. 2000); *In re Mack*, 347 B.R. 911 (Bankr. M. D. Fla 2006). In deciding whether to grant relief to a movant seeking to proceed with litigation outside of bankruptcy, courts consider: 1) whether the debtor or the estate will be greatly prejudiced by the continuation of the civil suit; 2) whether the hardship to the moving party by the maintenance of the stay outweighs the hardship to the debtor; and 3) whether the moving party is likely to prevail on the merits in the civil action. *Matter of Fernstrom Storage & Van Co.*, 938 F. 2d 731, 735 (7th Cir. 1991).

The facts of this case justify denying Parson's Motion for Relief at this time. Terminating the automatic stay to allow Parson to continue state court litigation and collection efforts, would cause unnecessary delay and be prejudicial to the Debtor and creditors overall. Duplicitous litigation related to the Debtor's assets in more than one forum is contrary to the spirit and purpose of the Bankruptcy Code, could lead to inconsistent results, and would waste estate resources. Additionally, extraneous litigation could increase the Debtor's expenses, detract from the management of the estate, and deprive the estate of funding that is necessary for an effective reorganization. As Parson's claim is partially secured, and there is no indication that the realty is in jeopardy or declining in value, the lack of adequate protection is not an issue. The Court is also not convinced that any undue hardship would be occasioned upon Parson by continuation of the stay at this juncture or that Parson has any likelihood of success if he were to continue litigation in Oklahoma. With that said, even assuming any likelihood of success, that factor would be outweighed by the hardship on the debtor and detrimental effect on the estate that would necessarily flow from duplicitous litigation. Thus, maintaining the automatic stay and allowing the Debtor to proceed toward confirmation of its Plan providing for payment of Parson's debt along

with other creditors, would provide the most efficient and equitable repayment of the Debtor's obligations. Therefore, upon consideration of the totality of the circumstances, this Court finds that sufficient cause does not exist at this time to lift the automatic stay to allow Parson to continue litigation and collection efforts against the Debtor in another forum.

CONCLUSION

Based on the above, it is hereby ORDERED, ADJUDGED, and DECREED that Parson's Motion for Relief, as amended (docs. 68, 87) is DENIED WITHOUT PREJUDICE.

Dated: August 7, 2025


JERRY OLDSHUE
CHIEF U.S. BANKRUPTCY JUDGE