

FILED & JUDGMENT ENTERED
Steven T. Salata

Feb 23 2012

Clerk, U.S. Bankruptcy Court
Western District of North Carolina



George R. Hodges
George R. Hodges
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

IN RE:)
)
) ORDER GRANTING
) RELIEF FROM STAY
MICHAEL DENNIS LARES,)
SSN XXX-XX-7318,) Case No. 11-20237
) (Chapter 7)
)
Debtor.)

UPON the Motion of Huntington National Bank (Huntington), secured creditor of Michael Dennis Lares (Debtor), for relief from the automatic stay of Section 362 of the Bankruptcy Code, the Court finds as follows:

FINDINGS OF FACT:

1. Huntington holds a security interest in a 2002 Hummer H1 Enclosed Wagon 4DR vehicle, vehicle identification number 137FA84312E199028 (the vehicle), pursuant to a North Carolina Fixed Rate Personal Loan Agreement dated September 25, 2010 (the contract).
2. Huntington's lien on the vehicle is noted on the North Carolina Certificate of Title for the vehicle.
3. Debtor filed this Chapter 7 proceeding on or about December 5, 2011.
4. The net balance on the account for the vehicle is \$58,689.94.
5. Debtor last made a payment on the account for the vehicle on June 23, 2011 and Debtor is past due in the total amount of \$3,428.89.
6. According to the current edition of the *NADAGuides.com*, the average retail value of comparable vehicles is \$57,400.00

7. Debtor did not object to the Motion filed by Huntington on January 31, 2012.

CONCLUSIONS OF LAW:

Because Huntington is not receiving any payments on the account for the vehicle, there is no equity in the vehicle and the vehicle is depreciating in value, Huntington's interest in the vehicle is not adequately protected, entitling Huntington to relief from the automatic stay for cause, including the lack of adequate protection of its interest in the vehicle.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. The automatic stay of Section 362 of the Bankruptcy Code be, and hereby is, released as to the vehicle;
2. Huntington shall be allowed to recover and sell the vehicle pursuant to the terms of the contract and the Uniform Commercial Code;
3. Huntington shall have a period of 120 days from the date of recovery in which to file a proof of claim for any deficiency balance; and
4. The provisions of Bankruptcy Rule 4001(a)(3) are waived and the Order is in full force upon signature of this Court.

This Order has been signed electronically. The judge's signature and court's seal appear at the top of the Order.

United States Bankruptcy Court