

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

In re: Curtis A. Lotter,
Debtor

BK No: 16-10790
Chapter 13

ORDER DENYING
DEBTOR'S MOTION TO EXTEND THE AUTOMATIC STAY
(this relates to Doc. #14)

On May 2, 2016, Curtis A. Lotter filed a chapter 13 bankruptcy petition, and on May 17, 2016, he moved to extend the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B) (“Motion,” Doc. #14). Mr. Lotter did not ask for emergency or expedited consideration and instead indicated in the Motion the standard deadline for objection to the Motion (14 days plus 3 days for mailing). *See* R.I. LBR 1005-1(d)(1). This objection deadline expired on Friday, June 3, 2016, and the Motion was not ripe for the Court’s consideration until the following Monday, June 6, 2016.

Section 362(c)(3)(A) provides that if a bankruptcy case is filed by a debtor who had another case pending within the prior year which was dismissed, the stay under section 362(a) with respect to the debtor terminates on the 30th day after the filing of the later case. Mr. Lotter’s prior bankruptcy case (BK No. 15-12400) was dismissed on January 5, 2016, and he acknowledged in the Motion that this provision was applicable to his current pending case. While the 30-day time period had not yet expired when the Motion was filed, the stay in the present case in fact terminated on June 1, 2016, the 30th day after the filing of his petition, and before the Court could consider the Motion.

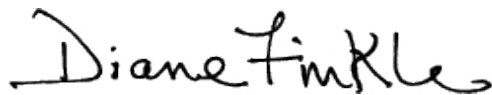
Section 362(c)(3)(B) permits the court to extend the automatic stay beyond 30 days on motion of a debtor “after notice and a hearing completed before the expiration of the 30-day period,” if the debtor demonstrates the later case was filed in good faith as to the creditors to be stayed. Unfortunately for Mr. Lotter, the failure to request either emergency or expedited consideration of the Motion has resulted in the lapse of the automatic stay before the Court could

consider his Motion and hold and complete a hearing “before the expiration of the 30-day period.” This provision is crystal clear and the Court has no discretion but to deny the Motion. *See Capital One Auto Finance v. Cowley*, 374 B.R. 601, 609 (W.D. Tex. 2006) (“[Section] 362(c)(3)(B) requires a hearing to be held within thirty days of the filing of the later petition by a single-repeat filer in order for a bankruptcy court to extend the automatic stay past the thirty-day period.”); *In re Weil*, C.A. No. 3:12cv462 (SRU), 2013 WL 1798898, at *3 (D. Conn. April 29, 2013) (collecting cases); 3 *Collier on Bankruptcy* ¶ 362.06 (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (“A hearing on the motion for stay extension . . . must be completed within the 30-day period following the filing of the petition. *Parties seeking to extend the stay should thus file the motion with the petition or immediately thereafter to allow time for the court to conclude any hearing.*”) (emphasis added).

The Motion is DENIED.

Date: June 8, 2016

By the Court,

A handwritten signature in black ink that reads "Diane Finkle". The signature is written in a cursive, slightly slanted style. The name "Diane" is written in a larger, more prominent script than "Finkle".

Diane Finkle
U.S. Bankruptcy Judge