



IT IS ORDERED as set forth below:

Date: July 18, 2016

**W. Homer Drake
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

| | | |
|------------------------------|---|----------------------|
| IN THE MATTER OF: | : | CASE NUMBER |
| | : | |
| GARY ALLEN STEPHENS, JR., | : | 16-10775-WHD |
| | : | |
| Debtor. | : | |
| | : | |
| GARY ALLEN STEPHENS, JR., | : | |
| | : | |
| Movant, | : | |
| | : | |
| v. | : | |
| | : | |
| STATE FARM INSURANCE CO. and | : | |
| ARIZONA DEPARTMENT OF | : | |
| TRANSPORTATION, | : | IN PROCEEDINGS UNDER |
| | : | CHAPTER 7 OF THE |
| Respondents. | : | BANKRUPTCY CODE |

ORDER

The Debtor’s Motion to Stay Arizona License Suspension (hereinafter, the “Motion”) came on for hearing before this Court on July 13, 2016. No party appeared in

opposition to the Motion.

Arizona law provides that a judgment creditor may have the driver's license of a debtor suspended if the debtor does not pay the judgment within sixty days. *See* ARIZ. REV. STAT. ANN. §§ 28-7071, -7072. In the instant case, the Debtor appears to be subject to a judgment held by State Farm Insurance Co. that was acquired in Arizona. As a result of his non-payment of this judgment, the Debtor's Arizona driver's license has been suspended. In the Motion, the Debtor requests that the Court order the suspension of his license lifted so that he may acquire a driver's license in the State of Georgia. The Debtor asserts that the continued suspension of his license constitutes a violation of the automatic stay. The Court agrees.

The automatic stay bars "the commencement or continuation...of a judicial, administrative, or other action or proceeding against the debtor...to recover a claim against the debtor that arose before the commencement of the case under this title." 11 U.S.C. § 362(a)(1). At least one court has concluded that statutory schemes like the one at issue here violate that provision of the automatic stay. *See In re Duke*, 167 B.R. 324, 325 (Bankr. D.R.I. 1994). That court concluded that these laws are "collection devices provided by the State to assist in the recovery of claims," and to that extent violated the automatic stay. *Id.* In ordering the stay of enforcement of the suspension of the debtor's license, the Court still required the debtor to meet any requirements concerning the

provision of “proof of *future* financial responsibility.” *Id.* at 326. As such requirements applied to all motorists in the state, they did not violate the automatic stay. *Id.*

The Court agrees with the analysis above. Therefore, as the continued suspension of the Debtor’s license for failure to pay the judgment is violative of the stay, the Court will grant the relief the Debtor seeks, with the caveat that the Debtor must satisfy any requirements relating to the reinstatement of his license that are not related to the repayment of the judgment.

Accordingly, it is hereby **ORDERED** that the Arizona Department of Transportation, Motor Vehicle Division, (hereinafter the “Department”) upon request of the Debtor and after payment of any reinstatement fees and the furnishing of proof of financial responsibility,¹ if required by Arizona law, shall remove the suspension of the Debtor’s driver’s license on the basis of the unpaid judgment, and shall make proper notation in the Department’s computer system to ensure that the removal of the driving suspension is communicated to the Georgia Department of Driver Services, in order that the Debtor will be able to apply for a Georgia driver’s license without regard to the former license suspension in Arizona.

It is **FURTHER ORDERED** that the Debtor shall notify the Department

¹ See ARIZ. REV. STAT. ANN. § 28-4001(7) (“‘Proof of financial responsibility’ means proof of ability to respond in damages for liability on account of accidents occurring after the effective date of the proof and arising out of the ownership, maintenance or use of a motor vehicle....”).

immediately if the judgment held by State Farm Insurance Co. is not discharged in the Debtor's bankruptcy case or the Debtor's bankruptcy case is dismissed.

END OF DOCUMENT

DISTRIBUTION LIST

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