

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:) Case No. 03-14236
)
STANLEY M. PERKO,) Chapter 13
)
Debtor.) Judge Arthur I. Harris

ORDER GRANTING IN PART MOTION FOR RELIEF FROM STAY

Pursuant to 11 U.S.C. § 362 and Bankruptcy Rule 7052, and for the reasons stated in open court on December 23, 2003, Kathleen Perko's motion for relief from stay (Docket # 35) is granted in part. For cause shown,¹ the stay imposed by section 362 of the Bankruptcy Code is hereby modified: (1) to permit the Ohio state courts in the domestic relations case captioned *Perko v. Perko* to determine all issues pertinent to divorce, alimony, child support, and any equitable division of property between Kathleen Perko and the debtor Stanley Perko; and (2) to permit judicial execution of the liens and other property interests of Kathleen Perko that were ordered into execution by virtue of the state court judgment entry dated October 31, 2001, including execution and recording of all mortgages, notes, and

¹ For purposes of Kathleen Perko's motion, the Court will accept as true the factual statements made in Stanley Perko's proffer of evidence (Docket # 46). And because the Court finds cause for relief from stay even accepting such factual statements as true, the Court finds it unnecessary to conduct an evidentiary hearing at this time. Similarly, even accepting as true the factual statements made in Kathleen Perko's proffer of evidence (Docket # 47), the Court finds no cause at this time for granting her relief from stay to commence any foreclosure action against property of the estate.

deeds provided for in that judgment entry.² Until further order of this Court, however, the automatic stay shall remain in effect to prohibit Kathleen Perko from commencing any foreclosure action on property of the debtor's estate.

To the extent that Kathleen Perko's motion (Docket #35) seeks relief beyond that granted by this Order, the Court will conduct a further hearing (argument only) in Courtroom 3102, Key Tower, 127 Public Square, Cleveland, Ohio 44114, at 10:00 a.m. on January 27, 2004.

IT IS SO ORDERED.

Arthur I. Harris 12/24/2003
Arthur I. Harris
United States Bankruptcy Judge

² In addition, by operation of section 362(b)(2)(A) of the Bankruptcy Code, the filing of this bankruptcy case does not operate as a stay "of the commencement or continuation of an action or proceeding for . . . the establishment or modification of an order for alimony, maintenance, or support."