LAW OFFICES OF ANDREW B. ETTER
State Bar Number 06695700
4388 West Vickery, Suite 100
Fort Worth, Texas 76107
(817) 731-3220
(817) 738-2304
ATTORNEY FOR MICHAEL & LEVITA CARTWRIGHT

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FILED
JUL - 7 2003
TAWANA C. MARSHALL, CLERK
By
Deputy

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

In Re:	§	CASE NO. 401-45745-BJH-13
MICHAEL & LEVITA CARTWRIGHT	§	
DEBTORS	§	CHAPTER THIRTEEN
	§	
WMC MORTGAGE CORPORATION ITS	§	
SUCCESSORS IN INTEREST/OR ASSIGNEES	§	
MOVANT	§	HEARING ON MOTION
.	§	TO LIFT STAY
VS	§	June 26, 2003
	§	
MICHAEL & LEVITA CARTWRIGHT	§	TIME: 1:30 P.M.
RESPONDENTS	§	

FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER AND JUDGMENT OF THE COURT DENYING RELIEF FROM STAY

A hearing was held on June 26, 2003, regarding the Motion for Relief From Stay filed by WMC MORTGAGE CORPORATION ITS SUCCESSORS IN INTEREST/OR ASSIGNEES. Present were the Debtor Michael Cartwright and his attorney, Andrew B. Etter. Movant was not present nor were its attorneys of record, Brown & Shapiro. After having heard testimony and considered the pleadings on file as well as the evidence presented, the Court finds as follows:

FINDINGS OF FACT

1. Debtors filed this Chapter 13 case on August 7, 2001.

2. WMC MORTGAGE CORPORATION ITS SUCCESSORS IN INTEREST/OR ASSIGNEES is the current holder of a note secured by a deed of trust on the Debtor's homestead located at 5225 Veal Station Road, Weatherford Texas.

3. The value of Debtors' homestead is $65,000.00

4. The Debtors are current in their regular payments to the lender.

5. The Court finds and it will be the Order of the Court that the amount owed by the Debtors by reason of their obligations on the homestead property located at 5225 Veal Station Road, Weatherford, Texas are as follows:

(a). The Court finds that as of March 18, 2003 the principal and interest owed on the property was $32,032.64, this amount was obtained by using the Affidavit of Dawn O'Boyle, an employee of GRP Financial Services, which shows the total amount due as of that date to be $38,792.51 and deducting therefrom all past due charges, attorneys fees, late charges, taxes and insurance shown on the statement.

(b). The Court further finds that the Debtors owe the mortgage company $1,248.12 for taxes advanced by the mortgage company. The Court further finds that the Debtors owe the mortgage company $998.00 for taxes advanced by the mortgage company.

(c). The Court further finds the Debtor's owe $400.00 advanced for insurance by the mortgage company. The Court finds however that this amount should be offset by the amount of $400.00 in order to account for the fees incurred by the Debtors in proceeding through an unnecessary number of reiterations of this Motion For Relief From Stay.

6. Any Finding of Fact may be deemed a Conclusion of Law.

CONCLUSIONS OF LAW

1. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G). This Court has jurisdiction pursuant to 28 U.S.C. §1334(a).

2 In order to demonstrate that a party is entitled to Relief From Stay there must be a showing either of cause including a lack of adequate protection or a demonstration that there is no equity in the property and that the property is not necessary for the debtor's effective reorganization pursuant to 11 U.S.C.§362(d).

3. The Court found that the property in question is worth $65,000.00 and that therefore there is equity in the property. The Court further found that the Debtor's are current in their payments to the lender and that between that and the equity cushion available to the lender, the lender is adequately protected.

4.Any Conclusion of Law may be deemed a Finding of Fact.

Based on the foregoing , it is therefore

ORDERED, ADJUDGED and DECREED that:

1. The motion of the lender in this case should be denied with prejudice to refiling during the balance of this Chapter 13 case.

2. The Movant/lender's records should be modified to reflect a balance currently due and owing by the Debtors to the lender of $34,278.76 and that there shall be no further amount due and owing as of March 18, 2003 other than that.

3. Interest shall continue to accrue from March 18, 2003 as if the contract is in full force and effect and charged at the contract rate and payments should be credited in accordance with the requirements of the contract.

SIGNED this the _____ day of July, 2003.

DENNIS MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

The undersigned attorney certifies that a true and correct copy of this proposed Order was served by regular first class mail to the following parties as listed below on this the 3rd day of July, 2003.

Margaret Baker
Brown & Shapiro, LLP
4620 Fairmont Pkwy. Suite 108
Pasadena TX 77504

Tim Truman, Chapter 13 Trustee
6851 N.E. Loop 820, Suite 300
Fort Worth TX 76180-6608

Brad Repass, Esq.
Haynie Rake & Repass, P.C.
14651 Dallas Parkway Ste 136
Dallas TX. 75240

Venable & Vida, LLP
3000 Central Drive
Bedford TX. 76021

Michael & Levita Cartwright
P.O. Box 73
Azle TX 76098

ANDREW B. ETTER