

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:)
)
JIMMY BLUTCHER BRITT,) Case No. 05-01696-5-ATS
) (Chapter 13)
Debtor.)

**MOTION FOR, AMONG OTHER THINGS,
RELIEF FROM THE AUTOMATIC AND CO-DEBTOR STAYS**

COMES NOW General Motors Acceptance Corporation (herein "GMAC"), pursuant to 11 U.S.C. §§362(d) and 1301(c), and moves for relief from the automatic and co-debtor stays herein, or, in the alternative, applies to the Court for adequate protection of its interest in the below-described vehicle, as follows:

1. The Debtor commenced this case by petition filed on or about April 27, 2005.
2. On or about October 29, 2004, the Debtor and Nancy Williams Britt (the "Co-Debtor") jointly purchased a 2002 GMC Sierra truck, VIN #2GTEK19T721282650 (herein the "Vehicle"), pursuant to the terms of an installment sales contract of even date (herein the "Contract"). A copy of the Contract is attached hereto marked Exhibit 1. The Contract was subsequently assigned to GMAC and GMAC is now the sole owner and holder of the Contract.
3. Under the terms of the Contract, GMAC has a senior security interest and first lien on the Vehicle which it duly perfected. A copy of the Certificate of Title evidencing same is attached hereto marked Exhibit 2.
4. The post-petition payments due under such Contract are in arrears for the following months in the following amounts:

AMOUNT DUE	DUE DATE
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\$ 706.23	April 13, 2005
<u>\$ 706.23</u>	May 13, 2005
\$1412.46	TOTAL ARREARAGES

5. The current net payoff balance due under the Contract is \$35,450.51, together with interest accruing thereon at 12.25% per annum. At the same time, the current NADA retail and wholesale values of the Vehicle are no more than \$20,075.00 and \$17,175.00, respectively. See Exhibit 3. Thus there is no equity in the aforesaid Vehicle, the value of GMAC's claim secured by said Vehicle being in excess of the fair market value thereof.

6. Upon information and belief, the Debtor desires to surrender the Vehicle to GMAC and GMAC seeks relief from stay in order to obtain possession of and dispose of the Vehicle.

7. Under these circumstances, GMAC does not have adequate protection of its security interest in the Vehicle, and thus there is good cause to grant GMAC relief from the automatic and co-debtor stays under 11 U.S.C. §§362(d) and 1301(c).

8. If GMAC is not permitted to foreclose its security interest in the aforesaid Vehicle, it will suffer irreparable injury, loss and damages.

9. Due to the nature of the Vehicle as being easily moved, easily secreted and easily damaged, GMAC also hereby requests that any order granting the relief requested herein be immediately effective.

WHEREFORE, GMAC moves the Court for the following relief:

1. The Court enter an Order pursuant to 11 U.S.C. §§ 362(d) and 1301(c), and Rule 4001(a)(3) immediately lifting the automatic and co-debtor stays to permit GMAC to foreclose its security interest in the Vehicle in accordance with its loan documents and applicable law, and to

thereafter pursue the Co-Debtor for any amounts which may remain due under the Contract after sale of the Vehicle; and

2. The Debtor be ordered to immediately release the Vehicle to GMAC or advise it of the location of the Vehicle and the name, address, and telephone number of any third party in possession of the Vehicle; and

3. GMAC be allowed a general unsecured claim in this case for any outstanding deficiency balance remaining after sale or subsequent disposition of the Vehicle; and

4. That in the alternative, GMAC be afforded adequate protection of its security interest in the Vehicle, including proof of continuing insurance coverage on the Vehicle naming GMAC as loss payee, and reimbursement of the \$375 in reasonable attorneys' fees and costs incurred in connection with this Motion; and

5. That GMAC have such other and further relief as to the Court seems just and proper.

This the 13th day of June, 2005.

KIRSCHBAUM, NANNEY, KEENAN & GRIFFIN, P.A.

By: s/ Pamela P. Keenan
Pamela P. Keenan
N.C. State Bar No.20328
Attorneys for General Motors Acceptance Corporation
Post Office Box 19766
Raleigh, North Carolina 27619
Telephone: (919) 848-0420
Facsimile (919) 848-4216

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this day, she served a copy of the foregoing on the parties in interest either electronically or by depositing copies of same in a depository under the exclusive care and custody of the United States Postal Service, in a postage-paid envelope, addressed as follows:

Jimmy Blutcher Britt
616 Wimberly Rd.
Apex, NC 27523

Nancy Williams Britt
616 Wimberly Rd.
Apex, NC 27523

John T. Orcutt
6616-203 Six Forks Rd.
Raleigh, NC 27615

John F. Logan
PO Box 61039
Raleigh, NC 27661

This the 13th day of June, 2005.

s/ _____ Gwen T. Best
Gwen T. Best
Paralegal