

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON DIVISION**

IN RE:

**BRIAN STANLEY WESSELMAN
AND AMY LYN WESSELMAN**

CASE NO. 08-20382

DEBTORS

MEMORANDUM OPINION AND ORDER

This matter having come before the court upon Debtors' Motion for Extension of Automatic Stay (DOC 10), the matter having been heard by the court on March 31, 2008, and Debtors having filed Supplemental Authority in Support of Extension of the Automatic Stay (DOC 20), the court issues this memorandum opinion and order.

This matter is submitted to the court on the sole issue of whether the court has authority to extend the stay when a hearing was not completed before the expiration of the 30-day period following a bankruptcy filing.

This bankruptcy case was filed on February 29, 2008. A prior bankruptcy case was pending against the Debtors within the previous year which was dismissed. The previous case was not refiled after a 11 U.S.C. § 707(b) dismissal. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the automatic stay expired 30 days from the filing date of this case.

The Debtors request that the court extend the stay to continue pursuant to 11 U.S.C. § 362(c)(3)(B). However, this section of Title 11 states that in order for the court to continue the automatic stay that the hearing must be completed before the expiration of the 30-day period. In

this case that did not happen as the hearing was held on March 31, 2008, one day after the stay had been terminated.

Debtors cite three cases as support that the automatic stay can be continued. Those three cases are In re Moon, 339 B.R. 668 (Bankr. N.D. Oh. 2006), In re McFeeley, 362 B.R. 121 (Bankr. Vt. 2007), and In re Jones, 339 B.R. 360 (Bankr. E.D. N.C. 2006). However, the courts refused to extend the automatic stay in all three of those cases. The plain meaning of the statute is that the court does not have authority to extend the stay when a hearing is not completed before the expiration of the 30-day period following a bankruptcy filing. Debtors have cited no cases to the contrary.

For those reasons, Debtors' Motion for Extension of Automatic Stay it is hereby
OVERRULED.

COPIES TO:
W. Ron Adams, Esq.
Beverly M. Burden, Esq.
Michael L. Baker, Esq.
U.S. Trustee