

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CASE NO. 05-85627-JEM
)	
RELIABLE AIR, INC. d/b/a)	Chapter 11
RELIABLE HEATING AND AIR,)	
)	
Debtor.)	
_____)	
DANIEL L. JAPE,)	CONTESTED MATTER
)	
Movant,)	
)	
v.)	
)	
RELIABLE AIR, INC., d/b/a)	
RELIABLE HEATING AND AIR,)	
)	
Respondent.)	
_____)	

SUPPLEMENT TO MOTION FOR RELIEF FROM STAY

COMES NOW, Daniel L. Jape, Movant, in the above-styled case and files this his Supplement to the Motion for Relief from Stay and adds an additional count for the relief from the stay and shows this Court as follows:

1. Daniel L. Jape reincorporates and realleges all prior enumerated paragraphs and allegations in his original Motion for Relief from Stay filed on October 17, 2007.
2. Daniel L. Jape and Barbara Wagnon Jape are parties to a civil action for divorce pending in the Superior Court of Cherokee County, Civil Action No. 05-cv-3018-9 (the "Divorce Action").
3. The Divorce Action has effectively been stayed. Mrs. Jape's divorce counsel has asserted that the Divorce Action cannot proceed because the Bankruptcy Court herein has

jurisdiction over marital assets involving stock in the Debtor which he characterizes as a key asset and key to the resolution of the divorce. A true and correct copy of an e-mail forwarded to Mr. Jape's divorce counsel, Ms. Patricia Ball, is attached hereto and incorporated as Exhibit "A".

4. Mr. Jape asserts that the Bankruptcy Court does not have jurisdiction over the stock and other issues involving the Debtor.

5. However, based upon the statements of Mrs. Jape's divorce counsel, and the Cherokee County Superior Court's reluctance to take action in the matter in violation of this Court's authority and jurisdiction, Mr. Jape seeks an order from the Court granting relief from the automatic stay so that the divorce action can proceed.

6. There is good cause to grant such relief as requested herein.

WHEREFORE, for all the foregoing reasons, Mr. Jape prays this Court grant his Motion for Relief from Stay as initially filed and supplemented to:

1. Allow Mr. Jape to recover and dispose of the vehicles at issue;
2. Allow the Divorce Action pending in the Superior Court of Cherokee County to proceed;
3. Set a hearing on the Motion; and
4. Grant all other relief this Court deems just and proper.

[SIGNATURE PAGE TO FOLLOW]

This 25th day of October, 2007.

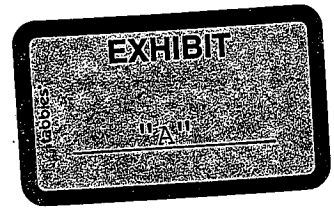
Respectfully submitted,

HOWICK, WESTFALL, McBRYAN
& KAPLAN, LLP

/s/

Louis G. McBryan, Georgia Bar No. 480993
Virginia B. Bogue, Georgia Bar No. 069695
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Atlanta, Georgia 30339
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lmcbryan@hwmklaw.com
vbogue@hwmklaw.com

Louis McBryan



From: pattiball@ballfamilylaw.com [mailto:pattiball@ballfamilylaw.com]
Sent: Friday, September 28, 2007 12:39 PM
To: Reliable Heating & Air
Subject: Fw: Jape

Just got out of trial and found this; I'd like to see what their "global" settlement involves before scheduling mediation. I tend to agree with you that she may be low on funds; settlements tend to occur when the money dries up.

Patti

----- Original Message -----

From: David Cooper
To: pattiball@ballfamilylaw.com ; amykubala@ballfamilylaw.com
Cc: Barbara Jape
Sent: Tuesday, September 25, 2007 4:50 PM
Subject: Jape

Patti, Amy:

I received your letter asking for a mediation of the divorce issues.

In your letter, you indicate that the Reliable bankruptcy is not standing in the way of closure of the divorce issues. I do not think that is accurate, especially if Mr. Jape seeks the stock or an interest in Reliable after it comes out of bankruptcy. Reliable remains in bankruptcy. Indeed, as I understand it, Reliable obtained from the bankruptcy court a preliminary injunction against Mr. Jape finding that he infringed the Reliable marks and enjoining him from using the name "Reliable" in connection with the competing HVAC business that he has been operating in an effort to injure the Reliable entity being operated by Ms. Jape. I point this out not to be argumentative, but to alert you that Reliable is still a key asset that appears to be in play -- i.e., if Mr. Jape seeks the stock or an interest in Reliable after it comes out of bankruptcy. Thus, the bankruptcy issues still are a key to the resolution if the matter is not settled on a global basis.

In that regard, please know that I understand that a global settlement offer will be made shortly to Mr. Jape, and I hope that it will be accepted. If so, that will end the bankruptcy case and also allow the divorce to be finalized. I believe that Ashley Ray, Reliable's bankruptcy counsel, is crafting a proposal and will be furnishing it to Lou McBryan. Once I get it, I'll be happy to send you a copy and we can all mull it over.

Without talking "out of pocket," and without knowing what the bankruptcy counsel are contemplating, it makes sense that our clients would each keep their respective businesses, with Mr. Jape's to continue to be ordered not to use any of the Reliable intellectual property. In a divorce setting, we would then need to address only a few of the issues -- division of remaining assets/debts/child support, etc. Please let me know if this concept is one that you believe we should pursue in closure of the divorce matter. If so, it may have the ancillary benefit of moving some of the key issues out of the bankruptcy case.

Thanks.



David F. Cooper
Kitchens Kelley Gaynes, P.C.
11 Piedmont Center, Suite 900
3495 Piedmont Road, NE
Atlanta, Georgia 30305
(404) 237-4100

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CASE NO. 05-85627
)	
RELIABLE AIR, INC. d/b/a)	Chapter 11
RELIABLE HEATING AND AIR,)	
)	JUDGE MASSEY
Debtor.)	
<hr/>		
DANIEL L. JAPE,)	
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Movant,)	
)	
v.)	
)	
RELIABLE AIR, INC., d/b/a)	
RELIABLE HEATING AND AIR,)	
)	
Respondent.)	
<hr/>		

CERTIFICATE OF SERVICE

This is to certify that I have served the **SUPPLEMENTAL MOTION FOR RELIEF FROM STAY** by placing a copy of the same in the United States Mail with adequate postage affixed to ensure proper delivery to:

J. Robert Williamson, Esq.
Ashley R. Ray, Esq.
Scroggins & Williamson, PC
Suite 1500, The Candler Building
127 Peachtree Street, NE
Atlanta, Georgia 30303

C. Cyrus Malone, Esq.
Freisem Macon Malone & Swann, LLP
2905 Piedmont Road, N.E., Suite C
Atlanta, Georgia 30305

Richard H. Bennett, Esq.
Kitchens, Kelly & Gaynes, P.C.
3495 Piedmont Road, N.E., Suite 900
Atlanta, Georgia 30305

Patricia Ball, Esq.
Ball Family Law
211 East Main Street
P.O. Box 1105
Canton, Georgia 30169

and all parties listed on the mailing list attached as Exhibit "A":

This 25th day of October, 2007.

Respectfully submitted,

HOWICK, WESTFALL, McBRYAN
& KAPLAN, LLP

/s/

Louis G. McBryan, Georgia Bar No. 480993

EXHIBIT "A"

Apex Supply Company, Inc.
c/o Eric N. Van De Water
Pursley, Lowery Meeks, LLP
260 Peachtree Street
Suite 200
Atlanta, Georgia 30303-1239

Office of the U.S. Trustee
Suite 362
75 Spring Street, SW
Atlanta, Georgia 30303

American Standard
c/o Wagner, Falconer & Judd,
LLC
1700 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

CC Dickson Co.
c/o Joe Perry Redd, Esq.
1959-G Parker Ct.
Stone Mountain, GA 30087-
3449

Covenant Management, Inc.
J. Marc Replogle, Esq.
1820 The Exchange, Suite 150
Atlanta, Georgia 30339-2096

Flag Bank
c/o Quirk & Quirk, LLC
Suite 325
6000 Lake Forest Drive
Atlanta, GA 30328-3877

Mingledorffs, Inc.
c/o William Woods White
Suite 2100
2100 Riveredge Parkway
Atlanta, GA 30328-4693

Zions First National Bank
c/o Eric Anderson
Parker Hudson Rainer &
Dobbs, LLP
285 Peachtree Center Ave.
Suite 1500 30303-1285

Mingledorff's
6675 Jones Mill Court
Norcross, GA 30092-4394

Bellsouth Advertising &
Publishing Corp.
P.O. Box 95354
Atlanta, GA 30347-0364

Lennox Industries, Inc.
c/o Michael Kaplan
P.O. Box 471
Columbus, GA 31902-0471

Columbia Insurance Co.
P.O. Box 6032
Columbia, MO 65205-6032

APEX Supply Co., Inc.
d/b/a Home Depot Supply
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Duluth, Georgia 30096

Covenant Management, Inc.
P.O. Box 105189
Atlanta, GA 30348-5189

CC Dickson
Escrow Acct. of Joe Perry
Redd
1959-G Parker Court
Stone Mountain, GA 30087-
3449

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2970 Peachtree Road, NE
Suite 700
Atlanta, GA 30305-4919

Humana, Inc.
P.O. Box 14209
Lexington, KY 40512-4209

Johnstone Supply
825 Progress Center
Lawrenceville, GA 30043

@ROAD
Mobile Resource Management
47071 Bayside Parkway
Freemont, CA 94538-6517

Blue Iris Consulting, LLC
4140 Blue Iris Hollow
Norcross, Georgia 30092-
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c/o McCullough Payne &
Haan
171 17th Street, NW
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Atlanta, Georgia 30363-1029

Dealers Supply Co., Inc.
82 Kennedy Dr.
P.O. Box 1708
Forest Park, GA 30298-1708

Ferguson Enterprises, Inc.
P.O. Box 100286
Atlanta, Georgia 30384-0286

Office Depot
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P.O. Box 689020
Des Moines, IA 50368-9020

Market Date Systems, Inc.
2451 Cumberland Pkwy.
Suite 3517
Atlanta, GA 30339-6136

News Shopper, Inc.
P.O. Box 1111
Woodstock, GA 30188-1111

Cintas Corporation
3600 Kennesaw 75 Pkwy.
Kennesaw, GA 30144-6403

Metro Directories
P.O. Box 941009
Atlanta, Georgia 31141-0009