

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY**

In re:)	
)	
STEVEN A. FAUGHT and)	CASE NO. 05-43548
SENA M. FAUGHT)	CHAPTER 7
Debtor(s))	
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MEMORANDUM ON MOTION TO RECONSIDER

This matter comes before the court on the debtors’ Motion for Reconsideration of the order granting the motion for relief from automatic stay and abandonment filed by Centex Home Equity (“Centex”). As grounds for the motion, debtors simply allege that they responded to the motion for relief in a timely fashion. In the response to the motion, the debtors simply allege they were current on their mortgage payments.

As an initial matter, the Court notes that the motion for relief and abandonment was filed on December 22, 2005. The debtors filed their response on January 6, 2006, and the Court entered its order granting the motion on January 11, 2006. Therefore, the Court was aware of the debtors’ response when it entered the order granting stay relief and abandonment.

Secondly, as debtors’ counsel well knows, simply being current is not a valid defense to a stay relief motion. The Bankruptcy Code provides debtors with three options when addressing secured debt: surrender, redemption, and reaffirmation. These three options are clearly and expressly set forth in 11 U.S.C. § 521. Retaining property and continuing to make regular payments is not one of the options available under the Bankruptcy Code. Here, the debtors have not reaffirmed this debt with the Centex. Thus, it appears that the debtors would ask this Court to compel Centex to execute a reaffirmation agreement with the debtors. Clearly, this Court lacks authority to compel a creditor to reaffirm a debt. Furthermore, modification of the stay does not

prevent the debtors from continuing to try to reach an agreement to reaffirm the debt on this property. Finally, the Court cautions debtors' counsel against filing motions to reconsider such as this which have no basis in law or fact. Counsel is well aware of the law on this area and knows that motions under these circumstances will not be granted. An Order has been entered this same date in accordance with the holding of this Memorandum.

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ORDER

Pursuant to the Court's Memorandum entered this same date and incorporated herein by reference, and the Court being otherwise sufficiently advised,

IT IS ORDERED that the that the debtors' Motion to Reconsider is **OVERRULED**.