

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : CIVIL ACTION
: :
HERMAN FRANCIS DELONE , JR. : (Bankruptcy No. 05-13430)
: :
: NO. 05-05707-JF

IN RE: : CIVIL ACTION
: :
HERMAN FRANCIS DELONE , JR. : (Bankruptcy No. 05-13430)
: :
: NO. 05-06345-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

February 13, 2006

In these consolidated bankruptcy appeals, a Chapter 13 debtor seeks reversal of two orders entered by the bankruptcy judge, an order granting a mortgage-holder relief from the automatic stay, and an order dismissing the bankruptcy proceeding.

The bankruptcy judge noted numerous reasons for her conclusion that none of the plans submitted by the debtor could possibly be confirmed. Briefly summarized, it appears that the mortgage on the debtor's principal residence is being foreclosed, but the property has a market value substantially in excess of the amount of the mortgage. The debtor proposes to pay off the foreclosure judgment by, in effect, reinstating the mortgage - i.e., by paying off the mortgage over a (new) 30-year period, and

to do so without curing the defaults which have already occurred. Even without acceleration, the arrears amount to more than \$90,000 at present. In addition, although the debtor and his wife have a \$100,000 equity in the property, the debtor proposes to devote only about \$25,000 to the payment of his various unsecured debts, which far exceed that amount. The proposed plan would extend far beyond the permissible five-year span, would impermissibly modify the terms of the mortgage, and would be unfair to creditors. The orders appealed from were plainly correct, and will be affirmed.

An Order follows.

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ORDER

AND NOW, this 13th day of February 2006, IT IS ORDERED:

That the orders appealed from (granting relief from the
automatic stay, and dismissing the Bankruptcy Petition) are
AFFIRMED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.