

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF: )  
 )  
DEBORAH SUE DUNKER ) CASE NO. 09-40006  
STEPHEN JEFFREY DUNKER, JR. )  
 )  
Debtors )

**DECISION AND ORDER**

At Fort Wayne, Indiana, on January 28, 2009.

The matter is before the court on the debtors' motion to extend the automatic stay and the objection thereto filed by Lafayette Bank & Trust Company, which are scheduled for an evidentiary hearing on February 2, 2009 at 1:00 p.m. The motion is based upon § 362(c)(3) of the United States Bankruptcy Code. It alleges that the debtor had a prior case, which was pending in the previous year, and asks the court to extend the automatic stay beyond thirty days. Yet, § 362(c)(3) only becomes operative if a debtor's prior case "was dismissed." 11 U.S.C. § 362(c)(3). The court notes that the debtors' prior case, case number 08-40352, was not dismissed, but simply closed in the ordinary course of case administration after the debtors received a discharge on August 25, 2008. Because the debtors' prior case was not dismissed, § 362(c)(3) does not apply. See e.g., In re Forletta, 397 B.R. 242 (Bankr. E.D. N.Y. 2008); In re Anderson, 2008 WL 4186873 (Bankr. E.D. Va. 2008). Debtors' motion to extend the automatic stay is therefore MOOT and the hearing thereon, scheduled for February 2, 2009, is removed from the court's calendar.

SO ORDERED.

/s/ Robert E. Grant  
Judge, United States Bankruptcy Court