



**ENTERED**  
TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

*Stacy H. C. Gammie*  
United States Bankruptcy Judge

Signed August 25, 2010

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE: §  
§  
HORACE & LINDA SHAW, § CASE NO. 09-32136-SGJ-13  
DEBTORS. §  
§

**ORDER REJECTING AGREED ORDER SUBMITTED CONCERNING  
MERCEDES E320W VEHICLE AND DIRECTING PARTIES TO EITHER: (A) SET  
MATTER FOR FINAL EVIDENTIARY HEARING; OR,  
ALTERNATIVELY, (B) SUBMIT AGREED ORDER TERMINATING STAY**

"Oh Lord, won't you buy me a Mercedes Benz? My friends all drive Porsches. I must make amends. Worked hard all my lifetime. No help from my friends. So Lord, won't you buy me a Mercedes Benz."<sup>1</sup>

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<sup>1</sup> Lyrics from the song "Mercedes Benz," also known as "The Politician," from the album Pearl, recorded by Janis Joplin, 1970 (once described by Ms. Joplin as "a song of great political and social import").

By quoting this song, the court does not mean to make light of this case and certainly not the parties or lawyers. Bankruptcy is serious business. It is no laughing matter at all. More to follow herein on this topic.

On this day, the court reviewed a proposed Agreed Order ("Agreed Order") submitted by DCFS USA LLC, Successor to DaimlerChrysler Financial Services Americas L.L.C. ("Creditor") and Debtors, concerning the Debtors' 2005 Mercedes E320W vehicle bearing vehicle identification number WDBUF65J65A640279 (the "Mercedes"). The Agreed Order proposes, in relevant part, that the Debtors be allowed to retain their Mercedes, conditional on their making \$892.05 per month payments, for each of the months of August 2010 through January 2011, with the Debtors resuming their normal contractual payments starting in February 2011 (and, as best the court can determine from the record, such normal contractual payments are \$535 per month).

The court notes the following additional information from the record in this case: (i) one of the Debtors is disabled and his sole source of income is collecting \$687 of government assistance per month; (b) the other Debtor appears to have recently been hired in a new job as a training counselor (with a net income of \$5,200 per month); (c) there are two members in the Debtors' household, yet four cars listed in the Debtors' Schedules—the Mercedes (allegedly valued at \$22,500—which is less than the debt thereon), a 2004 Infiniti G35 (allegedly valued at \$16,500—which is less than the debt thereon—and this car is apparently being driven and paid for by a non-dependent son), a 1994 Ford F-150, and a 1982 Chevrolet Corvette; (d) the IRS is scheduled as being owed \$28,566.53 by the Debtors (the IRS has

filed a proof of claim in the case for \$29,253); (e) the Debtors have approximately \$108,504 of scheduled unsecured debt of various types including some student loans apparently; and (f) the Debtors are apparently trying to maintain their \$225,000 home that appears to have little or no equity (and there is about a \$2,600 per month aggregate house payment associated with a first and second mortgage thereon).

The Agreed Order recites at the second decretal paragraph that the Agreed Order "is in the best interest of the Debtors, the estate and all interested parties." **Really?** The court is expected to make this finding?

As mentioned earlier, the court does not mean to make light of this case or the parties. Bankruptcy is serious business. It is no laughing matter at all. One of the serious aspects of bankruptcy is that sometimes the judge—in some respects—must be the lifestyle police. While this court usually defers to agreements of debtors and car lenders with regard to automobiles that the Debtor may reasonably need to rehabilitate, the proposed Agreed Order with regard to a luxury vehicle defies logic, common sense, and the court will not sign it without a prove up as to why it could possibly be in the best interests of the Debtors or is otherwise going to be consistent with good faith attempts to rehabilitate in this case. Presumably, it is not in anyone's best interest for these Debtors to fail in their efforts to rehabilitate. Yet, this Agreed Order would appear, based on the

record, to be a recipe for failure. And this is without even taking into account the public's confidence in the integrity and fairness of the bankruptcy system that is shaken when their neighbors keep luxury vehicles while, at the same time, seeking a discharge of thousands of dollars debt. It is therefore

**ORDERED** that the Creditor and Debtor are directed to set this matter (*i.e.*, the Motion that is DE # 75) over for a final evidentiary hearing, by contacting the court's calendaring clerk, Traci Davis) or, alternatively, submit an alternative Agreed Order Terminating the Stay as to the vehicle in question, given the circumstances set forth in this Order.

### END OF ORDER ###