

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE:)	Chapter 11
)	
SMALL LOANS, INC,)	
et al. ¹)	Case No.: 11-12254 (WRS)
)	
)	
Debtors.)	
<hr style="border-top: 1px solid black;"/>		

**EX PARTE MOTION OF THE UNITED STATES SECURITIES AND EXCHANGE
COMMISSION FOR ENTRY OF STIPULATION AND AGREED ORDER EXTENDING
TIME TO TAKE ACTION TO DETERMINE THE DISCHARGEABILITY OF ANY DEBT
OWING TO THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION
PURSUANT TO 11 U.S.C. § 1141(d)(6)**

The United States Securities and Exchange Commission (the “**Commission**”),² appearing in this case pursuant to Section 1109(b) of the Bankruptcy Code, hereby requests entry of the *Stipulation and Agreed Order Extending Time to Take Action to Determine the Dischargeability of any Debt Owing to the United States Securities and Exchange Commission Pursuant to 11 U.S.C. §1141(d)(6)* (the “**Stipulation and Agreed Order**”), which extends, to the extent applicable, the date by which the Commission must seek a determination of nondischargeability of debts described in Section 1141(d)(6) of the Bankruptcy Code from April 9, 2012 to June 13, 2012, without prejudice to seeking further extensions. The Stipulation and Agreed Order, a copy of which is attached hereto as **Exhibit A**, is agreed to by the Debtors (through counsel). Counsel for the Commission has advised counsel for the Omnibus Official Committee of Unsecured

¹ The Debtors in these cases are Small Loans, Inc. Case No. 11-12254; The Money Tree Inc., Case No. 11-12255; The Money Tree of Louisiana, Inc., Case No. 11-12256; The Money Tree of Florida Inc., Case No. 11-12257; and The Money Tree of Georgia Inc., Case No. 11-12258.

² The Commission is the agency of the United States of America responsible *inter alia* for the enforcement and regulation of the federal securities laws, and is a domestic governmental unit within the meaning of Section 1141(d)(6) of the Code.

Creditors (“**Creditors’ Committee**”) and the Bankruptcy Administrator of the requested relief and has been advised neither opposes the relief requested, although the issue has not been considered by or voted on by all the members of the Creditors’ Committee. In support of the requested relief, the Commission staff submits that extending the deadline, to the extent applicable and as set forth in the Stipulation and Agreed Order, will avoid premature and resource-consuming litigation and promote judicial economy.

WHEREFORE, the Commission respectfully requests entry of the attached Stipulation and Agreed Order extending, to the extent applicable, the date by which the Commission must seek a determination of nondischargeability of debts described in Section 1141(d)(6) of the Bankruptcy Code from April 9, 2012 to June 13, 2012, without prejudice to seeking further extensions, and such other relief as the Court deems appropriate.

Dated: April 9, 2012

Respectfully submitted,

/s/ Susan R. Sherrill-Beard
Susan R. Sherrill-Beard
Senior Trial Counsel/Bankruptcy
Georgia Bar No. 001370
Direct Telephone: (404) 842-7626
Fax: (404) 842-7666
E-mail Address: sherrill-beards@sec.gov

Counsel for:
U. S. SECURITIES AND EXCHANGE COMMISSION
Atlanta Regional Office
950 East Paces Ferry Road, N.E., Suite 900
Atlanta, GA 30326-1382

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion (and attachment) has been served this 9th day of April 9, 2012, by the Court's electronic filing system, upon: (i) ***Counsel for the Debtors***, Max A. Moseley, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 420 20th Street North, 1600 Wachovia Tower, Birmingham, Alabama 35203 (mmoseley@bakerdonelson.com); (ii) ***Teresa R. Jacobs, U.S. Bankruptcy Administrator***; One Church Street, Montgomery, AL 36104 (ba@almb.uscourts.gov and (iii) ***Counsel for the Omnibus Official Committee of Unsecured Creditor, John D. Elrod, Esq., Greenberg Traurig, LLP***, 3290 Northside Parkway, N.W., Suite 400, Atlanta, Georgia 30327 (elrodj@gtlaw.com), and all other ECF participants in this case.

/s/ Susan R. Sherrill-Beard
Susan R. Sherrill-Beard
Georgia Bar No. 001370
Direct Telephone: (404) 842-7626
E-mail Address: sherrill-beards@sec.gov

Counsel for:
U. S. SECURITIES AND EXCHANGE COMMISSION
Atlanta Regional Office
950 East Paces Ferry Road, N.E., Suite 900
Atlanta, GA 30326-1382

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:) Chapter 11
)
SMALL LOANS, INC,)
et al.¹) Case No.: 11-12254 (WRS)
)
)
)
)
Debtors.)

STIPULATION AND AGREED ORDER EXTENDING TIME TO TAKE ACTION TO
DETERMINE THE DISCHARGEABILITY OF ANY DEBT OWING
TO THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION
PURSUANT TO 11 U.S.C. § 1141(d)(6)

WHEREAS, the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, (the “Code”), was amended in 2005 to add Section 1141(d)(6), which provides that “the confirmation of a plan does not discharge a debtor that is a corporation from any debt * * * (A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit” (EMPHASIS ADDED);

WHEREAS, Section 1141(d)(6) of the Code contains no provision requiring a governmental unit to seek court determination that the kind of debt specified is excepted from discharge, as there is no comparable statutory language such as, or reference to, Section 523(c) of the Code, which only applies in the case of a Chapter 7 or 11 debtor, who is an individual;

WHEREAS, no known published decision has been issued in which a court has determined that Section 523(c) of the Code is applicable with respect to the dischargeability of a

¹ The Debtors in these cases are Small Loans, Inc. Case No. 11-12254; The Money Tree Inc., Case No. 11-12255; The Money Tree of Louisiana, Inc., Case No. 11-12256; The Money Tree of Florida Inc., Case No. 11-12257; and The Money Tree of Georgia Inc., Case No. 11-12258.

debt under Section 1141(d)(6) of the Code, and the staff of the United States Securities and Exchange Commission (“**Commission**”)² does not concede the applicability of Section 523(c) to Section 1141(d)(6), but recognizes that if Section 523(c) were applicable, then an action to determine the dischargeability of a debt pursuant to Section 523(a)(2) in this case would have to be filed on or before April 9, 2012 in accordance with Bankruptcy Rule 4007(c);

WHEREAS, the staff of the Commission is currently investigating potential claims, if any, that it may assert against the Debtors;

WHEREAS, the Commission staff has not filed a proof of claim in this case on behalf of the Commission and is not required to do so until the governmental unit bar date of June 13, 2012, or such later time as set by the court;

WHEREAS, the Commission staff needs additional time to investigate to avoid being forced to make a premature determination of whether a nondischargeable claim lies against the Debtors merely to protect the Commission’s rights pursuant to Section 1141(d)(6) of the Code;

WHEREAS, the necessity to file an action by the Commission staff pursuant to Section 1141(d)(6) before its investigation has progressed sufficiently may well result in an unnecessary expenditure of the judicial resources of this Court, and necessarily incur time and expense for the Debtors and other parties in interest, which, for this reason and the reasons set forth above, constitute cause for extending the deadline set forth in Bankruptcy Rule 4007(c), to the extent it is applicable to a determination pursuant to Section 1141(d)(6) of the Code; and

WHEREAS, in view of the foregoing, the Debtors have agreed, without waiver of any other defenses or rights, that the Commission shall have until June 13, 2012, or such later date as

² The Commission is the agency of the United States of America responsible *inter alia* for the enforcement and regulation of the federal securities laws, and is a domestic governmental unit within the meaning of Section 1141(d)(6) of the Code.

may be ordered by the Court, to file a complaint or take whatever action may be required, if any, to determine the dischargeability of any debt that may be owing by the Debtors to the Commission pursuant to Section 1141(d)(6) of the Code and that this Stipulation is without prejudice to the Commission staff's right to seek a further extension if appropriate;

BASED UPON THE FOREGOING STIPULATION OF THE PARTIES HERETO:

1. The date by which the Commission must file its complaint or other action, if any, in these Chapter 11 cases to determine the dischargeability of any debt that may be owing by the Debtors to the Commission, pursuant to Section 1141(d)(6) of the Code, shall be June 13, 2012, or such later date as may be ordered by the Court, without prejudice to the Commission's right to seek a further extension of the date.

2. Nothing in this Stipulation and Agreed Order constitutes a determination that any deadline exists to seek a determination of nondischargeability under Section 1141(d)(6) of the Code.

IT IS SO ORDERED.

PREPARED AND AGREED TO BY:

By: /s/ Susan R. Sherrill-Beard

Susan R. Sherrill-Beard
GA Bar No. 001370
Senior Trial Counsel/ Bankruptcy
U.S. Securities and Exchange Commission
Atlanta Regional Office
950 East Paces Ferry Road, N.E.
Suite 900
Atlanta, GA 30326-1232
Direct Dial: (404) 842-7626
Facsimile: (404) 842-7666
E-mail: sherrill-beards@sec.gov

Counsel for the U.S. Securities and Exchange Commission

AGREED TO BY:

By: /s/ Max A. Moseley

Max A. Moseley
**BAKER DONELSON BEARMAN
CALDWELL & BERKOWITZ, PC**
420 20th Street North, Suite 1600
Birmingham, Alabama 35203
Direct Dial: (205) 244-3817
Facsimile: (205) 488-3817
E-mail: mmoseley@bakerdonelson.com

Counsel for the Debtors

c: Susan R. Sherrill-Beard, Counsel for U.S. Securities and Exchange Commission
Max A. Mosley, Attorney for Debtors
Teresa R. Jacobs, Bankruptcy Administrator
John D. Elrod, Attorney for Omnibus Official Committee of Unsecured Creditors