UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:	)	
	)	
Convenience USA, Inc., et al.,	)	Case Nos. 01-81478C-11D
	)	through 01-81489C-11D
Debtors.	)	(Jointly Administered)
	)	

MEMORANDUM OPINION

These cases came before the court on February 21, 2003, for a hearing on a motion for stay pending appeal filed on behalf of USRP (GANT 1), LLC; USRP (GANT 2), LLC; USRP (GANT 3), LLC; USRP (GANT 4), LLC; USRP (GANT 5), LLC; and USRP (GANT 6), LLC (collectively "USRP"). William B. Sullivan appeared on behalf of USRP, John A. Northen appeared on behalf of the Debtors, John H. Small and Gary W. Marsh appeared on behalf of LaSalle Bank, Diane Furr appeared on behalf of the Official Committee of Unsecured Creditors and Michael D. West appeared as United States Bankruptcy Administrator. After considering the evidence and arguments offered at the hearing, the court entered an order on February 21, 2003, denying the motion for stay pending appeal. That order indicated that detailed findings and conclusions would be forthcoming in a memorandum opinion. The court is entering this memorandum opinion in order to provide additional findings and conclusions pursuant to Rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure.

FACTS

On February 11, 2003, this court entered an order confirming Debtors' Amended Joint Plan of Reorganization (the "Plan"). Under

the Plan, the Debtors are to assume the leases on 143 stores that have been operated by the Debtors, and assign those leases to the EXPREZIT! Group ("EXPREZIT"), which is to take over and operate the stores going forward. These stores are encumbered by deeds of

Bankruptcy Code the Debtors could reject the lease as to 6 of the stores without rejecting the lease as to the remaining stores. The confirmation order, in allowing an assumption and assignment with respect to 15 USRP stores and rejection as to 6 additional stores, is based upon the same reasoning and conclusions as the February 12, 2002 memorandum opinion and order. Having carefully reviewed that opinion, this court still believes that the decision is correct. Although the opinion involves Texas law, the court believes that the opinion is based upon a correct application of applicable Texas law, as well as a proper application of § 365 of the Bankruptcy Code, and concludes that USRP has not shown that there is a probability that it can successfully argue on appeal that it was error for the court to allow lease assumption as to 15 leases and lease rejection as to the remaining leases.

4. The Public Interest.

The remaining factor to be considered is the public interest. To the extent that the public interest is implicated in the present case, it appears that the public interest would be served by denying the stay rather than by granting the stay. Denial of the stay will allow the Plan to be consummated. The consummation of the Plan will produce a viable, ongoing business which is consistent with and promotes the underlying purposes of Chapter 11 of the Bankruptcy Code. Additionally, numerous jobs at 143 convenience stores will be saved at a time in which there are

practically daily headlines trumpeting the loss of additional jobs.

For the foregoing reasons, the court concluded that the motion for stay pending appeal filed on behalf of USRP should be denied and so ordered on February 21, 2003.

This 6th day of March, 2003.

William L. Stocks

WILLIAM L. STOCKS
United States Bankruptcy Judge