

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 99-31027

JON HOWARD TATE
CANDACE JEAN TATE

Debtors

**MEMORANDUM ON FIRST AMERICAN NATIONAL BANK'S
MOTION TO ALTER OR AMEND JUDGMENT**

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**RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE**

First American National Bank (First American), pursuant to FED. R. CIV. P. 52(b) and 59(e), incorporated into FED. R. BANKR. P. 7052 and 9023, respectively, filed a Motion to Alter or Amend Judgment (Motion) on February 8, 2000. By this Motion, First American asks the court to amend its Order and Memorandum on Motion of First American National Bank for Relief From the Automatic Stay filed on February 2, 2000, by which the court determined that the Motion of First American National Bank for Relief From the Automatic Stay filed on October 27, 1999, requesting modification of the automatic stay to permit it to foreclose its interest in real property located at 7511 Chapman Highway in Knoxville, Tennessee, should be denied because three instruments titled Modification Agreement of Note and Deed of Trust were defectively acknowledged and were not, therefore, entitled to registration. First American contends that the court failed to consider TENN. CODE ANN. § 66-22-114(b) (1993) in its analysis of the registration issue. This section provides:

Any certificate clearly evidencing intent to authenticate, acknowledge or verify a document shall constitute a valid certificate of acknowledgment for purposes of this chapter and for any other purpose for which such certificate may be used under the law. It is the legislative intent that no specific form or wording be required in such certificate and that the ownership of property, or the determination of any other right or obligation, shall not be affected by the inclusion or omission of any specific words.

First American is correct. The court erred in its analysis regarding the authentication of the three modification documents at issue by not considering § 66-22-114(b). Pursuant to Rules 52(b) and 59(e), the court, upon consideration of a timely-filed motion, may amend its findings and may alter or amend its judgment. Motions to alter or amend a judgment are granted in four situations: (1) to correct clear errors of law; (2) to present newly discovered evidence; (3) to

prevent manifest injustice; or (4) to consider an intervening change in the controlling law. See *GenCorp, Inc. v. American Int'l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999).

The court will grant First American's Motion as follows: (1) the February 2, 2000 Order denying First American's automatic stay motion will be vacated; and (2) the court will amend its February 2, 2000 Memorandum on Motion of First American National Bank for Relief From the Automatic Stay to include additional findings of fact and conclusions of law. The amended memorandum will be filed shortly.

FILED: February 14, 2000

BY THE COURT

/s/ Richard Stair, Jr.

RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE

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ORDER

For the reasons stated in the Memorandum on First American National Bank's Motion to Alter or Amend Judgment filed this date, the court directs the following:

1. First American National Bank's Motion to Alter or Amend Judgment filed February 8, 2000, is GRANTED.
2. The court's February 2, 2000 Order denying the Motion of First American National Bank for Relief From the Automatic Stay filed on October 27, 1999, is VACATED.
3. The court's Memorandum on Motion of First American National Bank for Relief From the Automatic Stay filed February 2, 2000, will be amended to contain additional findings of fact and conclusions of law.

SO ORDERED.

ENTER: February 14, 2000

BY THE COURT

/s/ Richard Stair, Jr.

RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE