

**FILED**

Samuel L. Kay, Clerk  
United States Bankruptcy Court  
Augusta, Georgia  
By jpayton at 10:17 am, Mar 17, 2011

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA  
Augusta Division

IN RE:	)	Chapter 13 Case
	)	Number <u>07-10930</u>
MARTHA L. ELLEN	)	
	)	
	)	
Debtor	)	
_____	)	

ORDER

Before the Court is a Motion to Reconsider the closure of Martha Ellen's ("Debtor's") Chapter 13 case without a discharge and a Motion to Waive Chapter 13 Reopen Fee because it would be a "financial hardship" on Debtor. These are core proceedings and the Court has jurisdiction. See 28 U.S.C. §157(b)(2)(A) and 1334. For the following reasons, Debtor's motions are denied.

The Bankruptcy Code requires debtors complete an instructional personal financial management class in order to qualify for a discharge. See 11 U.S.C. §1328(g); Fed. R. Bankr. P. 1007-I(b)(7). Bankruptcy Rule 1007-I(b)(7) requires debtors complete the course and file a certification of such completion. Fed. R. Bankr. P. 1007-I(b)(7). In addition to these statutory provisions, Debtor was provided notice of these requirements in May of 2007, early on in Debtor's bankruptcy. See Dckt. No. 6 ("In

chapter 7 cases, debtor(s) are required to file the certificate within 45 days after the first date set for the §341 meeting, and in chapter 13 cases, debtor(s) are required to complete the course no later than the last payment under the plan. If debtor(s) fails to comply, the case will be closed without entry of a discharge. If the debtor(s) subsequently file(s) a Motion to Reopen the Case to allow for the filing of the [certification], the debtor(s) must pay the full reopening fee due for filing the motion." (emphasis added).

In this case, Debtor failed to timely comply with this requirement. As a result, the Clerk's Office issued a Deficiency Notice of Requirement for Discharge on November 16, 2010 once again alerting Debtor of the deficiency and expressly providing that the case "will be closed without discharge unless this [deficiency] is [satisfied] by [November 30, 2010]. If said case is closed without discharge and the debtor(s) subsequently files a Motion to Reopen the Case to allow for the filing of the required document, the debtor(s) must pay the full reopening fee due for filing the motion." See Dckt. No. 103 (second emphasis added). Despite the provisions of the Bankruptcy Code, Rules and these notices, Debtor failed to timely comply and the case was closed without discharge on December 9, 2010.

Debtor's Motion to Waive the Chapter 13 Reopen Fee having been read and considered is hereby ORDERED DENIED. See 28 U.S.C. §1930, App'x Item 11; see also In re Storey, 2010 WL 2164428, at \*1 (Bankr. D. D.C. 2010) ("Although the court finds that cause exists to reopen the case, the court rejects the request for the waiver of the reopening fee and will thus deny the motion, without prejudice to the filing of a renewed motion accompanied by the required fee."); In re Miskimon, 2006 WL 3194075 at \*2 (Bankr. D. Md. 2006) (the facts and circumstances would be present in virtually all cases requesting a waiver of the reopening fee where debtor fails to timely comply); In re Knight, 349 B.R. 681 (Bankr. D. Idaho 2006) (waivers should not be routinely or automatically granted even where the instructional course was obtained timely but the certificate was filed late); but see In re Vega, 2008 WL 4572396 at \*1 (Bankr. M.D. Fla. 2008) (allowing waiver where the debtor's counsel failed to timely file the certificate of completion of personal financial management).

As to Debtor's Motion to Reconsider, Debtor cites various logistical difficulties, including the fact that "[a]lthough Debtor completed the class by the deadline, payment [to the financial management provider] was mailed out on December 3, 2010 [after the deadline] due to the company mailing out information as to where to

make the payment was after November 30, 2010." See Dckt. No. 114. While the motion does not clearly explain why the billing and payment were delinquent, Debtor's waiting until the last minute to obtain the personal financial management course was within her control. Debtor has been represented by counsel, and there is no indication that Debtor failed to receive the notices from the Clerk's Office.

For these reasons, it is hereby ORDERED that Debtor's Motions to Reconsider the closure of her chapter 13 case and Waive the Chapter 13 Reopen Fee are DENIED without prejudice to Debtor filing of a renewed motion to reopen accompanied by the required filing fee.



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SUSAN D. BARRETT  
CHIEF UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia  
this 17<sup>th</sup> Day of March, 2011.