

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
 : Chapter 7
 VIVIAN MARIE HARDING, : Case No. 03-40089 (SMB)
 :
 Debtor. :
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**MEMORANDUM DECISION AND ORDER
DENYING MOTION TO REOPEN CASE**

STUART M. BERNSTEIN
Chief United States Bankruptcy Judge:

The debtor has moved to reopen this case. The motion is denied for the reasons that follow.

BACKGROUND

The debtor filed her pro se chapter 7 petition on January 14, 2003. The case was administered as a “no asset” case, the discharge issued on June 27, 2003, and the case was closed.

Shortly thereafter, the debtor wrote to the Court complaining that four entities -- Samuel & Marks[SMLLC], Triangle Rent-A-Car, the New Jersey Division of Motor Vehicles and the Virginia Department of Motor Vehicles -- were attempting to collect pre-petition debts in violation of the discharge injunction. See 11 U.S.C. § 524(a). On July 15, 2003, the Court issued an order directing them to show cause why they should not be held in contempt. (ECF Doc. # 8.) A hearing was conducted on August 21, 2003. Samuel & Marks and Triangle Rent-A-Car appeared and opposed the motion, but neither Virginia nor New Jersey responded.

By order dated September 15, 2003, the Court denied the contempt motion with respect to Samuel & Marks, Triangle Rent-A-Car and Virginia, but granted the motion with respect to New Jersey. The transcript is not on file, but the Court can surmise the reason for the result. The opposition of Samuel & Marks and Triangle Rent-A-Car demonstrated conclusively that they had not violated the discharge injunction. Moreover, the debtor's own submissions indicated that the Virginia debt was based on nondischargeable fines and/or penalties. The New Jersey debt, on the other hand, remained a mystery. In light of its default, the order enjoined New Jersey from collecting any discharged debts. The case was closed the following July.

By motion dated August 23, 2006, the debtor filed another motion to reopen the case contending that Virginia and New Jersey had ignored the discharge injunction, and continued to try to collect civil fines and fees. The only evidence, however, related to Virginia's conduct. It appeared that the debtor had failed to pay the Virginia fines, and the Virginia DMV suspended, revoked or refused to renew her license. By memorandum decision and order dated August 31, 2006 (ECF Doc. # 32), as modified by order dated September 6, 2006 (ECF Doc # 33), the Court declined to reopen the case. The Virginia fines were not dischargeable under 11 U.S.C. § 523(a)(7), there was no underlying relief to grant.

DISCUSSION

Section 350(b) authorizes the court to reopen a closed case "to administer assets, to accord relief to the debtor, or for other cause." In determining if "cause" exists, the Court must decide if the debtor has set forth a basis for relief should the case be reopened. See State Bank of India v. Chalasani (In re Chalasani), 92 F.3d 1300, 1307 (2d

Cir. 1996) (“[I]f the decision not to reopen was bottomed on a finding that the default judgment could not be set aside, such is a permissible basis to deny relief, because reopening in that event would be meaningless.”)

The debtor has failed to show that the Court can grant any meaningful relief. Her motion included a discussion of the requirement to file claims, but this was a “no asset” case, and the Clerk of the Court appropriately advised creditors not to file claims. (ECF Doc. # 3.) Her motion also implied that creditors are violating the discharge injunction, but she failed to identify who did what. The Court has repeatedly rejected the debtor’s attempts to use this Court to prevent Virginia from collecting non-dischargeable fines and penalties.

Based on the foregoing, the debtor has failed to establish cause to reopen her case, and her motion is denied.

So Ordered.

Dated: New York, New York
April 15, 2009

/s/ Stuart M. Bernstein
STUART M. BERNSTEIN
Chief United States Bankruptcy Judge

TO:

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