

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
PATRICIA ANN WHITE,) CASE NO. 05-64004 JPK
) Chapter 7
Debtor.)

ORDER

This case was initiated as a Chapter 13 case by a petition filed on July 25, 2005. The case proceeded as a case under Chapter 13 – with extensive proceedings (including confirmation of the plan by order entered on October 5, 2005) until the debtor filed a motion to convert the case to Chapter 7 on December 28, 2007. Then, on February 5, 2008, the debtor filed a motion to re-convert her case from Chapter 7 to a case under Chapter 13.

In the interim, the Clerk entered an order on January 7, 2008 (docket record entry #74) which referred to a motion for stay relief filed by Tech Federal Credit Union on September 7, 2005. The Court notes that this motion was resolved by an order entered on September 23, 2005 which continued the hearing on the motion generally, providing that the motion could be re-set for hearing upon motion of either party. The Clerk's entry of the order on January 7, 2008 was in error, and will be vacated: neither of the parties requested a re-setting of the hearing on the motion at any time.

The problem with this case is the motion which was filed to re-convert the Chapter 7 case to a case under Chapter 13. This motion runs afoul of 11 U.S.C. § 706(a), for the reasons stated in the Court's order entered in the case of *Lee Burks Holloway, Jr.*, (case number 05-62794) on August 10, 2005 (docket entry #32 in that case). The basis for the motion to reconvert this case to Chapter 7 – that the debtor is not entitled to a discharge under Chapter 7 – won't change the Court's view of 11 U.S.C. § 706(a) as stated in the foregoing order. The Court hereby incorporates the conclusions of law stated in the foregoing order as its

conclusions of law with respect to the motion filed in this case by the debtor on February 5, 2008. The motion is therefore denied. The order scheduling a hearing on that motion entered on February 7, 2008 is vacated.¹

For the reasons stated above, the Court finds that the debtor's motion to convert this Chapter 7 case to a Chapter 13 case must be denied. The Court further finds that the orders entered as record entries #74 and #92 should be vacated.

IT IS ORDERED that the debtor's motion filed on February 5, 2008 is denied.

IT IS FURTHER ORDERED that the Court's order entered on January 7, 2008 as docket record entry #74 is vacated.

IT IS FURTHER ORDERED that the Court's order entered on February 7, 2008 as docket record entry #92 is vacated.

Dated at Hammond, Indiana on February 25, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:

Debtor, Attorney for Debtor
Trustee, US Trustee

¹ The record establishes that the debtor is indeed not entitled to a discharge in a case under Chapter 7. Without deciding the issue definitively, the Court would probably favorably entertain a motion by the debtor to dismiss this case as a Chapter 7 case "for cause" under 11 U.S.C. § 707(a), which – upon granting that motion – would leave the debtor free to file a new Chapter 13 case.