

5. The Bankruptcy Administrator filed a Motion for Order Denying Discharge on February 25, 2015. In the motion, the Bankruptcy Administrator stated that Debtor Andrew C. Salley was not eligible for a discharge under Chapter 7 pursuant to 11 U.S.C. § 727(a)(8) because of a previous Chapter 7 case, filed on January 30, 2008, in the Southern District of New York. Mr. Salley received a discharge in that case on May 23, 2008.
6. The Debtors filed a Motion to Reconvert Case to Chapter 13 on March 30, 2015.
7. Courts are divided on the issue of whether a debtor may reconvert a case to Chapter 13 when he has previously converted his case from Chapter 13 to Chapter 7. In re Nelson, No. 05-42246DK, 2009 Bankr. LEXIS 2989, at *8 (Bankr. D. Md. Sept. 21, 2009).
8. Section 706(a) of the United States Bankruptcy Code provides:

The debtor may convert a case under this chapter to a case under Chapter 11, 12, or 13 at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title.
9. Some courts have held that when a debtor has previously converted a case from Chapter 13 to Chapter 7 and later seeks to convert the case back to Chapter 13, the Court has discretion to allow such a “re-conversion.” In re Offer, No. 05-14122C-7G, 2006 Bankr. LEXIS 652, at *4 (Bankr. M.D.N.C. Feb. 27, 2006); see also In re Anderson, 354 B.R. 766, 769 (Bankr. D.S.C. 2006) (explaining that in exercising its discretion, the court should analyze such factors as the debtor’s circumstances and ability to succeed with the purposes of conversion).
10. Other courts have held that debtors are always barred from converting a case back to Chapter 13 after the case has previously been converted from Chapter 13 to Chapter 7. In re Muth, 378 B.R. 302, 303 (Bankr. D. Colo. 2007).
11. This Court agrees with Judge Stocks’ decision in Offer and similar cases that hold it is within the Court’s discretion to allow or disallow a reconversion of a case from Chapter 7 back to Chapter 13.
12. The Debtors hold the burden of proof to show that reconversion is appropriate. In re Johnson, 376 B.R. 763, 764 (Bankr. D.N.M. 2007).
13. At the hearing there was confusion regarding the previous treatment of the 2007 Freightliner and the rationale for both the initial conversion from Chapter 13 to Chapter 7 and the present request for reconversion. Debtors’ counsel asserted that the Debtors’ recent release of the Freightliner now makes a successful Chapter 13 plan possible, but as the Plan reflects, and Mr. Salley directly confirmed, the Freightliner was previously released.
14. The Amended Schedules I and J, filed on May 27, 2015, are identical to those attached to the original Chapter 13 petition.

15. Debtors have failed to demonstrate any facts which would persuade the Court to exercise its discretion to allow reconversion of their case to Chapter 13. They articulated no specific reasoning in support of a reconversion. This failure warrants denial of their request for reconversion.

Based on the foregoing information, the Debtors' Motion to Convert from Chapter 7 to Chapter 13 is denied.

IT IS SO ORDERED.

END OF DOCUMENT

Parties to be Served

Andrew and Barbara Jean Salley
13-81532 C-7

All creditors and interested parties in the case