

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

ENTERED
MAR 04 2004
U.S. BANKRUPTCY COURT
MDNC - MEL

IN RE:)
)
Georgia A. Green,) Case No. 03-13363C-13G
)
Debtor.)
)

ORDER

This case came before the court on February 17, 2004, for hearing upon a cross motion by White & Allen, P.A. and North Lenoir Water Corporation for sanctions against the Debtor. The Debtor appeared pro se, E. Wyles Johnson, Jr. appeared on behalf of North Lenoir Water Corporation ("North Lenoir"), Benjamin A. Kahn appeared on behalf of White & Allen, P.A., and Anita Jo Kinlaw Troxler appeared as Chapter 13 Trustee.

The cross motion was filed pursuant to Rule 9011 of the Federal Rules of Bankruptcy Procedure. The sanction sought in the motion is an order barring the Debtor from filing another Chapter 13 case in this district for 180 days. Having considered the motion, the evidence offered at the hearing, the matters of record in the cases filed in this court by the Debtor and the arguments offered on behalf of the parties, the court has concluded that the motion for sanctions against the Debtor should be granted.

Where a debtor files a Chapter 13 petition with no intention of obtaining the benefits or the goals for which Chapter 13 was designed or with no intention of pursuing those proceedings to their proper conclusion, the Bankruptcy Code is being abused and

Rule 9011 is being violated. See In re Narod, 138 B.R. 478, 482 (E.D. Pa. 1992); In re Jones, 117 B.R. 415, 420 (Bankr. N.D. Ind. 1990). This is particularly true where a debtor has repeatedly made such filings. The Debtor in this case has no income other than \$564.00 per month in Social Security benefits. The living expenses listed in her schedules, which appear to be incomplete, total \$442.00 per month. Thus it is clear that the Debtor does not have the financial ability to fund a Chapter 13 plan, particularly in light of the fact that the \$442.00 figure does not include a number of necessary living expenses. Apart from lacking the ability to proceed under Chapter 13 from an objective standpoint, the court is satisfied that this case was not filed with the intent to seek a reorganization of Debtor's financial affairs as contemplated under Chapter 13. Instead, it appears that this case was filed by the Debtor purely to pursue a claim for sanctions against North Lenoir for alleged violations of the automatic stay which occurred in a previous case which was filed by the Debtor. This case is Debtor's fifth Chapter 13 case and was filed three days after the dismissal of Debtor's fourth Chapter 13 filing, which likewise was dismissed without any plan ever being confirmed. When that case was filed, Debtor likewise had no ability to propose or fund a feasible Chapter 13 plan. In that case, the Debtor sought sanctions against another party alleging a violation of the automatic stay and alleging essentially the same injuries and

damages that she later alleged against North Lenoir in the two motions for sanctions which were filed against North Lenoir in the present case. In the present case, the Debtor also has sought sanctions against North Lenoir's attorneys, White & Allen, P.A., in a groundless motion asserting that they "beguiled" and "perjured" the court. Debtor's two Chapter 13 filings in this court were preceded by three earlier Chapter 13 filings in the United States Bankruptcy Court for the Eastern District of North Carolina. No plan was confirmed in either of those cases and two of the cases were dismissed and the third was converted to Chapter 7. Under these circumstances, the court concludes that sanctions against the Debtor pursuant to Rule 9011 are warranted and should be imposed. Under Rule 9011, the sanction that is imposed should be limited to what is sufficient to deter repetition of the conduct in question and may include directives of a nonmonetary nature. See Rule 9011(b)(2). Under the circumstances of this case, monetary sanctions would have little effect in light of the inability of the Debtor to respond to such sanctions. Therefore, instead of monetary sanctions, the court concludes that the appropriate sanction in this case is to bar the Debtor from filing another Chapter 13 case in this district for a period of 180 days extending from January 27, 2004, the date on which the order of dismissal in this case was entered. See In re Pettey, 288 B.R. 14, 21 (Bankr. D. Mass. 2003); In re Privitera, 2003 WL 21460027 (Bankr. E.D.

Pa.); In re Lucabaugh, 2001 WL 997416 (E.D. Pa.).

Now, therefore, it is ORDERED, ADJUDGED AND DECREED that the Debtor, Georgia A. Green, is hereby barred from filing a Chapter 13 case or otherwise seeking relief under Chapter 13 of the Bankruptcy Code in this district for a period of 180 days from January 27, 2004.

This 3 day of March, 2004.



WILLIAM L. STOCKS
United States Bankruptcy Judge