

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

IN RE: )  
 )  
JOHN H. LARRY, ) CHAPTER 13 BANKRUPTCY  
DEBORIS LARRY, ) CASE NO. 90-50480  
 )  
 )  
DEBTORS )

**ORDER**

The debtors have filed a Motion to Reconsider the Court's Order Revoking Discharge and Dismissing this Case. That order was entered on November 24, 1993. The order found that the discharge in the case had been previously entered on October 13, 1993, at a time when there was still an outstanding claim which was supposed to have been paid through the Chapter 13 Plan.

On November 11, 1993, a hearing was held to show cause why the debtors' discharge should not be revoked and the motion of Chrysler Credit to file a late claim should not be allowed. At the hearing, it was shown that there were ten (10) months remaining to complete the payment of Chrysler Credit's claim in the amount of Eight Thousand Five Hundred Eighty-two Dollars and Thirty Cents (\$8,582.30).

The debtors decided at the hearing that their best interest would be served by dismissing the previous case and filing a new case in which the Chrysler Credit claim could be paid. In response to the debtors' oral request, this Court's order was entered revoking the discharge and dismissing the case.

It appears that upon further reflection, the debtors have decided that their interest would be better served by persuading the Court to vacate its November 24, 1993 order and, instead, enter an order finding that the claim of Chrysler Credit would be excepted from discharge. The debtors urge that such an order would give them the benefit of the discharge as to all the other debts which were dealt with by the plan, leaving only the Chrysler Credit matter to be resolved by the debtors.

This Court declines to enter an order providing for a piece meal discharge of debts, especially in view of the fact that there is no adversary proceeding pending for that purpose and no appearance made at the hearing by Chrysler Credit. While it might be assumed that Chrysler Credit would be agreeable to the excepting of its debt from discharge in this case, such a step would be unusual and inappropriate.

The Trustee showed at the hearing that the Chrysler Credit Motion to Allow Late Filed Claim should have been considered sooner. It was filed on July 17, 1992. Despite the oversight this appears to represent, there was still a burden on the part of Chrysler Credit to follow up on its motion to see that its request was either approved or denied. It is noted that the Chrysler Credit claim was not timely filed. Whether it would have been allowed to be filed as a late claim was a matter within the discretion of the Court. The fact that the Court did not consider the request through clerical inadvertence does not confer upon Chrysler Credit any additional rights. The problem

may be resolved by the fact that the debtors have filed a new Chapter 13 case which proposes to pay the Chrysler Credit claim. This order is not intended to affect the rights of the parties in that subsequent case.

It does now appear that the debtors request to dismiss this case as stated in open Court on November 11, 1993 was inadvertent. The debtors have subsequently demonstrated to the Court that they would like to receive the benefit of the discharge which was previously entered in this case. This order will have the effect of placing the case in the posture it was in before the entry of the November 24, 1993 order. All of the debts including Chrysler Credit have been discharged as of October 13, 1993, the date of the entry of the discharge in this Chapter 13 case.

Now, therefore it is hereby

**ORDERED** that this Court's order dated November 24, 1993 is hereby vacated and it is hereby further

**ORDERED** that the motion of Chrysler Credit to allow a late filed claim is hereby denied.

**SO ORDERED** this 23rd day of February, 1994.

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JAMES D. WALKER, JR., Judge  
United States Bankruptcy Court