

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT

IN RE:)
) CASE NO. ⁰⁵⁻³⁰²⁶¹~~05-02503~~ (LMW)
)
ROBERT H. HAYDEN, JR. and)
CHRISTINE M. HAYDEN,) CHAPTER 7
)
) DOC. I.D. NO. 6
DEBTORS.)

**ORDER DENYING TRUSTEE'S MOTION TO DISMISS CASE AND RESETTING BAR
DATE FOR FILING COMPLAINTS OBJECTING TO DISCHARGE OR TO
DETERMINE DISCHARGEABILITY OF DEBTS**

WHEREAS, the above-captioned bankruptcy case was commenced by the filing of a joint chapter 7 petition on January 21, 2005; and

WHEREAS, pursuant to a Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines (hereafter, the "Notice"), Doc. I.D. No. 2, (i) Michael J. Daly, Esq. was appointed the chapter 7 trustee (the "Trustee") herein; (ii) a Bankruptcy Code Section 341(a) Meeting of Creditors (hereafter, the "341 Meeting") was scheduled for February 11, 2005; and (iii) a bar date for the filing of complaints objecting to discharge or seeking a determination of dischargeability was established for April 12, 2005 (hereafter, the "Bar Date"); and

WHEREAS, the Section 341 Meeting was continued to February 25, 2005; and

WHEREAS, on February 25, 2005, debtor Robert Hayden and his counsel appeared at the 341 Meeting; debtor Christine Hayden did not appear. Upon request, the Trustee continued the 341 Meeting to March 11, 2005 so that Christine Hayden could appear; and

WHEREAS, on March 11, 2005, Robert Hayden and his counsel appeared again without Christine Hayden. At that time, Mr. Hayden was examined under oath; and

WHEREAS, on March 16, 2005, the Trustee filed a ... Motion To Dismiss Case (hereafter, the "Motion"), Doc. I.D. No. 6, seeking the dismissal of this bankruptcy case as to Christine Hayden only, for her failure to attend the 341 Meetings;

WHEREAS, a hearing on the Motion was scheduled for 1:00 PM on April 13, 2005 (hereafter, the "Hearing"), at which (i) the Trustee failed to appear, and (ii) Christine Hayden appeared and informed the court (under oath) that she was hospitalized during the periods scheduled for the 341 Meetings and was unable to attend for medical reasons. The court expressed its satisfaction with the explanation given by Christine Hayden and indicated its intent to mark the Motion "off" without prejudice, and to instruct the Trustee to schedule another 341 Meeting;¹ and

WHEREAS, following the Hearing, the Court was informed of the passing of the Bar Date; and

WHEREAS, in light of Christine Hayden's inability to attend the 341 Meetings due to her hospitalization and related medical condition, and the lack of prejudice to creditors, the Court determines that the running of the Bar Date was equitably tolled. Cf. In re Benedict, 90 F.3d 50, 54 (2d Cir. 1996) ("[T]he time period imposed by Rule 4007(c) is not jurisdictional and thus is subject to waiver, estoppel, and equitable tolling."); in accordance with which

IT IS HEREBY ORDERED that the Motion is **DENIED**; and

¹Prior to the Hearing the Trustee called the Courtroom Deputy and requested the Motion be "passed" until the Court's 3:00 PM Calendar call due to his unavoidable detention in connection with another case. At 3:00 PM Attorney Carol Felicetta appeared to prosecute the Motion on the Trustee's behalf.


IT IS FURTHER ORDERED that the Trustee shall reschedule a 341 Meeting, which meeting shall be attended by Christine Hayden, and will inform the Clerk's Office of the date for the rescheduled 341 Meeting; and

IT IS FURTHER ORDERED that the Clerk's Office shall issue an amended Notice notifying all creditors and parties in interest of (i) a rescheduled date for the 341 Meeting; and (2) a new Bar Date, which date shall be sixty (60) days from the date of the rescheduled 341 Meeting;² and

IT IS FURTHER ORDERED that the Clerk's Office shall serve a copy of this order upon debtor Christine Hayden, her attorney, the Trustee and all creditors and parties in interest.

BY THE COURT

DATED: April 15, 2005


Albert S. Dabrowski *4/15/2005*
Chief United States Bankruptcy Judge

²The operative provisions of this order apply only to debtor Christine Hayden. Consequently, the bankruptcy case shall proceed in due course with respect to Robert Hayden, including (but not limited to) the entry of his discharge on a timetable regulated by the *original* Bar Date.