



**SO ORDERED.**

**SIGNED this 27th day of September, 2023**

**THIS ORDER HAS BEEN ENTERED ON THE DOCKET.  
PLEASE SEE DOCKET FOR ENTRY DATE.**

  
Suzanne H. Bauknight  
UNITED STATES BANKRUPTCY JUDGE

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**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

KRISTEN STEVENSON

Case No. 3:23-bk-31435-SHB  
Chapter 13

Debtor

**MEMORANDUM AND ORDER**

The Court held a hearing on September 27, 2023, pursuant to the Order entered August 30, 2023 ("August 30 Order") [Doc. 11], directing Debtor to appear and show cause why this case should not be dismissed and, as authorized by 11 U.S.C. § 349(a), incorporating 11 U.S.C. § 109(g), why the Court should not impose a 180-day bar against the filing of a bankruptcy case by Debtor under any chapter of Title 11 for his repeated and willful failure to abide by orders of the bankruptcy court or otherwise comply with the provisions of the Bankruptcy Code in this and prior cases, including her failure to comply with 11 U.S.C. §§ 109(h), 521(a)(1), and 1321; Federal Rules of Bankruptcy Procedure 1007(b) and 3015(b); and the Notice of Additional Documents to Be Filed dated August 18, 2023, by filing the Certificate of Credit Counseling; Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information;

Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; and Chapter 13 Plan in this case. Also before the Court was the Trustee's Motion to Dismiss filed by Debra L. Miller, Chapter 13 Trustee, on September 6, 2023 [Doc. 14], which was noticed for hearing on September 27, 2023. Debtor did not file a response to either the August 30 Order or the Chapter 13 Trustee's Motion to Dismiss, did not appear at the hearing on September 27, 2023, and did not file any of the delinquent documents.

### **I. FINDINGS OF FACT**

The record reflects the following undisputed facts. Debtor has filed three *pro se* bankruptcy cases within the last year, each with delinquent document filings and noncompliance with orders of this Court. The histories of the cases are summarized as follows:

(A) in Case No. 3:22-bk-31941-SHB, filed on December 20, 2022, Debtor failed to (1) file the Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Summary of Assets and Liabilities and Certain Statistical Information; Statement of Financial Affairs; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; and Chapter 13 Plan as required by 11 U.S.C. §§ 521(a)(1) and 1321; Federal Rules of Bankruptcy Procedure 1007(b) and 3015(b); and the Notice of Additional Documents to Be Filed; and (2) appear at the hearing held on January 25, 2023, as required by the Court's Order entered on January 4, 2023, directing Debtor to appear and show cause why the case should not be dismissed, resulting in dismissal of the case by an Order entered on January 25, 2023;

(B) in Case No. 3:23-bk-30693-SHB, filed on April 18, 2023 (eighty-three days after the first case was dismissed), Debtor failed to (1) file the Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information;

Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; and Chapter 13 Plan as required by 11 U.S.C. §§ 521(a)(1) and 1321; Federal Rules of Bankruptcy Procedure 1007(b) and 3015(b); and the Notice of Additional Documents to Be Filed; and (2) appear at the hearing held June 7, 2023, as required by the Court's Order entered on May 9, 2023, directing Debtor to appear and show cause why the case should not be dismissed, resulting in dismissal of the case by an Order entered on June 7, 2023; and

(C) in this case, filed on August 15, 2023 (sixty-nine days after the first case was dismissed), Debtor failed to (1) file the Certificate of Credit Counseling; Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; and Chapter 13 Plan as required by 11 U.S.C. §§ 109(h), 521(a)(1), and 1321; Federal Rules of Bankruptcy Procedure 1007(b) and 3015(b); and the Notice of Additional Documents to Be Filed; (2) comply with the requirements of the Order entered on August 17, 2023, concerning the Motion to Impose Stay she filed on August 15, 2023, by properly serving the Motion to Impose Stay on Pennymac and filing an Amended Certificate of Service that complied with E.D. Tenn. LBR 9013-3(b) no later than close of business on August 23, 2023; and (3) appear at the hearing held on September 27, 2023, as required by the Court's August 30 Order directing Debtor to appear and show cause why the case should not be dismissed, notwithstanding the show-cause directive for dismissal with prejudice and a 180-day bar.

## **II. CONCLUSIONS OF LAW**

Because “[g]ood faith and candor are necessary prerequisites to obtaining a fresh start,” it

is implicit that Chapter 7 cases must be filed in good faith. *See In re Eddy*, 288 B.R. 500, 504 (Bankr. E.D. Tenn. 2002) (quoting *Industrial Ins. Servs. v. Zick (In re Zick)*, 931 F.2d 1124, 1129 (6th Cir. 1991)). Courts routinely examine the following factors to determine whether a Chapter 7 case should be dismissed for lack of good faith:

1. The debtor reduced his creditors to a single creditor in the months prior to filing the petition.
2. The debtor failed to make lifestyle adjustments or continued living an expansive or lavish lifestyle.
3. The debtor filed the case in response to a judgment[,], pending litigation, or collection action; there is an intent to avoid a large single debt.
4. The debtor made no effort to repay his debts.
5. The unfairness of the use of Chapter 7.
6. The debtor has sufficient resources to pay his debts.
7. The debtor is paying debts to insiders.
8. The schedules inflate expenses to disguise financial well-being.
9. The debtor transferred assets.
10. The debtor is over-utilizing the protection of the [Bankruptcy] Code to the unconscionable detriment of creditors.
11. The debtor employed a deliberate and persistent pattern of evading a single major creditor.
12. The debtor failed to make candid and full disclosure.
13. The debts are modest in relation to assets and income.
14. There are multiple bankruptcy filings or other procedural “gymnastics.”

*Id.* at 504-05 (quoting *In re Spagnolia*, 199 B.R. 362, 365 (Bankr. W.D. Ky. 1995)).

Although courts must find that imposition of a sanction “be commensurate with the egregiousness of the conduct,” the purpose of adding § 109(g) was to address abuse of the system including “the filing of meritless petitions in rapid succession to improperly obtain the benefit of

the Bankruptcy Code's automatic stay provisions as a means of avoiding foreclosure under a mortgage or other security interest." *In re Cline*, 474 B.R. 789 (Table), No. 11-8075, 2012 WL 1957935, at \*7 (B.A.P. 6th Cir. June 1, 2012) (citations omitted). "While multiple filings are not, in and of themselves, improper or indicative of bad faith, a history of multiple filings and dismissals may be construed as bad faith." *Cusano v. Klein (In re Cusano)*, 431 B.R. 726, 735 (B.A.P. 6th Cir. 2010) (citing *In re Glenn*, 288 B.R. 516, 520 (Bankr. E.D. Tenn. 2002)). Further, if there is sufficient cause, courts have the authority under §§ 105(a) and 349(a) to sanction abusive debtors with a prohibition against filing for more than the 180 days set forth in § 109(g)(1). *Id.* at 737; *see also In re Henderson*, No. 12-50376, 2012 WL 4498887, at \*1–2 (Bankr. S.D. Ohio May 4, 2012) (stating that while "only egregious behavior that demonstrates bad faith and prejudices creditors will warrant a permanent bar from refiling," a debtor who had filed four prior Chapter 13 cases that had been dismissed and had received discharges in two Chapter 7 cases was a serial filer whose bankruptcy cases "had the effect of staying creditor's [sic] attempts to collect what they [were] owed repeatedly for almost two decades," resulting in her being permanently enjoined from filing another case or receiving a discharge of the debts scheduled in that case).

In a period of 290 days, Debtor has filed three *pro se* Chapter 13 bankruptcy petitions; however, in none of them did she file the required statements and schedules nor did she appear before the Court in response to its orders. In this case, Debtor also failed to obtain (or file certification that she obtained) the required pre-petition credit counseling briefing in addition to the other delinquent documents, failed to comply with the Court's directives concerning proper service of her Motion to Impose the Stay on the affected secured creditor, and failed to appear in compliance with the notice of hearing on the dismissal motion filed by the Chapter 13 Trustee. Furthermore, Debtor did not appear at the hearing held September 27, 2023, or otherwise respond to the August 30 Order, notwithstanding that it expressly referenced imposition of a 180-day bar

on refiling. A totality of the circumstances evidences that Debtor, who has repeatedly and willfully failed to comply with orders of this Court and the Bankruptcy Code, did not file this case in good faith.

For the foregoing reasons, constituting the Court's findings of fact and conclusions of law as required by Rule 52 of the Federal Rules of Civil Procedure, applicable to contested matters by virtue of Rule 9014 of the Federal Rules of Bankruptcy Procedure, the Court directs the following:

1. Because Debtor did not (1) file the Certificate of Credit Counseling; Statement Regarding Payment Advices; Schedules A/B through J; Declaration About Schedules; Statement of Financial Affairs; Summary of Assets and Liabilities and Certain Statistical Information; Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period; and Chapter 13 Plan required by 11 U.S.C. §§ 109(h), 521(a)(1), and 1321; Federal Rules of Bankruptcy Procedure 1007(b) and 3015(b); and the Notice of Additional Documents to Be Filed dated August 7, 2023; (2) comply with the August 17, 2023 Order directing her to properly serve the Motion to Impose Stay on Pennymac and file an Amended Certificate of Service; and (3) appear at the hearing held September 27, 2023, this Chapter 13 bankruptcy case is DISMISSED.

2. Additionally, the Trustee's Motion to Dismiss filed on September 6, 2023 [Doc. 14], is GRANTED.

3. Because she has repeatedly and willfully failed to abide by orders of the Court as outlined herein and failed to appear before the Court as directed, Kristen Stevenson is BARRED from filing another bankruptcy petition under any chapter of Title 11 of the United States Code for a period of 180 days from the date of entry of this Order. *See* 11 U.S.C. § 109(g)(1).

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