

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF RHODE ISLAND

- - - - -x

In re: :  
THOMAS L. REDWOOD, III : BK No. 10-14437  
Debtor : Chapter 13

- - - - -x

**ORDER DISMISSING CASE**

Heard on the Motion to Dismiss filed by secured creditor U.S. Bank National Association as Trustee for Credit Suisse First Boston MBS HEAT 2003-7 (the "Bank").

There are no disputed issues of fact. Debtor had filed a prior case, BK No. 06-10720, in which the Bank's Motion for Relief from Stay was granted on February 17, 2009. Debtor voluntarily dismissed that case on July 20, 2010, and the current case was filed on October 25, 2010, which is ninety-seven days after the voluntary dismissal of the first petition.

Section 109(g)(2)<sup>1</sup> of the Bankruptcy Code imposes a time bar against filing a petition for relief if that person has voluntarily dismissed his case after a motion for relief from stay had been filed. "Generally, based on a dismissal under this section, a debtor is ineligible for relief under the bankruptcy Code for a period of 180 days." *In re Carey*, 221 B.R. 571, 572 (1<sup>st</sup> Cir. BAP

---

<sup>1</sup> Section 109(g) provides: "no individual ... may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if- ... (2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay."

1998). Debtor argues, imaginatively, but not persuasively that changed circumstances<sup>2</sup> now allow him to fund a Chapter 13 plan, which will inure to the benefit of the Bank. The language of the statute is straightforward regarding eligibility and does not, at least on this showing, allow the Court the flexibility to grant the Debtor the relief he seeks.

Accordingly, the Bank's Motion to Dismiss is **GRANTED**.

Entered as an Order of this Court.

Dated at Providence, Rhode Island, this 16<sup>th</sup> day of  
June, 2011.



---

Arthur N. Votolato  
U.S. Bankruptcy Court

Entered on docket: 6/16/11

---

<sup>2</sup> The alleged "change of circumstances" consists of the stripping off of a second, wholly unsecured, mortgage.