



allegations of non-receipt. *Moody v. Bucknum*, 951 F.2d 204 (9th Cir. 1991). "The common law has long recognized a rebuttable presumption that an item properly mailed was received by the addressee. (Citations omitted.) The 'presumption of receipt' arises upon proof that the item was properly addressed, had sufficient postage, and was deposited in the mail. The presumption is, of course, rebuttable." *Konst v. Florida East Coast Railway Co.*, 71 F. 3d 850 (11th Cir. 1996). Debtor offered no evidence to rebut the presumption of receipt.

Additionally, the record shows that this is Debtor's fifth bankruptcy case, and that the case filed immediately prior to the instant case was dismissed November 7, 2003, pursuant to 11 U.S.C. §109(g), rendering Debtor ineligible to file any case under Title 11 for 180 days. Therefore at the time Debtor filed the instant case, he was ineligible to be a debtor under Chapter 13 or any other chapter of the Bankruptcy Code. Debtor's serial filing of bankruptcy cases appears to constitute an abuse of the bankruptcy system. See *In re Gros*, 173 B.R. 774 (Bankr. M.D. Fla. 1994); *In re Standfield*, 152 B.R. 528 (Bankr. N.D. Ill. 1993). Accordingly, it is hereby

ORDERED that Debtor's motion to reopen is **denied**.

**The Clerk, U.S. Bankruptcy Court, is directed to serve** a copy of this order upon Debtor, Debtor's attorney, the Chapter 13 Trustee, and all creditors and parties in interest.

IT IS SO ORDERED, this the 11<sup>th</sup> day of March, 2004.

  
MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE