

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ENTERED ON DOCKET  
OCT 16 2008

IN RE: ) CHAPTER 7  
)  
ROSELYN TOWEH, ) CASE NO. 07-81635-MHM  
)  
Debtor. )

**ORDER GRANTING DEBTOR'S MOTION TO REOPEN**

On February 12, 2008, a reaffirmation agreement between Debtor and Citifinancial Auto Corporation was filed in this case. Because it was signed by Debtor's attorney and contained no facts to support a presumption of undue hardship, no hearing or order was required to render the agreement enforceable under 11 U.S.C. §524. On May 5, 2008, the discharge order in this case was entered and the case closed.

On July 30, 2008, Debtor filed a motion to reopen this case to file an amended reaffirmation agreement with Citifinancial Auto Corporation. The amended reaffirmation agreement lowers the interest rate from 12.99% to 4%. An amendment to the motion to reopen was filed September 3, 2008. The motion to reopen, as amended, shows the amended reaffirmation agreement was negotiated and agreed upon May 2, 2008, but was executed by Debtor and the creditor after entry of the discharge.

The bankruptcy court lacks jurisdiction to approve post-discharge reaffirmation agreements. *In re Gibson*, 256 B.R. 786 (Bankr. W.D. Mo. 2001). A post-discharge

reaffirmation agreement is unenforceable. *Bankruptcy Receivables Management v. Lopez*, 345 F.

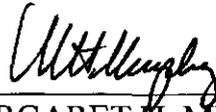
3d 701 (9th Cir. 2003). A reaffirmation agreement may be *filed* after entry of discharge, however, if the agreement was *made* prior to the discharge. *In re LeBeau*, 247 B.R. 537 (Bankr. M.D. Fla. 2000); *In re Davis*, 273 B.R. 152 (Bankr. S.D. Ohio 2001); *In re Mason*, 2004 WL 5364003 (Bankr. N.D.Ga. 2004). The facts set forth by Debtor support a conclusion that the amended reaffirmation agreement was “made” before entry of the discharge. Accordingly, it is hereby

ORDERED that Debtor's motion to reopen is ***granted***: this case is reopened to permit Debtor to permit the filing of the amended reaffirmation agreement and to permit the transaction of such other business as is permitted by Title 11 of the United States Code. Because this case is not being reopened to administer assets and because Debtor does not seek any further relief under the Bankruptcy Code, reappointment of a trustee is unnecessary. Additionally, the reopening of this case revests no property of Debtor in the estate and imposes no automatic stay pursuant to § 362 of the Bankruptcy Code or otherwise. It is further

ORDERED that, unless an unresolved motion or application is pending, the Clerk, U.S. Bankruptcy Court, is authorized to close this case 60 days from the date of entry of this order, in the usual manner without the necessity of a final report from the Trustee.

**The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon Debtor, counsel for Debtor, counsel for creditor Citifinancial Auto Corporation, and the Chapter 7 Trustee.**

IT IS SO ORDERED, this the 15<sup>th</sup> day of October, 2008.



---

MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE