

1-16-04

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF GEORGIA
 ATLANTA DIVISION

IN RE: : CASE NO. 04-90092
 :
 JOYCE ROBINSON-JONES, : CHAPTER 13
 :
 Debtor. : JUDGE MASSEY
 :

ORDER DISMISSING CASE

Debtor filed this case on January 5, 2004. Debtor had a prior case under case no. 03-97000 in which the Debtor sought and obtained on August 29, 2004, a voluntary dismissal of that prior case following the filing of a motion for relief from stay by Chase Manhattan Mortgage Corp. on August 13, 2003.

Section 109(g) of the Bankruptcy Code, 11 U.S.C. § 109(g) provides as follows:

(g) Notwithstanding any other provision of this section, no individual or family farmer 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 -

(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

Under this statute, Debtor was ineligible to file this case and be a debtor under the Bankruptcy Code for the reason stated above. Accordingly, it is

ORDERED that the filing of this case did not give rise to the automatic stay so that any foreclosure sale that took place after the filing of the petition in the present case is valid to the extent otherwise valid under state law; and it is

FURTHER ORDERED that this case is DISMISSED. The Clerk is directed to serve a copy of this Order on the Debtor, the Trustee and Creditors.

Dated: January 15, 2004.



JAMES E. MASSEY
U.S. BANKRUPTCY JUDGE