



**IT IS ORDERED as set forth below:**

**Date: July 02, 2010**

**W. H. Drake  
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>IN THE MATTER OF:</b>	:	<b>CASE NUMBER</b>
	:	
SHELIA MAXEY SHELLEY,	:	09-60496-WHD
	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
DEBTOR.	:	BANKRUPTCY CODE

**ORDER**

Before the Court is the Motion to Reopen, filed by Shelia Maxey Shelley (hereinafter the "Debtor") and a Motion to Waive Filing Fee. The Debtor filed a voluntary petition under Chapter 13 of the Bankruptcy Code on January 6, 2009. On February 20, 2009, the Chapter 13 Trustee objected to confirmation of the Debtor's proposed Chapter 13 plan on the basis that: 1) the Debtor's plan payments were not current; 2) the Debtor failed to provide the Chapter 13 Trustee with a copy of her most recent tax return; 3) the Debtor's credit counseling certificate indicated that the Debtor

was likely not eligible to be a debtor, pursuant to section 109(h); and 4) the Debtor had failed to pay her postpetition mortgage payments. On March 10, 2009, the Chapter 13 Trustee filed a supplemental objection to confirmation on the basis that the Debtor's proposed plan would extend longer than the sixty months permitted by section 1322(d). The Debtor failed to file an amended plan or otherwise address the Chapter 13 Trustee's objections. At the confirmation hearing, held on March 23, 2009, the Debtor's attorney was present and did not oppose the dismissal of the Debtor's case for failure to propose a confirmable plan. The Debtor's case was dismissed on March 23, 2009 and closed on September 1, 2009, following the filing of the Chapter 13 Trustee's final report.

The Debtor filed the instant motion to reopen her Chapter 13 case on June 28, 2010. The Debtor's motion does not set forth any basis for reopening the case or setting aside the dismissal of the case. The Debtor does not propose to proceed with her case in a manner that would result in a confirmable plan or the satisfaction of any bankruptcy purpose. Rather, the Debtor simply alleges that a purported secured creditor, Ocwen Loan Servicing, LLC, cannot prove that it has standing to foreclose on her real property. Although Ocwen Loan Servicing, LLC opposed confirmation of the Debtor's plan on the basis that she had not made postpetition mortgage payments, neither Ocwen nor any other secured creditor filed a motion for relief from stay during the pendency of the Debtor's case. The Debtor's case would have been dismissed regardless of whether Ocwen had objected to confirmation. Accordingly, any dispute the Debtor has with Ocwen or its

successors or assigns is better taken up in the state court, as it does not implicate any bankruptcy purpose and the resolution of such a dispute would not result in the reinstatement of the Debtor's case.

For this reason, the Debtor's Motion to Reopen is **DENIED**.

Under the circumstances, and in accordance with 28 U.S.C. § 1930(b) and the Bankruptcy Court Miscellaneous Fee Schedule, Appendix to 28 U.S.C. § 1930, the Court finds that the filing fee for filing a motion to reopen should be waived. Consequently, the Debtor's motion to waive the filing fee is **GRANTED**.

**END OF DOCUMENT**