

3-24-08

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CASE NO. 07-66912-JB
:
Robert S. Rosenthal, :
:
Debtor :
:
: CHAPTER 13

ORDER

This case came before the Court on March 18, 2008, for a reset hearing on confirmation of debtor's Chapter 13 Plan. Appearances were made by Guy Gupton for the debtor, the debtor Robert S. Rosenthal, Sonya Buckley for the Chapter 13 Trustee, Mark Baker for Homecomings Financial, LLC, Daniel Caldwell for the Internal Revenue Service, and Neil Gordon. Mr. Gordon served as the Chapter 7 Trustee in this case, as debtor originally filed the case on April 30, 2007, as a Chapter 7 case. The case was converted to Chapter 13 on November 9, 2007 on debtor's motion.

The Chapter 13 Trustee, the Internal Revenue Service, and Neil Gordon objected to the confirmation of debtor's plan. After hearing from counsel, the Court concluded that debtor's plan could not be confirmed. A condition for plan confirmation is that the debtor must have filed all applicable Federal, State, and local tax returns as required by 11 U.S.C. § 1308. *See* 11 U.S.C. § 1325(a)(9). Section 1308 requires a debtor to file all tax returns for all taxable periods ending during the four year period ending on the date of the filing of the petition. At the hearing, it was undisputed that

debtor has not filed tax returns for the past eight years. Therefore, confirmation of debtor's plan must be and is hereby DENIED.

At the hearing, counsel requested that the case be converted back to a Chapter 7 case, so that the Chapter 7 Trustee can administer the main asset, debtor's residence, for the benefit of creditors. The request is granted and the case is hereby reconverted to Chapter 7.

The Clerk is directed to serve debtor, debtor's counsel, the Chapter 13 Trustee, the Chapter 7 Trustee Neil Gordon, and all parties in interest.

IT IS SO ORDERED, this 2nd day of March, 2008.



JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE