

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 11-68905

BONNIE INGRAM,

Chapter 13

Debtor.

Judge Thomas J. Tucker

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**ORDER DENYING, WITHOUT PREJUDICE,
MOTION FOR HARDSHIP DISCHARGE**

This case is before the Court on a motion for hardship discharge under 11 U.S.C. § 1328(b), filed on February 11, 2015 by Debtor's attorney of record (Docket # 49, the "Motion"). The Motion seeks a hardship discharge due to the death of the Debtor on January 1, 2015.

The Court must deny the Motion, because the Motion does not show that it was filed by or on behalf of anyone with standing. The Debtor died more than a month before the Motion was filed, so Debtor's attorney had no authority to file the Motion on behalf of the Debtor. In the case of a deceased debtor, only a personal representative duly appointed by the probate court under the laws of the State of Michigan may file a motion for a hardship discharge. *See In re Hamilton*, 274 B.R. 266, 267 (W.D. Tex. 2001)(citing *In re Lucio*, 251 B.R. 705, 708-09 (Bankr. W.D. Tex. 2000)) ("[W]hen a debtor dies, the only person who can then appear on the debtor's behalf is the person so named as the official representative of the probate estate of the debtor."); *see generally* Mich. Comp. Laws Ann. § 700.3103 (stating, in relevant part, that "[e]xcept as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a decedent's personal representative, a person must be appointed by the register or by court order, must qualify, and must be issued letters"); Mich. Comp. Laws Ann. § 700.3703(3)(stating

that “[e]xcept as to a proceeding that does not survive the decedent's death, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death”).

Accordingly,

IT IS ORDERED that the Motion (Docket # 49), is denied, without prejudice to the right of a duly appointed personal representative of the deceased Debtor to file a motion for hardship discharge under 11 U.S.C. § 1328(b). But any such motion must be filed no later than February 26, 2015, or the Court may dismiss this Chapter 13 case under Fed.R.Bankr.P. 1016, without further notice or hearing.

Signed on February 12, 2015

/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge