

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 15-55964

RAMONA TAYLOR KAMATE,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING DEBTOR'S MOTION
TO SET ASIDE HER CHAPTER 7 DISCHARGE**

This case is before the Court on the Debtor's motion entitled "Ex Parte Motion to Set Aside Debtor's Chapter 7 Discharge," filed February 11, 2016 (Docket # 47, the "Motion"). The Motion seeks an order vacating the Court's order granting the Debtor a discharge under 11 U.S.C. § 727, filed on February 9, 2016 (Docket # 46, the "Discharge Order"). The purposes implied or stated in the Motion for this requested relief is for Debtor to (1) file amended schedules; (2) seek to convert this Chapter 7 case to Chapter 13; and (3) possibly pursue undisclosed causes of action that Debtor may have.

The Motion will be denied, for the following reasons.

First, if construed as a motion for reconsideration of the discharge order, the Court finds that the Motion must be denied because it fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

Second, and in any event, the Motion does not allege or demonstrate any valid legal basis for vacating the Debtor's Chapter 7 discharge, under Fed.R.Civ.P. 60(b) or otherwise. The allegations in the Motion do not establish excusable neglect under Fed.R.Civ.P. 60(b)(1), Fed.R.Bankr.P. 9024, or any other valid ground for relief from the Discharge Order.

In addition, the Court notes the following points.

If the Debtor wishes to file a motion to convert this case to Chapter 13, the Debtor is free to file such motion any time before this case is closed, and if such motion is granted, it will require the Court to vacate the Chapter 7 discharge. But the Debtor has not filed such a motion yet. (And after this case is closed, the Debtor can then file a new case under Chapter 13 if she wishes to do so in an effort to save her home, without the discharge in this case being vacated.)

If the Debtor wishes to amend her schedules, she still can do that, without the discharge being vacated, for as long as this case remains open.

If Debtor wishes to pursue claims that she believes she has against her mortgage lender

(or land contract vendor, as the case may be), in an effort to save her home from foreclosure or otherwise, she can file a motion for relief from stay and/or abandonment, seeking such relief so that she may pursue litigation of such claim(s) in an appropriate non-bankruptcy court. This will not require that the Discharge Order be vacated.

If the Debtor did not want her discharge to be entered when it was, the Debtor could have filed a motion to delay the discharge, under Fed.R.Bankr.P. 4004(c)(2). But in the absence of such a motion, the Court in this case was required to enter the discharge “forthwith” upon expiration of the deadline for objections to discharge (which was February 8, 2016). *See* Fed.R.Bankr.P. 4004(c).

Given all of the foregoing, the Debtor’s present motion fails to establish any valid basis for vacating the Chapter 7 discharge.

Accordingly,

IT IS ORDERED that the Motion (Docket # 47) is denied.

Signed on February 12, 2016

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge