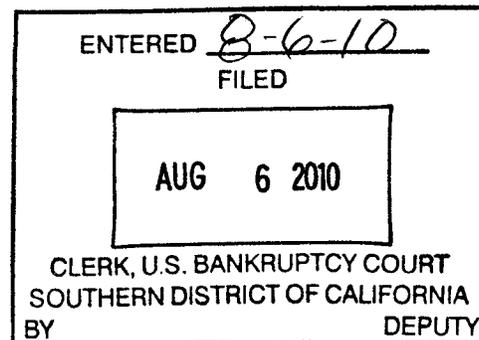


WRITTEN DECISION - NOT FOR PUBLICATION

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re)	Case No. 10-00506-JM13
)	
ALMA LYDIA CARPENTER,)	ORDER ON MOTION TO BAR
)	REFILING FOR 180 DAYS
Debtor.)	AND FOR SANCTIONS
)	
_____)	

Judgment Creditor Stephen Luna, as Administrator of the Estate of Luna (Movant), filed a motion to bar Alma Carpenter (Debtor) from refiling for 180 days and for sanctions against Debtor and her attorneys, Chang & Diamond, APC, Steven J. Diamond and Alison Maloof (collectively "Diamond"). Shortly before the April 4, 2010 hearing on the motion, the Court was informed that Movant had settled and withdrawn its claim against Diamond. The remaining aspects of the motion against Debtor were taken under submission to allow the Court to sift the various arguments, identify the remaining issues and determine whether an evidentiary hearing would be required.

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1 Debtor filed this case on January 14, 2010. On March 10,
2 2010, she voluntarily dismissed the case. She had filed an
3 earlier chapter 13 case on December 16, 2009, which was dismissed
4 on January 5, 2010, for failure to file schedules, statements and
5 a plan. Debtor had two other cases in the last eight years, each
6 of which was dismissed for the same reason.

7 Debtor's schedules and statements were fraught with errors
8 and omissions. It also appears that as a legal matter, Debtor
9 was not even eligible to be a debtor under chapter 13. Further,
10 in light of the timing of Debtor's cases, Movant's suggestion
11 that the cases were filed to thwart Movant's litigation efforts
12 is plausible. It is unclear at this point, however, whether
13 sanctions are warranted against Debtor personally. Some issues,
14 though, can be resolved.

15 Debtor's assertion of her 5th Amendments rights is not an
16 absolute bar to the motion. In general, the Court does not
17 believe that Debtor would have had an expectation of privacy as
18 to information provided counsel to be included in the schedules
19 and statement of affairs, as those documents are made public.
20 However, each assertion will have to be tested independently.

21 Debtor's assertion that she relied on advice of counsel in
22 filing the petition would likewise not be a bar to the motion to
23 the extent Debtor provided false information to counsel.

24 In light of the foregoing, counsel for Movant should re-
25 evaluate whether it wishes to proceed with the motion. If so,
26 counsel must contact Marilyn Wilkinson at (619)557-5158 by

1 September 30, 2010 and obtain a hearing date for a status
2 conference. Prior to the status conference, if any, Movant
3 and Debtor must determine what discovery, if any, will need
4 to be conducted. Counsel for Movant must also disclose to
5 counsel for Debtor the terms of the settlement agreement
6 reached with Diamond. If no status conference is scheduled
7 by September 30, 2010, the motion will be deemed withdrawn.

8 IT IS SO ORDERED.

9 DATED: AUG - 6 2010

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12 PETER W. BOWIE, Chief Judge
13 United States Bankruptcy Court
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