

The document below is hereby signed.

Signed: January 17, 2010.



S. Martin Teel, Jr.
S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)
)
EVA L. RAMSEY,) Case No. 10-00014
) (Chapter 13)
Debtor.) Not for Publication in
) West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER DISMISSING CASE AND DENYING
DEBTOR'S MOTION TO RENDER CHAPTER 13 FILING AS VOID *AB INITIO*

The debtor filed a petition commencing this case on January 7, 2010. On January 15, 2010, the debtor filed a motion reciting:

The Debtor did not intend to file the petition. It was filed inadvertently. . . . At the time of the inadvertent filing, Debtor had not completed a credit counseling briefing pursuant to 11 U.S.C. § 109(h).

The debtor requests that the case be treated as void *ab initio*.

As the chapter 13 trustee points out in opposing the motion, the filing:

by an admittedly ineligible debtor triggers the automatic stay which is still in effect until the case is dismissed and if applicable, is relevant to § 362(c)(3) stay termination issues and § 362(c)(4) stay imposition issues. *In re Hawkins*, 340 B.R. 642 (Bankr. D.D.C. 2006).

Accordingly, § 109(h) requires dismissal of the case, but not as

void *ab initio*. It is thus

ORDERED that the Debtor's Motion to Render Chapter 13 Filing as Void *Ab Initio* (Dkt. No. 10) is DENIED. It is further

ORDERED that this case is dismissed without prejudice, but the court retains jurisdiction over the trustee's motion to disgorge fees.

[Signed and dated above.]

Copies to: All entities on BNC mailing list.