

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**IN RE: JAMES EDWARD GREEN, SR.
and QUEEN ETTA GREEN**

**5:02-bk-18966 E
CHAPTER 13**

ORDER DISMISSING CASE WITH PREJUDICE

On October 22, 2002, a hearing was held on the Motion to Convert Case to Chapter 7, the Motion to Dismiss Joint Debtor filed by Debtor Queen Etta Green, and the Responses to these Motions filed by James Edward Green, Sr. Appearances were entered by Separate Debtor Queen Etta Green, pro se, Whit Barton, Esq., for Union Bank and Trust, and Jo-Ann Goldman, Chapter 13 Trustee. No appearance was entered by Separate Debtor James Edward Green, Sr.

According to the files and records in this case, this is James Edward Green, Sr.'s sixth bankruptcy case in less than three years. The case history is as follows:

1. Case number 99-bk-51594 was filed on December 6, 1999, and dismissed on July 5, 2000, for failure to make plan payments.
2. Case number 00-bk-50891 was filed on June 30, 2000, and dismissed on February 9, 2001, for failure to make payments
3. Case number 01-bk-50279 was filed on February 14, 2001, and dismissed on May 11, 2002, upon creditor's motion.
4. Case number 01-bk-50821 was filed by May 9, 2001, and dismissed on June 25, 2001, for failure to file schedules and statements.
5. Case number 01-bk-51164 was filed on July 3, 2001, and dismissed on June 19,

2002, for failure to make payments.

6. This current case, 02-bk-18966, was filed jointly with Queen Etta Green on August 12, 2002.

On September 3, 2002, a hearing was held on a Motion to Dismiss Case and Request for Sanctions filed by Union Bank and Trust. Relief from stay was granted and the Court ruled that in the best interest of the Debtors and the creditors, the Motion to Dismiss would be treated as a Motion to Convert to Chapter 7. A Notice of Opportunity to Respond was issued on September 5, 2002, directing all parties to file a written response within 20 days if they wished to object to the conversion. A Response was filed by James Edward Green, Sr. on September 18, 2002, and the matter was set for hearing on October 22, 2002.

On September 18, 2002, a Request to Correct the Voluntary Petition to remove her name from the current case was filed by Debtor Queen Etta Green. The motion asserts that she did not consent to being a party in this case. In response to Queen Etta Green's motion, the Court issued a Notice of Opportunity to Respond directing any interested party who wished to object to Queen Etta Green's name being removed from the petition to file a written response. A response was filed by James Edward Green, Sr. on September 27, 2002, and this matter was also set for hearing on October 22, 2002.

The notice setting the above matters for hearing on October 22, 2002, was mailed to James Edward Green, Sr. and Queen Etta Green on October 4, 2002. The notice specifically directed both Debtors to personally appear.

On October 18, 2002, a Motion to Dismiss Chapter 13 case was filed by James Edward Green, Sr. and Queen Etta Green. Only Separate Debtor Queen Etta Green appeared at the hearing held October 22, 2002.

The file in this case also reflects that Debtors have failed to obey the order dated August 12, 2002, which required the filing fee to be paid by August 12, 2002, and the order dated August 29, 2002, which required the Debtors to file schedules and statements on or before September 6, 2002. To date, the filing fee, schedules, and Chapter 13 Plan have not been filed. Accordingly, the Court finds as follows:

Pursuant to 11 U.S.C. §1307(b), Debtors have an absolute right to dismiss their case. However, 11 U.S.C. §1307(c) also confers upon the Court the discretion to dismiss or convert a case for cause, if it is in the best interest of the creditors and the estate. Debtors' failure to file schedules and a Chapter 13 Plan as well as the failure to pay the filing fee also are cause for the Court to dismiss the case.

11 U.S.C. § 109(g) permits a dismissal with prejudice for willful failure of the debtor to abide by an order of the court. Separate Debtor James Edward Green, Sr.'s conduct and multiple filings display an intentional and voluntary disregard of this Court's orders and the bankruptcy code and rules. Accordingly, the above referenced case is **DISMISSED WITH PREJUDICE** and Separate Debtor James Edward Green, Sr. is prohibited from filing any further bankruptcy cases in the Eastern or Western Districts of Arkansas for a period of one hundred and eighty (180) days.

IT IS SO ORDERED.

HONORABLE AUDREY R. EVANS
UNITED STATES BANKRUPTCY JUDGE

DATE:

cc: James Edward Green, Sr., pro se debtor
Queen Etta Green, pro se debtor
Whit Barton, attorney for Union Bank & Trust
Jo-Ann Goldman, Chapter 13 Trustee
U.S. Trustee