

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

CANDICE F. POORVIN,

Case No. 6:11-bk-01028-ABB

Chapter 7

Debtor.

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ORDER

This matter came before the Court on the Motion to Vacate Discharge (Doc. No. 24) filed by the Debtor Candice F. Poorvin. An evidentiary hearing was held on October 31, 2011 at which the Debtor and her counsel appeared. The Debtor seeks to vacate the Chapter 7 discharge she received pursuant to 11 U.S.C. Section 727(a) on April 28, 2011 in the above-captioned case so that she may modify a mortgage in her Chapter 13 case captioned *In re Candice F. Poorvin*, Case No. 6:11-bk-11804-ABB, which is open and pending. The Motion is due to be denied.

Section 727(d) of the Bankruptcy Code provides the Court, upon a request by “the trustee, a creditor, or the United States Trustee” and after notice and a hearing, “shall revoke a discharge” if:

- (i) the discharge was obtained through fraud unbeknownst to the movant until after the discharge was granted;
- (ii) the debtor knowingly and fraudulently failed to disclose the acquisition of property of the estate, or that she became entitled to acquire property that would be property of the estate;
- (iii) the debtor, as set forth in 11 U.S.C. Section 727(a)(6), refused to obey a lawful order of the Court, to respond to a material question, or to testify; or

- (iv) the debtor failed to explain satisfactorily either a material misstatement in a bankruptcy audit or failed to make necessary records available for inspection in a bankruptcy audit.

11 U.S.C. § 727(d). The narrowness of Section 727(d) and the absence of any other provision in the Bankruptcy Code allowing for revocation of a Chapter 7 discharge is purposeful. The discharge and the discharge injunction of 11 U.S.C. Section 524 are fundamental to a debtor's fresh start. Hardy v. I.R.S. (In re Hardy), 97 F.3d 1384, 1388-89 (11th Cir. 1996).

The Debtor does not have standing to seek revocation of her discharge pursuant to the plain and unambiguous language of Section 727(d). Markovich v. Samson (In re Markovich), 207 B.R. 909, 911-12 (9th Cir. BAP 1997). Revocation may only be sought by a trustee, creditor, or the United States Trustee. Section 727(d) allows for revocation only in the circumstances precisely defined by Congress involving fraudulent acts, misrepresentations, or failures to cooperate by a debtor. None of those defined circumstances are relevant to the Debtor's case. The relief the Debtor seeks is not authorized by the Bankruptcy Code and is contrary to the fundamentals of bankruptcy.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Debtor's Motion to Vacate (Doc. No. 24) is hereby **DENIED**.

Dated this 15th day of November, 2011.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge