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IT IS SO ORDERED.

Dated: April 19, 2024




Guy R. Humphrey
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re:

JASON C. BYERS
LINDSEY M. BYERS,

Debtors.

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Case No. 19-31122
Chapter 13
Judge Humphrey

ORDER DEEMING CASE DISMISSED EFFECTIVE FEBRUARY 21, 2024, BARRING DEBTORS FROM FILING ANY FORM OF BANKRUPTCY FOR 2 YEARS, AND ORDERING OTHER MATTERS (DOCS. 92, 96)

Pursuant to a prior Order (Doc. 94), the court conducted a status conference on April 18, 2024, participated in by Mandy Ann Jamison, counsel for the Debtors; Scott G. Stout, counsel for the Chapter 13 Trustee; John G. Jansing, the Chapter 13 Trustee; and Nathan A. Wheatley, counsel for the United States Trustee.

In accordance with the court’s oral decision announced at the conclusion of the conference, **IT IS ORDERED:**

Pursuant to Federal Rule of Bankruptcy Procedure 5005(c), the court deems the *Notice of Voluntary Dismissal*, erroneously delivered by the Debtors to the Chapter 13 Trustee, filed with the Clerk of the United States Bankruptcy Court on February 21, 2024, the date of the Trustee’s “Received” stamp. See Docs. 92, Ex. 1, and 96. As noted on the record at the status conference, the court became aware of this exhibit shortly before the hearing. Further, the court construes the Notice to be a motion to voluntarily dismiss this case pursuant to Federal Rule of Bankruptcy

Procedure 1017(f)(2). Since the Debtors' case was not previously converted, the Debtors have an absolute right to dismiss their Chapter 13 case. 11 U.S.C. § 1307(b); *Smith v. U.S. Bank Nat'l Ass'n (In re Smith)*, 999 F.3d 452, 455-56 (6th Cir. 2021). Accordingly, this case is **dismissed effective February 21, 2024**.

Despite the Debtors' absolute right to dismiss, under 11 U.S.C. §§ 105(a) and 349(a) the court may *sua sponte* impose certain conditions, such as a bar on the Debtors' ability to refile, provided that such equitable powers are exercised within the confines of the Bankruptcy Code. See *Law v. Siegel*, 571 U.S. 415, 420-21 (2014) (citing *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 375 (2007) (recognizing the "broad authority granted to bankruptcy judges to take any action that is necessary or appropriate 'to prevent an abuse of process' described in § 105(a) of the Code"). See also *Cusano v. Klein (In re Cusano)*, 431 B.R. 726, 735-37 (B.A.P. 6th Cir. 2010) (recognizing authority under § 349 to dismiss with a bar to refiling in excess of 180 days); *Riddle v. Greenberger (In re Riddle)*, No. 19-8022, 2020 Bankr. LEXIS 1695, at *25-26, 2020 WL 3498438, at *10 (B.A.P. 6th Cir. June 29, 2020) (similar); *In re Dilley*, 125 B.R. 189, 196 (Bankr. N.D. Ohio 1991) ("As a practical matter, insulating voluntary dismissals under section 1307(b) from the constraint of prejudice would provide the possibility for manipulation and abuse apparent in this case with no countervailing benefit to case administration or to sincere debtors."). Thus, pursuant to 11 U.S.C. §§ 105(a) and 349(a), the relief requested in the Trustee's unopposed Motion to Dismiss (Doc. 92), and the court's inherent authority to address abuse in the bankruptcy process, **Jason C. Byers and Lindsey M. Byers are BARRED from filing any form of bankruptcy for a period of two (2) years from the date of the entry of this order. In the event the Debtors, in contravention of this order, attempt to file a further case during the barred period either jointly or individually, any such filing shall be determined void and the automatic stay shall not take effect.**

Failure to comply with the provisions of this order may result in more severe consequences for the Debtors.

The Chapter 13 Trustee shall file any motion asserting cause under 11 U.S.C. § 349(b)(3) to distribute funds on hand, other than to the Debtors, **within 14 days of the entry of this order**. In the absence of such a motion, the Chapter 13 Trustee shall return all funds on hand to the Debtors forthwith. See *In re Elms*, 603 B.R. 11, 18-19 (Bankr. S.D. Ohio 2019) (providing an exception for the payment of attorney fees in a post-confirmation dismissed case for "cause" under 11 U.S.C. § 349(b)(3) in "the unique circumstances of each case.").

IT IS SO ORDERED.

Copies to:

All Creditors and Parties in Interest

Nathan A. Wheatley, Office of the US Trustee, 170 North High Street, Suite 200, Columbus, OH 43215-2417 (Counsel for the United States Trustee)