

FILED
at ___ O'clock & ___ min. ___ M

IN THE UNITED STATES BANKRUPTCY COURT JUN 2 2 2005

FOR THE DISTRICT OF SOUTH CAROLINA United States Bankruptcy Court
Columbia, South Carolina

IN RE:

Craig Shaw and Sybil Rosado,

Debtors.

C/A No. 01-08511-W

ORDER

Chapter 7

ENTERED

JUN 2 3 2005

D. H. R.

This matter comes before the Court upon a Motion to Reopen Chapter 7 Case (“Motion to Reopen”) filed by Craig Shaw and Sybil Rosado (collectively hereinafter referred to as “Debtors”) on June 3, 2005. The Motion requests that the Court reopen Debtors’ no-asset chapter 7 case so that they may file an adversary proceeding to determine the dischargeability certain student loans.¹

“[T]he determination to reopen a case is left to the sound discretion of the Court and depends upon the circumstances of the case, including prejudice to the creditor.” In re Gardner, 194 B.R. 576, 580 (Bankr. D.S.C. 1996) (citing Hawkins v. Landmark Finance Co., 727 F.2d 324 (4th Cir. 1984)). See also In re Walker, 198 B.R. 476, 478 (Bankr. E.D. Va. 1996) (“The decision whether or not to reopen a case is within the discretion of the Court which must look at the circumstances of the individual case.”). Because Debtors seek to reopen their case for the sole purpose of filing an adversary proceeding to determine the dischargeability of certain claims, the Court finds no need to reopen Debtors’ case. The Court’s jurisdiction to adjudicate the dischargeability of claims is the product of 28 U.S.C. § 1334 and the order of reference entered by United States District Court for the District of South Carolina. See 28 U.S.C. § 1334(a) (“district courts shall have original and exclusive jurisdiction of all cases under title 11”); 28

¹ The Court notes that Vanderbilt University Perkins Loan (“William and Fudge”) filed an objection to Debtor’s Motion to Reopen. However, the Court finds it unnecessary to consider the objection in light of the disposition provided herein.

