

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

In re

HOWARD ARON WOODS,

Case No. 99-28615-K

Debtor.
(SS No. 587-84-5124)

Chapter 13

ORDER DISMISSING CASE COMBINED WITH NOTICE OF THE ENTRY THEREOF

Based on the court's oral findings of fact and conclusions of law made in open court on May 9, 2000, pursuant to FED. R. BANKR. P. 7052, this chapter 13 case is hereby dismissed.¹

Nonetheless, the court additionally states here that a guardian (or conservator) may file a voluntary bankruptcy petition for a debtor-ward, if authorized by the guardianship court (or perhaps the guardian). See, for example and among others, *In re Kirschner*, 46 B.R. 583 (Bankr. E.D.N.Y. 1985); *In re Kjellsen*, 155 B.R. 1013 (Bankr. D. S.D. 1993). Neither the conservator appointing court (i.e., the Honorable Shelby County Chancery Court) nor the conservator authorized the filing of this chapter 13 case by the above-named debtor-ward. This is cause under the circumstances warranting a case dismissal.² As a general rule, the dismissal of a bankruptcy case should result in the dismissal of all remaining and pending proceedings. See, for example and among others, *In re Smith*, 866 F.2d 576 (3rd Cir. 1989); *In re Petty*, 848 F.2d 654 (5th Cir. 1988); see also 11 U.S.C. § 349. In exercising discretion in this case, the court, considering a totality of the particular facts and circumstances and applicable law, does not retain jurisdiction to adjudicate pending proceedings before it, after the dismissal of the instant case.

¹See 11 U.S.C. §§ 1307(c) and 105(a).

²*Id.*

This court observes that an order in Adv. Proc. No. 99-0928 herein is on appeal to the United States District Court for this Judicial District. The Bankruptcy Court Appeals Clerk is directed to promptly notify the United States District Court of the dismissal of this case by sending a cover letter and a copy of this Order, for informational purposes only, to the United States District Court Clerk and the assigned United States District Judge, if known, referencing the District Court civil action number assigned to the bankruptcy appeal.

Based on the foregoing and the case record as a whole,

IT IS ORDERED AND NOTICE IS HEREBY GIVEN THAT:

1. This chapter 13 case is hereby dismissed.³
2. The dismissal of the main case shall result in the concomitant dismissal of all pending and remaining proceedings before this court; however, this bankruptcy court order does not address or result in a similar dismissal of the appeal in Adv. Proc. No. 99-0928 herein, now pending in the United States District Court for this Judicial District. (The ultimate dismissal or not of the pending appeal rests solely in the discretion of the United States District Court.)
3. The Bankruptcy Court Clerk also is directed to send copies of this Order and Notice to all scheduled creditors, other parties in interest and their attorneys, if known (including Samuel L. Perkins, Esquire, the Conservator).

BY THE COURT

DAVID S. KENNEDY
CHIEF UNITED STATES BANKRUPTCY JUDGE

DATE: May 11, 2000

³See 11 U.S.C. § 349.