

In re: Joel Berg
Case No. 04-25167-BKC-RBR

THIS MATTER came before the Court on October 19, 2004, on Creditor TL Dallas (Special Risks) Limited's, ("TLD"), Motion to Dismiss (C.P. 10). The basis for the motion to dismiss is that the Chapter 13 filing and plan were not proposed in good faith and were done solely to preclude a trial on the objection to discharge in the Debtor's Chapter 7 proceeding currently pending in case no. 2004-2102-BKC-PGH-A. Looking at the facts of this matter as a whole, the Court concluded that the Debtor had not sustained his burden of showing that the Chapter 13 Plan was proposed in good faith. The Court found that the Debtor sought to accomplish indirectly through sequential filings, first under Chapter 7 and then Chapter 13 i.e. a Chapter 20, that which he could not achieve directly under either chapter.