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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:) Case No. 03-13438
)
LINDA A. MILLARD,) Chapter 13
)
Debtor.) Judge Arthur I. Harris

ORDER DENYING DEBTOR'S REQUESTS FOR EVIDENTIARY HEARING,
DENYING RELIEF FROM STAY, AND GRANTING MOTIONS TO DISMISS

On July 10, 2003, several matters regarding the debtor's case came before the Court. Specifically, the Court heard argument pertaining to the Chapter 13 Trustee's motion to dismiss for failure to fund (Docket # 22), the motion of Huntington National Bank (Huntington) for relief from stay (Docket # 13), the debtor's response to the motion for relief from stay (Docket # 24), and the motion of Huntington to dismiss (Docket # 16). Dexter W. Clark appeared on behalf of the debtor, and Susan E. Mandryk appeared for Huntington. Philip Lamos represented the Chapter 13 Trustee.

At the hearing on July 10, 2003, counsel for the debtor indicated that he had filed requests for an evidentiary hearing with respect to the Trustee's motion to dismiss and Huntington's motion to dismiss. Debtor's counsel evidently filed these requests (Docket ## 26, 27) in response to the Court's direction given at a hearing held on June 26, 2003, when the Court indicated that it was inclined to dismiss the

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case with 11 U.S.C. § 109(g) sanctions but would conduct an evidentiary hearing regarding the matter if the debtor requested one by July 10, 2003, and if the evidence summarized in the motion requesting the evidentiary hearing would constitute a sufficient evidentiary basis for the Court to deny the motion.

Although the debtor timely requested a hearing with respect to the motions to dismiss, she failed to proffer any evidence or explanation why the Court might rule in her favor after an evidentiary hearing. Absent such evidence or explanation, the Court will not schedule an evidentiary hearing because to do so would risk creating a situation where the parties and the Court needlessly spend time preparing for an unnecessary hearing and would result in further unnecessary delay. *Cf. In re Morris*, 260 F.3d 654, 666 (6th Cir. 2001) (holding that, for summary judgment motions, the "trial court no longer has the duty to search the entire record to establish that it is bereft of a genuine issue of material fact"). Therefore, the Court denies the debtor's requests for an evidentiary hearing (Docket ## 26, 27).

Accordingly, (1) the Trustee's motion to dismiss for failure to fund (Docket # 22) is granted; (2) Huntington's motion to dismiss (Docket # 16) is granted; and (3) Huntington's motion for relief from stay (Docket # 13) is denied

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as moot. In addition, for the reasons stated in the motions to dismiss, the Court finds that imposition of 11 U.S.C. § 109(g) sanctions is warranted. The debtor is therefore barred from filing any bankruptcy petition for 180 days from the date of this Order.

IT IS SO ORDERED.

/s/ Arthur I. Harris 07/21/2003
Arthur I. Harris
United States Bankruptcy Judge