UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:	)	
Pierre Gagne	)	Chapter 13
	)	Case No. 02-10966
Debtor	)	

ORDER DENYING MOTION TO REOPEN

The Debtor, Pierre Gagne, seeks to reopen his Chapter 13 case to seek damages against Home Loan Investment Bank for alleged violations of the automatic stay. The case was closed upon the Debtor's completion of his Chapter 13 plan. The Debtor, jointly with his wife, is also a debtor in a different Chapter 13 case currently pending before this court.[1] After hearing on the Debtor's motion, for the reasons which follow, the motion is denied.

11 U.S.C. § 350(b) permits a case to be reopened "to administer assets, to accord relief to the debtor, or for other causes." The issue of whether a case is to be reopened "is one addressed to the sound discretion of the court, guided by the statute and equitable considerations." In re Garrett, 266 B.R. 910, 912 (Bankr. S. D. Ga. 2001). Motions to reopen generally involve a weighing of competing policy considerations: "the bankruptcy policy of providing a deserving debtor with a fresh start; and the bankruptcy policy of providing, in an expedient manner, 'finality' to those disputes which arise between debtors and creditors." In re Kapsin, 265 B.R.

[1] The Chapter 13 trustee in the present case suggested at the hearing that the cause of action against Hone Loan Investmernt Bank could be raised in the pending Chapter 13 case and it may be an asset of the current estate. That issue is not properly before the court, and has not influenced the outcome of the Debtor's motion to reopen.

778, 780 (Bankr. N. D. Ohio 2001). If reopening a case would serve no purpose, the motion to reopen should be denied. See In re Hunter, 283 B.R. 353, 356 (Bankr. M. D. Fla, 2002). Further, "[l]aches is a valid and recognized defense to any motion to reopen a closed case." Id. at 357.

Courts generally permit cases to be reopened to add creditors, provided that the creditors were omitted in good faith and they were not denied the opportunity to share in any distribution, id. at 915, or to avoid liens, see Matter of Caicedo, 159 B.R. 104, 105-6 (Bankr. D. Conn. 1993)(holding that avoiding a lien is good cause to reopen, but that a motion to reopen after 8 years was untimely). However, motions to reopen which are not timely made should be denied. In the Kapsin case, for example, the court denied a motion to reopen a case to pursue dischargeability of a student loan, which was brought one and a half years after the discharge. 265 B.R. at 781.

In this case, the Debtor filed his case in 2002, he was discharged in May of 2006, and the case was closed in October of 2006. He seeks to reopen the case more than four years later, claiming that during 2004 through 2006, Home Loan Investment Bank harassed him with demands for payment. The Debtor obviously knew of these alleged actions at the time, but claims to have only recently discovered that such actions may have violated the automatic stay.

The Debtor's motion, filed more than four years after his case was closed, is

untimely. Further, there is substantial authority that a debtor may not have more than one case open at the same time. See In re Brown, 399 B.R. 162 (Bankr. W.D. Va. 2009) and cases cited therein. I therefore exercise my discretion and DENY the Debtor's motion to reopen.

SO ORDERED.

December 16, 2010

Louis H. Kornreich, Chief Judge
United States Bankruptcy Court