

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO**

In Re:

Clinton Jerome Hugo,

Debtor.

**Bankruptcy Case
No. 20-00907-JMM**

**SUMMARY ORDER DENYING DEBTOR'S
MOTION FOR REFUND OF FILING FEE**

On October 16, 2020, Clinton Jerome Hugo (“Debtor”), representing himself, filed a voluntary bankruptcy petition under chapter 11, subchapter V. Dkt. No. 1. That same day, he filed an application to pay the filing fee in installments,¹ which the Court granted. Dkt. Nos. 2, 13. The Court’s Order provided that Debtor would pay the \$1,717 chapter 11 filing fee in four installments, the first being \$430 and the other three installments were to be \$429 each. Dkt. No. 13.

On October 21, 2020, Debtor paid the first installment of \$430. Dkt. No. 20. Two days later, Debtor moved to convert the case to one under chapter 7 and paid the \$15 conversion fee. Dkt. Nos. 29, 30, and 34. Both the United States Trustee and the subchapter V Trustee filed notices of non-objection to the conversion. Dkt. Nos. 33, 35.

¹ Debtor filed an amended application to pay the filing fee in installments on October 19, 2020. Dkt. No. 12. The amended application was necessary because Debtor had not signed the initial application.

On October 30, 2020, the Court granted the motion to convert the case to one under chapter 7. Dkt. No. 36.

On November 2, 2020, Debtor moved for a refund of a portion of the filing fee he paid. Dkt. No. 40. He contended that because the first installment of the chapter 11 filing fee was \$430, and because the chapter 7 filing fee is \$335, then he should be entitled to a refund of the \$95 difference. After consideration of the applicable standards, the Court disagrees.

Under 11 U.S.C. § 348(a), the conversion of the case constituted an order for relief under chapter 7, and the case is thereafter treated as though it were a case commenced under chapter 7. Pursuant to 28 U.S.C. § 1930(f)(1), upon conversion to chapter 7, the Debtor became eligible to seek a waiver of the unpaid balance of the filing fee that was incurred upon filing his chapter 11 petition. *In re Young*, No. 17-00302, 2017 WL 3172749, at *1–2 (Bankr. D.D.C. July 25, 2017). Indeed, Volume 4, § 820.20(b)(3) of the *Guide to Judiciary Policy* states “[i]f a case is converted from another chapter to chapter 7, the court may waive any unpaid balance on the filing fee if the conditions described in section (a)(1) are satisfied.”

https://www.uscourts.gov/sites/default/files/vol04_ch08.pdf.

Section 820.20(a)(1) describes the circumstances which must be proven in order to qualify for a waiver of the filing fee. *See also*, 28 U.S.C. §§ 1930(f)(1–3). Generally, those conditions are satisfied if the debtor has income less than 150 percent of the official

poverty guidelines for the applicable family size, and he is unable to pay the fee in installments.

In considering Debtor's schedules, Schedule I specifies monthly income of \$3,400, and Schedule J indicates that Debtor claims five dependents. Dkt. No. 16-2. As such, Debtor's income falls below 150% of the poverty guidelines. Moreover, Debtor's Schedule J demonstrates that he does not have any disposable income available after paying monthly expenses.² The Court finds that Debtor meets the requirements of 28 U.S.C. § 1930, and thus he qualifies for a waiver of the remaining \$1,287 due on the chapter 11 filing fee.

Turning now to the issue of whether Debtor may be refunded the \$95 difference between the first installment of the chapter 11 filing fee, and the chapter 7 filing fee, the Court concludes that a refund is not permissible. Neither the Bankruptcy Rules nor the District of Idaho's local rules specifically address filing fee refunds. However, the Bankruptcy Fee Compendium, prepared by the Judicial Conference, provides as follows:

Refunding Fee Prohibited. The Judicial Conference generally prohibits refunding fees due upon filing. The Conference generally prohibits the clerk from refunding these fees even if the party filed the case in error and even if the court dismisses the case.

Bankruptcy Fee Compendium III (June 1, 2014 Edition), ¶ A.8, p. 16.

² Regardless of expenses and available disposable income, chapter 11 filing fees may not be waived. 28 U.S.C. § 1930(f). As such, Debtor sought the only relief available to him, which was to pay the chapter 11 filing fee in installments.

Due to the general prohibition on refunding the fees due upon filing, even in the cases where a party files in error, Debtor's filing fee cannot be refunded. *In re Henkel*, No. 15-31464, 2015 WL 5684118, at *1 (Bankr. N.D. Ohio Sept. 25, 2015).

Accordingly, for these reasons and for other good cause,

IT IS HEREBY ORDERED THAT Debtor's Motion for Partial Refund of Filing Fees Paid, Dkt. No. 40, shall be and is hereby **DENIED**.



DATED: November 10, 2020

A handwritten signature in black ink, appearing to read "J. M. Meier".

JOSEPH M. MEIER
CHIEF U. S. BANKRUPTCY JUDGE