

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

IN RE)	
)	
LANEY, CAMERON R.)	Case No. 04-04522-TLM
)	
Debtor.)	SUMMARY ORDER
)	
_____)	

Debtor Cameron Laney (“Debtor”) filed a “Motion to Reinstate Dismissed Case and to Reset 341 Meeting,” Doc. No. 11 (“Motion”), alleging he did not receive notice of the 341 meeting and thus did not attend. This Court has held that a “properly executed certificate of mailing creates a presumption of receipt of notice.” *In re Downey*, 00.1 I.B.C.R. 34, 35 (Bankr. D. Idaho 2000) (quoting *In re Ware*, 98.4 I.B.C.R. 130 (Bankr. D. Idaho 1998)); *see also Morris v. Peralta (In re Peralta)*, 317 B.R. 381, 386 (9th Cir. BAP 2004) (“A certificate of mailing raises the presumption that the documents sent were properly mailed and received.”). A party asserting non-receipt bears the burden of rebutting that presumption and, as noted in *Downey*, “a declaration or affidavit stating that notice was not received” is insufficient in and of itself to rebut the presumption. 00.1 I.B.C.R. at 35.

Here, the Bankruptcy Noticing Center's certificate of mailing, Doc. No. 3, states that Debtor was served by first class mail at 224 Douglas Rd, Ontario, OR 97914, the address he listed in his petition, Doc. No. 1. Thus, a presumption of receipt arises. Pursuant to *Downey*, Debtor's bare assertion in his Motion that he did not receive notice is insufficient to rebut the presumption of proper service.

Therefore, Debtor's Motion is DENIED.

DATED: April 26, 2005



A handwritten signature in black ink that reads "Terry L. Myers".

TERRY L. MYERS
CHIEF U. S. BANKRUPTCY JUDGE

CERTIFICATE RE: SERVICE

A “notice of entry” of this Decision, Order and/or Judgment has been served on Registered Participants as reflected by the Notice of Electronic Filing. A copy of the Decision, Order and/or Judgment has also been provided to non-registered participants by first class mail addressed to:

Cameron R. Laney
224 Douglas Road
Ontario, Oregon 97914

Case No. 04-04522 (Cameron R. Laney)

Dated:

/s/Jo Ann B. Canderan
Judicial Assistant to Chief Judge Myers