

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
CHASE MANAGEMENT GROUP, LLC ) CASE NO. 07-10728  
 )  
 )  
Debtor )

**DECISION AND ORDER**

At Fort Wayne, Indiana, on February 25, 2008.

Pending before the court in this chapter 7 case is Blackburne & Brown Mortgage Fund's objection to the trustee's motion for a 2004 examination of Richard Clowdus and Robert Szelepski. Since those motions were granted ex parte – as is usually the case for such requests – the court has characterized the objection as a motion to reconsider the court's order doing so, and is currently scheduled to hear the issue on Monday, February 25, 2008. On February 21, the parties filed a stipulation to continue the hearing. The stipulation asks that the hearing be removed from the court's calendar and represents that sometime during the next ninety (90) days the parties will file either a stipulation withdrawing the objection or ask the hearing be reset. In the meantime, they will “try to engage in . . . informal discovery processes.”

The parties stipulation to engage in an exchange of information – informal discovery processes as they call it – would seem to acknowledge that the individuals in question have information which would be useful to the trustee and which, one way or another, should be shared with him. In doing so, the stipulation acknowledges the potential need for a 2004 examination. The whole purpose of that particular bankruptcy rule is to provide a mechanism by which entities in

possession of information concerning the debtor or its operations can be forced to share it with the trustee. One always hopes that this will be done informally and voluntarily; yet, if that is not the case, Rule 2004 provides a mechanism by which it can be compelled through a subpoena and testimony under oath. Whether the trustee wants to take advantage of this particular tool is a matter committed to his discretion, and, even if he obtains authorization to use it, whether or not he actually does so – by issuing and serving the contemplated subpoenas, see, Fed. R. Bankr. P. Rule 2004(c), Rule 9016, Fed. R. Civ. P. Rule 45 – is also a matter committed to his discretion. Consequently, it seems that no purpose could possibly be served by rescheduling the hearing or holding further proceedings with regard to Blackburne & Brown’s objection. Either the parties will be successful in their informal exchange of information, in which event the trustee will have no need to use the authority that the court has, pursuant to Rule 2004, given him or he will not, in which event he will need that authority and should have the opportunity to take advantage of it. In light of this, the parties’ stipulated motion to continue hearing is GRANTED, to the extent that the hearing currently scheduled for February 25, 2008, on Blackburne & Brown Mortgage Fund’s objection to the trustee’s motion to interrogate is removed from the court’s calendar. The objection to that motion is, however, OVERRULED.

SO ORDERED.

/s/ Robert E. Grant  
Judge, United States Bankruptcy Court