

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
JOSHUA M. HUIZENGA,) CASE NO. 07-21710 JPK
) Chapter 7
Debtor.)

ORDER DENYING MOTION FOR EXTENSION OF TIME
TO FILE A COMPLAINT OBJECTING TO DISCHARGE OF DEBTOR
PURSUANT TO 11 U.S.C. 523 ("MOTION")

This Chapter 7 case was initiated by voluntary petition filed on July 5, 2007. The first date set for the meeting of creditors was August 1, 2007, and thus the deadlines for filing complaints pursuant to Fed.R.Bankr.P. 4007(c) [complaints requesting exception of a debt from discharge under 11 U.S.C. § 523(c)] and Fed.R.Bankr.P. 4004(b) [complaints objecting to discharge pursuant to 11 U.S.C. § 727(a)] was October 1, 2007. On September 27, 2007, the debtor, by counsel, filed a motion entitled "Motion to Defer Discharge of Debtor", together with a proposed form of order. The Court entered an order approving this motion on October 4, 2007: that order stated that "Debtor's Discharge Date should be extended to October 31, 2007 in the above bankruptcy proceeding". On October 31, 2007, the debtor, by counsel, filed another Motion to Defer Discharge of Debtor, and the Court again granted this by its order entered on November 1, 2007: this order extended the debtor's discharge date to December 3, 2007. Again, on December 4, 2007, another motion – titled exactly as were the prior two – was filed, and again the Court entered an order on December 7, 2007, granting a deferral of discharge, this time to January 31, 2008.

Now, on February 1, 2008, along comes the Motion designated above. Unlike its predecessors, this motion is not phrased in terms of deferral of discharge, but rather is phrased in terms of extension of time to file a complaint objecting to discharge pursuant to 11 U.S.C. § 523, presumably referring to the deadline provided by Fed.R.Bankr.P. 4007(c) for complaints

subject to 11 U.S.C. § 523(c). The three prior motions on their own terms, and pursuant to the forms of order tendered by the counsel who drafted the motions, expressly fall within the provisions of Fed.R.Bankr.P. 4004(c)(2), and thus relate solely to deferring the entry of discharge. There is nothing in any of those orders that extends any deadline established by Fed.R.Bankr.P. 4007(c). Thus, the deadline for filing complaints pursuant to that rule expired on October 1, 2007. That rule clearly states that any motion for extension of time to file a complaint under 11 U.S.C. § 523(c) must be filed before the applicable deadline has expired, and can only be granted “after hearing on notice . . . for cause”. The instant Motion is simply filed too late, and even if one were to construe the orders entered on its three predecessors to have somehow ambiguously extended the deadline established by Rule 4007(c), the last extension expired on January 31, 2008 and the instant motion wasn’t filed until February 1, 2008.

Based upon the foregoing, the Court determines that the Motion must be denied.

IT IS ORDERED that the above-designated Motion is denied.

IT IS FURTHER ORDERED that, if all other conditions for the entry of an order of discharge of the debtor have been satisfied, the Clerk shall forthwith enter the debtor’s discharge on the record of this case.

Dated at Hammond, Indiana on March 11, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee