

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)	CASE NO.	08-10905
)	CHAPTER	7
WILLIAM RUSSELL MAXSON)		
)		
)		
Debtor)		

DECISION

At Fort Wayne, Indiana, on September 5, 2008.

In this chapter 7 case, the United States Trustee has filed a motion to dismiss pursuant to various provisions of § 707(b) of the United States Bankruptcy Code. That motion is scheduled to be heard on September 24, 2008. On September 2, the debtor filed his response to the U.S. Trustee’s motion and, in doing so, consents to the dismissal of the case.

Although all creditors and parties in interest generally receive notice of the hearing to consider the dismissal of a chapter 7 case, no notice is required where the hearing concerns § 707(b). See, Fed.R. Bankr. P. Rule 2002(a)(4). Although the U.S. Trustee often includes grounds other than 707(b) as a basis for motions to dismiss – for example, § 707(a)(1), “unreasonable delay by the debtor . . .” – and, perhaps out of an excess of caution, the court schedules all such motions for a hearing on notice to all creditors, in this instance the exclusive basis for the U.S. Trustee’s motion is §707(b). As a result, there was no need to give notice of the hearing to anyone other than the U.S. Trustee and the debtor. Since the debtor has now consented to the U.S. Trustee’s motion, the court sees no reason to delay, or why the outcome of the motion should await a hearing which would be a little more than a formality when neither the underlying facts or the ultimate disposition of the motion are in issue. As a result, the U.S. Trustee’s motion to dismiss will be granted and the hearing currently scheduled for September 24, 2008, at 10:00 a.m., removed from the court’s calendar. An

order doing so will be entered.

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