

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
PARTNERS CORPORATION,) CASE NO. 97-60555
) Chapter 7
Debtor.)

ORDER REGARDING FURTHER PROCEEDINGS
REGARDING MATTERS RELATING TO CLAIM #41 AND #42

On August 7, 2009, a preliminary pre-trial conference was held with respect to matters relating to claim #41 and #42 filed by Terry McNew and Barbara McNew. The Chapter 7 Trustee David R. DuBois appears personally; Terry McNew and Barbara McNew appear by counsel Andrew Kraemer; Terry McNew is in attendance at the hearing.

Originally, the court discussed with the parties the apparent contentions of claims filed by Terry and Barbara McNew. One such claim was stated by Attorney Kraemer to seek to obtain allowance of a claim for amounts paid by the claimants with respect to federal tax liabilities imposed pursuant to 26 U.S.C. § 6672, derived from federal employment tax liabilities of the debtor corporation. The other contention appears to relate to a claim for allowance of a claim for amounts paid by the claimants to a creditor with respect to an indebtedness of the debtor corporation which they personally guaranteed. At the hearing, the court stated that the parties would be directed to file separate briefs regarding the foregoing designated issues. However, the court has now further reviewed the record, and the matter is a little bit more involved than what was addressed at the hearing. The claims of Terry and Barbara McNew originally at issue are docketed on the claims register as claim #41 and #42. On February 26, 2009, the Chapter 7 Trustee filed an objection to claim #41. An order sustaining this objection was entered by the court on April 3, 2009, and at that point the claim was disallowed. On April 21, 2009, a Motion for Relief From Judgment/Order Pursuant to Rule 60 was filed by the claimants, and this motion was set for hearing by order entered on May 7, 2009. At the hearing

held with respect to that motion on June 19, 2009, the hearing was continued to August 7, 2009. Thus, at the present time, claim #41 has been disallowed, and matters relating to the claimants' Rule 60 motion have been deemed to be a request for reconsideration of disallowance of the claim pursuant to Fed.R.Bankr.P. 3008 by order entered by the court on May 7, 2009.

On February 17, 2009, the Trustee objected to claim #42 filed by Terry McNew and Barbara McNew. The claimants filed a response to this objection on April 16, 2009. The hearing on the objection and the response was originally scheduled for May 22, 2009 by order entered on April 17, 2009. Pursuant to an order entered on May 26, 2009, the Trustee's objection to claim #42 was sustained, and the claimants were ordered to file an amended claim within 21 days. Thus, as of August 7, 2009, claim #42 has been disallowed and the claimants were to have filed an amended claim. That amended claim appears to have been filed as claim #42-2 on May 26, 2009. There has been no objection to that claim, and thus as things presently stand that claim is deemed allowed.

On March 30, 2009, the Internal Revenue Service filed a claim. Although this claim is not designated as an amendment of a prior claim, it would seem that this claim somehow relates to claim #14-1 filed by the Internal Revenue Service on March 26, 1997.

On June 1, 2009, claim #45-1 was filed. This claim is a series of blank pages on the court's docket record, and the court finds that claim #45-1 should be stricken.

With respect to claim #41, no reconsideration is necessary. This claim was filed by "Terry McNew on behalf of IRS": because the Internal Revenue Service has filed its own proofs of claim, filing of anything on its behalf by another person or entity is not permitted. It appears from matters addressed at the hearing on August 7, 2009 that the intent of the McNews is to file a claim in their own right for amounts which they have paid to the Internal Revenue Service for tax liabilities pursuant to 26 U.S.C. § 6672, derived from Form 941 federal tax liabilities of the

debtor corporation. There is no claim of that nature now before the court.

Thus, to sum up, at this point claim #42 has been superseded by claim #42-2, to which there has been no objection. Claim #41 has been disallowed, and that disallowance will not be reconsidered. The disallowance is of course without prejudice to the claimants to file a claim on their own behalf with respect to tax liabilities which they have paid; however, that claim will in all probability be deemed to be a late-filed claim, absent some showing by the claimants that it should be deemed otherwise.

IT IS ORDERED as follows:

1. Claim #45-1 is stricken.
2. The motion filed on April 21, 2009 by the claimants – deemed by the court to be a motion for reconsideration pursuant to Fed.R.Bankr.P. 3008 – is denied.
3. A hearing will be held on **September 18, 2009, at 10:00 A.M.** to address further matters with respect to claims presented, or which may be presented, by Terry McNew and Barbara McNew.

Dated at Hammond, Indiana on August 20, 2009.

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

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee
Andrew Kraemer