

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
TRICIA ELIZABETH HOWE,) CASE NO. 10-20570-jpk
) Chapter 7
Debtor.)

ORDER DENYING MOTION TO VACATE DISCHARGE FOR SOLE PURPOSE OF FILING
REAFFIRMATION AGREEMENT ["MOTION"]

The Motion was filed by the debtor, by counsel, on June 28, 2010. The motion seeks to have the court vacate the order of discharge of the debtor entered in this case on June 1, 2010 for the apparent purpose of presenting two reaffirmation agreements to the court, one with Centier Bank and one with Ford Motor Credit. The sole basis for the requested relief is that the two agreements were "not executed completely prior to entry of the Order of Discharge." No reason is given as to why the agreements were not executed sooner.

Setting aside an order of discharge has ramifications upon creditors and parties-in-interest who have assumed that the debtor's discharge has been granted. At minimum, a very concrete cause for vacating a discharge order must be presented to the court, one better than essentially "we just didn't do it on time." Moreover, the Motion was filed 28 days after the date of entry of the discharge, and if the need to enter into these agreements was so pressing, the court would have expected the motion to have been filed sooner. (The court notes that a hearing has been scheduled on a motion filed on June 4, 2010 for approval of a reaffirmation agreement between Centier Bank and the debtor). The proper procedure to be employed in a circumstance in which a reaffirmation agreement is "in the works" but the deadline for granting a discharge provided for by Fed.R.Bankr.P. 4004(c) is approaching – is to utilize the provision of Rule 4004(c)(2) to defer the entry of an order of discharge. Finally, the motion is essentially one under Fed.R.Bankr.P. 9024, and no supporting brief was filed as required by N.D.Ind.L.B.R. B-9023-1(a).

IT IS ORDERED that the Motion is Denied.

Dated at Hammond, Indiana on July 19, 2010.

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

Distribution:

Debtor, Attorney for Debtor
Trustee, US Trustee,
Attorney Terri Long
Attorney Lambert Genetos