

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

RICHARD ALAN PIZZUTI and
SHARON LINDA PIZZUTI,

Case No. 6:10-bk-12098-ABB
Chapter 7

Debtors.

ORDER

This matter came before the Court on the Motion for Reconsideration (Doc. No. 86) filed by the Debtors Richard Alan Pizzuti and Sharon Linda Pizzuti and the Motion in Opposition (Doc. No. 108) filed by Patricia Krantz *pro se* ("Ms. Krantz"). A hearing was held on December 13, 2010 at which Ms. Krantz, counsel for the Debtors, and counsel for the Chapter 7 Trustee George E. Mills ("Trustee") were present. The Debtors' Motion for Reconsideration is due to be denied and the relief sought in Movant's Motion in Opposition is due to be denied for the reasons set forth herein.

Debtors' Motion for Reconsideration

The Debtors filed this case on July 9, 2010. The Trustee commenced the Section 341 meeting of creditors on September 1, 2010 and continued the meeting. It has not been concluded. The original deadline to file a complaint objecting to discharge pursuant to 11 U.S.C. Section 523 or determine the dischargeability of a debt pursuant to 11 U.S.C. Section 727 was October 26, 2010 and was re-set to November 1, 2010 pursuant to the Amended Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors & Deadlines (Doc. No. 20).

The Trustee and seven creditors filed motions requesting extensions of the deadlines for filing complaints and for objecting to the Debtors' exemption claims (Doc. Nos. 38, 39, 58, 69) (collectively, "Extension Motions"). The moving creditors are: Judy Rogers, Tracey Riley, Joseph Gannoum, Patrick Boyle, Carlton Ralph, ETI, GlobalCon, Inc. (collectively with the Trustee, "Moving Parties"). The Extension Motions were timely filed pursuant to the Amended Notice and Federal Rules of Bankruptcy Procedure 4003(b), 4004(b), and 4007(c).

The Extension Motions set forth detailed grounds for the Moving Parties' extension requests:

- (i) The Trustee continued the Section 341 meeting of creditors on the basis he believes the Debtors have additional information which may impact the Debtors' right to a discharge and which is relevant to the administration of this case.
- (ii) The Debtors have an unusually large amount of unsecured debt and their assets are relatively insubstantial. Their schedules set forth assets of \$367,586.00 and debts of \$8.2 million, of which \$7.6 million are unsecured non-priority claims.
- (iii) The unsecured creditors are mostly individuals who invested in various companies owned or controlled by the Debtors, and, in some instances, the investment was a significant portion of the creditor's life savings. Many creditors appeared at the meeting of creditors and examined the Debtors.
- (iv) The Debtors appear to have ownership or control of several companies in addition to those listed in Schedule B.

A hearing was held on November 1, 2010 at which the Court granted the Extension Motions. The Debtors did not file an objection to the Extension Motions nor did they contest the timeliness of the Extension Motions at the hearing. The Court ruled in open Court the Extension Motions were granted and the deadlines were extended as to all parties in interest.

A written Order was entered on November 5, 2010 (Doc. No. 80) setting forth the Court's ruling made in open Court:

The time within which the Trustee *and any other party in interest* may file complaints objecting to discharge and dischargeability pursuant to Sections 727 and 523 of the Bankruptcy Code is hereby extended through and including December 31, 2010, subject to such further extensions, if any, as the Court may allow upon subsequent motion.

The time within which the Trustee *or any party in interest* may file objections to the Debtors' claim of exemptions is hereby extended through and including December 31, 2010, subject to further extensions, if any, as the Court may allow upon subsequent motion.

Doc. No. 80, p. 2 (*emphasis added*). The Debtors seek reconsideration of the November 5, 2010 Order on the basis it impermissibly extends the objection deadlines for not only the Moving Parties, but for all parties in interest.

The Debtors' Motion for Reconsideration is governed by Federal Rule of Civil Procedure 59, which is applicable to bankruptcy proceedings through Federal Rule of Bankruptcy Procedure 9023. Sussman v. Salem, Saxon & Nielson, P.A., 153 F.R.D. 689, 694 (M.D. Fla. 1994). “[R]econsideration of a previous order is an extraordinary remedy to be employed sparingly.” Id. The only grounds for granting a motion for reconsideration pursuant to Federal Rule of Bankruptcy Procedure 9023 “are newly-discovered evidence or manifest errors of law or fact.” Kellogg v. Schreiber (In re Kellogg), 197 F.3d 1116, 1119 (11th Cir. 1999).

Rules 4003(b), 4004(b), and 4007(c) allow a “party in interest” to seek extension of the deadlines for objecting to exemption claims and for filing Section 523 and Section 727 complaints. An extension request pursuant to these Rules “normally inures to the benefit of the movant only” and not to any party in interest who did not timely file an extension motion. Marshall v. Demos (In re Demos), 57 F.3d 1037, 1039 (11th Cir.

1995). A Bankruptcy Court is empowered to exercise its equitable powers pursuant to 11 U.S.C. Section 105(a) to extend the complaint filing deadlines for all parties in interest, even those who did not file an extension motion. Id.

The Moving Parties timely sought extensions of the deadlines as to themselves. This Court determined the objection deadlines should be extended as to all creditors and parties and interest based upon:

- (i) the presentations of the Moving Parties in their pleadings and in open Court;
- (ii) the contents of the Debtors' bankruptcy papers;
- (iii) the complexity of this case involving a network of interrelated entities and substantial unsecured debt;
- (iv) the significant number of general unsecured creditors;
- (v) the Debtors' inability at the Section 341 meeting of creditors to explain certain representations in their bankruptcy papers and to answer almost any questions related to their various investment companies;
- (vi) several motions to conduct Rule 2004 examinations of the Debtors and others have been filed;
- (vii) many of the creditors appear to be unsophisticated in financial and bankruptcy matters and are unrepresented by counsel;
- (viii) the unrepresented creditors and parties in interest are looking to the Trustee and the represented parties for direction as to how to proceed in this case.

The Court exercised its equitable powers to extend the objection deadlines as to all parties in interest. The exercise of such powers was authorized pursuant to 11 U.S.C. Section 105(a). In re Demos, 57 F.3d at 1039.

The Court ruled in open Court and in its November 5, 2010 Order the objection deadlines were extended as to the Trustee and all parties in interest. The plain meaning

of the Court's language is that the deadlines were extended as to all parties in interest. The Court made no error in its ruling—it intended to extend the Section 523, Section 727, and exemption objection deadlines as to all parties in interest. The creditors and other parties in interest are entitled to rely on the plain meaning of such language. *Id.* at 1039-40.

The Debtors have established no basis for reconsideration of the November 5, 2010 Order. Their Motion is due to be denied.

Motion in Opposition

Ms. Krantz filed a Motion in Opposition in response to the Debtors' Motion for Reconsideration. The relief she seeks is difficult to discern. She appears to oppose the Debtors' Motion citing Federal Rule of Civil Procedure 60. She contends the Debtors have committed fraud upon the Court and her as a "party in interest," but "she is not a creditor of these debtors" (Doc. No. 108, p. 5). Ms. Krantz has established no basis for granting her any relief.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Debtors' Motion for Reconsideration (Doc. No. 86) is hereby **DENIED**; and it is further

ORDERED, ADJUDGED and DECREED that the relief sought in the Opposition filed by Patricia Krantz (Doc. No. 108) is hereby **DENIED**.

Dated this 6th day of January, 2011.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge