UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re	)	Case No. 6:07-bk-00761-KSJ
	)	Chapter 11
LOUIS J. PEARLMAN, *et al.*,	)	Jointly Administered with
	)	6:07-bk-00762-KSJ
Debtors.	)	6:07-bk-00832-KSJ
	)	6:07-bk-01504-KSJ
	)	6:07-bk-01505-KSJ
	)	6:07-bk-01779-KSJ
	)	6:07-bk-01856-KSJ
	)	6:07-bk-02431-KSJ
	)	6:07-bk-02432-KSJ
	)	6:07-bk-04160-KSJ
_____	)	6:07-bk-04161-KSJ
	)	
SONEET KAPILA, AS CHAPTER 11 TRUSTEE,	)	Adversary No. 6:09-ap-715
	)	
Plaintiff,	)	
vs.	)	
	)	
INTEGRA BANK,	)	
	)	
Defendant.	)	
_____	)	

ORDER DENYING MOTION FOR RECONSIDERATION

This adversary proceeding came on for consideration on the Motion of Integra Bank, N.A., to Reconsider in Part the Court's Ruling on Plaintiff's Motion to Strike Certain Designations of Items to be Included in the Record on Appeal Filed by Integra Bank, N.A., with Respect to Bank Test Case No. 1 (Doc. No. 59).

The legal standard for reconsideration is defined in Federal Rule of Bankruptcy Procedure 9023[1] and Federal Rules of Civil Procedure 59 and 60. "Reconsideration of an order under Rule 59(e) 'is an extraordinary remedy to be employed sparingly'" due to interests in

[1] Federal Rule of Bankruptcy Procedure 9023 governs new trials and amendment of judgments and provides that Federal Rule of Civil Procedure 59 applies in bankruptcy cases except as provided in Rule 3008, which is not applicable here.

finality and conservation of judicial resources.[2] The purpose of Rule 59(e) is not "to give an unhappy litigant one additional chance to sway the judge."[3] Indeed, "[i]t is improper on a motion for reconsideration to ask the Court to rethink what it ha[s] already thought through—rightly or wrongly."[4]

In the Eleventh Circuit, the only grounds for granting a motion for reconsideration "are newly-discovered evidence or manifest errors of law or fact."[5] Motions for reconsideration should not be used "to raise arguments which could, and should, have been made before the judgment was issued."[6] Where courts have granted relief under Rule 59(e), they have generally done so in order to: (1) account for an intervening change in controlling law, (2) consider newly available evidence, or (3) correct clear error or prevent manifest injustice.[7] The decision whether to alter or amend a judgment pursuant to Rule 59(e) is within a trial court judge's discretion and will not be overturned absent an abuse of discretion.[8]

In its motion for reconsideration, Integra again seeks authority to include a statement by the Official Committee of Unsecured Creditors (Doc. No. 3187 in the Main Case) in its record on appeal. Although this Court previously ruled that she did not consider the Committee's Statement in deciding on the underlying order on appeal (Doc. No. 57), Integra apparently disagrees, arguing that the Court "very likely considered" the Statement and that "it seems highly unlikely that the Court would not have considered" the Statement (Doc. No. 59). On this point,

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[2] *In re Mathis*, 312 B.R. 912, 914 (Bankr. S.D. Fla. 2004) (*citing Sussman v. Salem, Saxon & Nielsen, P.A.*, 153 F.R.D. 689, 694 (M.D.Fla.1994); *accord Taylor Woodrow Construction Corp. v. Sarasota/Manatee Airport Authority*, 814 F. Supp. 1072, 1073 (M.D.Fla.1993)).

[3] *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990) (*citing Durkin v. Taylor*, 444 F.Supp. 879, 889 (E.D.Va.1977)).

[4] *Glendon Energy Co. v. Borough of Glendon*, 836 F.Supp. 1109, 1122 (E.D.Pa.1993) (*citing Ciba-Deigy Corp. v. Alza Corp.*, Civ.A. No. 91-5286, 1993 WL 90412 (D.N.J. March 25, 1993)).

[5] *In re Kellogg*, 197 F.3d 1116, 1119 (11th Cir.1999).

[6] *Lussier v. Dugger*, 904 F.2d 661 (11th Cir. 1990) (*quoting Federal Deposit Ins. Corp. v. Meyer*, 781 F.2d 1260, 1268 (7th Cir. 1986); *Sanderlin v. Seminole Tribe of Florida*, 243 F.3d 1282, 1292 (11th Cir. 2001).

[7] *Mathis*, 312 B.R. at 914 (citations omitted).

[8] *American Home Assurance Co. v. Glenn Estess & Assocs.*, 763 F.2d 1237, 1238-39 (11th Cir.1985)).

the Court is clear. She did not rely upon the Statement in ruling upon Integra's motion to dismiss. As such, although Integra may hold some powers of clairvoyance, in this case at least, it is incorrect.

Nor, after reviewing the Statement in connection with these post-decision motions on the breadth of the appellate record, would the Court consider the Statement helpful to the appellate court. The legal issue presented by Integra's motion to dismiss was narrowly limited to the sufficiency of the Trustee's adversary complaint. The Committee's Statement, on the other hand, is filled with numerous allegations and insinuations against the Trustee that are more prejudicial than beneficial to any appellate court ruling on the issues. Given that this Court did not rely on these prejudicial statements in ruling on Integra's motion, I cannot imagine why an experienced appellate judge would find them beneficial.

Accordingly, Integra has failed to provide any legitimate basis for reconsideration of the Court's prior order. As such, it is

ORDERED that the Motion for Reconsideration is denied.

DONE AND ORDERED in Orlando, Florida, on July 28, 2011.

KAREN S. JENNEMANN
United States Bankruptcy Judge

Copies provided to:

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