

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re

Case No. 8:05-bk-1993-KRM
Chapter 13

WILLIAM T. LINKOUS,

Debtor.

ORDER ON COURT'S ORDER TO SHOW
CAUSE TO R. ERIC RUBIO FOR HIS FAILURE
TO COMPLY WITH THE COURT'S ORDER
AND IMPOSING SANCTIONS

THIS CAUSE arises on the Court's Order to Show Cause entered on February 14, 2006 (Document No. 35), which was set for hearing on March 7, 2006. Counsel for the debtor, R. Eric Rubio, failed to appear at said hearing as directed by the Order to Show Cause.

The Court has reviewed the file and finds that debtor's counsel, R. Eric Rubio, initially failed to attend a hearing held on December 7, 2005, on his client's motion for reconsideration of a prior order dismissing this Chapter 13 case.¹ Thereafter, Mr. Rubio failed to appear in court on January 4, 2006, as required by this Court's *first* Order to Show Cause (Document No. 25), as to why Mr. Rubio should not be sanctioned for failing to represent his client at the December 7, 2005, hearing. Thereafter, on January 18, 2006, this Court entered an Order Imposing Sanctions for Attorney's Failure to Show Cause (Document No. 29), requiring Mr. Rubio to refund \$500.00 to his client as a sanction for his contempt. On February 8, 2006, the debtor appeared in court to advise that he had not received the \$500.00 payment from Mr. Rubio. This Court then issued a *second* Order to Show Cause (Document No. 35), requiring Mr. Rubio to appear in Court on March 7, 2006, to explain his failure to comply with the Court's previous orders and why additional sanctions

should not be imposed. Mr. Rubio failed to appear at the March 7, 2006, hearing.

Mr. Rubio finally did appear in Court on March 29, 2006, at the hearing on confirmation of the debtor's Chapter 13 plan. Also under consideration at that time was Mr. Rubio's application for an award of \$2,500 of fees. At the hearing, Mr. Rubio offered no meaningful explanation or excuse for his failure to appear or otherwise comply with this Court's orders.

Accordingly, the Court finds that attorney R. Eric Rubio is in contempt of Court and that appropriate additional sanctions should be imposed. It is, therefore

ORDERED:

1. He shall be allowed no attorney's fees whatsoever in this Chapter 13 case. Within thirty (30) days from the entry of this order, Mr. Rubio shall refund to the debtor the sum of \$1,000, which is the amount of the retainer Mr. Rubio received to handle this case.

2. Within thirty (30) days from the entry of this order, R. Eric Rubio, shall file with this court a certificate showing his compliance with Paragraph 1 of this order. The certificate of compliance shall be a short written statement, signed by Mr. Rubio, attesting to the fact that the sum of \$1,000 has been paid to the debtor. Mr. Rubio shall also serve the certificate on the debtor.

DONE and ORDERED in Tampa, Florida,
this 30th day of March, 2006.

/s/ K. Rodney May
K. RODNEY MAY
United States Bankruptcy Judge

¹ The Court heard argument by the debtor and by the Chapter 13 trustee and granted the motion, without benefit of Mr. Rubio's appearance.

Copies Furnished To:

William T. Linkous, Debtor, 12435 Grapefruit Lane, Balm, Florida 33503

R. Eric Rubio, Esquire, Attorney for Debtor, 619 Stone Drive, Brandon, Florida 33510

Terry E. Smith, Trustee, Post Office Box 6099, Sun City Center, Florida 33571

United States Trustee, Timberlake Annex, Suite 1200, 501 E. Polk Street, Tampa, Florida 33602