

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

Case No. 6:07-bk-02502-ABB
Chapter 7

MARK JOSEPH DONAHUE, SR., and
KAREN LEE DONAHUE,

Debtors.

MARK JOSEPH DONAHUE, SR. and
KAREN LEE DONAHUE,

Plaintiffs,

vs.

Adv. Pro. No. 6:07-ap-00163-ABB

DEPARTMENT OF REVENUE,
INTERNAL REVENUE SERVICE,

Defendant.

ORDER

This matter came before the Court on the Motion for Rehearing (Doc. No. 27) filed by Mark Joseph Donahue, Sr. and Karen Lee Donahue, the Debtors herein (collectively, "Debtors") and the United States of America's Opposition thereto (Doc. No. 28) filed by the IRS.

The Debtors seek reconsideration of the Memorandum Opinion and Judgment entered on August 25, 2008 (Doc. Nos. 23, 24) determining the dischargeability of tax liabilities for various tax years. The Debtors set forth as the basis for their Motion they "feel that additional evidence which was presented in testimony and not fully considered would enable the Court to render a more complete determination." Motion at p. 1.

The Debtors' Motion is governed by Federal Rule of Civil Procedure 59(e), which is made applicable to bankruptcy proceedings through Federal Rule of Bankruptcy Procedure 9023. FED. R. CIV. P. 59(e) ("A motion to alter or amend a judgment must be filed no later than 10 days after the entry of the judgment."); FED. R. BANKR. P. 9023. The only grounds for

granting a motion for reconsideration "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).

The Debtors had ample opportunity to prosecute this adversary proceeding. Evidentiary hearings were conducted on May 8, 2008 and July 14, 2008. The Debtors failed to file a response to the IRS' supplemental post-hearing documentation. The Court considered all of the evidence presented in rendering its determination of this adversary proceeding.

The Debtors have presented no newly-discovered evidence or manifest error of law or fact warranting the reconsideration or amendment of the Memorandum Opinion and Judgment. No basis for reconsideration or amendment of the Memorandum Opinion and Judgment has been established pursuant to Federal Rule of Civil Procedure 59(e).

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the IRS' Opposition (Doc. No. 28) is hereby **SUSTAINED** and the Debtors' Motion (Doc. No. 27) is **DENIED**.

Dated this 10th day of September, 2008.

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