

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:) In Proceedings
) Under Chapter 7
ROGER D. HERN,)
) No. BK 89-30210
Debtor(s).)

ORDER

This matter is before the Court on a Motion for Leave to File Adversary Complaint objecting to Discharge filed by Cromwell Music, Inc., Bourne Co., Halnat Publishing Co., Hideout Records and Distributors, Inc. and Shapiro, Bernstein & Co. ("movants"). Movants request leave to file a complaint under section 523(c) and apparently under section 727 of the Bankruptcy Code. The last date for filing a complaint under either section was June 20, 1989, the discharge order was entered on June 21, 1989, and movants' motion was filed June 27, 1989.

Bankruptcy Rule 4004(a) provides in pertinent part:

In a chapter 7 liquidation case a complaint objecting to the debtor's discharge under §727(a) of the Code shall be filed not later than 60 days following the first date set for the meeting of creditors held pursuant to §341(a).

Similarly, Rule 4007(c) provides that "[a] complaint to determine the dischargeability of any debt pursuant to §523(c) of the Code shall be filed not later than 60 days following the first date set for the meeting of creditors.... " Finally, Rule 9006(b)(3), relating to the enlargement of time periods under specified rules, provides:

The court may enlarge the time for taking action under Rules... 4004(a) [and] 4007(c) ... only to the extent and under the conditions

stated in those rules.

Bankruptcy Rule 9006(b)(3) (emphasis added). Both Rule 4004 and 4007 expressly provide that requests for extensions of time must be made within the original time period allowed for filing the complaint. See Bankruptcy Rules 4004(b) and 4007(c). The Court has no discretion to grant a motion to extend time if such motion is not filed within that time period. 8 Collier on Bankruptcy §4007.05[3][a] at 4007-12. Since the time requirements of Rules 4004 and 4007 are mandatory and since movants' request for leave to file the complaint was not timely made, movants' request must be denied.

Accordingly, the Motion for Leave to File Adversary Complaint Objecting to Discharge is DENIED.

/s/ Kenneth J. Meyers
U.S. BANKRUPTCY JUDGE

ENTERED: July 6, 1989