

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: : **CHAPTER 11**
: **WILLIAM JEFFREY VAN LANDINGHAM,** : **CASE NO. 09-73958-MHM**
: **Debtor.** :

ORDER DISMISSING CASE AND DIRECTING PAYMENT OF CERTAIN FEES

Acting *pro se*, Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code June 1, 2009. Contemporaneously with the filing of the petition, Debtor filed an application to pay the \$1,039 filing fee in installments, and June 2, 2009, an order was entered granting that request [Doc. No. 4].

On June 30, 2009, S. Lee Storesund, Esq., entered an appearance as Debtor's counsel by filing a "Disclosure of Compensation of Attorney for Debtor" pursuant to 11 U.S.C. § 329(a) and Fed. Bankr. P. 2016(b), in which he disclosed that Debtor had paid him a \$6,000 retainer (the "Retainer") [Doc. No. 19]. On August 6, 2009, the Clerk issued a notice that Debtor was in default in paying the final installment of the filing fee, which is \$350.00 [Doc. No. 43].

The payment of a retainer while any portion of the filing fee remains unpaid violates Bankruptcy Rule 1006(b)(3), which provides that "[a]ll installments of the filing fee must be paid in full before the debtor ... may make further payments to an attorney or any other person who renders services to the debtor in connection with the case."

The United States Trustee filed a motion to dismiss July 9, 2009 [Doc. No. 20] (the "Motion"). Hearing on the Motion was held August 11, 2009, following notice to creditors and other parties in interest in accordance with Bankruptcy Rule 2002(a). Appearances were entered by Mr. Storesund on behalf of Debtor and by Mr. Morawetz on behalf of the United States Trustee. Based upon the comments of Debtor's counsel, Debtor no longer wishes to proceed with the case and does not oppose the entry of a dismissal order. Accordingly, it is hereby

ORDERED that this case is *dismissed*. It is further

ORDERED that, within ten (10) days of the date of entry of this order, from the Retainer, Debtor's counsel shall remit to the Clerk, U.S. Bankruptcy Court, the remaining balance of the filing fee, together with all outstanding special charges due; and shall remit to the United States Trustee all chapter 11 quarterly fees incurred in the case pursuant to 28 U.S.C. § 1930(a)(6).

IT IS SO ORDERED this the ____ day of October, 2009.

MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE

Prepared and presented by:

/s/ *James H. Morawetz*

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DISTRIBUTION LIST

Pursuant to Local Rule 9013-3(d)(2) for the United States Bankruptcy Court, Northern District of Georgia, the Clerk of the Court is hereby directed to serve notice of this Order on the following:

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