

DEC 11 2007

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF GEORGIA
 ATLANTA DIVISION

IN RE:)	CHAPTER 11
)	
DERRICK L. PATTERSON,)	CASE NO. 07-61961-MHM
)	
Debtor.)	

ORDER DENYING APPLICATION FOR COMPENSATION OF K.A. FOREMAN

This case commenced as a case under Chapter 11 February 5, 2007. At the time this case was filed, Debtor was represented by Diana McDonald. On July 20, 2007, Ms. McDonald filed a Consent Motion for her withdrawal as attorney for Debtor. Because that Consent Motion was deficient, an amended Certificate of Consent was filed July 27, 2007, which provided for Ms. McDonald's withdrawal and the substitution of K.A. Foreman as attorney for Debtor. This case was converted to a Chapter 7 case July 23, 2007.¹

On July 29, 2007, Debtor filed an application (the "Application") to employ K.A. Foreman as attorney for debtor. By order entered August 8, 2007, that Application was denied as unnecessary because, upon conversion, the Trustee's attorney displaced the debtor's attorney. *In re NRG Resources, Inc.*, 64 B.R. 643 (W.D.La. 1986). An attorney employed by a Chapter 11 debtor who continues to perform services after conversion and appointment of a Chapter 7 Trustee may be compensated from property of the estate only if the attorney is either retained by Trustee for a specific and limited special purpose with

¹ The appointment of a Chapter 11 Trustee had been approved by consent order entered May 25, 2007.

prior court approval or performs services that are beneficial to the administration of the estate. *In re Xebec*, 147 B.R. 518 (9th Cir. BAP 1992); *In re Sugarman*, 137 B.R. 391 (Bankr. S.D.Cal. 1992); *In re TS Industries, Inc.*, 125 B.R. 638 (Bankr. D. Utah 1991); *In re Ginji Corp.*, 117 B.R. 983 (Bankr. D. Nev. 1990).

Mr. Foreman filed his application for compensation in compliance with the direction in the order entered July 23, 2007, converting the case and directing all professionals employed by the Chapter 11 debtor to file applications for compensation. As set forth above, however, a debtor's attorney is entitled to compensation from the estate following conversion only under extremely limited circumstances, which are not present here. All the services by Mr. Foreman were rendered after the Chapter 11 Trustee was appointed, and most of the services were rendered after the case was converted. Mr. Foreman had been paid a retainer of \$3,500. Mr. Foreman turned over that retainer to the Chapter 7 Trustee in August, 2007. Accordingly, it is hereby

ORDERED that the application of K.A. Foreman for compensation is *denied*.

The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon Debtor, Debtor's current and former attorneys, the Chapter 7 Trustee, and the U.S. Trustee.

IT IS SO ORDERED, this the 10th day of December, 2007.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE