

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 7
)	
RONALD ANDREW POCH,)	CASE NO. 08-68429 - MHM
)	
Debtor.)	

**ORDER GRANTING UNITED STATES TRUSTEE'S
MOTION FOR EXTENSION OF TIME**

On April 6, 2010, the United States Trustee ("UST") filed a motion to extend the deadlines in Bankruptcy Rules 1017 and 4004 (Doc. No. 132). UST alleges he is reviewing this case to determine whether a motion to dismiss under §707(b) or a complaint objecting to Debtor's discharge is warranted. In connection with that review, on July 16, 2008, the UST obtained an order under Bankruptcy Rule 2004 to examine Debtor (Doc. No. 17), but the examination was not concluded because the UST required substantial additional information and documents from Debtor. Thereafter, Debtor was not forthcoming with the information requested by UST.

On August 11, 2008, UST had filed a motion to extend the deadlines in Bankruptcy Rules 1017 and 4004 (Doc. No. 20). Debtor opposed that motion (Doc. No. 25). That motion was granted by order entered January 30, 2009 (Doc. No. 87) (the "Order"). On February 9, 2009, Debtor filed a notice of appeal of the Order (Doc. No. 98) (the Appeal"). The Appeal is still pending.

UST seeks an extension of the deadlines in Bankruptcy Rules 1017 and 4004 to 45 days after the resolution of Debtor's Appeal. Without the extension that UST seeks, it is likely that the deadlines in Bankruptcy Rules 1017 and 4004 will expire while the Appeal is pending, rendering the Appeal and the UST's motions moot. Debtor opposes the extension sought by UST, asserting that, due to the pending Appeal, this court is without jurisdiction to consider the UST's motion.

The filing of a notice of appeal divests a bankruptcy court of jurisdiction over those aspects of the case involved in the appeal. *In re Bialec*, 694 F. 2d 625 (9th Cir. 1982); *In re Advanced Packaging and Products Co.*, 426 B.R. 806 (C.D.Cal. 2010). That rule is designed to promote judicial economy and prevent the confusion that would result from two courts addressing the same issue. *Advanced Packaging*, 426 B.R. 806. The bankruptcy court has full jurisdiction, however, to proceed on all other aspects of the bankruptcy case. *In re Ahmed*, 420 B.R. 518 (Bankr.C.D.Cal. 2009). Additionally, even after a notice of appeal has been filed, the bankruptcy court can correct clerical errors, issue injunctions to maintain *status quo*, take steps which aid in appeal, award attorney fees, impose sanctions, and proceed with matters not involved in appeal. *In re Price*, 410 B.R. 51 (Bankr.E.D.Cal. 2009).


Granting the extension sought by UST will maintain the *status quo*. Expiration of the deadlines while the appeal is pending would render the appeal moot and deprive UST of its right to proceed under §707(b) or §727. Maintenance of the *status quo* does not

harm Debtor or the public interest and does not affect the efficacy of the appeal;
accordingly, it is hereby

ORDERED that the deadlines in Bankruptcy Rules 1017 and 4004 are extended to 45 days following dismissal of the Appeal or resolution of the Appeal in favor of UST. If the Appeal is resolved in favor of Debtor, nothing in this order shall be construed to enlarge the deadlines in Bankruptcy Rules 1017 and 4004.

The Clerk is directed to serve this Order upon Debtor, the Chapter 7 Trustee, and the U.S. Trustee.

IT IS SO ORDERED, this the 30th day of June, 2010.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE