

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
	:	
RUSSELL SMITH,	:	CASE NO. 08-63990-jem
	:	
DEBTOR.	:	JUDGE MASSEY
_____	:	
	:	
DONALD F. WALTON,	:	
UNITED STATES TRUSTEE,	:	
	:	
MOVANT.	:	
	:	
-vs-	:	CONTESTED MATTER
	:	
RUSSELL SMITH,	:	
	:	
RESPONDENT.	:	
_____	:	

UNITED STATES TRUSTEE’S MOTION FOR RECONSIDERATION

COMES NOW, Donald F. Walton, the United States Trustee for Region 21, and, in furtherance of the administrative responsibilities imposed on him pursuant to 11 U.S.C. § 307 and 28 U.S.C. § 586(a), respectfully moves this Court to reconsider its ruling and vacate its order granting the employment application for debtor’s counsel. As cause therefore, the United States Trustee shows as follows:

1. Debtor filed the instant petition on March 3, 2008.
2. On the same day debtor filed the petition, debtor’s counsel filed an application for employment (“the Application”), pursuant to Rule 2014 of the Federal Rules of Bankruptcy Procedure. Debtor made no representation in the Application that failure to approve the

Application would cause the debtor immediate and irreparable harm.

3. On March 4, 2008, this Court entered an order granting the debtor's application, subject to objection filed by the United States Trustee on or before twenty days from the order's date of entry.

4. The United States Trustee requests that, pursuant to Bankruptcy Rule 9023, which incorporates Rule 59(e) of the Federal Rules of Civil Procedure, the Court reconsider its order granting the debtor's Application.

5. Newly enacted Bankruptcy Rule 6003(a) states in pertinent part that "except to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 20 days of the filing of the petition, grant relief regarding [] an application under Rule 2014." Fed.R.Bankr.P. 6003(a).

6. Bankruptcy Rule 6003 specifically references interim relief and as a result precludes the entry of an interim order approving the debtor's Application. *But see In re First NLC Financial Services, LLC*, 2008 WL 268428 (Bankr. S.D.Fla. 2008).

7. In the absence of a finding by the Court after notice and a hearing that the debtor will suffer immediate and irreparable harm if the Application is not granted, a ruling on the debtor's Application must be deferred until at least 20 days after the filing of the petition.

WHEREFORE, the United States Trustee prays that the Court reconsider and vacate the order granting the debtor's Application.

DONALD F. WALTON
UNITED STATES TRUSTEE
Region 21

By: s/ David S. Weidenbaum
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