

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT

IN RE:)
) CASE NO. 05-30169 (LMW)
)
 PHILIP MATTHEW HART,)
) CHAPTER 7
)
)
 DEBTOR.) DOC. I.D. NOS. 95, 96

APPEARANCES

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BRIEF MEMORANDUM AND ORDER RE: DENIAL OF CONTINUANCE

Lorraine Murphy Weil, United States Bankruptcy Judge

WHEREAS, the above-captioned debtor (the “Debtor”) commenced this chapter 7 case by petition filed on January 14, 2005;¹

¹ The Debtor is represented by counsel in this case but it is not clear whether that representation applies to these specific proceedings. (*See* Doc. I.D. No. 3 (“Statement Pursuant to Rule 2016(b).”))

WHEREAS, the schedules filed by the Debtor evidence the fact that the Debtor was insolvent as of the petition date (*see* Doc. I.D. No. 3);

WHEREAS, the Debtor received his chapter 7 discharge on October 12, 2005 (Doc. I.D. No. 34);

WHEREAS, on March 5, 2006, the chapter 7 trustee (the “Trustee”) filed a motion to compromise claim (Doc. I.D. No. 56, the “Motion”) with respect to a claim for attorneys fees (the Debtor is or was an attorney) allegedly due the estate;

WHEREAS, by order dated April 12, 2006, the Honorable Albert S. Dabrowski, Chief United States Bankruptcy Judge for this District, recused himself from proceedings in respect of the Motion. (*See* Doc. I.D. No. 87.) The Motion was assigned to the undersigned for adjudication;

WHEREAS, by order dated May 16, 2006, an evidentiary hearing (the “Hearing”) on the Motion was scheduled for June 6, 2006. (*See* Doc. I.D. No. 89.) The Hearing was continued to July 10, 2006. (*See* Doc. I.D. No. 92.) Notice of the continued Hearing was mailed to the Debtor (at the address he had provided to the Clerk’s Office)² on June 3, 2006. (*See* Doc. I.D. No. 94);

WHEREAS, on July 5, 2006 (the court having been closed from July 1st through July 4th) the Debtor filed by mail a letter request (dated on its face June 29, 2006, Doc. I.D. No. 96, the “Request”) for a further continuance of the Hearing advising the court that he would be unavailable for the entire summer;³

² The Debtor had and has a duty to keep a current address on file with the Clerk’s Office at all times. *See Katz v. Araujo (In re Araujo)*, 292 B.R. 19 (Bankr. D. Conn. 2003).

³ The Request also advised the court of a “new mailing address.”

WHEREAS, on July 1, 2006 (a Saturday), the Trustee electronically filed an objection to the Request stating that she had prepared for the continued Hearing and had contacted witnesses. (See Doc. I.D. No. 95, the “Objection”);

WHEREAS, the court has determined that the Request should be denied and the Objection sustained for the following reasons:

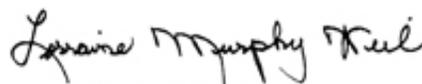
- the Debtor had at least constructive notice of the continued Hearing since early June;
- the Debtor waited until the end of June / beginning of July to advise the Trustee and the court that he was unavailable for the entire summer;
- the Trustee has already done some preparation for the continued Hearing; and
- due to his insolvency, the Debtor has no standing with respect to the Motion. *See 60 East 80th Street Equities, Inc. v. Sapir (In re 60 East 80th Street Equities, Inc.)*, 218 F.3d 109 (2d Cir. 2000).

NOW, THEREFORE, for the reasons stated above, it is **ORDERED** that the Request is denied; and it is further

ORDERED that the Objection is sustained.

Dated: July 6, 2006

BY THE COURT


Lorraine Murphy Weil
United States Bankruptcy Judge