

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT  
NEW HAVEN DIVISION

In re:	:	Case No.:	18-31655 (AMN)
ALEKSANDR GOLUBCHIK	:	Chapter No.:	7
<i>Debtor</i>	:		
<hr/>			
GOLD TOWER REFINERY, INC.	:		
<i>Movant</i>	:		
v.	:		
ALEKSANDR GOLUBCHIK,	:		
<i>Debtor</i>	:		
<hr/>			
	:	Re:	ECF No. 14

**ORDER DENYING MOTION FOR  
EXTENSION OF TIME TO OBJECT TO DISCHARGE**

Before the Court is creditor Gold Tower Refinery Inc's ("Gold Tower") Motion to Extend Time to Object to Debtor's Discharge (ECF No. 14; the "Motion to Extend"). Because the Motion to Extend is untimely it will be denied as explained below.

**FACTS**

Aleksandr Golubchik (the "Debtor") filed his chapter 7 petition on October 5, 2018. George Roumeliotis (the "Trustee") was appointed as the Chapter 7 Trustee for the Debtor's bankruptcy estate. The Debtor listed Gold Tower in his bankruptcy Schedule F as an unsecured, non-priority creditor holding a disputed claim in the amount of \$60,000. ECF No. 1, p.19. The Debtor included this notation: "Disputed business lawsuit claim by creditor suing Debtor personally for debt of his LLC and on a note procured via duress, amount is approximate [sic] and disputed." *Id.*

On October 5, 2018, the Clerk sent all creditors including Gold Tower a notice scheduling a Meeting of Creditors pursuant to 11 U.S.C. § 341 for November 13, 2018.

ECF No. 4. Included in the notice was a deadline of January 14, 2019, for the filing of any objection to the Debtor's Chapter 7 discharge or the dischargeability of any specific claim. ECF No. 4. Gold Tower's attorney attended the initial Meeting of Creditors, having received the notice, and also attended a continued Meeting of Creditors on January 7, 2019.

Thereafter, the Court granted the Chapter 7 Trustee's timely-filed Motion to Extend Time to File a 727 Complaint, enlarging the time for the Chapter 7 Trustee to file an objection to discharge under 11 U.S.C. § 727 (but not to object to dischargeability under 11 U.S.C. § 523) to March 15, 2019. ECF No. 12. No other party in interest filed an objection to discharge or dischargeability, nor a motion to enlarge time, before the January 14<sup>th</sup> deadline. On January 18, 2019, Gold Tower, acting *pro se*, filed a motion seeking to enlarge the January 14<sup>th</sup> deadline as to an objection to discharge pursuant to 11 U.S.C. § 727, only. The Motion to Extend is dated January 14, 2019, and the envelope received by the Clerk bore a post-mark of next day, January 15, 2019, one day after the deadline. Gold Tower identified the inability of the United States Trustee to respond to Gold Tower's request for a transcript of the Meeting of Creditors as the cause of Gold Tower's inability to meet the January 14<sup>th</sup> deadline. During the relevant time-period, there was a lapse of Congressional appropriations that left the United States Trustee with limited operations for several weeks in late December 2018, all of January 2019 and early February 2019.

#### **APPLICABLE LAW**

To begin, Federal Rule of Bankruptcy Procedure 4004(a) requires that a complaint objecting to a debtor's discharge under 11 U.S.C. § 727 shall be filed, "no later than 60

days after the first date set for the meeting of creditors under § 341(a). Rule 4004(b)(1) then provides that the time period may be extended but, “[t]he motion shall be filed before the time has expired.” Fed.R.Bankr.P. 4004(b)(1)(*emphasis added*).

Once the objection to discharge has passed, “absent an extension of time granted by the court under Rule 4004(b), no party may seek to inject an objection to discharge into an ongoing proceeding or seek to intervene in some other proceeding to raise such an issue.” 9 Collier on Bankruptcy P 4004.02 (16th 2018). The “Supreme Court made clear that deadlines in the Federal Rules of Bankruptcy Procedure mean what they say and that violations of such deadlines cannot be ignored or excused.” *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992).

Gold Tower argues that its untimely Motion to Extend should be granted under the doctrine of excusable neglect. If the excusable neglect standard applies here, the burden would be on the movant. See *Seven Oaks Partners, LP v. Licata (In re Seven Oaks Partners, LP)*, No. 18-342, 2019 U.S. App. LEXIS 3188, at \*3 (2d Cir. Jan. 30, 2019) citing *In re Enron Corp.*, 419 F.3d 115, 121 (2d Cir. 2005). Within the Second Circuit, it well established that a court must consider “all relevant circumstances surrounding [a] party's omission,' including '[1] the danger of prejudice to the debtor, [2] the length of the delay and its potential impact on judicial proceedings, [3] the reason for the delay, including whether it was within the reasonable control of the movant, and [4] whether the movant acted in good faith,'" in determining whether a failure to meet a deadline is the result of neglect that may be excused. *Id.* at \*3, citing *In re Enron*, 419 F.3d at 122 (quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship.*, 507 U.S. 380, 395) (alterations in original).

## DISCUSSION

Here, Gold Tower's motion must be denied for several reasons. First, the District's Local Bankruptcy Rule requires that "[a]ll other entities, including but not limited to corporations. . . may not appear in Court or sign pleadings. . . without being represented by an attorney." D.Conn.Bankr.L.R. 1002-1. The Motion to Extend here was filed by Gold Tower acting *pro se*. The Motion to Extend could be denied for that reason alone, but as counsel has now appeared to represent Gold Tower, the court will consider the merits of the request.

Second, it is uncontested that the Motion to Extend was both post-marked and filed with the Clerk's Office after the deadline to object to the debtor's Chapter 7 discharge. Rule 4004(b) of the Federal Rules of Bankruptcy Procedure requires that any motion to enlarge the time to file such an objection, "shall be filed before the time has expired." Because the Motion to Extend was filed after the time expired, it must be denied.

Third, to the extent Gold Tower argues that its untimely Motion to Extend should be considered due to excusable neglect, such a position is not supported by the well-established body of law holding that the deadline for filing an objection to discharge, or for filing a motion to extend the deadline, is not subject to enlargement after the deadline has expired. If the Court has the power to enlarge the time due to excusable neglect, Gold Tower bore the burden of proof on that issue and failed to allege facts from which the conclusion could be drawn that the neglect here was the result of anything other than ordinary negligence. Gold Tower acknowledges that it received notice of the deadline to object under 11 U.S.C. § 727 well in advance, and that it attended the first Meeting of Creditors scheduled by the very same notice. Gold Tower asserts the recent government

shutdown, which resulted in the Office of the United States Trustee being staffed on a reduced basis, left Gold Tower without the ability to obtain the transcripts or an audio recording of the two sessions of the Meeting of Creditors from the United State Trustee. But, a record of the Meeting of Creditors is not a prerequisite to filing a motion to enlarge a deadline.

Gold Tower fails to assert facts supporting the conclusion that any of the four factors articulated in *Pioneer* and *Enron* should be weighed in its favor. Simply put, on this record, there is no basis to conclude that Gold Tower's neglect in failing to meet the January 14, 2019 deadline was excusable. Gold Tower's other arguments have been considered and are unpersuasive. Accordingly, the Motion to Extend must be denied.

ACCORDINGLY, it is hereby

ORDERED: That, Gold Tower Refinery Inc.'s Motion to Extend Time to Object to Debtor's Discharge (ECF No. 14) is DENIED.

Dated on February 28, 2019, at New Haven, Connecticut.

*Ann M. Nevins*  
United States Bankruptcy Judge  
District of Connecticut

