

FILED & ENTERED

JUN 12 2013

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
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**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

Chang Ryul Ji

Debtor.

Case No.: 2:12-bk-48047-TD

Chapter 7

**ORDER DENYING CREDITORS' MOTION  
TO EXTEND TIME TO FILE COMPLAINT  
OBJECTING TO DISCHARGE**

Date: May 23, 2013

Time: 10:00 AM

Courtroom: 1345

Movants Tom and Linda Kim seek a second extension of the deadline for filing a complaint objecting to the discharge of Debtor Chang Ryul Ji. The current deadline was April 12, 2013, established after Movants' first motion for an extension. Movants' first motion was granted at a hearing on March 21, 2013. The court's order was entered on April 5, 2013.

The deadline for filing such a complaint against a chapter 7 debtor is short, intentionally so because the law recognizes that any such complaint interferes with the desire of a financially-strapped debtor to obtain a discharge of his or her prepetition debts to gain a fresh start. Federal Rule of Bankruptcy Procedure (Rule) 4004(a) sets

1 the deadline for filing such a complaint at “no later than 60 days after the first date set  
2 for the [debtor’s] meeting of creditors under [11 U.S.C.] § 341(a).” The court may  
3 extend such deadline pursuant to Rule 4004(b)(1) “for cause.” The motion must be filed  
4 “before the time has expired.” Id.

5 In this case, the Debtor’s petition seeking chapter 7 relief was filed on November  
6 14, 2012. The first date set for the Debtor’s meeting of creditors was December 14,  
7 2012. The meeting has been continued three times by the chapter 7 Trustee, first, for  
8 further documents to be filed by the Debtor, and later to allow the Trustee to examine  
9 the additional documents. The latest meeting was scheduled by the Trustee for April  
10 29, 2013. As of today, the Trustee has filed no further report. The Trustee has not filed  
11 an adversary proceeding against the Debtor seeking denial of discharge.

12 Movants’ current motion was *initiated* on April 12, 2013, Movants’ last day to file  
13 under Rule 4004(b)(1), as extended by an order entered April 5, 2013. This date was  
14 known to Movants’ attorney Andrew Dimitriou at the time of the hearing on Movants’ first  
15 motion for an extension, March 21, 2013. Dimitriou was the only person who appeared  
16 at the March 21 hearing, and he attended by phone. The court granted that motion and  
17 set a new deadline of April 12 at the hearing. Dimitriou commented at the hearing that  
18 he was going to be traveling on a business trip and might need another short extension  
19 of the April 12 deadline. The court commented in response that Dimitriou should talk to  
20 Debtor’s counsel Jaenam Coe to attempt to get a stipulation to any further extension. If  
21 that did not work out, the court added, “. . . call the court to request a hearing on  
22 shortened notice.”

23 Apparently, Dimitriou was unable to elicit a stipulation from Coe. Even so, rather  
24 than seek a hearing on shortened time, as suggested by the court, for a motion for a  
25 further extension, Dimitriou filed an insufficient, procedurally defective, bare bones  
26 motion on April 12. The new April 12 “motion” fell far short of meeting the notice  
27 requirements of our Local Bankruptcy Rules (LBRs). The court’s LBRs require a motion  
28 to be “accompanied by a written notice of motion specifying briefly the relief requested

1 in the motion and . . . the date, time and place of hearing. . . .” LBR 9013-1(c)(2). The  
2 notice must advise the opposing party that “. . . a written response [is required] to be  
3 filed and served at least 14 days before the hearing.” Id. At the same time,  
4 declarations, documentary evidence, and a written statement of all reasons in support of  
5 the motion “must be filed and served with the motion and as part thereof.” Id. at (c)(3).  
6 Finally, LBR 9013-1(h) specifies: “If a party does not timely file and serve documents,  
7 the court may deem this to be consent to the . . . denial of the motion . . . .”

8 Dimitriou failed to file all required motion documents on April 12. On April 18,  
9 Coe on behalf of the Debtor filed and served written opposition to Movant’s April 12  
10 motion, along with a declaration signed by Coe in support of Debtor’s opposition.  
11 Dimitriou waited fifteen more days after that until May 3 to file and serve Movants’  
12 memorandum of points and authorities and Dimitriou’s declaration in support. Movants’  
13 latter documents were required to be filed on April 12 at the latest, along with the motion  
14 and notice of hearing. Thus, Movants’ approach in the so-called April 12 motion was  
15 not consistent with the requirements of Rule 4004(b) and LBR 9013-1(c)(2) that a  
16 motion for extension of time to object to discharge shall be filed before the time allowed  
17 has expired. Movants’ piecemeal filing also does not equate with the spirit of Rule  
18 4004(b) that puts a tight time limit on motions for such an extension. Worse yet,  
19 Dimitriou self-scheduled his hearing for May 23, 43 days after the existing April 12  
20 deadline.

21 The court concludes that Movants’ piecemeal filing was inadequate under the  
22 circumstances to preserve Movants’ time within the confines of Rule 4004(b) to request  
23 an extension.

24 In addition, and on an evidentiary level, Movants’ late-filed piecemeal documents  
25 asserted no more than a factual dispute between opposing counsel over whether there  
26 was *any* “cause” to justify Movants’ request for a second extension. Coe says he  
27 furnished to Movants the only document requested before the existing deadline.  
28 Dimitriou claims that Coe did not. Dimitriou has not proved his claim by a

1 preponderance. The parties are at a standoff on this issue.

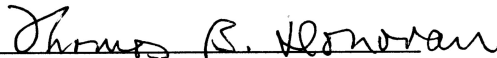
2 The more persuasive showing was made by Coe on behalf of the Debtor. As  
3 Coe urged at the hearing, the record demonstrates that Movants dithered on this matter  
4 since November 14, 2012, the Debtor's petition date, to investigate their suspicions that  
5 there might be a factual basis to support denial of discharge. No 2004 examination was  
6 requested. No deposition of Debtor was requested. Movants instead appear to have  
7 relied solely on informal efforts about which there remains an unresolved factual  
8 dispute. At this late date, there is no proof by a preponderance of adequate cause to  
9 support Movants' request for a further extension to challenge Debtor's right to  
10 discharge.

11 It appears from the record the Movants' chief basis for requesting a further  
12 extension is that between March 23 and April 12, Movants' attorney Dimitriou was too  
13 busy working on unrelated business to complete and document his investigation of  
14 suspicions that Movants or Dimitriou harbored about Debtor's financial disclosures. In  
15 this setting, and on the added consideration of Movants' piecemeal, unacceptable  
16 paperwork, the court in the exercise of its discretion concludes that Movants' efforts to  
17 date are most accurately described as procrastination. They do not adequately support  
18 a conclusion that further time is warranted to allow Movants' additional time for  
19 investigation, little having been accomplished by Movants in over five months from the  
20 outset of this case.

21 Movants have failed to demonstrate that adequate "cause" exists to extend their  
22 time to object to Debtor's discharge. Their motion is denied.

23 IT IS SO ORDERED.

24 Date: June 12, 2013

25   
26 Thomas B. Donovan  
27 United States Bankruptcy Judge  
28

## NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*) **Order Denying Creditors' Motion To Extend Time To File Complaint Objecting To Discharge** was entered on the date indicated as Entered on the first page of this judgment or order and will be served in the manner stated below:

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of (*date*) May 28, 2013, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

Jaenam J Coe coelaw@gmail.com  
John J Menchaca (TR) jmenchaca@menchacacpa.com,  
ca87@ecfbis.com;igaeta@menchacacpa.com  
John J Menchaca (TR) jmenchaca@menchacacpa.com,  
ca87@ecfbis.com;igaeta@menchacacpa.com  
Sheila Gropper Nelson shedoesbklaw@aol.com  
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY THE COURT VIA UNITED STATES MAIL:** A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses indicated below:

Debtor

Chang Ryul Ji  
2759 Hermosa Ave #102  
Montrose, CA 91020

Attorneys for Movants

Andrew Dimitriou  
Dimitriou & Associates PC  
351 California St Ste 300  
San Francisco, CA 94104

☐ Service information continued on attached page

**3. TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or order which bears an Entered stamp, the party lodging the judgment or order will serve a complete copy bearing an Entered stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

☐ Service information continued on attached page

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This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.