

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

IN RE:

**SATASHA L. ZOLLICOFFER,
DEBTOR.**

**CASE NO. 05-05927-NPO
CHAPTER 7**

**ORDER (1) GRANTING UNITED STATES TRUSTEE'S
MOTION TO HOLD LATASHA L. ZOLLICOFFER IN
CIVIL CONTEMPT, (2) ISSUING SHOW CAUSE AS TO WHY ORDER
OF DISCHARGE SHOULD NOT BE VACATED, AND (3) SETTING HEARING**

On August 11, 2006, there came on for hearing the United States Trustee's Motion to Hold Latasha L. Zollicoffer in Civil Contempt (Dk. No. 25)(the "Contempt Motion") in the above-styled bankruptcy case. The Court, being fully advised in the premises and having considered the pleadings and representations made at the hearing by Thomas J. Richardson, Counsel for the Debtor, and Ronald H. McAlpin, the Assistant U. S. Trustee, finds that the uncontroverted facts are as follows:

1. This bankruptcy case was commenced by the filing of a voluntary petition (Dk. No. 1)(the "Petition") on October 12, 2005, with the name typed as "Satasha L. Zollicoffer" and a signature appearing as "Latasha L. Zollicoffer."
2. The pleadings in this bankruptcy case have not referenced consistently the Debtor's first name. As examples, the Schedules and Statements of Financial Affairs (Dk. No. 5) used the first name "Latasha" whereas the Notice of Chapter 7 Case, Meeting of Creditors, & Deadlines (Dk. No. 6), Order Discharging Debtor (Dk. No. 10)(the "Discharge Order"), and Final Decree/Order Closing Case (Dk. No. 11) used the first name "Satasha" in the caption of the pleadings.
3. On April 5, 2006, the United States Trustee (the "UST") filed the Motion to Reopen

Case (Dk. No. 14) requesting that the Court compel the Debtor to file a motion to amend the Petition to correct the Debtor's name, file an amended petition reflecting the Debtor's correct name, and file the appropriate certificate of service. The UST further requested that the Debtor be required to pay all costs associated with reopening the case. The Court entered an Order reopening the case (Dk. No. 15) on April 10, 2006.

4. On April 11, 2006, the UST filed the Motion for Order Compelling Debtor to File Motion to Amend Style of Petition, Amended Petition and Provide Notice Thereof (Dk. No. 16). Before the Court ruled on that motion, on April 28, 2006, the Debtor filed her Motion to Correct Debtor's Name (Dk. No. 19) indicating that Debtor's first name was incorrectly spelled as "Satasha" instead of "Latasha" on the Petition. The Court entered its Order Authorizing Correction of Debtor's Name (Dk. No. 20)(the "Correction Order") on May 1, 2006. The Correction Order did not provide a deadline for the Debtor to comply. On May 2, 2006, the Court entered an Order Withdrawing United States Trustee's Motion for Order Compelling Debtor to File Motion to Amend Style of Petition, Amended Petition and Provide Notice Thereof (Dk. No. 21).

5. On May 15, 2006, the UST filed the Contempt Motion.

6. The Contempt Motion was set for hearing (the "Hearing") on August 11, 2006 and was served on the Debtor and her counsel via U. S. Mail (the "Notice"). Counsel for the Debtor and the Assistant U. S. Trustee appeared at the Hearing. The Debtor did not appear though Counsel for the Debtor indicated that she was aware of the hearing. Based on the statements made by Counsel for the Debtor, it is clear that the Debtor has failed and refused to comply with the Correction Order.

The issue before the Court is whether the Debtor should be held in civil contempt pursuant to Federal Rule of Bankruptcy Procedure 9020(b) for failure to comply with the Correction Order, and, if so, the remedy to be imposed by the Court.

It is well established that a party seeking an order of contempt need only establish by clear and convincing evidence: (1) that a court order was in effect; (2) that the order required conduct by the respondent; and (3) that the respondent failed to comply with the court's order. Piggly Wiggly Clarksville, Inc. v. Mrs. Baird's Bakeries, 177 F.3d 380, 382 (5th Cir. 1999) (citing F.D.I.C. v. LeGrand, 43 F.3d 163, 170 (5th Cir. 1995)). “A party commits contempt when he violates a definite and specific order of the court requiring him to perform or refrain from performing a particular act or acts with knowledge of the court's order.” Piggly Wiggly, 177 F.3d at 382-383 (quoting Travelhost, Inc. v. Blandford, 68 F.3d 958, 961 (5th Cir. 1995)). “The judicial contempt power is a potent weapon which should not be used if the court's order upon which the contempt was founded is vague or ambiguous.” Piggly Wiggly, 177 F.3d at 383 (quoting Martin v. Trinity Industries, Inc., 959 F.2d 45, 47 (5th Cir. 1992)). Therefore, the contempt power should only be invoked where a specific aspect of the injunction has been clearly violated. Id. (citing Martin, 959 F.2d at 47).

Applying these principles to the instant case, the Correction Order was in effect, certain conduct was required by the Debtor, and the Debtor failed to comply with the Correction Order. On its face, the Correction Order did not establish a deadline for compliance. Yet, the Correction Order was entered on May 1, 2006, the Motion for Contempt was filed on May 15, 2006, and once the Debtor was served with the Notice of the Contempt Motion, she was aware that she had to comply with the Correction Order. Nevertheless, the Debtor failed to comply with the Correction Order despite having until the date of the hearing, some three and one-half months later, to do so.

Given the circumstances of the case and for all of the reasons set forth herein, the Court finds that the Debtor is in civil contempt of Court for failing to comply with the Correction Order. The

Debtor is given twenty (20) days from the date of this Order in which to purge herself of the civil contempt by complying fully with the terms of the Correction Order attached as Exhibit "A" hereto, including paying all costs of reopening the case.

If the Debtor fails to purge herself of the civil contempt, the Court hereby issues this show cause Order to the Debtor as to why the Discharge Order should not be reconsidered and vacated pursuant to Federal Rule of Civil Procedure 60(b) which applies to this bankruptcy proceeding by virtue of Federal Rule of Bankruptcy Procedure 9024. Discharge orders may be reconsidered and relief granted under Rule 60(b) on a *sua sponte* motion by the Court. See McDowell v. Celebreeze, 310 F.2d 43, 44 (5th Cir. 1962); Davitch v. Bracken (In re Davitch), 336 B.R. 241, 254 (Bankr. W.D.Pa. 2006).

Notice is given that there will be a hearing on whether the Debtor has purged her civil contempt and, if not, whether the Discharge Order should be reconsidered and vacated, on September 12, 2006 at 11:00 A.M., or as soon thereafter as counsel may be heard, in the Bankruptcy Courtroom, Room 106, 100 East Capitol Street, Jackson, Mississippi. Testimony will be taken, and witnesses must appear. A court reporter will be provided by the Bankruptcy Court for the hearing.

SO ORDERED, this the 22nd day of August, 2006.

/s/ Neil P. Olack
NEIL P. OLACK
UNITED STATES BANKRUPTCY JUDGE