

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW MEXICO

In re:  
SIMON POLLACK,  
Debtor.

No. 7-06-10103 SA

**ORDER DENYING MOTION TO EXPUNGE RECORD**


Debtor Simon Pollock's Motion to Expunge Public Record (doc 21) came before the Court for a preliminary hearing. At the hearing the Court made certain factual findings, based on the representations of Debtor and counsel, and conclusions of law and denied the motion, as follows:

The Court finds that Debtor did not intend to file bankruptcy, but rather that he and his attorney had a misunderstanding after Debtor changed his mind and decided not to file. The Court also finds that Debtor's spouse had incurred significant debts without Debtor's knowledge, that Debtor has acted in good faith, and that the filing has had an adverse impact on his credit rating and therefore on his ability to obtain credit and run his business more efficiently and inexpensively. The Court also finds that Debtor did not sufficiently examine the papers he was signing, including the bankruptcy petition and the accompanying schedules and statement of financial affairs, and that he was represented by counsel who did not sufficiently determine Debtor's intention as it existed immediately prior to the filing of the petition.

The Court concludes that the filing of a bankruptcy petition is a serious undertaking not to be taken lightly under any

circumstances (while there are debtors who do take it too lightly, Debtor is not among that group), that Debtor's attorney should have ascertained accurately Debtor's intention prior to filing the petition, and that the Court and the public have an interest in the complete transparency of all events and records in the bankruptcy court (taking into consideration permitted exceptions to that policy such as are contained in 11 U.S.C. §107). The Court has some question about the utility of expunging the record at this point, and about how that would be accomplished logistically or technically, but those considerations have played no part in this decision.

IT IS THEREFORE ORDERED that the Motion to Expunge Public Record (doc 21) is denied.



James S. Starzynski  
United States Bankruptcy Judge

Date Entered on Docket: October 21, 2008

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