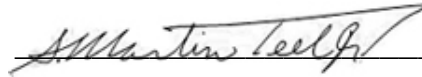


The document below is hereby signed.

Signed: December 23, 2010.



  
S. Martin Teel, Jr.  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLUMBIA

In re )  
 )  
FUSION CUISINE, INC., ) Case No. 10-00821  
 ) (Chapter 7)  
Debtor. ) Not for publication in  
 ) West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER DENYING MOTION  
FOR RECONSIDERATION OF ORDER CONVERTING CASE TO CHAPTER 7

The debtor has filed a motion to vacate the court's order converting this case from chapter 11 to chapter 7. The debtor's failure to file monthly operating reports on a timely basis frustrated the United States Trustee's monitoring of this case, and when those monthly operating reports were filed woefully late (on the eve of the hearing on the motion to convert the case) they showed a failure to pay District of Columbia sales and withholding tax obligations incurred in the operation of the business, numerous "bounced" checks leading to substantial bank charges, and a failure to pay rent on the debtor's lease of real property (a lease that is a critical component of any going concern value of the debtor's business). The failure timely to file monthly operating reports that would have disclosed

substantial mismanagement warranted an order converting the case to chapter 7.

The debtor argues that its business, a restaurant and carryout, has holiday bookings that it stands to lose, but that argument is not a basis for vacating the conversion order: the chapter 7 trustee has sought permission to operate the business, and, accordingly, the holiday bookings will not be lost. The debtor further argues that it was in the midst of seeking investors for the business, that it needs an additional 30 days in that regard, and that a liquidation in chapter 7 will destroy the business's going concern value and leave little for creditors. The trustee, however, has indicated that he wishes to realize the debtor's going concern value, and has already undertaken steps to do so. The debtor has not proffered any reason why its efforts at finding investors would achieve a better result than the trustee's selling the business through a business broker. Even if the order of conversion were vacated, the appointment of a trustee displacing the debtor as a debtor in possession would be appropriate.

For all of these reasons, it is

ORDERED that the Debtor's Emergency Motion for Reconsideration of the Court's Order Converting Case to Chapter 7 (Dkt. No. 115) is DENIED.

[Signed and dated above.]

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