

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

ELIZABETH L. BECKLUND aka
Elizabeth L. Horton dba
The Transit Lounge

Case No. 83-10628 K

Debtor

In conformity with this Court's decision *In re Piecuil*, 145 B.R. 777, the Trustee's application must be denied.

The *Piecuil* analysis begins with a simple question and rejects more complex inquiries -- Has the professional satisfactorily explained to the Court his or her failure to obtain prior Court approval?

The applicant's explanation here basically amounts to "I forgot." This is not acceptable.

Although not applicable to the matter at Bar, the Court has examined *Pioneer Investment Services Co. v. Brunswick Associates Limited Partnership, et al.*, 113 S.Ct. 1489 (1993) for its teachings regarding the concept of "excusable neglect." Even "upheaval in [counsel's] law practice at the time of the bar date" was given "little weight" by the Supreme Court. Here, when the applicant has served as appointed counsel in hundreds of cases in this District and perhaps elsewhere, not even office error is claimed, merely inadvertence.

The applicant's work was excellent. It was certainly performed in good faith and with utmost diligence and

professionalism. But Applicant credits the Court with more discretion than it has when he argues that "great latitude has been permitted in analogous areas...."

In light of *Pioneer* and in light of *Piecuil* and authorities cited therein, the Court finds that it does not have sufficient latitude to retroactively approve appointment in this instance.

Application denied.

SO ORDERED.

Dated: Buffalo, New York
May 27, 1993



U.S.B.J.