

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

PAUL J. SHAUGHNESSY : BK No. 02-10129
Debtor Chapter 7

- - - - - x

TITLE: *In re Shaughnessy*

CITATION: Unpublished

**ORDER TO SHOW CAUSE WHY THE PETITION SHOULD NOT BE
DISMISSED FOR IMPROPER VENUE**

Before the Court is the issue of venue of the Chapter 7 case of Paul J. Shaughnessy filed on January 11, 2002. In accordance with this Court's standard practice, jurisdiction and venue questions are examined sua sponte upon the filing of each new case. In his petition, the Debtor indicates that he has not been domiciled, had a residence or principal assets located in this District in the 180 days immediately preceding the commencement of this case. The Debtor states, however, on a continuation sheet attached to the petition that venue is proper in this Court, as his "principle [sic] place of business is located in this district as [a] result of his place of employment. *Milwaukee Corregated [sic] v. Flagge*, 19 F2d 518 (8th Cir. 1927), *But See In re: Blagg* 223 BR 795 (10th Cir. BAP 1998) [sic]." The Debtor's schedules show that the only creditor located in Rhode Island is the Internal Revenue Service. See Schedule E.

Upon review of the cases cited, I reject the 1927 holding in *Milwaukee Corrugating Co.* No rationale was provided by the Court in its short opinion, and we have been unable to find any case which has followed *Milwaukee Corrugating* since it was written. Accordingly, I will follow the long line of cases which hold "place of employment

is not relevant to a determination of principal place of business. ... The category 'principal place of business' is relevant only to a debtor who has a business of his or her own." *In re Henderson*, 197 B.R. 147, 151 (Bankr. N.D. Ala. 1996)(citations omitted).

Additionally, I agree with those courts which have held that the term "principal place of business" applies only to businesses and business owners, and that place of employment does not equate to a debtor's principal place of business. See *In re Higgins v. State Loan Co.*, 114 F.2d 25, 27 (D.C. Cir. 1940); *In re Blagg* 223 B.R. 795 (B.A.P. 10th Cir. 1998); *In re Oliver*, 111 B.R. 540, 544 (Bankr. D. Md. 1989); *In re Canavos*, 108 B.R. 55,57 (Bankr. E.D. Pa. 1989); *In re Liphart*, 201 F. 103, 105 (S.D.N.Y. 1912).

Accordingly, Paul J. Shaughnessy, is **ORDERED TO SHOW CAUSE**, in writing, on or before February 28, 2002, why this case should not be dismissed for improper venue, in accordance with 28 U.S.C. § 1408. See *In re Dorval*, No. 94-10315, 1994 WL 228653 (Bankr. D.R.I. May 11, 1994) (When venue is improper the Court has no authority to retain the case).

ORDER:

ENTER:

Deputy Clerk

/s/ Arthur N. Votolato
Arthur N. Votolato
U.S. Bankruptcy Judge

Date: 2/20/2002

Entered on docket:
Document Number: