

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
BRIDGETT ELIZABETH HARRIS, ) BANKRUPTCY NO. 03-61720 JPK  
 ) Chapter 7  
Debtor. )

ORDER REGARDING TRUSTEE'S MOTION FOR TURNOVER ORDER RE: ACCESS

On August 29, 2006, the Chapter 7 Trustee filed a Motion for Turnover Order Re: Access. The focus of this motion is a request that the Court order the debtor to permit immediate access to the debtor's property by the Trustee or his realtor/broker agent for the purposes of displaying the house for potential sale.

First, there is nothing in this record which indicates that the Trustee has employed a broker for potential sale of the property to which the motion relates. More importantly, a motion for turnover is not the appropriate vehicle for the relief sought by the Trustee. 11 U.S.C. § 542 concerns delivery of property of the estate to a trustee, including the delivery of records pursuant to subparagraph e of that statute. The relief requested by the Trustee is not within the scope of 11 U.S.C. § 542.

Until the record establishes that the Trustee is actively seeking to market the property as property of the estate, any procedural advice utilized by the Trustee for the relief sought by the motion would be improper. The motion does not request access by an appraiser – rather, it appears that the Trustee is intent upon seeking to sell the property through a broker; in fact, paragraph 2 of the motion states that an application to approve the employment of a realtor for the purposes of selling the property has been filed with the Court. Unfortunately, the docket record does not establish the filing of this motion.

The Court finds that the motion must be denied because there is no predicate basis. In addition, even if the Trustee had been authorized to hire a broker to seek to sell the subject

property, 11 U.S.C. § 542 does not authorize the relief requested by the Trustee. As unfortunate as it may seem, the Court deems the appropriate procedure to be utilized to obtain the relief requested by the Trustee to be an adversary proceeding pursuant to Fed. R. Bank. P. 7001(7).

IT IS ORDERED that the above-designated motion is Denied.

Dated at Hammond, Indiana on October 17, 2006.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor, Attorney for Debtor  
Trustee, U.S. Trustee