

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
ARTHUR R. WELLING, JR.) CASE NO. 05-17518
)
)
Debtor)

DECISION AND ORDER CONCERNING SANCTIONS

At Fort Wayne, Indiana, on February 13, 2007.

This matter is before the court on its own motion pursuant to Rule 9011(b)(2) of the Federal Rules of Bankruptcy Procedure. At the hearing held in the matter, counsel acknowledged that the pre-filing investigation she undertook in connection with a motion to avoid a judicial lien did not satisfy the requirements of Rule 11. As a result, the issue before the court is not whether the Rule has been violated but what the consequences of that violation should be.

Whether or not sanctions are imposed as the result of a violation of Rule 11, together with the nature of any such sanction, is a matter committed to the court's discretion. Fed. R. Civ. P. Rule 9011(c) ("the court may . . . impose an appropriate sanction"). In fashioning an appropriate sanction, the court's primary goal should be deterrence. Fed. R. Bankr. P. Rule 9011(c)(2). See also, White v. General Motors Corp. Inc., 908 F.2d 675, 685 (10th Cir. 1990), cert. denied, 498 U.S. 1069, 111 S.Ct. 788 (1991); In re Rimsat, Ltd., 229 B.R. 914, 921 (Bankr. N.D. Ind. 1998), decision aff'd, 230 B.R. 362 (D. N.D. Ind. 1999), aff'd, 212 F.3d 1039 (7th Cir. 2000). Yet, deterrence does not always require a separate sanction. To actually be on the receiving end of a sanctions inquiry and being formally found in violation of the Rule is itself a sanction of sorts, and that experience may be all that is necessary to satisfy the goals of Rule 9011.

In this instance, based upon the exchange that took place in open court, the court is satisfied that Ms. Welling better understands the obligations Rule 9011 imposes upon her and that she will be more cautious in the future; so there should be no repetition of these events. In light of this, no further sanctions are needed.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court