

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE:	)	
	)	
MARTIN L. FETTEN III and	)	CASE NO. 08-20327 JPK
AMY R. FETTEN,	)	Chapter 7
	)	
Debtors.	)	

ORDER CLOSING CASE RECORD

This Chapter 7 case was sought to be initiated by documents filed on February 6, 2008. The petition which initiated this case (docket entry #1) designated the debtors as Martin L. Fetten III and Amy R. Fetten, although the docket entry for this petition – which originated with the debtor's attorney – designated the debtor as "Travis Brown". Docket entry #5, designed by that attorney as "Signature Page to (correct) Voluntary Petition . . .", designates the debtor as Travis Brown, and the document filed as docket entry #5 is a petition for one Travis Brown. Martin L. Fetten III and Amy R. Fetten had, on the same date by the same attorney, initiated a Chapter 7 case, Case Number 08-20323. The first petition filed in this case controls, and thus Martin L. Fetten III and Amy R. Fetten had a pending Chapter 7 case when this case was filed, and this case is thus a duplicate filing – it cannot be changed to a case for another person.<sup>1</sup> This provides grounds for dismissal for cause pursuant to 11 U.S.C. § 707(a). However, the Court will dismiss on a different basis. N.D.Ind.L.B.R. B-1002-1(a)(2) states a minimum requirement for initiating a case, and there has been no compliance with this requirement. N.D.Ind.L.B.R. B-1002-1(a)(1) states the minimum filing requirements necessary to commence a case, subparagraph (b) of that rule states:

The clerk may refuse to accept any case for filing which does not comply with the minimum filing requirements established by the

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<sup>1</sup> The Clerk is directed to correct the record in Case Number 08-20327 to designate the information in docket entry #1.

Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Official Forms in effect at the time the case is presented for filing. If such a case is accepted for filing, it may be stricken by the Court, sua sponte, without notice.

The filing should not have been accepted. The case was thus a nullity from its inception. Because the case was a nullity from its inception, it is not subject to dismissal: There simply was never a case.

IT IS ORDERED that the Clerk shall close the record in this case as stricken.

IT IS FURTHER ORDERED that the record in this case shall not constitute a "case" for the purposes of 11 U.S.C. §362(c)(3) or 11 U.S.C. §362(c)(4) and/or 11 U.S.C. § 362(n)(1).

IT IS FURTHER ORDERED that Attorney William H. O'Toole shall appear before the Court on **March 3, 2008, at 1:00 P.M.** to address his persistent failures to comply with the Court's Rules and procedures.

Dated at Hammond, Indiana on February 8, 2008.

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

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee  
All Creditors  
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